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WHEN: Tuesday, February 12, 2013
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
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800 North Capitol Street, NW.
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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
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Tuesday, January 8, 2013

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Docket No. AMS–FV–12–0028; FV12–922–2 IR]

Apricots Grown in Designated Counties in Washington; Temporary Suspension of Handling Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule suspends the minimum grade, size, quality, maturity, and inspection requirements prescribed under the Washington apricot marketing order for the 2012–13 fiscal period. The marketing order regulates the handling of apricots grown in designated Counties in Washington and is administered locally by the Washington Apricot Marketing Committee (Committee). In order for the Committee to continue collecting assessments and administer the marketing order, the Washington State Department of Agriculture will provide apricot handling data to the Committee during the suspension of the handling regulations. This rule is expected to reduce overall industry expenses and increase net returns to producers and handlers.

DATES: Effective January 9, 2013 through March 31, 2013; comments received by March 11, 2013 will be considered prior to the issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *www.regulations.gov*. All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *www.regulations.gov*. All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Manuel Michel, Marketing Specialist, or Gary Olson, Regional Manager, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326–2724; Fax: (503) 326–7440; or Email: *Manuel.Michel@ams.usda.gov* or *GaryD.Olson@ams.usda.gov*.

Small businesses may request information on complying with this regulation by contacting Laurel May, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Laurel.May@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 922, as amended (7 CFR 922), regulating the handling of apricots grown in designated counties in Washington, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is then afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

This rule suspends the handling regulations prescribed under the order for the 2012–13 fiscal period. Specifically, this rule suspends the minimum grade, size, quality, maturity, and inspection requirements under the order. Notwithstanding the suspension of the order's handling regulations, apricots handled in Washington must still meet the state minimum grade requirement of Washington No. 2.

As a direct result of the suspension of the order's handling regulations, information from the Inspection Service will no longer be available for the Committee to compile industry statistics and to assess handlers. However, collaboration with the Washington State Department of Agriculture will provide the Committee access to apricot handling data, similar to the handler information that has been previously collected and provided by the Inspection Service.

Section 922.52 of the order authorizes the issuance of regulations for grade, size, quality, maturity, and pack for apricots grown in the production area. Section 922.53 authorizes the modification, suspension, or termination of regulations issued under § 922.52, whenever the Secretary finds that a regulation no longer effectuates the declared policy of the act.

Section 922.55 provides that whenever the handling of any variety of apricots is regulated pursuant to § 922.52 or § 922.53, such apricots must be inspected by the Inspection Service, and certified as meeting the applicable requirements. The cost of this inspection and certification is borne by handlers.

Section 922.60 authorizes the Committee, with the approval of USDA, to require reports and other information

from handlers that are necessary for the Committee to perform its duties.

Minimum grade, size, quality, maturity, and inspection requirements for apricots regulated under the order are specified in § 922.321 (the section being suspended by this rule). When effective, § 922.321, with exemptions for certain varieties and types of shipments, provides that all apricots shall grade not less than Washington No. 1, and are at least reasonably uniform in color; provided, that such apricots of the Moorpark variety in open containers shall be generally well matured. The regulation also includes a minimum quantity exemption, as well as specific tolerances for apricots that fail to meet color, minimum diameter, and quality requirements.

The Committee meets regularly to review and consider recommendations for the regulatory requirements of Washington apricots. Committee meetings are open to the public and interested persons may express their views at these meetings. The USDA reviews Committee recommendations, information submitted by the Committee, and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

At its May 24, 2012, meeting, the Committee unanimously recommended suspending the order's handling regulations for the 2012 season. The Committee requested that this rule be effective immediately for the 2012–13 fiscal period, which began on April 1, 2012.

The objective of the handling regulation has been to ensure that only acceptable quality apricots enter fresh market channels, thereby ensuring consumer satisfaction, increasing sales, and improving returns to producers.

The apricot industry recognizes the continued importance of quality as a significant factor in maintaining sales. Some Committee members expressed concern that the elimination of current handling and inspection requirements could potentially result in lower quality apricots being shipped to fresh markets, thereby affecting consumer demand. There is also concern that if overall quality declines, the Washington apricot industry could lose sales to other apricot producing regions.

However, due to the evolving nature of fresh fruit marketing, many wholesale and retail apricot buyers now require their own specific criteria for product quality from all handlers. Therefore, the Committee believes the cost of inspection and certification, which is mandated when the handling regulations are in effect, may exceed the benefits derived.

After much consideration, the Committee recommended the suspension of the handling regulations prescribed under the order for the 2012–13 fiscal period. This action will allow the Committee to evaluate the impact that suspended regulations will have on the quality of Washington apricots. Should the market situation so dictate, the Committee may take appropriate action to continue the suspension of the handling regulations or recommend termination of the order.

This rule enables Washington apricot handlers to ship apricots without regard to the order's minimum grade, size, quality, maturity, and inspection requirements. This suspension action will also allow handlers to decrease their total costs by eliminating the expenses associated with mandatory inspection. However, this rule does not impede handlers from seeking product inspection on a voluntary basis if they find inspection desirable. Prior to the end of the fiscal period, the Committee will evaluate the effect that the suspension of the handling regulations has on the 2012 market conditions and on producer returns, and if necessary, make recommendations to USDA for changes.

The suspension of the handling regulations will also result in the elimination of the inspection certificates being generated and forwarded to the Committee office by the Inspection Service. The Committee has used these certificates as the basis for the collection of handler assessments and for compiling apricot industry statistics. As a result of not having the information provided by the inspection certificates, the Committee will enter into a memorandum of understanding with the Washington State Department of Agriculture in order to obtain the information necessary to collect assessments and generate statistical information.

Authorization to assess handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

Consistent with the suspension of § 922.321, this rule also suspends § 922.111 of the rules and regulations in effect under the order. Section 922.111 contains provisions for handlers to apply for waivers from mandatory inspection when such inspection is not readily available from the Inspection Service. With the suspension of regulation, such waivers are no longer necessary.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 20 handlers of Washington apricots who are subject to regulation under the marketing order and approximately 94 apricot producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

Apricot production has been approximately 4,200 to 8,900 tons per year for the past several years. The National Agricultural Statistics Service (NASS) reports that all Washington apricot handlers combined ship approximately $7,132,000 worth of apricots during the 2011 season. In addition, based on acreage, production, and producer prices reported by NASS, and the total number of Washington apricot producers, average annual producer receipts are approximately $76,000, which is considerably less than the $750,000 threshold. In view of the foregoing, it can be concluded that a majority of the handlers and producers of Washington apricots may be classified as small entities.

At its May 24, 2012, meeting, the Committee unanimously recommended suspending the handling regulations for the 2012–13 fiscal period.

This rule suspends the handling regulations specified in §§ 922.111 and 922.321. The suspension of these handling regulations will allow the Washington apricot industry to market apricots without regard to minimum grade, size, quality, maturity, and inspection requirements prescribed under the federal marketing order. Authority for this action is provided in § 922.53.

The handling regulations help ensure that only acceptable quality apricots

enter fresh market channels, thereby, ensuring consumer satisfaction, increasing sales, and improving returns to producers. While the industry continues to believe that quality is an important factor in maintaining sales, the Committee believes the cost of inspection and certification may exceed the benefits derived. The Committee also believes that the demands of wholesale buyers and consumers will drive handlers and producers to maintain a high level of product quality without the necessity of minimum quality standards and mandatory inspections. The Committee will review the outcome of the handling regulation suspension prior to the end of the 2012–13 fiscal period and determine if continued suspension, or alternatively, termination of the marketing order is warranted. The handling regulations will be automatically reinstated on April 1, 2013.

Apricot prices have fluctuated considerably in recent years, and at times some producers have faced difficulty covering their total costs. In response to the adverse economic conditions experienced by the industry, the Committee discussed the possibility of reducing expenses through the elimination of mandatory inspection. The Committee considered the potential consequences of suspending the handling and inspection requirements, and how this could result in lower quality apricots being shipped to fresh markets. Also, if fruit quality were to decline, there is some concern among Committee members that the Washington apricot industry could lose sales to other apricot producing regions.

While acknowledging these concerns, the Committee also believes that the current marketing conditions make the program unnecessary, because the costs of regulation may be greater than the benefits gained. Therefore, the Committee recommended the suspension of the handling regulations for the 2012–13 fiscal period. The Committee will review the impacts of the suspension prior to the end of the fiscal period and consider appropriate actions for ensuing seasons.

This rule enables handlers to ship apricots without regard to the order's minimum grade, size, quality, maturity, and inspection requirements during the 2012–13 fiscal period. This rule allows handlers to decrease their overall costs by eliminating the costs associated with mandatory inspection. This rule, however, does not impede handlers from seeking inspection on a voluntary basis if they find inspection desirable.

The suspension of the handling regulations will result in the elimination of mandatory inspections and, in turn, the inspection certificates generated by the Inspection Service and provided to the Committee. The Committee has used such certificates for assessment billing purposes and for compiling industry statistics. As a result of needing the information that was previously provided by the inspection certificates, the Committee will enter into a memorandum of understanding with the Washington State Department of Agriculture in order to obtain information on which to collect assessments and generate statistical information.

The Committee anticipates that this rule will not negatively impact small handlers and producers because it suspends minimum grade, size, quality, maturity, and inspection requirements prescribed under the order. The total cost of inspection and certification for fresh shipments of Washington apricots during the 2011 marketing season is estimated by the Committee to have been $0.23 per hundredweight, or approximately $12,700 total. This represents approximately $635 per handler. Since handlers may continue to have their apricots voluntarily inspected, the Committee expects that some handlers will continue to have at least a portion of their fresh apricots inspected and certified by the Inspection Service.

Alternatives to the suspension of the handling regulations considered by the Committee included maintaining the status quo, suspending regulations indefinitely, and terminating the marketing order in its entirety. The Committee believes that the continuation of regulation would be an unnecessary burden on the industry, given the evolving marketing conditions and future outlook. Thus, continuing to regulate in the same manner was not a viable option to the Committee. The Committee also discussed suspending regulation indefinitely, but rejected this alternative at this time. The Committee believes that suspending the handling regulations for one season will provide sufficient information to evaluate the impact this has on the quality of Washington apricots. Last of all, the Committee considered terminating the order in its entirety, but similarly declined the option. The Committee will review the impacts of the suspension prior to the end of the fiscal period and consider appropriate actions for ensuing seasons.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large apricot handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Washington apricot industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the May 24, 2012, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *www.ams.usda.gov/MarketingOrdersSmallBusinessGuide*. Any questions about the compliance guide should be sent to Laurel May at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on the suspension of the handling regulations prescribed under the Washington apricot marketing order. Any comments timely received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that the regulatory requirements no longer tend to effectuate the declared policy of the Act, and are therefore being suspended.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to

give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This interim rule is a relaxation in the apricot handling regulations and should be in place as soon as possible for the 2012–13 fiscal period; (2) handlers need to know as soon as possible that they are free to market their apricots without regard to the order's handling regulations; (3) this issue has been widely discussed at various industry and association meetings and the Committee has kept the industry well informed; (4) handlers are aware of this rule, which was recommended at a public meeting; and (5) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 922 is amended as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 1. The authority citation for 7 CFR part 922 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§§ 922.111 and 922.321 [Suspended]

■ 2. In Part 922, §§ 922.111 and 922.321 are suspended in their entirety from January 9, 2013 through March 31, 2013.

Dated: January 2, 2013.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2013–00129 Filed 1–7–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Docket No. AMS–FV–12–0035; FV12–987–1 IR]

Domestic Dates Produced or Packed in Riverside County, CA; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule decreases the assessment rate established for the California Date Administrative Committee (Committee) for the 2012–13 and subsequent crop years from $1.00 to $0.90 per hundredweight of dates handled. The Committee locally administers the marketing order which regulates the handling of dates grown or packed in Riverside County, California. Assessments upon date handlers are used by the Committee to fund reasonable and necessary expenses of the program. The crop year begins October 1 and ends September 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective January 9, 2013. Comments received by March 11, 2013, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Agreement Division, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov*. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov*. All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Jeff Smutny, Marketing Specialist, or Kurt J. Kimmel, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *Jeffrey.Smutny@ams.usda.gov* or *Kurt.Kimmel@ams.usda.gov*.

Small businesses may request information on complying with this regulation by contacting Laurel May, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Laurel.May@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 987, both as amended (7 CFR part 987), regulating the handling of dates produced or packed in Riverside County, California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Riverside County, California date handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dates beginning October 1, 2012, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule decreases the assessment rate established for the Committee for the 2012–13 and subsequent crop years from $1.00 to $0.90 per hundredweight of dates.

The California date marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Riverside County, California dates. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have

an opportunity to participate and provide input.

For the 2010–11 and subsequent crop years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 12, 2012, and unanimously recommended 2012–13 expenditures of $260,000 and an assessment rate of $0.90 per hundredweight of Riverside County, California dates. In comparison, last year's budgeted expenditures were $265,000. The assessment rate of $0.90 is $0.10 lower than the rate currently in effect. The Committee recommended a lower assessment rate because the 2012–13 crop is expected to be larger than the previous year. Income generated through the lower assessment rate combined with cull surplus contributions and funds contributed by the California Date Commission for shared marketing activities, should be sufficient to cover anticipated 2012–13 expenses.

Proceeds from sales of cull dates are deposited into a surplus account for subsequent use by the Committee in covering the surplus pool share of the Committee's expenses. Handlers may also dispose of cull dates of their own production within their own livestock-feeding operation; otherwise, such cull dates must be shipped or delivered to the Committee for sale to non-human food product outlets. Pursuant to § 987.72(b), the Committee is authorized to temporarily use funds derived from assessments to defray expenses incurred in disposing of surplus dates. All such expenses are required to be deducted from proceeds obtained by the Committee from the disposal of surplus dates. For the 2012–13 crop year, the Committee estimated that $3,000 from the surplus account would be needed to temporarily defray expenses incurred in disposing of surplus dates.

The major expenditures recommended by the Committee for the 2012–13 crop year include $110,000 for generic marketing promotions, $83,520 for general and administrative expenses, $43,800 for nutrition marketing programs, $12,680 for a contingency fund, and $5,000 for licensing renewal. Budgeted expenses for these items in 2011–12 were $96,300 for generic marketing promotions, $90,000 for general and administrative expenses, $73,600 for nutrition marketing programs, and $5,100 for marketing contingency.

The assessment rate recommended by the Committee was derived based upon the anticipated size of the 2012–13 crop, the Committee's estimates of the incoming reserve, other income, and anticipated expenses. Date shipments for the year are estimated at 26,500,000 pounds which should provide $238,500 in assessment income. Income derived from handler assessments, along with a $3,000 reimbursement for the cost of disposing of surplus culls, and a $40,000 contribution from the California Date Commission for shared marketing expenses, should be adequate to cover budgeted expenses.

Section 987.72(d) states that the Committee may maintain a monetary reserve not to exceed the average of one year's expenses incurred during the most recent five preceding crop years, except that an established reserve need not be reduced to conform to any recomputed average. Funds in the reserve are available for the Committee's use during the crop year to cover budgeted expenses as necessary or for other purposes deemed appropriate by USDA. The Committee expects to carry a $15,000 reserve into the 2012–13 crop year. They expect to add $21,500 to the reserve during the year, for a desired carryout of approximately $36,500, which is well below the limit specified in the order.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2012–13 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 79 producers of dates in the production area and 11 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,000,000.

According to the National Agricultural Statistics Service (NASS), data for the most recently completed crop year (2011) shows that about 3.68 tons, or 7,360 pounds, of dates were produced per acre. The 2011 grower price published by the NASS was $1,320 per ton, or $.66 per pound. Thus, the value of date production per acre in 2011 averaged about $4,858 (7,360 pounds times $.66 per pound). At that average price, a producer would have to farm over 154 acres to receive an annual income from dates of $750,000 ($750,000 divided by $4,858 per acre equals 154 acres). According to Committee staff, the majority of California date producers farm less than 154 acres. Thus, it can be concluded that the majority of date producers could be considered small entities. According to data from the Committee staff, the majority of handlers of California dates may also be considered small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2012–13 and subsequent crop years from $1.00 to $0.90 per hundredweight of dates handled. The Committee unanimously recommended 2012–13 expenditures of $260,000 and an assessment rate of $0.90 per hundredweight of dates, which is $0.10 lower than the 2011–12 rate, currently in effect. The quantity of assessable dates for the 2012–13 crop year is estimated at 26,500,000 pounds. Thus, the $0.90 rate should provide $238,500 in assessment income. Income derived from handler's assessments, along with the $3,000 contribution from

the surplus program, and the $40,000 contribution for shared marketing expenses should be adequate to meet the 2012–13 crop year expenses.

The major expenditures recommended by the Committee for the 2012–13 crop year include $110,000 for generic marketing promotions, $83,520 for general and administrative expenses, $43,800 for nutrition marketing programs, $12,680 for a contingency fund, and $5,000 for licensing renewal. Budgeted expenses for these items in 2011–12 were $96,300 for generic marketing promotions, $90,000 for general and administrative expenses, $73,600 for nutrition marketing programs, and $5,100 for marketing contingency.

The Committee recommended a lower assessment rate because the 2012–13 crop is expected to be larger than the previous year. As mentioned earlier, date shipments for the year are estimated at 26,500,000 pounds which should provide $238,500 in assessment income. Income derived from handler assessments, cull surplus contributions, and funds contributed by the California Date Commission for shared marketing activities, should be sufficient to cover anticipated 2012–13 expenses.

Section 987.72(d) states that the Committee may maintain a monetary reserve not to exceed the average of one year's expenses incurred during the most recent five preceding crop years, except that an established reserve need not be reduced to conform to any recomputed average. Funds in the reserve are available for the Committee's use during the crop year to cover budgeted expenses as necessary or for other purposes deemed appropriate by USDA. The Committee expects to carry a $15,000 reserve into the 2012–13 crop year. They expect to add $21,500 to the reserve during the year, for a desired carryout of approximately $36,500, which is well below the limit specified in the order.

The Committee reviewed and unanimously recommended 2012–13 crop year expenditures of $260,000. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Marketing Subcommittee, and Budget Committee. Alternative expenditure levels were discussed by these groups, based upon relative value of various marketing projects to the date industry. The assessment rate of $0.90 per hundredweight of dates was then derived, based upon the anticipated 2012–13 crop size, and the Committee's estimates of the incoming reserve, other income, and anticipated expenses. Assessing at the $0.90 per hundredweight of dates will generate approximately $21,500 less than the anticipated expenses, which the Committee determined to be acceptable, as other sources of income should provide adequate funds to cover expenses.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2012–13 season could range between $1,180 and $1,320 per ton of dates. Therefore, the estimated assessment revenue for the 2012–13 crop year as a percentage of total grower revenue could range between 1.5 and 1.4 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the California date industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 12, 2012, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this interim final rule, including the regulatory and informational impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This action imposes no additional reporting or recordkeeping requirements on either small or large Riverside County, California, date handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide*. Any questions about the compliance guide should be sent to Laurel May at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2012–13 crop year begins on October 1, 2012, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dates handled during such crop year; (2) the action decreases the assessment rate for assessable dates beginning with the 2012–13 crop year; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

■ 1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 987.339 is revised to read as follows:

§ 987.339 Assessment rate.

On and after October 1, 2012, an assessment rate of $0.90 per

hundredweight is established for Riverside County, California dates.

Dated: January 2, 2013.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2013–00185 Filed 1–7–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 36

[Docket No. FAA–2011–0629; Amdt. Nos. 21–97; 36–29]

RIN 2120–AJ76

Noise Certification Standards for Tiltrotors

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing noise certification standards for issuing type and airworthiness certificates for a new civil, hybrid airplane-rotorcraft known as the tiltrotor. This noise standard establishes new noise limits and procedures as the basis to ensure consistent aviation noise reduction technology is incorporated in tiltrotors for environmental protection. It provides uniform noise certification standards for tiltrotors certificated in the United States and harmonizes the U.S. regulations with the standards of the International Civil Aviation Organization's (ICAO) Annex 16.

DATES: Effective March 11, 2013.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see "How To Obtain Additional Information" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this final rule contact Sandy Liu, AEE–100, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 493–4864; facsimile (202) 267–5594; email: *sandy.liu@faa.gov.*

For legal questions concerning this final rule contact Karen Petronis, AGC–200, Office of the Chief Counsel, International Law, Legislation, and Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–3073; email: *karen.petronis@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44715, Controlling aircraft noise and sonic boom. Under that section, the FAA is charged with prescribing regulations to measure and abate aircraft noise. This regulation is within the scope of that authority since it would establish new noise certification test procedures and noise limits for a new class of aircraft. Applicants for type certificates, changes in type design, and airworthiness certificates for tiltrotors are required to comply with these new regulations.

Overview of Final Rule

The standards in this final rule apply to the issuance of an original type certificate, changes to a type certificate, and the issuance of a standard airworthiness certificate for tiltrotors. This final rule creates noise certification standards that are applicable to all tiltrotors, such as the AgustaWestland Model AW609 currently under development. These regulations incorporate the same standards as ICAO Annex 16, Volume 1, Chapter 13, Attachment F (Amendment 7) for tiltrotors, consistent with the FAA goal of harmonizing U.S. regulations with international standards.

Background

A new aircraft type known as a tiltrotor is currently in production after more than six decades of research and development. The aircraft uses rotating nacelles, a hybrid of propellers and helicopter rotors, to provide both lift and propulsive force. The tiltrotor is designed to function as a helicopter for takeoff and landing and as an airplane during the en-route portion of flight operations.

The most recognizable tiltrotor operating today is the V–22 Osprey used by the U.S. Marines and the U.S. Air Force. The V–22 Osprey was designed for the U.S. Department of Defense Special Operations Forces and can transport 24 fully equipped troops. The proposed civil version of the tiltrotor would carry up to nine passengers.

The tiltrotor concept was first explored for the U.S. Army in the mid-1950s as a convertiplane concept that incorporated mixed vertical and forward flight capabilities. In 1958, Bell Helicopter Textron Inc. (Bell) of Fort Worth, Texas developed the XV–3 tiltrotor for a joint research program between the U.S. Army and the U.S. Air Force. The Bell XV–3 completed a successful full conversion from vertical flight to forward cruise and demonstrated the feasibility of tiltrotor technology. Following the successful full conversion of the Bell XV–3, the U.S. Army and National Aeronautics and Space Administration awarded Bell a prototype development contract in the mid 1970s to build two Bell XV–15 tiltrotor demonstrator aircraft. These tiltrotor aircraft served as predecessors to the V–22 Osprey to demonstrate mature tiltrotor technology and flight capabilities.

ICAO Noise Certification Standards

ICAO is the international body with responsibility for the development of International Standards and Recommended Practices pursuant to the Convention on International Civil Aviation (the Chicago Convention). Consistent with their obligations under the Chicago Convention, Contracting States agree to implement ICAO standards in their national regulations to the extent practicable. The standards for aircraft noise are contained in Annex 16, Environmental Protection, Volume 1, Aircraft Noise.

In anticipation of civil tiltrotor production, ICAO's Committee on Aviation Environmental Protection (CAEP) chartered the Tiltrotor Task Group (TRTG) in 1997 to develop noise certification guidelines for tiltrotors. The FAA participated in the TRTG and its development of the tiltrotor noise guidelines from 1997 to 2000. The ICAO tiltrotor guidelines used the same noise limits that the United States had incorporated into part 36, Appendix H for helicopter noise certification. The ICAO has included additional requirements that are unique to the design of tiltrotors.

On June 29, 2001, the TRTG's guidelines were adopted by the ICAO Council for incorporation into Annex 16, Volume 1, Chapter 13, Attachment F (Amendment 7). The ICAO guidelines became effective on October 29, 2001, with an applicability date of March 21, 2002.

Statement of the Problem

Current regulations in part 36 do not contain noise certification requirements specific to the tiltrotor and its unique

flight capabilities. Since no standards for the tiltrotor currently exist, the FAA is adding new standards to part 36, and amending part 21, § 21.93 (Classification of Changes in Type Design) to accommodate certification of the tiltrotor. In order to harmonize the U.S. regulations with the international standards, this rulemaking adopts the same noise certification standards as used in ICAO Annex 16, Volume 1, Chapter 13, Attachment F (Amendment 7) for tiltrotors.

Type Certification Activity in the United States

As the tiltrotor concept and technology proved promising with the production of the V–22 Osprey, Bell and Agusta (now AgustaWestland) established a joint business venture in September 1998 to co-develop the Bell/Agusta model BA609 civil tiltrotor.

In August 1996, Bell, the original and lead developer of the tiltrotor, applied for a U.S. type certificate for the model BA609 tiltrotor, prior to the establishment of the joint venture. The BA609 would be type certificated as a "special class" of aircraft under §§ 21.17 and 21.21, using the applicable airworthiness provisions of part 25 (Airworthiness Standards: Transport Category Airplanes) and part 29 (Airworthiness Standards: Transport Category Rotorcraft). This is the first application for this class of aircraft.

In June 2011, the contract for the joint tiltrotor program between Bell and AgustaWestland was renegotiated, with AgustaWestland assuming full ownership. The change in ownership resulted in the BA609 designation being renamed to the AW609, and on February 15, 2012, AgustaWestland applied for a type certificate from the FAA. AgustaWestland is targeting existing helicopter operators as the primary civil market for the AW609, and has stated that the AW609 could operate from existing heliports without the need for new infrastructure to accommodate the aircraft.

Summary of the NPRM

The FAA published a notice of proposed rulemaking (NPRM) on June 21, 2011 (76 FR 36001) that proposed the changes to parts 21 and 36 discussed above that would establish noise certification standards for issuing type and airworthiness certificates for the tiltrotor.

Discussion of Public Comments

The comment period for the NPRM closed on October 19, 2011. The FAA received one comment, from AgustaWestland. AgustaWestland stated that the proposed rule did not specify the entity that would determine the flyover configuration in Appendix K to Part 36. AgustaWestland recommended that the regulation specify that the applicant be the entity that prescribes the constant flyover aircraft configuration.

The FAA agrees the regulation needs to specify what entity prescribes the constant flyover configuration. The FAA agrees the applicant is the proper entity, and has modified the final rule to incorporate this change.

Differences Between the NPRM and the Final Rule

We are adopting this final rule for the reasons stated in the NPRM, with the following changes. First, the NPRM incorrectly included V_{MCP} and V_{MO} as requirements for tiltrotors. Both V_{MCP} and V_{MO} are voluntary reporting parameters for airspeeds at maximum continuous power and maximum operating limit for airplane mode as noted in the ICAO standards. The FAA is not requiring them in Part 36. However, the voluntary reporting of V_{MCP} and V_{MO} will be recommended in an accompanying Advisory Circular as supplemental information. The FAA is removing V_{MCP} and V_{MO} representing airplane mode from § 36.1 and Appendix K in the final rule since airplane mode is only a voluntary and supplemental condition for noise. The harshest (maximum) noise levels are identified in helicopter mode.

Second, the labels used in the proposed Figure K.2 of Appendix K to part 36 incorrectly describe the two sideline noise measurement points as $S_{(starboard)}$ and $S_{(port)}$ instead of $S_{(sideline)}$ for both. Since the flyover condition has a symmetrical test set-up, the generic label assignment, $S_{(sideline)}$, is used to indicate that flight from either direction is allowable without a reference to right or left. The figure is adopted in this final rule with the corrected labels.

Third, the NPRM included the term "power-on" in section K6.1(f) of Appendix K to part 36. That terminology is outdated and is replaced in this final rule by the term "reference".

Fourth, the final rule adds the phrase "throughout the 10 dB-down time interval." in sections K7.5, K7.9 and K7.10 of Appendix K of part 36 to be consistent throughout the appendix.

Fifth, based on AgustaWestland's comment discussed previously, section K6.3(b) of Appendix K to part 36 specifies that the flyover configuration is to be selected by the applicant.

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and 13563 direct each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows,

This final rule:

(1) Imposes minimal incremental costs and provides benefits;

(2) Is not an economically "significant regulatory action" as defined in section 3(f) of Executive Order 12866;

(3) Is not significant as defined in DOT's Regulatory Policies and Procedures;

(4) Will not have a significant economic impact on a substantial number of small entities;

(5) Will not have a significant effect on international trade; and

(6) Will not impose an unfunded mandate on state, local, or tribal

governments, or on the private sector by exceeding the monetary threshold identified.

These analyses are summarized below.

No comments were received on the regulatory evaluation of the proposed rule. However, after the NPRM was published on June 21, 2011, there was a change in the ownership of the known civil tiltrotor program.

When the NPRM was published, the one known civil tiltrotor development program was jointly owned by the Bell and AgustaWestland helicopter companies; the project was designated the BA609. In November, 2011 AgustaWestland purchased Bell's share of the civil tiltrotor program and changed the designation of the aircraft in development to AW609. The former Bell Agusta Aerospace Company (BAAC) was renamed the AgustaWestland Tilt-Rotor Company, LLC and merged with Agusta US Incorporated to become AgustaWestland Tilt-Rotor Company Incorporated, an American company that is the applicant for a type certificate for the AW609. The new company is incorporated in Delaware and is a wholly owned subsidiary of AgustaWestland that is owned by Finmeccanica, an Italian firm.

The AgustaWestland Tilt-Rotor Company, Inc. has rented a facility at the Arlington, Texas Municipal Airport. The facility consists of approximately 99,000 square feet including a hangar/office building. The company plans to construct an adjacent office building. The facilities may he used for aircraft sales, engineering and design, flight testing, and aircraft maintenance, and other activities when approved hy the airport.

Because of the change in ownership of the civil tiltrotor program that occurred after the publication of the NPRM, this regulatory evaluation has been revised to incorporate the changed circumstances.

There are currently no part 36 noise certification standards for tiltrotors in U.S. regulations. This final rule provides part 36 noise certification requirements for tiltrotors by adopting existing ICAO standards. The initial regulatory evaluation estimated that these noise requirements would be minimal cost. We asked for comments and received none. Accordingly, we affirm our determination that these requirements will be minimal cost. Providing U.S. tiltrotor noise certification standards will facilitate the startup and development of a new commercial class of aircraft, the tiltrotor, and allow for certification in the United States as exists for other aircraft designs. The tiltrotor aircraft type can then be marketed domestically and internationally. The FAA believes that this could result in substantial benefits.

The FAA used the same price/cost estimates for the NPRM and received no comments. The FAA maintained in the NPRM that this rule was minimal cost and we received no comments on that determination.

The total value of the estimated market equals the aircraft purchase price multiplied by the estimated units sold. The potential size of the tiltrotor market has been estimated using the sales projections of the previous developer, Bell/Agusta. In the next 10 years, one model of a civil tiltrotor is expected to be available, the AW609 (previously the BA609). This aircraft is currently in development.

The price of a BA609 (now the AW609) was estimated to be $10 to $14 million (aircraftcompare.com, "Bell Agusta BA609", *http://www.aircraftcompare.com/helicopter-airplane/Bell%20Agusta%20BA609%20/279*). This is an increase from the original estimate of $7 million in 2000. The price of $14 million for a BA609 was used to estimate the potential market size for tiltrotor aircraft because AgustaWestland has not announced a purchase price for the AW609.

Bell estimated that the market would result in sales of approximately 100 BA609s over 10 years, making the potential near-term tiltrotor market worth a nominal $1 billion to $1.4 billion. Table 1 shows the nominal and present value estimates of the tiltrotor market. The present value is based on a 7 percent discount rate, and a ten year production period with 10 tiltrotors being delivered each year. The present value of the tiltrotor market is estimated to be between $702,000,000 and $983,000,000.

Table 1

Nominal and Present Value of Tiltrotor Market at a $14,000,000 and $10,000,000 selling price

Year	Units Produced	Unit Price	Total Market Value		Unit Price	Total Market Value	
			Nominal	Present Value @ 7%		Nominal	Present Value @ 7%
1	10	$14,000,000	$140,000,000	$130,844,000	$10,000,000	$100,000,000	$93,460,000
2	10	$14,000,000	$140,000,000	$122,276,000	$10,000,000	$100,000,000	$87,340,000
3	10	$14,000,000	$140,000,000	$114,282,000	$10,000,000	$100,000,000	$81,630,000
4	10	$14,000,000	$140,000,000	$106,806,000	$10,000,000	$100,000,000	$76,290,000
5	10	$14,000,000	$140,000,000	$99,820,000	$10,000,000	$100,000,000	$71,300,000
6	10	$14,000,000	$140,000,000	$93,282,000	$10,000,000	$100,000,000	$66,630,000
7	10	$14,000,000	$140,000,000	$87,178,000	$10,000,000	$100,000,000	$62,270,000
8	10	$14,000,000	$140,000,000	$81,480,000	$10,000,000	$100,000,000	$58,200,000
9	10	$14,000,000	$140,000,000	$76,146,000	$10,000,000	$100,000,000	$54,390,000
10	10	$14,000,000	$140,000,000	$71,162,000	$10,000,000	$100,000,000	$50,830,000
Totals	**100**	**N.A.**	**$1,400,000,000**	**$983,276,000**	**N.A.**	**$1,000,000,000**	**$702,340,000**

3/29/2011

Table 2 summarizes the incremental manufacturer costs for the noise certification of a civil tiltrotor as discussed in the initial regulatory evaluation. At that time we determined that these costs were minimal. We received no comments on that determination and it is not changed in the final rule.

Table 2

Estimated Noise Certification Costs For a Civil Tiltrotor Aircraft

Item	Hours	Cost Per Hour	Total Cost
Acoustics Group	2,000	$ 125	$ 250,000
Flight Test Groups	2,000	$ 110	$ 220,000
Aircraft	10	$ 5,000	$ 50,000
Miscellaneous Expenses			$ 68,000
Total Hours & Costs	4,010	N.A.	$ 588,000

8/15/2012

Issuance of a type certificate requires compliance with the applicable noise certification requirements of part 36. Full noise certification testing is generally required for each new aircraft type and for certain voluntary changes to type design that are classified as acoustical change under § 21.93(b). The incremental costs recur only when a new type certificate is issued, or when a change to a type design results after an acoustical change is made.

Noise certification costs consist of four major items: Acoustics; Flight Test; Aircraft; and Miscellaneous. For tiltrotors noise certification, as for any aircraft certification, the noise demonstration flight testing and reporting is the largest incremental cost of the noise certification.

To meet the regulatory requirements for noise control, acoustical measurements are used to quantify the characteristic noise levels of the aircraft. Almost half the noise certification expense ($250,000) is invested in the acoustics group equipment and analysis. This cost includes overall noise test planning and coordination, noise test site preparation and measurement set-up.

The second highest noise certification expense involves the flight test support ($220,000). These are the expenses for configuring and preparing the aircraft to execute the required noise flight test procedures.

The last two noise certification expense groups are aircraft and miscellaneous expenses. The aircraft expense ($50,000) involves costs associated with aircraft flight time, fuel, and flight crew support. Most other general expenses of test support are miscellaneous costs ($68,000).

The cost estimates for noise certification were provided by Bell Helicopter Textron, the original developer of the civil tiltrotor. The cost of noise certification for the tiltrotor is comparable to that for a large helicopter (over 7,000 pounds). As shown in Table 2, the estimated total incremental cost of a single noise certification is $588,000. As the $588,000 would be incurred in the first year, the nominal value equals the present value.

The FAA may incur costs in this certification process. However, these costs are not expected to vary significantly from the agency's current costs to noise certificate any other new aircraft type.

Based on the above analyses, and consistent with the determinations made in the NPRM, this final rule is considered to be a minimal cost rule.

Since the tiltrotor industry is still developing, the costs and benefits discussed are based on the single existing civil tiltrotor program. This final rule establishes the noise certification requirements for a tiltrotor. While the estimated benefits and costs are based on a single tiltrotor type, we have also determined that any future designs will benefit from the established noise certification requirements.

The present value cost of the final rule is $588,000 for the certification of one tiltrotor type, about the same as would be required for a traditional helicopter design. The FAA considered this cost to be minimal in the NPRM. The FAA received no comments on this minimal cost determination. Therefore, the FAA considers this cost to be minimal in this final regulatory evaluation.

The FAA believes that this final rule will be cost beneficial because it is minimal cost, and because it facilitates the development of tiltrotor aircraft and the commercial market for them.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

When the NPRM was published, the tiltrotor was being developed by a joint venture of Bell Helicopter, an American company and AgustaWestland, an Italian firm. Because an American firm was potentially affected by the proposed rule, a Regulatory Flexibility Analysis was prepared. No comments were received on the Regulatory Flexibility Analysis which concluded there was no significant economic impact on a substantial number of small entities.

After the NPRM was published, AgustaWestland, an Italian company, bought the ownership interests of Bell Helicopter. As such, the original BAAC was renamed and merged to become AgustaWestland Tilt-Rotor Company Incorporated, a wholly owned subsidiary of AgustaWestland, an Italian company. AgustaWestland is owned by Finmeccanica, also an Italian company.

Section 601 of the RFA defines the term "small business" as follows: "The term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act, * * *"

Section 3(a)(1) of the Small Business Act defines a small business concern as follows: "For the purposes of this Act, a small business concern, including, but not limited to enterprises that are engaged in the business of the production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries, shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation: "

Section 3(a)(2) of the Small Business Act discusses the establishment of size standards. The Small Business Administration (SBA) size standard for a small entity in aircraft manufacturing is 1,500 employees.

The AgustaWestland Tilt-Rotor Company Incorporated currently employs 12 people. While the number of employees of the AgustaWestland Tilt Rotor Company meets the SBA employment size standard for a small entity, the company is not a small entity as defined by the SBA because it is not independently owned and operated. The owner of the AgustaWestland Tilt-Rotor Company, Inc. is Finmeccanica, which has 75,733 employees, far exceeding the aircraft manufacturing size standard of 1,500 employees.

There are no other companies which are known to be developing or manufacturing a civil tiltrotor. Therefore, Finmeccanica (including its subsidiaries) is the dominant company involved in the development of a civilian tiltrotor. This final rule is expected to be minimal cost and there are no small entities affected. Therefore, as the acting FAA Administrator, I certify that this final rule will not have a significant economic impact on a substantial number of small tiltrotor manufacturers.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this final rule and determined that it will encourage international trade by adopting the international standards of ICAO as the basis for a rule for the noise certification of tiltrotors.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action". The FAA currently uses an inflation-adjusted value of $143.1 million in lieu of $100 million. This final rule does not contain such a mandate; therefore, the requirements of Title II do not apply.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this final rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. In 2001, ICAO adopted tiltrotor noise guidelines. This regulation harmonizes U.S. noise standards with the international standards by adopting the same requirements, adapted for the U.S. regulatory format.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. This rule adopts internationally established noise standards for a new civil, hybrid airplane-rotorcraft known as the tiltrotor. Based on the presence of both helicopter and propeller airplane characteristics inherit in the tiltrotor, the noise standards use preexisting helicopter noise certification limits and procedures. This final rule adopts these noise limits to control the harshest (maximum) noise levels when the tiltrotor operates in its noisiest configuration—helicopter mode. In airplane mode, the tiltrotor is significantly quieter because of its low RPM design in cruise mode. The FAA finds the applicability of the noise limits adopted here as technologically and environmentally consistent for this new class of aircraft.

The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f of the Order and involves no extraordinary circumstances.

Executive Order Determinations

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a "significant energy action" under Executive Order 12866 and DOT's Regulatory Policies and Procedures, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

How To Obtain Additional Information

Rulemaking Documents

An electronic copy of a rulemaking document my be obtained by using the Internet—

1. Search the Federal eRulemaking Portal (*http://www.regulations.gov*);

2. Visit the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/* or

3. Access the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/*.

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680.

Comments Submitted to the Docket

Comments received may be viewed by going to *http://www.regulations.gov* and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/*.

List of Subjects

14 CFR Part 21

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 36

Aircraft, Noise control.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations, as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

■ 1. The authority citation for part 21 continues to read as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701–44702, 44704, 44707, 44709, 44711, 44713, 44715, 45303.

■ 2. Amend § 21.93 by adding paragraph (b)(5) to read as follows:

§ 21.93 Classification of changes in type design.

* * * * *

(b) * * *

(5) Tiltrotors.

* * * * *

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

■ 3. The authority citation for part 36 continues to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; 49 U.S.C. 106(g), 40113, 44701–44702, 44704, 44715; sec. 305, Pub. L. 96–193, 94 Stat. 50, 57; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902.

■ 4. Amend § 36.1 as follows:

■ A. Add paragraph (a)(5);

■ B. Amend paragraph (c) by removing the phrase "or 36.11" and adding the phrase "36.11 or 36.13" in its place; and

■ C. Add paragraph (i)

The additions and revisions read as follows:

§ 36.1 Applicability and definitions.

* * * * *

(a) * * *

(5) Type certificates, changes to those certificates, and standard airworthiness certificates, for tiltrotors.

* * * * *

(i) For the purpose of showing compliance with this part for tiltrotors, the following terms have the specified meanings:

Airplane mode means a configuration with nacelles on the down stops (axis aligned horizontally) and rotor speed set to cruise revolutions per minute (RPM).

Airplane mode RPM means the lower range of rotor rotational speed in RPM defined for the airplane mode cruise flight condition.

Fixed operation points mean designated nacelle angle positions selected for airworthiness reference. These are default positions used to refer to normal nacelle positioning operation of the aircraft. The nacelle angle is controlled by a self-centering switch. When the nacelle angle is 0 degrees (airplane mode) and the pilot moves the nacelle switch upwards, the nacelles are programmed to automatically turn to the first default position (for example, 60 degrees) where they will stop. A second upward move of the switch will tilt the nacelle to the second default position (for example, 75 degrees). Above the last default position, the nacelle angle can be set to any angle up to approximately 95 degrees by moving the switch in the up or down direction. The number and position of the fixed operation points may vary on different tiltrotor configurations.

Nacelle angle is defined as the angle between the rotor shaft centerline and the longitudinal axis of the aircraft fuselage.

Tiltrotor means a class of aircraft capable of vertical take-off and landing, within the powered-lift category, with rotors mounted at or near the wing tips that vary in pitch from near vertical to near horizontal configuration relative to the wing and fuselage.

Vertical takeoff and landing (VTOL) mode means the aircraft state or configuration having the rotors orientated with the axis of rotation in a vertical manner (i.e., nacelle angle of approximately 90 degrees) for vertical takeoff and landing operations.

V_{CON} is defined as the maximum authorized speed for any nacelle angle in VTOL/Conversion mode.

VTOL/Conversion mode is all approved nacelle positions where the

design operating rotor speed is used for hover operations.

VTOL mode RPM means highest range of RPM that occur for takeoff, approach, hover, and conversion conditions.

■ 5. Add § 36.13 to subpart A to read as follows:

§ 36.13 Acoustical change: Tiltrotor aircraft.

The following requirements apply to tiltrotors in any category for which an acoustical change approval is applied for under § 21.93(b) of this chapter on or after March 11, 2013:

(a) In showing compliance with Appendix K of this part, noise levels must be measured, evaluated, and calculated in accordance with the applicable procedures and conditions prescribed in Appendix K of this part.

(b) Compliance with the noise limits prescribed in section K4 (Noise Limits) of Appendix K of this part must be shown in accordance with the applicable provisions of sections K2 (Noise Evaluation Measure), K3 (Noise Measurement Reference Points), K6 (Noise Certification Reference Procedures), and K7 (Test Procedures) of Appendix K of this part.

(c) After a change in type design, tiltrotor noise levels may not exceed the limits specified in § 36.1103.

■ 6. Add Subpart K of part 36 to read as follows:

Subpart K—Tiltrotors

Sec.

Subpart K—Tiltrotors

§ 36.1101 Noise measurement and evaluation.

For tiltrotors, the noise generated must be measured and evaluated under Appendix K of this part, or under an approved equivalent procedure.

§ 36.1103 Noise limits.

(a) Compliance with the maximum noise levels prescribed in Appendix K of this part must be shown for a tiltrotor for which the application for the issuance of a type certificate is made on or after March 11, 2013.

(b) To demonstrate compliance with this part, noise levels may not exceed the noise limits listed in Appendix K, Section K4, Noise Limits of this part. Appendix K of this part (or an approved equivalent procedure) must also be used to evaluate and demonstrate compliance with the approved test procedures, and at the applicable noise measurement points.

■ 7. Add Appendix K to part 36 to read as follows:

Appendix K to Part 36—Noise Requirements for Tiltrotors Under Subpart K

Sec.

Section K1 General

This appendix prescribes noise limits and procedures for measuring noise and adjusting the data to standard conditions for tiltrotors as specified in § 36.1 of this part.

Section K2 Noise Evaluation Measure

The noise evaluation measure is the effective perceived noise level in EPNdB, to be calculated in accordance with section A36.4 of Appendix A to this part, except corrections for spectral irregularities must be determined using the 50 Hz sound pressure level found in section H36.201 of Appendix H to this part.

Section K3 Noise Measurement Reference Points

The following noise reference points must be used when demonstrating tiltrotor compliance with section K6 (Noise Certification Reference Procedures) and section K7 (Test Procedures) of this appendix:

(a) *Takeoff reference noise measurement points*—

As shown in Figure K1 below:

(1) The centerline noise measurement flight path reference point, designated A, is located on the ground vertically below the reference takeoff flight path. The measurement point is located 1,640 feet (500 m) in the horizontal direction of flight from the point Cr where transition to climbing flight is initiated, as described in section K6.2 of this appendix;

(2) Two sideline noise measurement points, designated as S(starboard) and S(port), are located on the ground perpendicular to and symmetrically stationed at 492 feet (150 m) on each side of the takeoff reference flight path. The measurement points bisect the centerline flight path reference point A.

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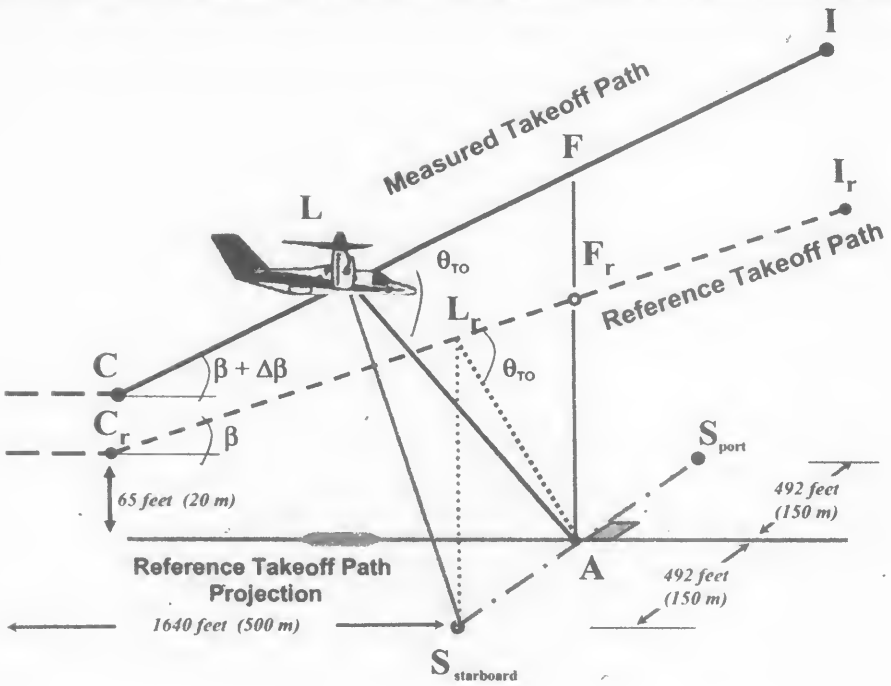

Figure K1.
Comparison of Measured and Reference Takeoff Profiles

(b) *Flyover reference noise measurement points*—

As shown in Figure K2 below:

(1) The centerline noise measurement flight path reference point, designated A, is located on the ground 492 feet (150 m) vertically below the reference flyover flight path. The measurement point is defined by the flyover reference procedure in section K6.3 of this appendix;

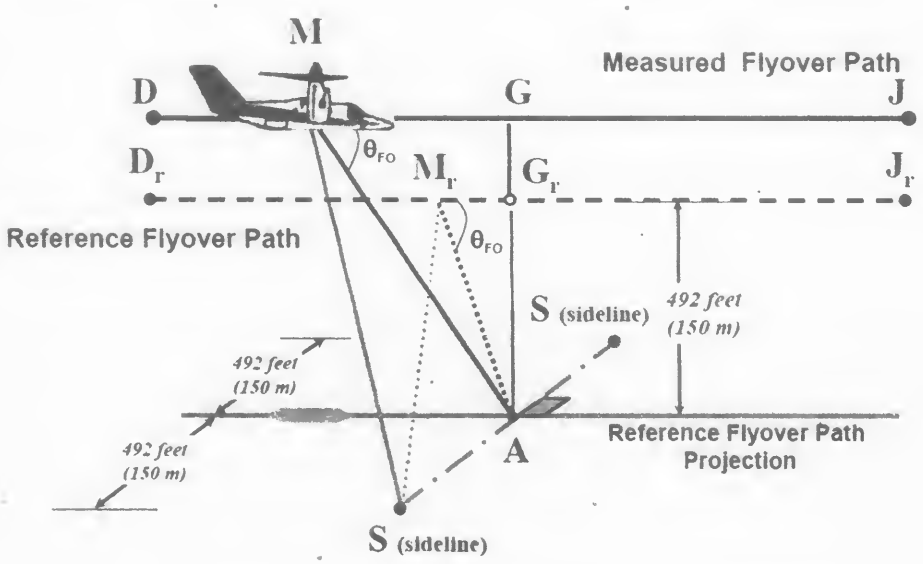

Figure K2.
Comparison of Measured and Reference Flyover Profiles

(2) Two sideline noise measurement points, designated as $S_{(sideline)}$, are located on the ground perpendicular to and symmetrically stationed at 492 feet (150 m) on each side of the flyover reference flight path. The measurement points bisect the centerline flight path reference point A.

(c) *Approach reference noise measurement points*—

As shown in Figure K3 below:

(1) The centerline noise measurement flight path reference point, designated A, is located on the ground 394 feet (120 m) vertically below the reference approach flight path. The measurement point is defined by the approach reference procedure in section K6.4 of this appendix. On level ground, the measurement point corresponds to a position 3,740 feet (1,140 m) from the intersection of the 6.0 degree approach path with the ground plane;

(2) Two sideline noise measurement points, designated as S(starboard) and S(port), are located on the ground perpendicular to and symmetrically stationed at 492 feet (150 m) on each side of the approach reference flight path. The measurement points bisect the centerline flight path reference point A.

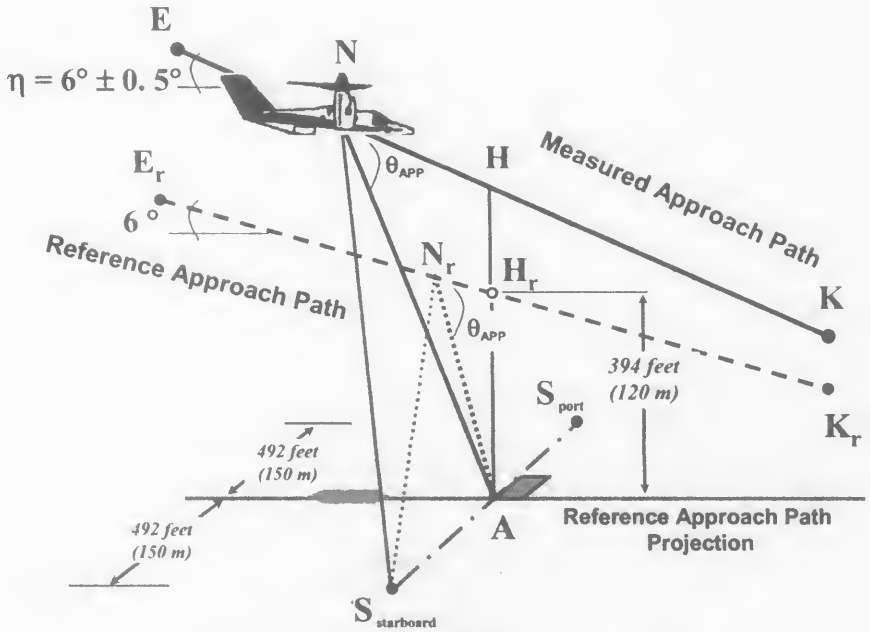

Figure K3.
Comparison of Measured and Reference Approach Profiles

Section K4 Noise Limits

For a tiltrotor, the maximum noise levels, as determined in accordance with the noise evaluation in EPNdB and calculation method described in section H36.201 of Appendix H of this part, must not exceed the noise limits as follows:

(a) *At the takeoff flight path reference point:* For a tiltrotor having a maximum certificated takeoff weight (mass) of 176,370 pounds (80,000 kg) or more, in VTOL/Conversion mode, 109 EPNdB, decreasing linearly with the logarithm of the tiltrotor weight (mass) at a rate of 3.0 EPNdB per halving of weight (mass) down to 89 EPNdB, after which the limit is constant. Figure K4 illustrates the takeoff noise limit as a solid line.

(b) *At the Flyover path reference point:* For a tiltrotor having a maximum certificated takeoff weight (mass) of 176,370 pounds (80,000 kg) or more, in VTOL/Conversion mode, 108 EPNdB, decreasing linearly with the logarithm of the tiltrotor weight (mass) at a rate of 3.0 EPNdB per halving of weight (mass) down to 88 EPNdB, after which the limit is constant. Figure K4 illustrates the flyover noise limit as a dashed line.

(c) *At the approach flight path reference point:* For a tiltrotor having a maximum certificated takeoff weight (mass) of 176,370 pounds (80,000 kg) or more, in VTOL/Conversion mode, 110 EPNdB, decreasing linearly with the logarithm of the tiltrotors weight (mass) at a rate of 3.0 EPNdB per halving of weight (mass) down to 90 EPNdB, after which the limit is constant. Figure K4 illustrates the approach noise limit as a dash-dot line.

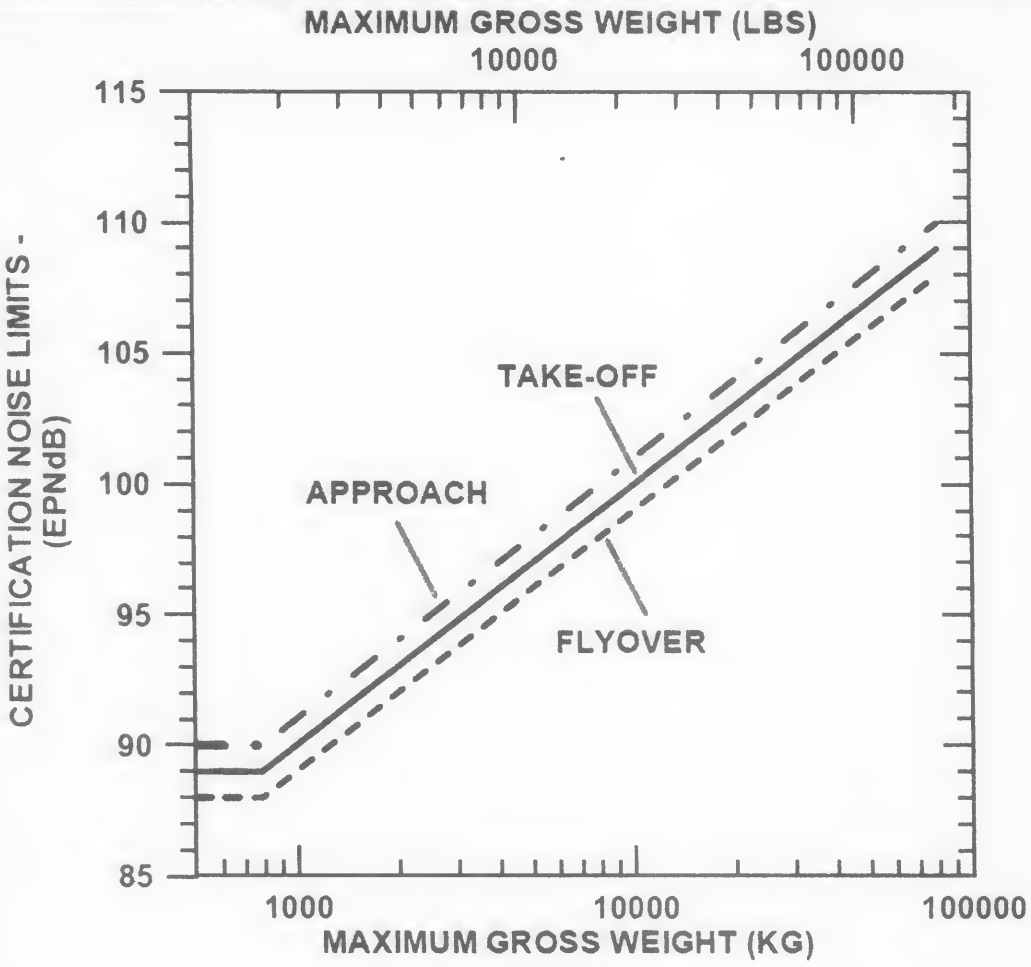

FIGURE K4.
TILTROTOR NOISE LIMITS

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Section K5 Trade-Offs

If the noise evaluation measurement exceeds the noise limits described in K4 of this appendix at one or two measurement points:

(a) The sum of excesses must not be greater than 4 EPNdB;

(b) The excess at any single point must not be greater than 3 EPNdB; and

(c) Any excess must be offset by the remaining noise margin at the other point or points.

Section K6 Noise Certification Reference Procedures

K6.1 General Conditions

(a) [Reserved]

(b) [Reserved]

(c) The takeoff, flyover and approach reference procedures must be established in accordance with sections K6.2, K6.3 and K6.4 of this appendix, except as specified in section K6.1(d) of this appendix.

(d) If the design characteristics of the tiltrotor prevent test flights from being conducted in accordance with section K6.2, K6.3 or K6.4 of this appendix, the applicant must revise the test procedures and resubmit the procedures for approval.

(e) The following reference atmospheric conditions must be used to establish the reference procedures:

(1) Sea level atmospheric pressure of 2,116 pounds per square foot (1,013.25 hPa);

(2) Ambient air temperature of 77 °Fahrenheit (25 ° Celsius, i.e. ISA + 10 °C);

(3) Relative humidity of 70 percent; and

(4) Zero wind.

(f) For tests conducted in accordance with sections K6.2, K6.3, and K6.4 of this appendix, use the maximum normal operating RPM corresponding to the airworthiness limit imposed by the manufacturer. For configurations for which the rotor speed automatically links with the flight condition, use the maximum normal operating rotor speed corresponding with the reference flight condition. For configurations for which the rotor speed can change by pilot action, use the highest normal rotor speed specified in the flight manual limitation section for the reference conditions.

K6.2 Takeoff Reference Procedure. The takeoff reference flight procedure is as follows:

(a) A constant takeoff configuration must be maintained, including the nacelle angle selected by the applicant;

(b) The tiltrotor power must be stabilized at the maximum takeoff power corresponding to the minimum

installed engine(s) specification power available for the reference ambient conditions or gearbox torque limit, whichever is lower. The tiltrotor power must also be stabilized along a path starting from a point located 1,640 feet (500 m) before the flight path reference point, at 65 ft (20 m) above ground level;

(c) The nacelle angle and the corresponding best rate of climb speed, or the lowest approved speed for the climb after takeoff, whichever is the greater, must be maintained throughout the takeoff reference procedure;

(d) The rotor speed must be stabilized at the maximum normal operating RPM certificated for takeoff;

(e) The weight (mass) of the tiltrotors must be the maximum takeoff weight (mass) as requested for noise certification; and

(f) The reference takeoff flight profile is a straight line segment inclined from the starting point 1,640 feet (500 m) before to the center noise measurement point and 65 ft (20 m) above ground level at an angle defined by best rate of climb and the speed corresponding to the selected nacelle angle and for minimum specification engine performance.

K6.3 Flyover Reference Procedure. The flyover reference flight procedure is as follows:

(a) The tiltrotor must be stabilized for level flight along the centerline flyover flight path and over the noise measurement reference point at an altitude of 492 ft (150 m) above ground level;

(b) A constant flyover configuration selected by the applicant must be maintained;

(c) The weight (mass) of the tiltrotor must be the maximum takeoff weight (mass) as requested for noise certification;

(d) In the VTOL/Conversion mode:

(1) The nacelle angle must be at the authorized fixed operation point that is closest to the shallow nacelle angle certificated for zero airspeed;

(2) The airspeed must be $0.9V_{CON}$ and

(3) The rotor speed must be stabilized at the maximum normal operating RPM certificated for level flight.

K6.4 Approach Reference Procedure. The approach reference procedure is as follows:

(a) The tiltrotor must be stabilized to follow a 6.0 degree approach path;

(b) An approved airworthiness configuration in which maximum noise occurs must be maintained;

(1) An airspeed equal to the best rate of climb speed corresponding to the nacelle angle, or the lowest approved airspeed for the approach, whichever is greater, must be stabilized and maintained; and

(2) The tiltrotor power during the approach must be stabilized over the flight path reference point, and continue as if landing;

(c) The rotor speed must be stabilized at the maximum normal operating RPM certificated for approach;

(d) The constant approach configuration used in airworthiness certification tests, with the landing gear extended, must be maintained; and

(e) The weight (mass) of the tiltrotor at landing must be the maximum landing weight (mass) as requested for noise certification.

Section K7 Test Procedures

K7.1 [Reserved]

K7.2 The test procedures and noise measurements must be conducted and processed to yield the noise evaluation measure designated in section K2 of this appendix.

K7.3 If either the test conditions or test procedures do not comply to the applicable noise certification reference conditions or procedures prescribed by this part, the applicant must apply the correction methods described in section H36.205 of Appendix H of this part to the acoustic test data measured.

K7.4 Adjustments for differences between test and reference flight procedures must not exceed:

(a) For takeoff: 4.0 EPNdB, of which the arithmetic sum of delta 1 and the term -7.5 log (QK/QrKr) from delta 2 must not in total exceed 2.0 EPNdB;

(b) For flyover or approach: 2.0 EPNdB.

K7.5 The average rotor RPM must not vary from the normal maximum operating RPM by more than ±1.0 percent throughout the 10 dB-down time interval.

K7.6 The tiltrotor airspeed must not vary from the reference airspeed appropriate to the flight demonstration by more than ±5 kts (±9 km/h) throughout the 10 dB-down time interval.

K7.7 The number of level flyovers made with a head wind component must be equal to the number of level flyovers made with a tail wind component.

K7.8 The tiltrotor must operate between ±10 degrees from the vertical or between ±65 feet (±20 m) lateral deviation tolerance, whichever is greater, above the reference track and throughout the 10 dB-down time interval.

K7.9 The tiltrotor altitude must not vary during each flyover by more than ±30 ft (±9 m) from the reference altitude throughout the 10 dB-down time interval.

K7.10 During the approach procedure, the tiltrotor must establish a stabilized constant speed approach and fly between approach angles of 5.5 degrees and 6.5 degrees throughout the 10 dB-down time interval.

K7.11 During all test procedures, the tiltrotor weight (mass) must not be less than 90 percent and not more than 105 percent of the maximum certificated weight (mass). For each of the test procedures, complete at least one test at or above this maximum certificated weight (mass).

K7.12 A tiltrotor capable of carrying external loads or external equipment must be noise certificated without such loads or equipment fitted

K7.13 The value of V_{CON} used for noise certification must be included in the approved Flight Manual.

Issued in Washington, DC, on December 21, 2012.

Michael P. Huerta,

Acting Administrator.

[FR Doc. 2013–00111 Filed 1–7–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 420

[Docket No. FAA–2011–0105; Amdt. No. 420–6A]

RIN 2120–AJ73

Explosive Siting Requirements; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting a final rule published on September 7, 2012 (77 FR 55108). In that rule, the FAA amended its regulations to the requirements for siting explosives under a license to operate a launch site. The rule increases flexibility for launch site operators in site planning for the storage and handling of energetic liquids and explosives. The FAA inadvertently did not correctly identify the Department of Defense Explosives Safety Board. This document corrects the error.

DATES: Effective January 8, 2013.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this final rule, contact Yvonne Tran, Commercial Space Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7908; facsimile (202) 267–5463, email *yvonne.tran@faa.gov*. For legal questions concerning this final rule, contact Laura Montgomery, AGC 200,

Senior Attorney for Commercial Space Transportation, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3150; facsimile (202) 267–7971, email *laura.montgomery@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 2012, the FAA published a final rule entitled, "Explosive Siting Requirements" (77 FR 55108).

In that final rule, the FAA revised the requirements for siting explosives under a license to operate a launch site. The rule increased flexibility for launch site operators in site planning for the storage and handling of energetic liquids and explosives. In the discussion of the Overview of the Final Rule, the FAA explained that it was dispensing with the hazard groups of tables E–3 through E–6 of appendix E of Title 14, Code of Federal Regulations part 420 as a means of classification to be consistent with the Department of Defense (DOD) Explosives Safety Board (DDESB) and National Fire Protection Association (NFPA) practices. In the full title of DDESB, the FAA inadvertently used the word "siting" instead of "safety." The FAA is now correcting the error to properly identify DDESB.

Correction to Preamble

1. On page 55109, in the first column, in the first paragraph under Section I., correct "Department of Defense (DOD) Explosives Siting Board's (DDESB)" to read "Department of Defense (DOD) Explosives Safety Board (DDESB)".

Issued in Washington, DC on January 2, 2013.

Lirio Liu,

Director, Office of Rulemaking.

[FR Doc. 2013–00109 Filed 1–7–13; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 9, 12, and 171

Rules of Practice; Amendments to Delegations of Authority to the Office of General Counsel

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("CFTC" or "Commission") is amending its regulations delegating authority to the Commission's Office of General Counsel, so that all delegations thereto will be to the General Counsel, with authority to sub-delegate to any Commission employee under the supervision of the General Counsel.

DATES: *Effective Date:* January 8, 2013.

FOR FURTHER INFORMATION CONTACT: Lynn Bulan, Counsel, Office of General Counsel, 1155 21st Street NW., Washington, DC 20581, *lbulan@cftc.gov* and (202) 418–5120.

SUPPLEMENTARY INFORMATION: The Commission is revising delegations of authority to the Office of General Counsel, replacing delegations to the Deputy General Counsel for Opinions and Review with delegations to the General Counsel. The reason for this change is due to the elimination of the position of Deputy General Counsel for Opinions and Review under a reorganization within the Office of General Counsel. The revisions will permit the General Counsel to sub-delegate authority to any Commission employee under his or her supervision.

I. Rules Being Amended

The following CFTC rules are being amended.

A. 17 CFR 9.9

CFTC rule 9.9 delegates certain authority to the Deputy General Counsel for Opinions and Review. Currently, the rule authorizes the Deputy General Counsel for Opinions and Review or his/her designee to handle certain procedural and technical matters and, in his/her discretion, to submit matters otherwise falling within this rule to the Commission for its consideration. The CFTC is changing the rule to grant this authority to the General Counsel. As a result, references to the Deputy General Counsel for Opinions and Review in rule 9.9 have been changed to the General Counsel, and to any employee under the General Counsel's supervision as he or she may designate.

B. 17 CFR 12.10

CFTC rule 12.10(a)(3) sets forth all the persons upon whom the Proceedings Clerk must serve all notices, rulings, opinions, and orders. This list of persons includes the Deputy General Counsel for Opinions and Review. The rule is being revised such that all references to the Deputy General Counsel for Opinions and Review in rule 12.10 have been changed to the General Counsel, and permits the General Counsel to sub-delegate this authority to any Commission employee under his or her supervision.

C. 17 CFR 12.408

CFTC rule 12.408 is titled "Delegation of Authority to the Deputy General Counsel for Opinions." The text of the rule delegates certain functions to the General Counsel and not the Deputy General Counsel for Opinions. In order to conform the title of the section to the substance of the section, the reference in the title of the section has been changed to "Delegation of Authority to the General Counsel."

D. 17 CFR 171.1(c)

CFTC rule 171.1(c) provides the Deputy General Counsel for Opinions the authority to strike a notice of appeal in certain circumstances. All references to the Deputy General Counsel for Opinions in rule 171.1(c) have been changed to the General Counsel, or the General Counsel's delegate.

E. 17 CFR 171.50

CFTC rule 171.50 delegates certain authority to the Deputy General Counsel for Opinions. The current rule authorizes the Deputy General Counsel for Opinions and Review or his/her designee to handle certain procedural and technical matters and, in his/her discretion, to submit matters otherwise falling within this rule to the Commission for its consideration. References in rule 171.50 have been changed to the General Counsel.

II. Administrative Compliance

A. Administrative Procedure Act

The Administrative Procedure Act does not require notice of the proposed rulemaking and an opportunity for public participation in connection with these amendments, as they relate solely to agency organization, procedure and practice.[1] For the same reason, these rules will become effective upon publication in the **Federal Register**.[2]

Pursuant to the authority contained in the Commodity Exchange Act, in particular section 2(a)(4), 7 U.S.C. 2(a)(4), the CFTC corrects part 9, 12 and 171 of Title 17 of the Code of Federal regulations as described below.

B. Paperwork Reduction Act and Regulatory Flexibility Act

This rulemaking does not contain any collections of information for which the Commission must seek a control number under the Paperwork Reduction Act.[3] Moreover, the Regulatory Flexibility Act requires the Commission to consider whether a rulemaking will

[1] 5 U.S.C. 553(b).

[2] 5 U.S.C. 553(d).

[3] *See* 44 U.S.C. 3501 *et seq.*

have a significant economic impact on a substantial number of small businesses only when the agency is obligated to publish a general notice of proposed rulemaking under section 553(b). As this rulemaking relates to agency organization and procedure, and therefore is not subject to notice and comment under section 553(b), a regulatory flexibility analysis is not required.[4]

List of Subjects in 17 CFR Parts 9, 12 and 171

Administrative practice and procedure, Commodity exchanges, Commodity futures, Rules of practice before administrative agency.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR Parts 9, 12 and 171 as set forth below:

PART 9—RULES RELATING TO REVIEW OF EXCHANGE DISCIPLINARY, ACCESS DENIAL OR OTHER ADVERSE ACTIONS

■ 1. The authority citation for Part 9 continues to read as follows:

Authority: 7 U.S.C. 4a, 6c, 7a, 12a, 12c, 16a, as amended by Title XIII of the Food, Conservation and Energy Act of 2008, Pub. L. 110–246, 122 Stat. 1624 (June 18, 2008), unless otherwise noted.

■ 2. Section 9.9 is amended by revising paragraphs (b)(1) introductory text, (b)(3) and (b)(4), to read as follows:

§ 9.9 Waiver of rules; delegation of authority.

* * * * *

(b) * * *

(1) The Commission hereby delegates, until the Commission orders otherwise, to the General Counsel, or to any employee under the General Counsel's supervision as the General Counsel may designate, the authority:

* * * * *

(3) The General Counsel, or his designee, may submit to the Commission for its consideration any matter which has been delegated pursuant to paragraph (b)(1) of this section.

(4) Nothing in this section will be deemed to prohibit the Commission, at its election, from exercising the authority delegated to the General Counsel, or his designee, under this section.

PART 12—RULES RELATING TO REPARATION PROCEEDINGS

■ 3. The authority citation for Part 12 continues to read as follows:

Authority: 7 U.S.C. 2(a)(12), 12a(5), and 18, as amended by Title XIII of the Food, Conservation and Energy Act of 2008, Pub. L. 110–246, 122 Stat. 1624 (June 18, 2008), unless otherwise noted.

■ 4. Section 12.10 is amended by revising paragraph (a)(3) to read as follows:

§ 12.10 Service.

* * * * *

(a) * * *

(3) *Service of orders and decisions.* A copy of all notices, rulings, opinions and orders of the Proceedings Clerk, the Director of the Office of Proceedings, a Judgment Officer, Administrative Law Judge, the General Counsel or any employee under the General Counsel's supervision as the General Counsel may designate, or the Commission shall be served by the Proceedings Clerk on each of the parties.

* * * * *

■ 5. Section 12.408 is amended by revising the section heading to read as follows:

§ 12.408 Delegation of authority to the General Counsel.

* * * * *

PART 171—RULES RELATING TO REVIEW OF NATIONAL FUTURES ASSOCIATION DECISIONS IN DISCIPLINARY, MEMBERSHIP DENIAL, REGISTRATION AND MEMBERSHIP RESPONSIBILITY ACTIONS

Authority and Issuance

■ 6. The authority citation for Part 171 continues to read as follows:

Authority: 7 U.S.C. 4a, 12a, and 21, as amended by Title XIII of the Food, Conservation and Energy Act of 2008, Pub. L. 110–246, 122 Stat. 1624 (June 18, 2008), unless otherwise noted.

■ 7. Section 171.1 is amended by revising paragraph (c) to read as follows:

§ 171.1 Scope of rules.

* * * * *

(c) *Appeals from excluded decisions.* If the General Counsel, or any employee under the General Counsel's supervision as the General Counsel may designate, determines that a notice of appeal submitted to the Commission is from a decision that is excluded from review under this part, the notice of appeal may be stricken and ordered to be returned to the aggrieved party who submitted it.

* * * * *

■ 8. Section 171.50 is amended by revising paragraphs (a) introductory text, (c), and (d) to read as follows:

§ 171.50 Delegation to the General Counsel.

(a) The Commission hereby delegates, until it orders otherwise, to the General Counsel, or any employee under the General Counsel's supervision as the General Counsel may designate, the authority:

* * * * *

(c) The General Counsel, or his designee, may submit to the Commission for its consideration any matter which has been delegated pursuant to paragraph (a) of this section.

(d) Nothing in this section will be deemed to prohibit the Commission, at its election, from exercising the authority delegated to the General Counsel, or his designee, under this section.

Issued in Washington, DC on December 31, 2012, by the Commission.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2012–31721 Filed 1–7–13; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0824]

RIN 1625–AA11

Regulated Navigation Area; Housatonic River, Bridge Replacement Operations; Stratford, CT

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule and request for comments.

SUMMARY: The Coast Guard is establishing a regulated navigation area (RNA) on the navigable waters of the Housatonic River surrounding the Interstate 95 (I–95) Bridge, between Stratford and Milford, CT. This RNA allows the Coast Guard to enforce speed and wake restrictions and prohibit all vessel traffic through the RNA during bridge replacement operations, both planned and unforeseen, that could pose an imminent hazard to persons and vessels operating in the area. This rule is necessary to provide for the safety of life on the navigable waters during the replacement of the bridge.

DATES: This rule is effective and will be enforced from January. 7, 2013 through November 30, 2017.

Comments and related material may be received by the Coast Guard through the effective period.

[4] *See* 5 U.S.C. 601(2).

Requests for public meetings must be received by the Coast Guard on or before January 29, 2013.

ADDRESSES: Documents mentioned in this preamble are part of Docket Number USCG–2012–0824. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the "SEARCH" box and click "SEARCH." Click on "Open Docket Folder" on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may submit comments, identified by docket number, using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* (202) 493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Joseph Graun, Prevention Department, U.S. Coast Guard Sector Long Island Sound, (203) 468–4544, *Joseph.L.Graun@uscg.mil;* or Lieutenant Isaac M. Slavitt, Waterways Management Division, U.S. Coast Guard First District, (617) 223–8385. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP Captain of the Port
DHS Department of Homeland Security
FR **Federal Register**
I–95 Interstate 95
LIS Long Island Sound
NPRM Notice of Proposed Rulemaking
RNA Regulated navigation area
RR Railroad

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov*, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, type the docket number in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a self-addressed, stamped, postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We currently do not plan to hold a public meeting. You may, however, submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid in this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule.

A full waterway closure was not requested of the Coast Guard until November 21, 2012 when the Connecticut Department of Transportation (CT DOT) requested a complete waterway closure beginning January 7, 2013. This late submission did not give the Coast Guard enough time to publish an NPRM, take public comments, and issue a final rule before work begins in January.

It would be impracticable and contrary to the public interest to delay promulgating this rule, as it is necessary to protect the safety of both the construction crew and the waterway users operating in the vicinity of the bridge construction zone. A delay or cancellation of the currently ongoing bridge rehabilitation project in order to accommodate a full notice and comment period would delay necessary operations, result in increased costs, and delay the date when the bridge is expected to reopen for normal operations. The Coast Guard believes it would be impracticable and contrary to the public interest to delay this regulation. At any time, the Coast Guard may publish an amended rule if necessary to address public concerns.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that

good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

C. Basis and Purpose

Under the Ports and Waterways Safety Act, 33 U.S.C. 1221–1236, and Department of Homeland Security Delegation No. 0170.1, the Coast Guard has the authority to establish RNAs in defined water areas that are determined to have hazardous conditions and in which vessel traffic can be regulated in the interest of safety.

The purpose of this rulemaking is to provide for safety on the navigable waters in the regulated area during bridge reconstruction.

D. Discussion of the Interim Rule

The Coast Guard is establishing an RNA on the navigable waters of the Housatonic River surrounding the Moses Wheeler Bridge which spans from Stratford to Milford, CT. This RNA allows the Captain of the Port Sector Long Island Sound (COTP) to establish speed and wake restrictions and to prohibit vessel traffic on this portion of the river for limited periods when necessary for the safety of vessels and workers during construction work in the channel. The Coast Guard will enforce a six knot speed limit as well as a "NO WAKE" zone and be able to close the designated area to all vessel traffic during any circumstance, planned or unforeseen, that poses an imminent threat to waterway users or construction operations in the area. Complete waterway closures will be minimized to that period absolutely necessary and made with as much advanced notice as possible. During closures, mariners may request permission from the COTP to transit through the RNA.

This rule was prompted by the navigation safety situation created by reconstruction of the Moses Wheeler Bridge (sometimes referred to as the Interstate-95 (I–95) Bridge or the Housatonic River Bridge). This bridge carries I–95 (Connecticut Turnpike) over the Housatonic River between Stratford and Milford CT. The present bridge was built in the 1950s and designed with a 50 year life span. The bridge has surpassed its useable life span and the Connecticut Department of Transportation (CT DOT) has contracted to construct a replacement bridge. The contractor has begun bridge construction and is scheduled to complete the project in 2017.

The Coast Guard has discussed this project with CT DOT to determine whether the project can be completed without channel closures and, if possible, what impact that would have on the project timeline. Through these discussions, it became clear that while the majority of construction activities during the span of this project would not require waterway closures, there are certain tasks that can only be completed in the channel and will require closing the waterway. Specifically, this includes the demolition of steel support beams. These large and extremely heavy steel support beams are suspended 55 feet above the water; to demolish them, they must be cut into sections and lowered on to a barge. This process will be extremely complex and presents many safety hazards including overhead crane operations, overhead cutting operations, potential falling debris, and barges positioned in the channel with a restricted ability to maneuver.

In a letter to the U.S. Coast Guard dated November 21, 2012, CT DOT outlined two phases of operations that require in-channel work, two steps of which will require waterway closures. CT DOT will notify the Coast Guard as far in advance as possible if additional closures are needed. The Coast Guard has a copy of this letter in the docket.

The first planned closure period will be three days during January of 2013. The purpose of this closure is to remove the steel support beams of the existing Moses Wheeler Bridge northbound span. Currently, the Coast Guard anticipates the three days will be weekdays and the closure will be in effect from 7 a.m. through 7 p.m.

The second planned closure period is anticipated to be three days during January of 2014. The purpose of this closure is to remove the steel support beams of the existing Moses Wheeler Bridge southbound span. The three days will be weekdays and the closure will be in effect from 7 a.m. through 7 p.m.

Entry into, anchoring, or movement within this RNA during a closure is prohibited unless authorized by the COTP or a designated representative.

If the project is completed before November 30, 2017, the COTP will suspend enforcement of the RNA. The COTP will ensure that any notice of the suspension of enforcement reaches affected segments of the public by all appropriate means. Such means of notification could include, but would not be limited to, Broadcast Notice to Mariners and Local Notice to Mariners.

E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard determined that this rulemaking will not be a significant regulatory action for the following reasons: Vessel traffic will only be restricted from the RNA for limited durations and the RNA covers only a small portion of the navigable waterways and all closures currently planned are scheduled during winter months when vessel traffic is low. Advanced public notifications will also be made to local mariners through appropriate means, which could include, but would not be limited to, Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter or transit within the RNA during a vessel restriction period.

The RNA would not have a significant economic impact on a substantial number of small entities for the following reasons: The RNA would be of limited size and any waterway closure of short duration. Additionally, all closures currently planned are scheduled during winter months when vessel traffic is low, before the effective period of a waterway closure, advanced public notifications will be made to local mariners through appropriate means, which could include, but would not be limited to, Local Notice to Mariners and Broadcast Notice to Mariners.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see

ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect 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. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children From Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves restricting vessel movement within a regulated navigation area. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0824 to read as follows:

§ 165.T01–0824 Regulated Navigation Area; Housatonic River Bridge Replacement Operations; Stratford, CT

(a) *Location.* The following area is a regulated navigation area (RNA): All navigable waters of the Housatonic River between Stratford and Milford, CT, from bank to bank, surface to bottom; bounded to the north by the Metro North Railroad (RR) Bridge marked by a line connecting the following points: Point "A", 41°12′17.19″ N, 073°06′40.29″ W western edge of the RR bridge in Stratford, CT, east to point "B", 41°12′20.13″ N, 073°6′29.05″ W eastern edge of the RR bridge in Milford CT; bounded to the south by a line connecting the following points: Point "C" 41°12′14.36″ N, 073°06′41.06″ W western edge of construction trestle in Stratford, CT, east to point "D" 41°12′15.86″ N, 073°06′27.57″ W eastern bank of Housatonic River, Milford, CT.

All coordinates are North American Datum 1983.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.10, 165.11, and 165.13 apply.

(2) In accordance with the general regulations, entry into, anchoring, or movement within the RNA, during periods of enforcement, is prohibited unless authorized by the Captain of the Port Long Island Sound (COTP) or the COTP's designated representative.

(3) During periods of enforcement, entry and movement within the RNA is subject to a "Slow-No Wake" speed limit. Vessels may not produce more than a minimum wake and may not attain speeds greater than six knots unless a higher minimum speed is necessary to maintain steerageway when traveling with a strong current. In no case may the wake produced by the vessel be such that it creates a danger of injury to persons, or damage to vessels or structures of any kind.

(4) During periods of enforcement, all persons and vessels must comply with all orders and directions from the COTP or the COTP's designated representative.

(5) During periods of enforcement, upon being hailed by a Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

(6) Persons and vessels may request permission to enter the RNA during periods of closure on VHF–16 or via phone at 203–468–4401.

(7) Notwithstanding anything contained in this rule, the Rules of the Road (33 CFR part 84—Subchapter E, inland navigational rules) are still in effect and must be strictly adhered to at all times.

(c) *Effective period.* This rule is effective from January 7, 2013 through November 30, 2017.

(d) *Enforcement period.* Except when suspended in accordance with paragraph (e) of this section, this RNA is enforceable 24 hours a day during the effective period.

(e) *Suspension of enforcement.* The COTP may suspend enforcement of the RNA. If enforcement is suspended, the COTP will cause a notice of the suspension of enforcement by all appropriate means to promote the widest publicity among the affected segments of the public. Such means of notification may include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners. Such notifications will include the date and time that enforcement is suspended as well as the date and time that enforcement will resume.

(f) *Waterway closure.* The COTP may temporarily suspend all traffic through the RNA for any situation that would pose imminent hazard to life on the navigable waters. In the event of a complete waterway closure, the COTP will make advance notice of the closure by all means available to promote the widest public distribution including, but not limited to, Broadcast Notice to Mariners and Local Notice to Mariners. Such notification will include the date and time of the closure as well as the date and time that normal vessel traffic can resume.

(g) Violations of this RNA may be reported to the COTP, at 203–468–4401 or on VHF-Channel 16. Persons in violation of this RNA may be subject to civil or criminal penalties.

Dated: December 20, 2012.

T.J. Vitullo,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 2013–00211 Filed 1–7–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2012–0792; FRL–9766–9]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Nevada; Redesignation of Clark County to Attainment for the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve, as a revision of the Nevada state implementation plan, the State's plan for maintaining the 1997 8-hour ozone standard in Clark County for ten years beyond redesignation, and the related motor vehicle emissions budgets, because they meet the applicable requirements for such plans and budgets. EPA is also taking final action to approve a request from the Nevada Division of Environmental Protection to redesignate the Clark County ozone nonattainment area to attainment for the 1997 8-hour ozone National Ambient Air Quality Standard because the area meets the statutory requirements for redesignation under the Clean Air Act.

DATES: *Effective Date:* This rule is effective on February 7, 2013.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R09–OAR–2012–0792. Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov*, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., confidential business information or "CBI"). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3964, *vagenas.ginger@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

Table of Contents

I. Summary of Proposed Action

On November 13, 2012 (77 FR 67600), we proposed to take several related actions. First, under Clean Air Act (CAA or "Act") section 110(k)(3), EPA proposed to approve a submittal from the Nevada Division of Environmental Protection (NDEP) dated April 11, 2011 of Clark County's *Ozone Redesignation Request and Maintenance Plan* (March 2011) ("Clark County Ozone Maintenance Plan" or "Ozone Maintenance Plan") as a revision to the Nevada state implementation plan (SIP).

In connection with the Clark County Ozone Maintenance Plan, EPA proposed to find that the maintenance demonstration showing that the area will continue to attain the 1997 8-hour ozone national ambient air quality

standard (NAAQS or "standard")[1] for 10 years beyond redesignation (i.e., through 2022), and the contingency provisions describing the actions that Clark County will take in the event of a future monitored violation, meet all applicable requirements for maintenance plans and related contingency provisions in CAA section 175A. EPA also proposed to approve the motor vehicle emissions budgets (MVEBs) in the Clark County Ozone Maintenance Plan because we found they met the applicable transportation conformity requirements under 40 CFR 93.118(e).

Second, under CAA section 107(d)(3)(D), EPA proposed to approve NDEP's request that accompanied the submittal of the maintenance plan to redesignate the Clark County 8-hour ozone nonattainment area[2] to attainment for the 1997 8-hour ozone NAAQS. We did so based on our conclusion that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E). Our conclusion in this regard was based on our determination that the area has attained the 1997 8-hour ozone NAAQS, that relevant portions of the Nevada SIP are fully approved, that the improvement in air quality is due to permanent and enforceable reductions in emissions, that Nevada has met all requirements applicable to the Clark County 8-hour ozone nonattainment area with respect to section 110 and part D of the CAA, and based on our approval as part of this action of the Clark County Ozone Maintenance Plan.

For the purposes of this final rule, we have summarized the basis for our findings in connection with the proposed approvals of the Ozone Maintenance Plan and redesignation request. For a more detailed explanation as well as background information concerning the 1997 8-hour ozone NAAQS, the CAA requirements for redesignation, and the ozone planning history of Clark County, please see our November 13, 2012 proposed rule.

[1] The 1997 8-hour ozone standard is 0.08 parts per million (ppm) averaged over an 8-hour time frame.

[2] The boundaries of the Clark County ozone nonattainment area are defined in 40 CFR 81.329. Specifically, the area is defined as: "That portion of Clark County that lies in hydrographic areas 164A, 164B, 165, 166, 167, 212, 213, 214, 216, 217, and 218 but excluding the Moapa River Indian Reservation and the Fort Mojave Indian Reservation." The area includes a significant portion of the unincorporated portions of central and southern Clark County, as well as the cities of Las Vegas, Henderson, North Las Vegas, and Boulder City.

A. Determination That the Area Has Attained the Applicable NAAQS

Prior to redesignating an area to attainment, CAA section 107(d)(3)(E)(i) requires that we determine that the area has attained the NAAQS. For our proposed rule, consistent with the requirements contained in 40 CFR part 50, EPA reviewed the ozone ambient air monitoring data for the monitoring period from 2009 through 2011, as recorded in the EPA Air Quality System (AQS) database, and determined, based on the complete, quality-assured data for 2009–2011, that the Clark County 8-hour ozone nonattainment area has attained the 1997 8-hour ozone standard because the design value[3] is less than 0.084 ppm. We also reviewed preliminary data from 2012 and found that it was consistent with continued attainment of the standard in the Clark County 8-hour ozone nonattainment area. See pages 67602–67604 of our November 13, 2012 proposed rule.

B. The Area Must Have a Fully Approved SIP Meeting Requirements Applicable for Purposes of Redesignation Under Section 110 and Part D

Sections 107(d)(3)(E)(ii) and (v) of the CAA require EPA to determine that the area has a fully approved applicable SIP under section 110(k) that meets all applicable requirements under section 110 and part D for the purposes of redesignation. For the reasons summarized below, we found that the Clark County 8-hour ozone nonattainment area has a fully approved applicable SIP under section 110(k) that meets all applicable requirements under section 110 and part D for the purposes of redesignation. See pages 67604–67607 of our November 13, 2012 proposed rule.

With respect to section 110 of the CAA (General SIP Requirements), we concluded that NDEP and Clark County have met all SIP requirements for Clark County applicable for purposes of redesignation. Our conclusion in this regard was based on our review of the Clark County portion of the Nevada SIP.

With respect to part D (of title I of the CAA), we reviewed the Clark County portion of the Nevada SIP for compliance with applicable requirements under both subparts 1 and 2.[4]

[3] The design value for the 8-hour standard is the three-year average of the annual fourth-highest daily maximum 8-hour ozone concentration at the worst-case monitoring site in the area

[4] Subpart 1 contains general, less prescriptive requirements for all nonattainment areas of any pollutant, including ozone, governed by a NAAQS. Subpart 2 contains additional, more specific requirements for ozone nonattainment areas classified under subpart 2.

First, we noted that EPA previously determined that the Clark County 8-hour ozone nonattainment area attained the 1997 8-hour ozone NAAQS based on 2007–2009 ozone data (76 FR 17343, March 29, 2011), and thereby suspended, under 40 CFR 51.918, the obligation on the State of Nevada to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures and other planning requirements related to attainment of the 1997 8-hour ozone NAAQS. As such, we explained that the State's compliance status with the attainment-related SIP requirements under subpart 1 was not relevant for the purposes of evaluating the State's redesignation request.

As to the other applicable subpart 1 requirements, we found that:

- The emissions inventory requirements of CAA section 172(c)(3) would be met by our approval of the Clark County Ozone Maintenance Plan and related emissions inventories for volatile organic compounds (VOC) and oxides of nitrogen (NO_X);
- A fully-approved nonattainment New Source Review (NSR) program was not a prerequisite to redesignation in this instance because the Clark County Ozone Maintenance Plan demonstrates maintenance of the standard without implementation of nonattainment NSR; moreover, after redesignation, sources under NDEP jurisdiction would be subject to the federal PSD program and sources under Clark County jurisdiction would be subject to an EPA-approved PSD program that is deficient in certain respects but not in ways that would interfere with maintenance of the ozone standard; and
- Clark County and the State previously met the requirements for transportation conformity SIPs under section 176(c) (see EPA's approval of Clark County's transportation conformity SIP at 73 FR 66182, November 7, 2008).[5]

With respect to the requirements associated with subpart 2, we noted that the Clark County 8-hour ozone nonattainment area was initially designated nonattainment under subpart 1 of the CAA, but was subsequently classified as marginal nonattainment for the 1997 8-hour ozone standard under

[5] In any event, EPA believes it is reasonable to interpret the conformity requirements as not applicable for purposes of evaluating a redesignation request under section 107(d)(3)(E). See *Wall* v. *EPA*, 265 F.3d 426, 439 (6th Cir. 2001) upholding this interpretation.

subpart 2 of part D of the CAA in May 2012, i.e., after NDEP's submittal of the redesignation request. Under EPA's longstanding policy of evaluating requirements in accordance with the requirements due at the time a redesignation request is submitted and in consideration of the inequity of applying retroactively any requirements that might in the future be applied, we determined that the requirements under subpart 2 need not be addressed as a condition of redesignation.

C. The Area Must Show the Improvement in Air Quality Is Due to Permanent and Enforceable Emissions Reductions

Section 107(d)(3)(E)(iii) precludes redesignation of a nonattainment area to attainment unless EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollution control regulations and other permanent and enforceable regulations. Based on our review of the control measures credited in the Clark County Ozone Maintenance Plan as providing the emissions reductions sufficient to attain the 1997 8-hour ozone NAAQS in the Clark County 8-hour ozone nonattainment area through the year 2022, and based on our consideration of other factors such as weather patterns and economic activity, we found that the improvement in air quality in the Clark County 8-hour ozone nonattainment area is the result of permanent and enforceable emissions reductions from a combination of Federal vehicle and fuel measures and EPA-approved State and local control measures. See pages 670607–67608 of our November 13, 2012 proposed rule.

D. The Area Must Have a Fully Approved Maintenance Plan Under CAA Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. As explained in the proposed rule, we interpret this section of the Act to require, in general, the following core elements: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and contingency plan. Based on our review and evaluation of the Ozone Maintenance Plan, we concluded that it contained the core elements and met the requirements of CAA section 175A. See pages 67608–67613. Our conclusion was based on the following findings:

- The base year emissions inventories for 2008 are comprehensive, that the methods and assumptions used by Clark County Department of Air Quality (DAQ) to develop the 2008 emission inventory are reasonable, and that the inventories reasonably estimate actual ozone season emissions in an attainment year. Moreover, we found that the 2008 emissions inventories in the Ozone Maintenance Plan reflect the latest planning assumptions and emissions models available at the time the plan was developed, and provide a comprehensive and reasonably accurate basis upon which to forecast ozone precursor emissions for years 2015 and 2022;
- The projected VOC and NO_X emissions estimates adequately account for projected area-wide growth, specific projects (including, among others, the Nellis Air Force Base F–35 beddown project), and emissions reduction credits (ERCs), and show that VOC and NO_X emissions would remain well below the attainment levels throughout the 10-year maintenance period and thereby adequately demonstrate maintenance through that period;
- Clark County DAQ has committed to continue to operate the air quality monitoring network to verify the continued attainment of the 1997 8-hour ozone NAAQS ambient ozone monitoring;[6]
- Clark County DAQ's commitment in the Ozone Maintenance Plan to the continued operation of an ozone monitoring network and the requirement that NDEP and Clark County DAQ must inventory emissions sources and report to EPA on a periodic basis[7] would be sufficient for the purpose of verifying continued attainment; and
- The contingency provisions of the Ozone Maintenance Plan clearly identify specific contingency measures, contain adequate tracking and triggering mechanisms to determine when contingency measures are needed, contain a sufficient description of the process of recommending and implementing contingency measures, and contain specific timelines for action, and would, therefore, be adequate to ensure prompt correction of a violation and comply with the contingency-related requirements under CAA section 175A(d).

Lastly, we proposed to approve the motor vehicle emissions budgets (MVEBs) contained in the Ozone Maintenance Plan because we found that they meet the transportation conformity adequacy requirements under 40 CFR 93.118(e)(4) and (5). In so proposing, we found that, among other things, the MVEBs, when considered with emissions from all other sources, would be consistent with maintenance of the 1997 8-hour ozone NAAQS in the Clark County 8-hour ozone nonattainment area.

II. Public Comments

Our November 13, 2012 proposed rule provided for a 30-day comment period. We received comment letters in support of our proposed action from NDEP and the Washoe County Health District. In its comment letter, NDEP also noted that approval of the redesignation request for the Clark County 8-hour ozone nonattainment area will negate the need, that had been identified in EPA's proposed limited approval and limited disapproval of Clark County's revised NSR rules at 77 FR 43206, for a revision to NDEP's nonattainment NSR provisions at this time. We received no adverse comments in response to our November 13, 2012 proposed rule.

III. Final Action

Under CAA sections 110(k)(3) and 107(d)(3)(D), and for the reasons set forth in our proposed rule and summarized above, EPA is taking final action to approve NDEP's submittal dated April 11, 2011 of Clark County's *Ozone Redesignation Request and Maintenance Plan* (March 2011) ("Clark County Ozone Maintenance Plan") as a revision to the Nevada SIP and to approve NDEP's request to redesignate the Clark County 8-hour ozone nonattainment area to attainment for the 1997 8-hour ozone NAAQS. In connection with the Clark County Ozone Maintenance Plan, EPA finds that the maintenance demonstration showing that the area will continue to attain the 1997 8-hour ozone NAAQS for 10 years beyond redesignation (i.e., through 2022) and the contingency provisions describing the actions that Clark County will take in the event of a future monitored violation meet all applicable requirements for maintenance plans and related contingency provisions in CAA section 175A. EPA is also approving the following motor vehicle emissions budgets (MVEBs) from the Clark County Ozone Maintenance Plan for transportation conformity purposes

[6] Although the Ozone Maintenance Plan is not explicit in this regard, we presume that Clark County DAQ's intention to continue operation of a monitoring network means that the agency intends to do so consistent with EPA's monitoring requirements in 40 CFR part 58 ("Ambient Air Quality Surveillance").

[7] See 40 CFR part 51, subpart A ("Air Emissions Reporting Requirements").

because we find that they meet the applicable transportation conformity requirements under 40 CFR 93.118(e):

Budget year	VOC (tpd, average summer weekday)	NO_X (tpd, average summer weekday)
2008	65.08	68.46
2015	45.32	34.69
2022	36.71	23.15

These new MVEBs become effective on the date of publication of this final rule in the **Federal Register** (see 40 CFR 93.118(f)(2)) and must be used by U.S. Department of Transportation (DOT) and the Regional Transportation Commission of Southern Nevada (RTC) for future transportation conformity determinations for Clark County. The existing 2008 VOC and NO_X MVEBs from the Clark County Early Progress Plan,[8] which EPA found adequate in 2009, are replaced by these budgets.

In connection with the redesignation request, EPA is taking final action to approve the request because we find that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E). Specifically, we find that the area has attained the 1997 8-hour ozone NAAQS, that relevant portions of the Nevada SIP are fully approved, that the improvement in air quality is due to permanent and enforceable reductions in emissions, that Nevada has met all requirements applicable to the Clark County 8-hour ozone nonattainment area with respect to section 110 and part D of the CAA, and that the area has a fully approved maintenance plan meeting the requirements of section 175A (i.e., the Clark County Ozone Maintenance Plan approved herein).

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment under section 107(d)(3)(E) and the accompanying approval of a maintenance plan under section 175A are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. Redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, these actions merely approve a State plan and redesignation request as meeting Federal requirements and do not impose additional requirements beyond those by State law. For these reasons, these actions:

- Are not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law. Nonetheless, EPA discussed the proposed action with the one Tribe, the Las Vegas Paiute Tribe, located within the Clark County 8-hour ozone nonattainment area. The Tribe has indicated that it concurs with the redesignation request.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 11, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: December 20, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart DD—Nevada

■ 2. Section 52.1470 in paragraph (e), the table is amended by adding an entry for "Ozone Redesignation Request and

[8] On July 28, 2008, NDEP submitted the *8-Hour Early Progress Plan for Clark County, Nevada* (June 2008) to EPA as a revision to the Nevada SIP.

Maintenance Plan, Clark County, Nevada (March 2011)" after the entry for "Emissions Inventory for 1995" to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NEVADA NONREGULATORY AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanation
Air Quality Implementation Plan for the State of Nevada				
* * *	* * *	* * *	* * *	* * *
Ozone Redesignation Request and Maintenance Plan, Clark County, Nevada (March 2011).	Clark County, Nevada: that portion of Clark County that lies in hydrographic areas 164A, 164B, 165, 166, 167, 212, 213, 214, 216, 217, and 218, but excluding the Moapa River Indian Reservation and the Fort Mohave Indian Reservation.	4/11/11	[Insert **Federal Register** page number where the document begins] 1/8/13.	Approval includes appendices A, B, and C. Relates to the 1997 8-hour ozone standard.
* * *	* * *	* * *	* * *	* * *

PART 81—[AMENDED]

■ 3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—[AMENDED]

■ 4. Section 81.329 is amended in the table for "Nevada—1997 8-Hour Ozone NAAQS (Primary and Secondary)" by revising the entry for "Las Vegas, NV" to read as follows:

§ 81.329 Nevada.

* * * * *

NEVADA—1997 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation[a]		Classification	
	Date[1]	Type	Date[1]	Type
Las Vegas, NV: Clark County (part) That portion of Clark County that lies in hydrographic areas 164A, 164B, 165, 166, 167, 212, 213, 214, 216, 217, and 218, but excluding the Moapa River Indian Reservation and the Fort Mohave Indian Reservation[b].	2/7/13	Attainment.		
* * *	* * *	* * *	* * *	* * *

[a] Includes Indian Country located in each county or area, except as otherwise specified.

[b] The use of reservation boundaries for this designation is for purposes of CAA planning only and is not intended to be a federal determination of the exact boundaries of the reservations. Nor does the specific listing of the Tribes in this table confer, deny, or withdraw Federal recognition of any of the Tribes listed or not listed.

[1] This date is June 15, 2004 unless otherwise noted.

[FR Doc. 2013–00057 Filed 1–7–13; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 78, No. 5
Tuesday, January 8, 2013

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 & 52

[NRC–2012–0031]

RIN 3150–AJ11

Onsite Emergency Response Capabilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory basis.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is issuing a draft regulatory basis document to support the potential amendment of its regulations concerning nuclear power plant licensees' onsite emergency response capabilities. The NRC is seeking public comments on this document. The issuance of this draft regulatory basis document is one of the actions stemming from the NRC's lessons-learned efforts associated with the March 2011 Fukushima Dai-ichi Nuclear Power Plant accident in Japan.

DATES: Submit comments by February 22, 2013. Comments received after this date will be considered if it is practical to do so, but the NRC is only able to ensure consideration of comments received on or before this date.

ADDRESSES: You may access information and comment submissions related to these documents, which the NRC possesses and are publicly available, by searching on *http://www.regulations.gov* under Docket ID NRC–2012–0031. You may submit comments by any of the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0031. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, contact us directly at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern time) Federal workdays; telephone: 301–415–1677.

For additional direction on accessing information and submitting comments, see "Accessing Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Robert H. Beall, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3874; email: *Robert.Beall@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0031 when contacting the NRC about the availability of information for this notice. You may access information related to this draft regulatory basis, which the NRC possesses and is publicly available, by the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0031.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS Accession No. for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. A table listing documents that provide additional background and supporting information is in Appendix F of the draft regulatory basis.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2012–0031 in the subject line of your comment submission to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in comment submissions. The NRC posts all comment submissions at *http://www.regulations.gov* and enters the comment submissions into ADAMS. The NRC does not edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submissions. Your request should state that the NRC will not edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

As the NRC continues its ongoing proposed rulemaking effort to amend portions of Parts 50 and 52 of Title 10 of the *Code of Federal Regulations* (10 CFR) to strengthen and integrate onsite emergency response capabilities, the NRC is making preliminary documents publicly available on the Federal rulemaking Web site, *www.regulations.gov,* under Docket ID NRC–2012–0031. By making these documents publicly available, the NRC seeks to inform stakeholders of the current status of the NRC's rulemaking development activities and to provide preparatory material for future public meetings. The NRC is instituting a 45-day public comment period on these materials, and the public is encouraged to participate in any related public meetings.

III. Publicly Available Documents

The NRC has posted on *www.regulations.gov* for public availability the draft regulatory basis to strengthen and integrate onsite emergency response capabilities. This regulatory basis documents the reasons why the NRC determined rulemaking was the appropriate course of action to remedy a regulatory shortcoming.

In addition, the NRC has posted preliminary proposed rule language related to this rulemaking as Appendix C of the draft regulatory basis. This preliminary proposed rule language contains one portion of the NRC's proposed changes. This language does not represent a final NRC staff position nor has it been reviewed by the Commission. Therefore, the preliminary proposed rule language may undergo significant revision during the rulemaking process.

The NRC is requesting formal public comments on the draft regulatory basis and the preliminary proposed rule language. The NRC may post additional materials, including other preliminary proposed rule language, to the Federal rulemaking Web site at *www.regulations.gov*, under Docket ID NRC–2012–0031. The Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2012–0031); (2) click the "Email Alert" link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. Although regulations are exempt under the Act, the NRC is applying the same principles to its rulemaking documents. Therefore, the NRC has written this document, including the preliminary proposed rule language, to be consistent with the Plain Writing Act.

Dated at Rockville, Maryland, this 26th day of December, 2012.

For the Nuclear Regulatory Commission.

Sher Bahadur,

Deputy Director, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–31706 Filed 1–7–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 61

[NRC–2011–0012]

RIN 3150–AI92

Low-Level Waste Disposal

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory basis and preliminary rule language; second request for comment; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a document appearing in the **Federal Register** on December 7, 2012 entitled, "Low-Level Waste Disposal" that announced the availability of a regulatory basis document and requested comment on preliminary rule language. This action is necessary to correct the title and number used to access the regulatory basis document in the NRC's Agencywide Documents Access and Management System (ADAMS).

ADDRESSES: Please refer to Docket ID NRC–2011–0012 when contacting the NRC about the availability of information for this document. You may access information and comment submittals related to this document, which the NRC possesses and are publicly available, by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0012.
- *ADAMS:* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select "ADAMS Public Documents" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Andrew Carrera, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1078, email *Andrew.Carrera@nrc.gov*.

SUPPLEMENTARY INFORMATION: The NRC is correcting the accession number and title of the regulatory basis document that was referenced in a document the NRC published on December 7, 2012 (77 FR 72997). The regulatory basis document has been further corrected to remove a reference to an unavailable document.

On page 72997 of **Federal Register** document 2012–29527, published December 07, 2012 (77 FR 72997), in the third column, under the caption titled **SUPPLEMENTARY INFORMATION,** in the last paragraph of Section A, *Accessing Information*, under Section I, *Accessing Information and Submitting Comments*, "Regulatory Analysis for Proposed Revisions to Low-Level Waste Disposal Requirement (10 CFR part 61)" is corrected to read "Regulatory Basis;" and "ML12306A480" is corrected to read "ML12356A242."

Dated at Rockville, Maryland, this 28th day of December, 2012.

For the Nuclear Regulatory Commission.

Kevin O'Sullivan.

Acting Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2012–31704 Filed 1–7–13; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–18033; Directorate Identifier 2004–CE–16–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to revise an existing airworthiness directive (AD) that applies to all Cessna Aircraft Company (Cessna) Models 190, 195 (L–126A,B,C), 195A, and 195B airplanes that are equipped with certain inboard aileron hinge brackets. The existing AD currently requires you to repetitively inspect the affected inboard aileron hinge brackets for cracks or corrosion and replace them if cracks or corrosion is found. Replacement with aluminum brackets would terminate the need for

the repetitive inspections. Since we issued AD 2004–21–08, the FAA, in recent months, has received reports of confusion between the casting number on the aileron hinge bracket and the part number (P/N) called out in the AD. This proposed AD would retain the actions of AD 2004–21–08 while requiring future compliance following a revised service bulletin that clarifies the casting numbers and part numbers to be inspected. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by February 22, 2013.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Cessna Aircraft Company, Customer service, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 517–7271; email: *customercare@cessna.textron.com*; Internet: *http://www.cessnasupport.com*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Gary Park, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Wichita, KS 67209; phone: (316) 946–4123; fax: (316) 946–4107; email: *gary.park@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2012–18033; Directorate Identifier 2004–CE–16–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On October 13, 2004, we issued AD 2004–21–08, amendment 39–13828 (69 FR 62396, October 26, 2004), for all Cessna Models 190, 195 (L–126A,B,C), 195A, and 195B airplanes that are equipped with certain inboard aileron hinge brackets. That AD requires you to repetitively inspect the affected inboard aileron hinge brackets for cracks or corrosion and replace them if cracks or corrosion is found. Replacement with aluminum brackets would terminate the need for the repetitive inspections.

AD 2004–21–08 (69 FR 62396, October 26, 2004) resulted from several reports of cracks and corrosion found on the magnesium aileron hinge brackets. Magnesium is known to be susceptible to corrosion. We issued AD 2004–21–08 (69 FR 62396, October 26, 2004) to detect and correct corrosion damage to the inboard aileron hinge brackets. Such damage could result in the brackets cracking across the bearing boss and could lead to the aileron separating from the airplane with consequent reduced or loss of control.

Actions Since Existing AD Was Issued

Since we issued AD 2004–21–08 (69 FR 62396, October 26, 2004), the FAA, in recent months, has received reports of confusion between the casting number on the aileron hinge bracket and the P/N called out in the AD. Due to this misunderstanding, proper inspections and/or replacement of the aileron hinge bracket may not be occurring following the AD. In one report, a service center provided an airworthiness compliance record stating "aileron hinge brackets are of a different part # than those specified in the note." However, during a later inspection of the bracket, a crack was found through the bearing boss.

Relevant Service Information

We reviewed Cessna Aircraft Company Single Engine Service Bulletin SEB04–1, dated April 26, 2004, and Single Engine Service Bulletin SEB04–01, Revision 1, dated October 3, 2012. The service information describes procedures for:

—Inspecting P/N 0322709 and P/N 0322709–1 inboard aileron hinge brackets for cracks or corrosion; and

—Replacing any bracket found cracked or corroded with a bracket that is FAA-approved and made from aluminum.

Revision 1 of the service information adds casting numbers for the parts to be inspected and clarifies the inspection.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain all requirements of AD 2004–21–08 (69 FR 62396, October 26, 2004) while requiring future compliance following a revised service bulletin that clarifies the casting numbers and part numbers to be inspected.

Change to Existing AD

This proposed AD would retain all requirements of AD 2004–21–08 (69 FR 62396, October 26, 2004). Since AD 2004–21–08 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2004–21–08	Corresponding requirement in this proposed AD
paragraph (e)(1)	paragraph (h)
paragraph (e)(2)	paragraph (i)
paragraph (e)(3)	paragraph (j)

Costs of Compliance

We estimate that this proposed AD affects 643 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of the affected inboard aileron hinge brackets for cracks or corrosion.	1 work-hour × $85 per hour = $85	Not Applicable	$85	1,180 airplanes × $85 = $54,655.

The new requirements of this proposed AD add no additional economic burden.

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of left-hand (LH) brackets	3 work-hours × $85 per hour = $255	$1,999	$2,254
Replacement of right-hand (RH) brackets	3 work-hours × $85 per hour = $255	1,592	1,847
Replacement of LH and RH brackets	6 work-hours × $85 per hour = $510	4,101	4,611

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect 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.

For the reasons discussed above, I certify that the proposed regulation:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2004–21–08, Amendment 39–13828 (69 FR 62396, October 26, 2004), and adding the following new AD:

Cessna Aircraft Company: Docket No. FAA–2012–18033; Directorate Identifier 2004–CE–16–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by February 22, 2013.

(b) Affected ADs

This AD revises AD 2004–21–08, Amendment 39–13828.

(c) Applicability

. This AD affects Models 190, 195 (L–126A,B,C), 195A, and 195B airplanes, all serial numbers, that are:

(1) Certificated in any category; and

(2) Equipped with at least one part number (P/N) 0322709 or P/N 0322709–1 inboard aileron hinge bracket.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 2710, Aileron Control System.

(e) Unsafe Condition

This AD was prompted by reports of confusion between the casting number on the aileron hinge bracket and the part number called out in the AD. We are issuing this AD to correct the unsafe condition on these products.

(f) Compliance

Comply with this AD at the times specified following the procedures in Cessna Aircraft Company Single Engine Service Bulletin SEB04–01, Revision 1, dated October 3, 2012, unless already done.

(g) Credit for Actions Accomplished in Accordance With Previous Service Information

This paragraph provides credit for the actions required by paragraphs (h), (i), and (j) of this AD, if the actions were performed before the effective date of this AD using Cessna Aircraft Company Single Engine Service Bulletin SEB04–1, dated April 26, 2004. All actions performed after the effective date of this AD will be required following Cessna Aircraft Company Single Engine Service Bulletin SEB04–01, Revision 1, dated October 3, 2012.

(h) Inspect Each P/N 0322709 and P/N 0322709–1 Inboard Aileron Hinge Bracket or Any Other Bracket Made From Magnesium for Cracks or Corrosion

Within the next 100 hours time-in-service (TIS) after November 30, 2004 (the effective date retained from AD 2004–21–08, Amendment 39–13828 (69 FR 62396, October 26, 2004)), and repetitively thereafter at intervals not to exceed 100 hours TIS until each bracket is replaced with aluminum, inspect each P/N 0322709 and P/N 0322709–1 inboard aileron hinge bracket or any other bracket made from magnesium for cracks or corrosion.

(i) Replace Any Cracked or Corroded Inboard Aileron Hinge Bracket

Before further flight after any inspection where any cracked or corroded bracket is found, replace any cracked or corroded inboard aileron hinge.

(1) If replacement is with an FAA-approved bracket made from magnesium, do the 100-hour TIS interval repetitive inspections as required in paragraph (h) of this AD.

(2) If replacement is with an FAA-approved bracket that is made from aluminum, then no further inspections are necessary. These can be Cessna parts or non-Cessna parts.

(j) Terminating Action for the Repetitive Inspections

(1) As terminating action for the repetitive inspections, you may replace all inboard aileron hinge brackets with FAA-approved brackets that are made from aluminum (as specified in paragraph (i)(2) of this AD) regardless if any corrosion or crack is found.

(2) You may do this replacement at any time, but you must replace any corroded or cracked bracket before further flight after the applicable inspection where any corrosion or crack is found.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) All AMOCs approved for AD 2004–21–08 (69 FR 62396, October 26, 2004) are approved for this AD.

(l) Related Information

(1) For more information about this AD, contact Gary Park, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Wichita, KS 67209; phone: (316) 946–4123; fax: (316) 946–4107; email: *gary.park@faa.gov*.

(2) For service information identified in this AD, contact Cessna Aircraft Company, Customer Service, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 517–7271; email: *customercare@cessna.textron.com*; Internet: *http://www.cessnasupport.com*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on December 31, 2012.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–00069 Filed 1–7–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 868 and 870

[Docket No. FDA–2012–N–1174]

Anesthesiology Devices; Reclassification of Membrane Lung for Long-Term Pulmonary Support; Redesignation as Extracorporeal Circuit and Accessories for Long-Term Pulmonary/Cardiac Support

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed order.

SUMMARY: On its own initiative, based on new information, the Food and Drug Administration (FDA) is proposing to reclassify membrane lung devices for long-term pulmonary support, a preamendments class III device, into class II (special controls) for conditions where imminent death is threatened by cardiopulmonary failure in neonates and infants or where cardiopulmonary failure results in the inability to separate from cardiopulmonary bypass following cardiac surgery. A membrane lung for long-term pulmonary support refers to the oxygenator component of an extracorporeal circuit used during long-term procedures, commonly referred to as extracorporeal membrane oxygenation (ECMO). Because circuit components used with the oxygenator are to be subject to the same regulatory controls, all of the device components used in an ECMO procedure are being considered in the scope of this proposed order, and the title and identification of the regulation will be revised accordingly to include extracorporeal circuit and accessories for long-term pulmonary/cardiac support.

DATES: Submit either electronic or written comments on this proposed order by April 8, 2013. See section XI of this document for the proposed effective date of a final order based on this proposed order.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2012–N–1174, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following way:

- *Mail/Hand delivery/Courier (for paper or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–2012–N–1174 for this order. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Angela Krueger, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1666, Silver Spring, MD 20993, 301–796–6380, *angela.krueger@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The FD&C Act, as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (Pub. L. 101–629), the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115), the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–250), the Medical Devices Technical Corrections Act of 2004 (Pub. L. 108–

214), the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), and Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144) established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the FD&C Act, devices that were in commercial distribution before the enactment of the 1976 amendments, May 28, 1976 (generally referred to as preamendments devices), are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices), are automatically classified by section 513(f) of the FD&C Act into class III without any FDA process. Those devices remain in class III and require premarket approval unless, and until, the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

On July 9, 2012, FDASIA was enacted. Section 608(a) of FDASIA (126 Stat. 1056) amended section 513(e) of the FD&C Act, changing the process for reclassifying a device from rulemaking to an administrative order.

Section 513(e) of the FD&C Act governs reclassification of preamendments devices. This section provides that FDA may, by administrative order, reclassify a device (in a proceeding that parallels the initial classification proceeding) based upon "new information." FDA can initiate a reclassification under section 513(e) of the FD&C Act or an interested person may petition FDA to reclassify a preamendments device. The term "new information," as used in section 513(e) of the FD&C Act, includes information developed as a result of a reevaluation of the data before the Agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, e.g., *Holland Rantos* v. *United States Department of Health, Education, and Welfare*, 587 F.2d 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard*, 366 F.2d 177 (7th Cir. 1966).)

Reevaluation of the data previously before the Agency is an appropriate basis for subsequent regulatory action where the reevaluation is made in light of newly available regulatory authority (see *Bell* v. *Goddard*, supra, 366 F.2d at 181; *Ethicon, Inc.* v. *FDA*, 762 F.Supp. 382, 389–391 (D.D.C. 1991)) or in light of changes in "medical science." (See *Upjohn* v. *Finch*, supra, 422 F.2d at 951.) Whether data before the Agency are past or new data, the "new information" to support reclassification under section 513(e) must be "valid scientific evidence," as defined in section 513(a)(3) of the FD&C Act and 21 CFR 860.7(c)(2). (See, e.g., *General Medical Co.* v. *FDA*, 770 F.2d 214 (D.C. Cir. 1985); *Contact Lens Assoc.* v. *FDA*, 766 F.2d 592 (D.C. Cir.), cert. denied, 474 U.S. 1062 (1985).)

FDA relies upon "valid scientific evidence" in the classification process to determine the level of order for devices. To be considered in the reclassification process, the valid scientific evidence upon which the Agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, e.g., the contents of a pending premarket approval application (PMA). (See section 520(c) of the FD&C Act (21 U.S.C. 360j(c)).) Section 520(h)(4) of the FD&C Act, added by FDAMA, provides that FDA may use, for reclassification of a device, certain information in a PMA 6 years after the application has been approved. This includes information from clinical and preclinical tests or studies that demonstrate the safety or effectiveness of the device but does not include descriptions of methods of manufacture or product composition and other trade secrets.

Section 513(e)(1) of the FD&C Act sets forth the process for issuing a final order. Specifically, prior to the issuance of a final order reclassifying a device, the following must occur: (1) Publication of a proposed order in the **Federal Register**; (2) a meeting of a device classification panel described in section 513(b) of the FD&C Act; and (3) consideration of comments from all affected stakeholders, including patients, payors, and providers.

FDAMA added section 510(m) to the FD&C Act. Section 510(m) of the FD&C Act provides that a class II device may be exempted from the premarket notification requirements under section 510(k) of the FD&C Act, if the Agency determines that premarket notification is not necessary to assure the safety and effectiveness of the device.

II. Regulatory History of the Device

On November 2, 1979 (44 FR 63387), FDA published a proposed rule for classification of membrane lungs for long-term pulmonary support as class III requiring premarket approval. The Anesthesiology Device Classification Panel recommended class III because the device is life sustaining and life supporting and sufficient information did not exist to determine the adequacy of general controls or to establish standards to provide a reasonable assurance of the safety and effectiveness of the device.

No comments were received on the proposed rule and on July 16, 1982 (47 FR 31130), a final rule was published for membrane lungs for long-term pulmonary support, classifying these devices as class III. In 1987, FDA published a final rule amending the codified language for this device to clarify that no effective date had been established for the requirement for premarket approval for membrane lungs for long-term pulmonary support devices (52 FR 17732 at 17735; May 11, 1987). In 2009, FDA published an order under sections 515(i) and 519 of the FD&C Act (21 U.S.C. 360e and 360i) for the submission of safety and effectiveness information on a membrane lung for long-term pulmonary support (74 FR 16214; April 9, 2009). In response to that order, FDA received information from one device manufacturer.

III. Device Description

A membrane lung for long-term pulmonary support refers to the oxygenator component of an extracorporeal circuit used during long-term procedures, commonly referred to as an ECMO. An ECMO procedure provides assisted extracorporeal circulation and physiologic gas exchange of a patient's blood when an acute (reversible) condition prevents the patient's own body from providing the physiologic gas exchange needed to sustain life. The circuit is comprised of multiple device types, including, but

not limited to, an oxygenator, blood pump, cannulae, heat exchanger, tubing, filters, monitors/detectors, and other accessories; the circuit components and configuration (e.g., arteriovenous, veno-venous) may differ based on the needs of the individual patient or the condition being treated. ECMO is intended for patients with acute reversible respiratory or cardiac failure, unresponsive to optimal ventilation and/or pharmacologic management.

Because circuit components used with the oxygenator can be appropriately regulated using the same set of regulatory controls, all of the device components used in an ECMO procedure are being considered in the scope of this proposed order as an extracorporeal circuit and accessories for long-term pulmonary/cardiac support.

IV. Proposed Reclassification

FDA is proposing that the device subject to this proposed order be reclassified from class III to class II. FDA is further proposing to revise the title and identification of the regulation to reflect all device components used in ECMO. In addition, FDA is proposing to remove this regulation from 21 CFR part 868, Anesthesiology Devices, and add the revised version to 21 CFR part 870, Cardiovascular Devices, to better align this device type with other similar types of cardiovascular devices and align the review responsibilities for this device type. FDA believes that these devices can be utilized to provide assisted extracorporeal circulation and physiologic gas exchange of a patient's blood when an acute (reversible) condition prevents the patient's own body from providing the physiologic gas exchange needed to sustain life in conditions where imminent death is threatened by cardiopulmonary failure in neonates and infants or where cardiopulmonary failure results in the inability to separate from cardiopulmonary bypass following cardiac surgery.

FDA believes that the identified special controls, in addition to general controls, are necessary to provide reasonable assurance of safety and effectiveness. Therefore, in accordance with sections 513(e) and 515(i) of the FD&C Act and 21 CFR 860.130, based on new information with respect to the devices, FDA, on its own initiative, is proposing to reclassify this preamendments class III device into class II. The Agency has identified special controls under section 513(a) of the FD&C Act that would provide reasonable assurance of their safety and effectiveness. The new information includes the history of use of the circuit components, publicly available safety and effectiveness information (as described in Section VII of this document) and the relatively low incidence of adverse events, as discussed in the recommendations for reclassification from the device industry (available in docket FDA–2009–M–0101 at *http://www.regulations.gov*). FDA believes that this information is sufficient to demonstrate that the proposed special controls can effectively mitigate the risks to health identified in section V of this document and that these special controls, in addition to the general controls, will provide a reasonable assurance of safety and effectiveness for ECMO devices.

FDA has considered membrane lung devices for long-term pulmonary support in accordance with the reserved criteria and decided that the device does require premarket notification. The Agency does not intend to exempt this proposed class II device from premarket notification (510(k)) submission as provided for under section 510(m) of the FD&C Act.

V. Risks to Health

After considering available information, including the recommendations of the advisory committee (panel) for the classification of these devices along with information submitted in response to the 515(i) order and any additional information that FDA has encountered, FDA has evaluated the risks to health associated with the use of extracorporeal circuits and accessories for long-term pulmonary/cardiac support and determined that the following risks to health are associated with its use:

- *Thrombocytopenia.* Blood platelets important to the clotting cascade may be damaged by use of the device, resulting in a tendency toward increased bleeding.
- *Hemolysis.* Red blood cells may be damaged by mechanical, material, or surface features of the extracorporeal circuit.
- *Thrombosis/thromboembolism.* Blood clots may form within the extracorporeal circuit due to inadequate blood flow.
- *Hemorrhage.* To keep blood from clotting in the extracorporeal circuit, anticoagulants are generally used and may cause increased bleeding during the procedure.
- *Hemodilution.* Dilution of the patient's blood may be caused by the priming of the ECMO circuit.
- *Inadequate gas exchange.* Mechanical failure of the circuit components may result in inadequate gas exchange.
- *Loss of mechanical integrity.* Weakness in the connections or construction of the circuit components could lead to leaks in the extracorporeal circuit.
- *Gas embolism.* Air may be introduced into the extracorporeal circuit and result in a gas embolism.
- *Adverse tissue reaction.* The patient-contacting materials of the device may cause an adverse immunological or allergic reaction in a patient if the materials are not biocompatible.
- *Infection.* Defects in the design or construction of the device preventing adequate cleaning and/or sterilization may allow pathogenic organisms to be introduced and may result in infection.
- *Mechanical injury to access vessels.* Mechanical injury to vessels may be caused acutely during access, or over time due to the long-term duration of use.

VI. Summary of Reasons for Reclassification

FDA believes that extracorporeal circuits and accessories for long-term pulmonary/cardiac support should be reclassified into class II because special controls, in addition to general controls, can be established to provide reasonable assurance of the safety and effectiveness of the device. In addition, there is now adequate effectiveness information sufficient to establish special controls to provide such assurance for conditions where imminent death is threatened by cardiopulmonary failure in neonates and infants or where cardiopulmonary failure results in the inability to separate from cardiopulmonary bypass following cardiac surgery.

FDA is proposing to rename this device to "Extracorporeal circuit and accessories for long-term pulmonary/cardiac support"; the current classification regulation for this device is referred to as "membrane lung for long-term pulmonary support." For clarity, the new title for this proposed order will be removed from 21 CFR part 868 and redesignated to 21 CFR part 870. Section 870.4100 will be added to reflect all device components used in ECMO.

VII. Summary of Data Upon Which the Reclassification Is Based

Since the time of the Panel recommendation, sufficient evidence has been developed to support a reclassification of extracorporeal circuits and accessories for long-term pulmonary/cardiac support to class II with special controls for conditions

where imminent death is threatened by cardiopulmonary failure in neonates and infants or where cardiopulmonary failure results in the inability to separate from cardiopulmonary bypass following cardiac surgery. FDA is familiar with the risks associated with the use of the components of the extracorporeal circuit because the same components are used for short-term use (durations less than 6 hours) for cardiopulmonary bypass. In addition, the Extracorporeal Life Support Organization registry data (Ref. 1), which provides information on over 28,000 ECMO procedures performed since 1987, and reviews of institutional experience (Ref. 2) demonstrate a favorable benefit-risk profile for extracorporeal circuits and accessories when used for conditions where imminent death is threatened by cardiopulmonary failure in neonates and infants or where cardiopulmonary failure results in the inability to separate from cardiopulmonary bypass following cardiac surgery.

VIII. Proposed Special Controls

FDA believes that the following special controls, in addition to general controls, are sufficient to mitigate the risks to health described in section V of this document:

- The design characteristics of the device must ensure that the geometry and design parameters are consistent with the intended use;
- The device must be demonstrated to be biocompatible;
- Sterility and shelf life testing must demonstrate the sterility of patient-contacting components and the shelf-life of these components;
- Nonclinical performance evaluation of the device must demonstrate a reasonable assurance of safety and effectiveness for mechanical integrity, durability, and reliability;
- In-vivo evaluation of the device must demonstrate device performance; and
- Labeling must include a detailed summary of the nonclinical and clinical evaluations pertinent to use of the device and adequate instructions with respect to anticoagulation, circuit set up, and maintenance during a procedure.

In addition, under 21 CFR 801.109, the sale, distribution, and use of this device are restricted to prescription use.

IX. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

X. Paperwork Reduction Act of 1995

This proposed order refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 812 are approved under OMB control number 0910–0078; the collections of information in part 807, subpart E, are approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subpart B, are approved under OMB control number 0910–0231; and the collections of information under 21 CFR part 801 have are under OMB control number 0910–0485.

XI. Proposed Effective Date

FDA is proposing that any final order based on this proposal become effective 30 days after date of publication of the final order in the **Federal Register**.

XII. Comments

Interested persons may submit either electronic comments to *http://www.regulations.gov* or written comments regarding this document to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

XIII. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov*.

1. Fleming, G. M., J. G. Gurney, J. E. Donahue, et al., "Mechanical Component Failures in 28,171 Neonatal and Pediatric Extracorporeal Membrane Oxygenation Courses From 1987 to 2006," *Pediatric Critical Care Medicine Journal*, vol. 10, pp. 439–444, July 2009.

2. Cook, L. N., "Update on Extracorporeal Membrane Oxygenation," *Paediatric Respiratory Reviews*, vol. 5, suppl. A, pp. S329–S337, 2004.

List of Subjects in 21 CFR Parts 868 and 870

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 868 and 870 be amended as follows:

PART 868—ANESTHESIOLOGY DEVICES

■ 1. The authority citation for 21 CFR part 868 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

§ 868.5610 [Removed]

■ 2. Remove § 868.5610.

PART 870—CARDIOVASCULAR DEVICES

■ 3. The authority citation for 21 CFR part 870 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 4. Add § 870.4100 to subpart E to read as follows:

§ 870.4100 Extracorporeal circuit and accessories for long-term pulmonary/cardiac support.

(a) *Identification.* An extracorporeal circuit and accessories for long-term pulmonary/cardiac support (>6 hours) is a system of devices that provides assisted extracorporeal circulation and physiologic gas exchange of the patient's blood in conditions where imminent death is threatened by cardiopulmonary failure in neonates and infants or where cardiopulmonary failure results in the inability to separate from cardiopulmonary bypass following cardiac surgery. An acute reversible or treatable cause of respiratory and/or cardiac failure should be evident, and the subject should demonstrate unresponsiveness to maximum medical or ventilation therapy. The main components of the system include the console (hardware), software, and disposables, including but not limited to, an oxygenator, blood pump, heat exchanger, cannulae, tubing, filters, and other accessories (e.g., monitors, detectors, sensors, connectors).

(b) *Class II (special controls).* The special controls for this device are:

(1) The design characteristics of the device must ensure that the geometry and design parameters are consistent with the intended use;

(2) The device must be demonstrated to be biocompatible;

(3) Sterility and shelf life testing must demonstrate the sterility of patient-

contacting components and the shelf-life of these components;

(4) Non-clinical performance evaluation of the device must provide a reasonable assurance of safety and effectiveness for mechanical integrity, durability, and reliability;

(5) In-vivo evaluation of the device must demonstrate device performance; and

(6) Labeling must include a detailed summary of the nonclinical and clinical evaluations pertinent to use of the device and adequate instructions with respect to anticoagulation, circuit set up, and maintenance during a procedure.

Dated: January 2, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–00086 Filed 1–7–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 870

[Docket No. FDA–2012–N–1173]

Cardiovascular Devices; Reclassification of External Cardiac Compressor

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed order.

SUMMARY: The Food and Drug Administration (FDA) is proposing to reclassify the external cardiac compressor, including cardiopulmonary resuscitation (CPR) aids, from class III devices into class II (special controls). FDA is proposing this reclassification on its own initiative based on new information. FDA is taking this action under the Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended.

DATES: Submit either electronic or written comments on this proposed order by April 8, 2013. See section XII of this document for the proposed effective date of a final order based on this proposed order.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2012–N–1173, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following way:

- *Mail/Hand delivery/Courier (for paper or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–2012–N–1173 for this order. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Melissa Burns, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1646, Silver Spring, MD 20993, 301–796–5616, *melissa.burns@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The FD&C Act, as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (Pub. L. 101–629), the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115), the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–250), the Medical Devices Technical Corrections Act of 2004 (Pub. L. 108–214), the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), and the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the FD&C Act, devices that were in commercial distribution before the enactment of the 1976 amendments, May 28, 1976 (generally referred to as preamendments devices), are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices), are automatically classified by section 513(f) of the FD&C Act into class III without any FDA process. Those devices remain in class III and require premarket approval unless, and until, the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

On July 9, 2012, FDASIA was enacted. Section 608(a) of FDASIA (126 Stat. 1056) amended section 513(e) of the FD&C Act, changing the process for reclassifying a device from rulemaking to an administrative order.

Section 513(e) of the FD&C Act governs reclassification of preamendments devices. This section provides that FDA may, by administrative order, reclassify a device (in a proceeding that parallels the initial classification proceeding) based upon "new information." FDA can initiate a reclassification under section 513(e) of the FD&C Act or an interested person may petition FDA to reclassify a preamendments device. The term "new information," as used in section 513(e) of the FD&C Act, includes information developed as a result of a reevaluation of the data before the Agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, e.g., *Holland Rantos* v. *United States Department of Health, Education, and Welfare*, 587 F.2d 1173, 1174 n.1 (DC Cir. 1978); *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard*, 366 F.2d 177 (7th Cir. 1966).)

Reevaluation of the data previously before the Agency is an appropriate basis for subsequent regulatory action where the reevaluation is made in light of newly available regulatory authority (see *Bell* v. *Goddard*, supra, 366 F.2d at 181; *Ethicon, Inc.* v. *FDA*, 762 F.Supp. 382, 389–391 (D.D.C. 1991)) or in light of changes in "medical science." (See *Upjohn* v. *Finch*, supra, 422 F.2d at 951.) Whether data before the Agency are past or new data, the "new information" to support reclassification under section 513(e) must be "valid scientific evidence," as defined in section 513(a)(3) of the FD&C Act and 21 CFR 860.7(c)(2). (See, e.g., *General Medical Co.* v. *FDA*, 770 F.2d 214 (DC Cir. 1985); *Contact Lens Assoc.* v. *FDA*, 766 F.2d 592 (DC Cir.), cert. denied, 474 U.S. 1062 (1985).)

FDA relies upon "valid scientific evidence" in the classification process to determine the level of regulation for devices. To be considered in the reclassification process, the valid scientific evidence upon which the Agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, e.g., the contents of a pending premarket approval application (PMA). (See section 520(c) of the FD&C Act (21 U.S.C. 360j(c)).) Section 520(h)(4) of the FD&C Act, added by FDAMA, provides that FDA may use, for reclassification of a device, certain information in a PMA 6 years after the application has been approved. This includes information from clinical and preclinical tests or studies that demonstrate the safety or effectiveness of the device, but does not include descriptions of methods of manufacture or product composition and other trade secrets.

Section 513(e)(1) of the FD&C Act sets forth the process for issuing a final order. Specifically, prior to the issuance of a final order reclassifying a device, the following must occur: (1) Publication of a proposed order in the **Federal Register**; (2) a meeting of a device classification panel described in section 513(b) of the FD&C Act; and (3) consideration of comments from all affected stakeholders, including patients, payors, and providers.

FDAMA added section 510(m) to the FD&C Act. Section 510(m) of the FD&C Act provides that a class II device may be exempted from the premarket notification requirements under section 510(k) of the FD&C Act, if the Agency determines that premarket notification is not necessary to assure the safety and effectiveness of the device.

II. Regulatory History of the Device

On March 9, 1979 (44 FR 13424), FDA published a proposed rule for classification of external cardiac compressors as class III requiring premarket approval. The Cardiovascular Device Classification Panel and the Anesthesiology Device Classification Panel recommended class III because the device is life supporting and is potentially hazardous to life or health even when properly used, and the Panel believed that there was not sufficient information to develop a performance standard to provide a reasonable assurance of safety and effectiveness. No comments were received on the proposed rule and on February 5, 1980 (45 FR 7966), a final rule was published for external cardiac compressors, classifying these devices as class III. In 1987, FDA published a final rule amending the codified language for this device to clarify that no effective date had been established for the requirement for premarket approval for external cardiac compressor devices (52 FR 17732 at 17737; May 11, 1987). In 2009, FDA published an order under sections 515(i) and 519 of the FD&C Act (21 U.S.C. 360e and 360i) for the submission of safety and effectivness information on external cardiac compressors (74 FR 16214; April 9, 2009). In response to that order, FDA received information from four manufacturers of external cardiac compressor devices.

III. Device Description

External cardiac compressors (ECCs), also known as chest compressors, assist in the act of CPR. The devices in this classification are divided into two types: (1) Devices that provide automatic chest compressions at a fixed compression rate and depth (automated external cardiac compressors), which are placed directly on the patient's chest and are powered manually, pneumatically, or electrically and (2) devices that aid the emergency medical professional in delivering manual compressions at a compression depth and rate that are consistent with current guidelines (CPR Aids). These devices are placed beneath the hands of the emergency medical professional or in the vicinity of the cardiac arrest victim and provide audio and/or visual feedback to assist emergency personnel in following the recommended steps for CPR and maintaining the recommended rate and depth of compressions for the duration of CPR.

IV. Proposed Reclassification

FDA is proposing that the device subject to this proposed order be reclassified from class III to class II. FDA believes CPR Aid devices and automated external cardiac compressor devices when used as indicated can supplement the effective delivery of CPR.

FDA believes that the identified special controls, in addition to general controls, would provide reasonable assurance of safety and effectiveness. Therefore, in accordance with sections 513(e) and 515(i) of the FD&C Act and 21 CFR 860.130, based on new information with respect to the devices, FDA, on its own initiative, is proposing to reclassify this preamendments class III device into class II. FDA believes that this information is sufficient to demonstrate that the proposed special controls can effectively mitigate the risks to health identified in section V of this document, and that these special controls in addition to the general controls will provide a reasonable assurance of safety and effectiveness for ECCs.

FDA has considered automated external cardiac compressor devices in accordance with the reserved criteria and has determined that the device should be subject to the premarket notification (510(k) of the FD&C Act) requirements as provided for under section 510(m) of the FD&C Act. However, the Agency does intend to exempt a CPR Aid device when it is a prescription use device and when the feedback provided to the rescuer is consistent with the current version of the American Heart Association (AHA) guidelines for CPR (Ref. 1) from premarket notification (section 510(k) of the FD&C Act) submission as provided for under section 510(m) of the FD&C Act. The AHA guidelines recommend that chest compressions be the highest priority and the initial action when starting CPR in the adult victim of sudden cardiac arrest. Chest compressions are an especially critical component of CPR because perfusion during CPR depends on these compressions.

V. Risks to Health

After considering available information, including the recommendations of the advisory committees (panels) for the classification of these devices, FDA has evaluated the risks to health associated with the use of external cardiac compressor devices and determined that the following risks to health are

associated with use of the automated external cardiac compressor devices:

- *Tissue damage or bone breakage, or inadequate blood flow.* Damage to the heart, other organs or tissues, can result from poor mechanical design, improper surface area of the plunger, improper vertical excursion of the plunger, improper force applied by the plunger, or improper energy transmission by the device.
- *Cardiac arrhythmias or electrical shock.* Excessive electrical leakage current can disturb the normal electrophysiology of the heart, leading to the onset of cardiac arrhythmias.
- *Adverse skin reactions.* Lack of biocompatibility in materials contacting skin may cause an adverse immunological or allergic reaction in a patient.

FDA has evaluated the risks to health associated with the use of CPR Aid devices and determined that the following risks to health are associated with use of CPR Aid devices:

- *Suboptimal CPR delivery.* Inaccurate rate or depth feedback from the device or inadequate labeling may result in suboptimal delivery of CPR.
- *Adverse skin reactions.* Lack of biocompatibility in materials contacting skin may cause an adverse immunological or allergic reaction in a patient.

VI. Summary of Reasons for Reclassification

FDA believes that automated external cardiac compressor devices indicated for adjunctive use with manual CPR (e.g., during transport—to assure more consistent and continuous therapy; or prolonged CPR—to avoid/replace rescuer fatigue) and CPR Aid devices should be reclassified into class II because special controls, in addition to general controls, can be established to provide reasonable assurance of the safety and effectiveness of the device. In addition, there is now adequate effectiveness information sufficient to establish special controls to provide such assurance.

VII. Summary of Data Upon Which the Reclassification Is Based

Since the time of the Panel recommendation, sufficient evidence has been developed to support a reclassification of automated external cardiac compressors indicated for adjunctive use with manual CPR and CPR Aid devices into class II with special controls.

Automated external cardiac compressors are tools used by emergency medical personnel to automate chest compressions during CPR. These devices are typically used in situations where extended CPR is required, such as during patient transport or when there are an inadequate number of trained personnel during extended CPR. The review of the available literature on mechanical versus manual chest compressions both by AHA (Ref. 1) and in a recent systematic literature review (Ref. 2) provided mixed results on whether mechanical compressions are as effective as manual chest compressions. However, it is well established that chest compressions are crucial to maintaining perfusion and that compressions of adequate rate and depth are necessary to increase the probability of survival in victims of sudden cardiac arrest (Ref. 1). As such, FDA believes that these devices, when indicated for use as an adjunct to manual CPR during patient transport or for use in situations where fatigue of or inaccessibility to emergency medical personnel may otherwise prevent adequate chest compressions, can be regulated as class II devices. These devices should not be used as a replacement for manual CPR. FDA believes that the special controls, including adequate labeling of the device for the appropriate use population, use conditions, and use by appropriately trained personnel, and performance testing of the device to ensure adequate chest compression rate and depth, adequately mitigate the risks.

CPR Aid devices are used to remind emergency medical personnel of appropriate CPR steps and technique and to provide feedback on the rate and depth of compressions. AHA guidelines on CPR and emergency cardiovascular care (Ref. 1) conclude that "real-time CPR prompting and feedback technology such as visual and auditory prompting devices can improve the quality of CPR." In addition, these devices have been reviewed by FDA for many years, and their risks are well-known. Between January 2000 and June 2012, FDA has not received any adverse event reports (medical device reports) associated with CPR Aid devices. FDA believes that the identified special controls, in addition to the general controls, provide reasonable assurance of safety and effectiveness.

VIII. Proposed Special Controls

FDA believes that the following special controls, in addition to general controls, are sufficient to mitigate the risks to health described in section V of this document for automated external cardiac compressor devices:

- Performance testing under simulated physiological conditions must demonstrate the reliability of the delivery of specific compression depth and rate over the intended duration and environment of use;
- Labeling must include the clinical training for the safe use of this device and information on the patient population for which the device has been demonstrated to be effective;
- For devices that incorporate electrical components, appropriate analysis and testing must validate electrical safety and electromagnetic compatibility;
- For devices containing software, software verification, validation, and hazard analysis must be performed; and
- Any elements of the device that may contact the patient must be demonstrated to be biocompatible;

In addition, under 21 CFR 801.109, the sale, distribution, and use of the automated external cardiac compressor device are restricted to prescription use.

FDA believes that the following special controls, in addition to general controls, are sufficient to mitigate the risks to health described in section V of this document for CPR Aid devices:

- Performance testing under simulated physiological or use conditions must demonstrate the accuracy and reliability of the feedback to the user on specific compression rate and/or depth over the intended duration of use;
- Labeling must include the clinical training, if needed, for the safe use of this device and information on the patient population for which the device has been demonstrated to be effective;
- For devices that incorporate electrical components, appropriate analysis and testing must validate electrical safety and electromagnetic compatibility;
- For devices containing software, software verification, validation, and hazard analysis must be performed;
- Any elements of the device that may contact the patient must be demonstrated to be biocompatible; and
- For over-the counter-devices, human factors testing and analysis must validate that the device design and labeling are sufficient for lay use.

IX. Exemption From Premarket Notification Requirements

FDA, on its own initiative, is also proposing to exempt CPR Aid devices that provide feedback consistent with the current AHA guidelines for CPR from premarket notification, subject to limitations. The AHA guidelines are intended to support emergency medical personnel with a series of sequential assessments and actions for resuscitation of the victim. The intent of

the AHA guideline is to provide recommendations on the most effective CPR practices, rather than specific instructions for using CPR Aid or other devices on a victim of sudden cardiac arrest.

FDA may consider a number of factors in determining whether premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the guidance the Agency issued on February 19, 1998, entitled "Procedures for Class II Device Exemptions From Premarket Notification, Guidance for Industry and CDRH Staff" (Ref. 3).

FDA believes that a CPR Aid, when it is a prescription use device that provides feedback compliant with the current AHA guidelines for CPR, is appropriate for exemption from premarket notification, subject to the limitations of exemptions identified in 21 CFR 870.9, because the applicable special controls and general controls provide reasonable assurance of safety and effectiveness if device manufacturers follow the special controls requirements.

FDA advises that exemption from the requirement of premarket notification for prescription CPR Aids does not mean that these devices would be exempt from any other statutory or regulatory requirements, unless such exemption is explicitly provided by order or regulation. Indeed, FDA's proposal to exempt these devices from the requirement of premarket notification is based, in part, on the assurance of safety and effectiveness that other regulatory controls, such as current good manufacturing practice requirements (21 CFR part 820) and the identified special controls, provide.

X. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

XI. Paperwork Reduction Act of 1995

This proposed order refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 812 are approved under OMB control number 0910–0078; the collections of information in part 807, subpart E, are approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subpart B, are approved under OMB control number 0910–0231; and the collections of information under 21 CFR part 801 are approved under OMB control number 0910–0485.

XII. Proposed Effective Date

FDA is proposing that any final order based on this proposal become effective 30 days after date of publication of the final order in the **Federal Register**.

XIII. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

XIV. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**), and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov*. (FDA has verified all the Web site addresses in this reference section, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. Berg R. A., R. Hemphill, B. S. Abella, *et al.*, "2010 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care Circulation," vol. 122, issue 18, suppl. 3, 2010, available at *http://circ.ahajournals.org/content/122/18_suppl_3/S685.full.pdf+html*.

2. Brooks S. C., B. L. Bigham, and L. J. Morrison, "Mechanical Versus Manual Chest Compressions for Cardiac Arrest (Review)," *The Cochrane Library*, issue 1, 2011, available at *http://onlinelibrary.wiley.com/doi/10.1002/14651858.CD007260.pub2/pdf*.

3. FDA guidance, "Procedures for Class II Device Exemptions From Premarket Notification, Guidance for Industry and CDRH Staff," 1998, available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm080198.htm*.

List of Subjects in 21 CFR Part 870

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 870 be amended as follows:

PART 870—CARDIOVASCULAR DEVICES

■ 1. The authority citation for 21 CFR part 870 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section 870.5200 is revised to read as follows:

§ 870.5200 External cardiac compressor.

(a) *Identification.* An automated external cardiac compressor is an external device that is electrically, pneumatically, or manually powered and is used to compress the chest periodically in the region of the heart to provide blood flow during cardiac arrest. Automated external cardiac compressor devices are used as an adjunct to manual cardiopulmonary resuscitation (CPR) during patient transport or extended CPR. This also includes CPR Aid devices, which are external devices intended to provide audio and/or visual feedback to the rescuer regarding compression rate and/or depth, to aid in the consistent application of manual CPR.

(b) *Classification.* (1) Class II (special controls) for the automated external cardiac compressor device. The special controls for this device are:

(i) Performance testing under simulated physiological conditions must demonstrate the reliability of the delivery of specific compression depth and rate over the intended duration of use;

(ii) Labeling must include the clinical training for the safe use of this device and information on the patient population for which the device has been demonstrated to be effective;

(iii) For devices that incorporate electrical components, appropriate analysis and testing must validate electrical safety and electromagnetic compatibility;

(iv) For devices containing software, software verification, validation, and hazard analysis must be performed; and

(v) Any elements of the device that may contact the patient must be demonstrated to be biocompatible.

(2) Class II (special controls) for the CPR Aid device. The special controls for this device are:

(i) Performance testing under simulated physiological conditions must demonstrate the accuracy and reliability of the feedback to the user on specific compression rate and/or depth

over the intended duration and environment of use;

(ii) Labeling must include the clinical training, if needed, for the safe use of this device and information on the patient population for which the device has been demonstrated to be effective;

(iii) For devices that incorporate electrical components, appropriate analysis and testing must validate electrical safety and electromagnetic compatibility;

(iv) For devices containing software, software verification, validation, and hazard analysis must be performed;

(v) Any elements of the device that may contact the patient device must be demonstrated to be biocompatible; and

(vi) For over-the-counter devices, human factors testing and analysis must validate that the device design and labeling are sufficient for lay use.

(c) *Premarket notification.* The CPR aid device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter if it is a prescription use device that provides feedback to the rescuer consistent with the current American Heart Association guidelines for CPR and in compliance with the special controls under paragraph (b)(2) of this section, subject to the limitations of exemptions in § 870.9.

Dated: January 2, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–00085 Filed 1–7–13; 8:45 am]

BILLING CODE 4160–01–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1195

[Docket No. ATBCB–2012–0003]

RIN 3014–AA40

Medical Diagnostic Equipment Accessibility Standards Advisory Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Medical Diagnostic Equipment Accessibility Standards Advisory Committee will hold its third meeting. On July 5, 2012, the Architectural and Transportation Barriers Compliance Board (Access Board) established the advisory committee to make recommendations to the Board on matters associated with comments received and responses to questions included in a previously published Notice of Proposed Rulemaking (NPRM) on Medical Diagnostic Equipment Accessibility Standards.

DATES: The Committee will meet on January 22, 2013, from 10:00 a.m. to 5:00 p.m. and on January 23, 2012, from 9:00 a.m. to 2:30 p.m.

ADDRESSES: The meeting will be held at the Access Board's Conference Room, 1331 F Street NW., Suite 800, Washington, DC 20004–1111.

FOR FURTHER INFORMATION CONTACT: Rex Pace, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–0023 (Voice); (202) 272–0052 (TTY). Electronic mail address: *pace@access-board.gov.*

SUPPLEMENTARY INFORMATION: On July 5, 2012, the Architectural and Transportation Barriers Compliance Board (Access Board) established an advisory committee to make recommendations to the Board on matters associated with comments received and responses to questions included in a previously published NPRM on Medical Diagnostic Equipment Accessibility Standards. See 77 FR 6916 (February 9, 2012). The NPRM and information related to the proposed standards are available on the Access Board's Web site at: *http://www.access-board.gov/medical-equipment.htm.*

The advisory committee will hold its third meeting on January 22 and 23, 2013. The agenda includes the following:

- Review of previous committee work;
- Presentations by medical practitioners and clinicians on the use of medical diagnostic equipment in relation to transfer surfaces;
- Continued discussion on subcommittees based on medical diagnostic equipment type;
- Continued discussion on transfer surface height and size;
- Review and discussion on transfer support location and configuration;
- Consideration of issues proposed by committee members; and
- Discussion of administrative issues.

The preliminary meeting agenda, along with information about the committee, is available at the Access Board's Web site (*http://www.access-board.gov/medical-equipment.htm*).

Committee meetings are open to the public and interested persons can attend the meetings and communicate their views. Members of the public will have opportunities to address the committee on issues of interest to them during public comment periods scheduled on each day of the meeting.

The meetings will be accessible to persons with disabilities. An assistive listening system, computer assisted real-time transcription (CART), and sign language interpreters will be provided. Persons attending the meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants (*see www.access-board.gov/about/policies/fragrance.htm* for more information). Also, persons wishing to provide handouts or other written information to the committee are requested to provide electronic formats to Rex Pace via email prior to the meetings so that alternate formats can be distributed to committee members.

David M. Capozzi,

Executive Director.

[FR Doc. 2013–00071 Filed 1–7–13; 8:45 am]

BILLING CODE 8150–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 27

[WT Docket No. 12–357; FCC 12–152]

Service Rules for the Advanced Wireless Services in the H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Commission proposes rules for the Advanced Wireless Services (AWS) H Block that would make available ten megahertz of spectrum for flexible use. The proposal would extend the widely-deployed Personal Communications Services (PCS) band, which is used by the four national providers as well as regional and rural providers to offer mobile service across the nation. The additional spectrum for mobile use will help ensure that the speed, capacity, and ubiquity of the nation's wireless networks keeps pace with the skyrocketing demand for mobile service.

DATES: Submit comments on or before February 6, 2013. Submit reply

comments on or before March 6, 2013. Written comments on the proposed information collection requirements, subject to the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13, should be submitted on or before March 11, 2013.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. A copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167. You may submit comments, identified by FCC 12–152, or by WT Docket No. 12–357, by any of the following methods: *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.
- *Availability of Documents.* Comments, reply comments, and ex *parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Peter Daronco of the Broadband Division, Wireless Telecommunications Bureau, at (202) 418–BITS. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Judith B. Herman at (202) 418–0214, or via the Internet at *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking*, FCC 12–152, adopted on December 11, 2012, and released on December 17, 2012. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, facsimile (202) 488–5563, or via email at *fcc@bcpiweb.com.* The complete text is also available on the Commission's Web site at *http://hraunfoss.fcc.gov/edocs_public/attachment/FCC-12-152A1doc.* Alternative formats (computer diskette, large print, audio cassette, and Braille) are available by contacting Brian Millin at (202) 418–7426, TTY (202) 418–7365, or via email to *bmillin@fcc.gov.*

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). All filings should reference the docket numbers in this proceeding, FCC 12–152, or by WT Docket No. 12–357.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).
- Document *FCC 12–152* contains proposed information collection requirements subject to the PRA. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507 of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collection requirements contained in this document. PRA comments should be submitted to Judith B. Herman at (202) 418–0214, or via the Internet at *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.
- To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.
- *Initial Paperwork Reduction Act Analysis*

This document contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we

might further reduce the information collection burden for small business concerns with fewer than 25 employees.

OMB Control Number: 3060–[XXXX].

Title: Sections 1.946, 1.949, 1.2105(a), etc.—Service Rules for Advanced Wireless Services (AWS) H Block.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local, or tribal government.

Number of Respondents: 50 respondents; 50 responses.

Estimated Time per Response: .25 hours to .5 hours.

Frequency of Response: Annual, one time, and on occasion reporting requirements; recordkeeping requirement; and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for the information collection is contained in 15 U.S.C. 79 *et seq.*; 47 U.S.C. sections 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), 309, 1404, and 1451.

Total Annual Burden: 14 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission is submitting this information collection to the Office of Management and Budget as a new collection. The *Notice of Proposed Rulemaking (NPRM)* proposes rules for the Advanced Wireless Services (AWS) H Block to make available ten megahertz of spectrum for flexible use, extending the current Personal Communications Services (PCS) band, which is used by the four national providers as well as regional and rural providers to offer mobile service across the Nation. The *NPRM* begins the Commission's implementation of the Congressional directive in the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act) to grant new initial licenses for the 1915–1920 MHz (Lower H Block) and 1995–2000 MHz (Upper H Block) bands through a system of competitive bidding—unless doing so would cause harmful interference to commercial mobile service licensees in the 1930–1995 MHz (PCS downlink) band.

Summary

I. Introduction

1. We propose rules for the Advanced Wireless Services (AWS) H Block that would make available ten megahertz of spectrum for flexible use. The proposal would extend the widely-deployed Personal Communications Services (PCS) band, which is used by the four national providers as well as regional and rural providers to offer mobile service across the nation. The additional spectrum for mobile use will help ensure that the speed, capacity, and ubiquity of the nation's wireless networks keeps pace with the skyrocketing demand for mobile service.

2. The Commission's action is a first step in implementing the Congressional directive in the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act) that we grant new initial licenses for the 1915–1920 MHz and 1995–2000 MHz bands (the Lower H Block and Upper H Block, respectively) through a system of competitive bidding—unless doing so would cause harmful interference to commercial mobile service licensees in the 1930–1995 MHz (PCS downlink) band (collectively, the Lower H Block and Upper H Block are referred to as the "H Block").

II. Discussion

3. To implement the Spectrum Act provisions pertaining to the H Block, and in keeping with our goal of expanding the amount of spectrum available for wireless broadband services, we propose terrestrial service rules for the H Block that would generally follow the Commission's part 27 rules. In some instances, we propose rules that are modified from part 27 to account for issues unique to the H Block, particularly to protect PCS licensees from harmful interference. With this *NPRM*, we seek comment on a number of proposals regarding the licensing, use, and assignment of the spectrum, including the costs and benefits of the proposals.

4. Although the Commission previously sought comment on many of these issues in the *AWS–2 NPRM*, Service Rules for Advanced Wireless Services in the 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz Bands, 69 FR 63489 (Nov. 2, 2004) (*AWS–2 NPRM*), and the *2008 FNPRM*, Service Rules for Advanced Wireless Services in the 2155–2175 MHz Band; Service Rules for Advanced Wireless Services in the 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz Bands, 73 FR 35995 (June 25, 2008) (*2008 FNPRM*), wireless broadband technologies and the wireless industry have evolved since the Commission last sought comment on these issues such that, in our assessment, the development of a fresh record is warranted. As a result, we will adopt H Block rules based on the record developed in response to this *NPRM* (WT Docket No. 12–357). Parties may refile in this docket earlier comments with any necessary updates.

5. For each of the issues identified below, we seek comment on the most efficient manner to address the issue. Commenters should also identify the various costs and benefits associated with a particular proposal. We ask that commenters take into account only those costs and benefits that directly result from the implementation of the particular rules that could be adopted, including any proposed requirement or potential alternative requirement. Further, to the extent possible, commenters should provide specific data and information, such as actual or estimated dollar figures for each specific cost or benefit addressed, along with a description of how the data or information was calculated or obtained, and any supporting documentation or other evidentiary support.

A. Spectrum Act Provisions for 1915–1920 MHz and 1995–2000 MHz

6. We discuss the Spectrum Act's four main statutory elements related to the H Block—allocation for commercial use, flexible use, assignment of licenses, and a determination regarding interference—in greater detail below.

1. Allocation for Commercial Use

7. Section 6401 of the Spectrum Act requires the Commission to allocate the 1915–1920 MHz and 1995–2000 MHz bands for commercial use. The Spectrum Act does not define the phrase "allocate [the H Block] for commercial use." When this phrase is read in the context of the Spectrum Act as a whole, we conclude it requires the Commission to make any changes necessary to, or otherwise ensure that, the Non-Federal Table of Allocations reflects that the spectrum identified in section 6401 can be used commercially and licensed to non-federal entities under flexible use service rules through a system of competitive bidding. All of the H Block spectrum is within the 1850–2000 MHz band, which is allocated exclusively for non-federal, fixed and mobile use on a primary basis and designated for use in the commercial PCS/AWS bands. We believe the Commission's prior allocation of the H Block is fully consistent with section 6401's allocation language because the existing allocation is the broadest allocation possible consistent with international allocations. We further read section 6401 as directing the Commission to maintain this existing allocation. Given the requirement to license under flexible use service rules, we do not read the requirement to allocate the H

Block for commercial use to specifically limit eligible uses to commercial uses.

8. Therefore, we tentatively conclude that the existing allocation of the H Block for non-federal fixed and mobile use on a primary basis meets the allocation requirement of section 6401(b)(1)(A) for the H Block, and seek comment on this tentative conclusion. We seek comment on whether there are any additional actions the Commission should take to comply with the requirement to allocate the H Block for commercial use. We ask commenters that believe further action is needed to comply with Congress's mandate to detail what other action is necessary, including the costs and benefits of such action.

2. Flexible Use

9. Consistent with the Spectrum Act's mandate that we license the H Block under flexible use service rules, we propose service rules for the H Block that permit a licensee to employ the spectrum for any non-Federal use permitted by the United States Table of Frequency Allocations, subject to the Commission's part 27 flexible use and other applicable rules (including service rules to avoid harmful interference). Congress recognized the potential benefits of flexible spectrum allocations and amended the Communications Act in 1997 to add section 303(y), which grants the Commission the authority to adopt flexible allocations if certain factors are met. Thus, we propose that the H Block may be used for any fixed or mobile service that is consistent with the allocations for the band. If commenters think any restrictions are warranted, they should describe why such restrictions are needed, quantify the costs and benefits of any such restrictions, and describe how such restrictions would comport with the statutory mandates of section 303(y) of the Communications Act and section 6401 of the Spectrum Act.

3. Assignment of Licenses

10. Section 6401(b) of the Spectrum Act requires the Commission to assign initial licenses for the 1915–1920 and 1995–2000 MHz bands through a system of competitive bidding pursuant to section 309(j) of the Communications Act. Accordingly, below, we seek comment on proposals regarding competitive bidding rules that would apply to resolve any mutually exclusive applications accepted for H Block licenses.

4. Determination of No Harmful Interference to the 1930–1995 MHz Band

11. The Commission is prohibited from granting initial licenses under the Spectrum Act for the H Block if the Commission determines that the H Block "cannot be used without causing harmful interference" to commercial mobile licensees in the 1930–1995 MHz band (PCS downlink band). We note that the Spectrum Act does not define the term "harmful interference," and we propose to use the existing definition of "harmful interference" in the Commission's rules. Under the Commission's rules harmful interference is "[i]nterference which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs, or repeatedly interrupts a radiocommunication service operating in accordance with [the International Telecommunications Union] Radio Regulations."

12. *Upper H Block.* As detailed in the Band Plan section below, the Commission allocated this spectrum for fixed and mobile use in 2003, and it designated it for PCS/AWS base station operations and proposed service rules to that effect in 2004. During the eight years that WT Docket No. 04–356 has been pending, no party has filed technical data and/or analysis indicating that base station operations in the Upper H Block would cause harmful interference to licensees in the PCS downlink band. Accordingly, we tentatively conclude that licensing the Upper H Block under flexible use service rules will not cause harmful interference to commercial mobile licensees in the 1930–1995 MHz band. We seek comment on this tentative conclusion.

13. *Lower H Block.* In 2004 the Commission designated this spectrum for PCS/AWS mobile operations; paired with Upper H Block, after concluding that harmful interference from Lower H Block to the PCS downlink band could be addressed through appropriate service rules. In WT Docket No. 04–356, commenters vigorously debated the power and out-of-band emission limits necessary to avoid interference to mobiles receiving in the PCS downlink band. Four PCS licensees proposed technical rules for Lower H Block to avoid interference to PCS and at least one PCS licensee continues to advocate for one of the earlier proposals. As discussed in detail below, we propose a band plan and are seeking comment on technical rules to avoid interference, including the earlier proposals by PCS licensees. Accordingly, we tentatively conclude that it will be possible to auction and license the Lower H Block under flexible use service rules without causing harmful interference to commercial mobile licensees in the PCS downlink (1930–1995 MHz) band. We seek comment on this tentative conclusion. Regarding the proposed band plan and technical issues discussed in the sections below, we ask that commenters proposing alternative band plans and/or technical rules—including any alternative proposals that have been previously submitted to the Commission—provide detailed analyses of how their proposal will avoid harmful interference to licensees in the PCS downlink band.

14. *Alternatives, if Harmful Interference to PCS.* If, contrary to our expectation, the record results in a determination that licensing the Upper H Block, the Lower H Block, or both, would cause harmful interference to licensees in the PCS downlink band, section 6401(b)(4) of the Spectrum Act nullifies the initial requirement in section 6401(b)(1)(a) that the Commission to allocate the interfering spectrum for commercial use. We do not, however, believe that Congress intended section 6401(b)(4)(a) to disturb allocations adopted prior to the Spectrum Act. Rather, Congress intended section 6401(b)(4) to avoid harmful interference to the millions of existing customers of PCS licensees that might otherwise result from Commission actions implementing the requirements in section 6401(b)(1) related to H Block. Therefore, if we determine that the Lower H Block, the Upper H Block, or both, cannot be used without causing harmful interference to PCS licensees, we tentatively conclude that we may not under the Spectrum Act auction and grant initial licenses, subject to flexible use service rules, for the interfering spectrum. If we determine that half of the H Block cannot be auctioned and licensed, we tentatively conclude that the statute requires us to auction and license the half of the H Block that would not cause harmful interference to PCS downlinks (*i.e.*, either the Upper or Lower H Block). Accordingly, we ask commenters to address what should be done in the alternative with the H Block or any portion of the H Block that we determine cannot be licensed under the Spectrum Act due to harmful interference to licensees in the PCS downlink band. In particular, should any such spectrum be designated for Unlicensed PCS (UPCS)?

B. Band Plan

15. In the following sections, we propose to license the H Block as paired 5 megahertz blocks, with the Upper H Block used for high-power base stations and the Lower H Block used for mobile and low power fixed operations. We further propose to license the H Block by Economic Areas. We invite commenters to propose other licensing areas including for the Gulf of Mexico.

1. Block Configuration

16. In 2004, the Commission adopted the *AWS Sixth Report and Order*, Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems, 69 FR 62615 (Oct. 27, 2004), designating the H Block for licensed fixed and mobile services, including advanced wireless services, and pairing the 1915–1920 MHz band with the 1995–2000 MHz band. The Commission decided to pair the 1915–1920 MHz and 1995–2000 MHz bands because it found that pairing this spectrum would promote efficient use of the spectrum, would allow for the introduction of high-value services, and was otherwise preferable to the other options that had been put forth.

17. In addition, the Commission contemplated that mobile operations would be conducted in the Lower H Block. The Commission reasoned that using the Lower H Block for low power operations would be advantageous because the adjacent 1910–1915 MHz PCS band is used for mobile operations and using the Lower H Block for high power base station operations could result in harmful interference to the PCS band.

18. We see no reason to diverge from the reasoning in the *AWS Sixth Report and Order*. Accordingly, we tentatively conclude that the 1915–1920 MHz and 1995–2000 MHz bands should be paired as a single band. In addition, we propose that high power base station operations will be prohibited in the Lower H Block. We seek comments on the costs and benefits of licensing the 1915–1920 MHz and 1995–2000 MHz bands in this manner. We also seek comment on alternate configurations of the H Block. Commenters should address any technical issues implicated in an alternate band plan, and should discuss the costs and benefits of any alternative proposal.

2. Service Area

19. *Geographic Area Licensing:* We propose to adopt a geographic area licensing scheme for the H Block because it is well-suited for the types of fixed and mobile services that would likely be deployed in these bands. Additionally, geographic-area licensing is consistent with the Commission's licensing approach for the AWS–1, Broadband PCS, Commercial 700 MHz bands, and AWS–4 bands. Based on the Commission's experience administering these services, geographic area licensing: (1) Provides licensees with substantial flexibility to respond to market demand, which results in significant improvements in spectrum utilization; (2) permits economies of scale because licensees can coordinate usage across an entire geographic area to maximize spectrum use; and, (3) reduces the regulatory burdens and transaction costs because wide-area licensing does not require site-by-site approval so a licensee can aggregate its service territories without incurring the administrative costs and delays associated with site-by-site licensing. We seek comment on this approach, including the costs and benefits of adopting a geographic area licensing scheme.

20. In the event that commenters do not support geographic-area licensing for the H Block, commenters should explain their position and identify any alternative licensing proposals that they support, including the costs and benefits associated with such alternative proposals. Commenters should also address how an alternative licensing approach would be consistent with the statutory requirement to assign licenses in the H Block through competitive bidding and the statutory objectives that the Commission is required to promote in establishing methodologies for competitive bidding.

21. *Service Area Size.* We seek to adopt a service area size for the H Block that meets several statutory goals. These include facilitating access to spectrum by both small and large providers, providing for the efficient use of the spectrum, encouraging deployment of wireless broadband services to consumers, especially those in rural areas, and promoting investment in and rapid deployment of new technologies and services consistent with our obligations under section 309(j) of the Communications Act.

22. To accomplish these goals, we propose to license the H Block on an Economic Area (EA) basis. The adjacent bands, both PCS and AWS–4, are licensed on an EA basis. EAs are small enough to provide spectrum access opportunities for smaller carriers but also may be aggregated up to larger license areas to achieve economies of scale. We seek comment on this approach and ask commenters to discuss and quantify the economic, technical, and other public interest considerations of any particular geographic scheme for this band, as well as the impact that any such scheme would have on rural service and competition.

23. We also seek comment on whether we should license the H Block on a nationwide basis. We seek comment on the extent to which nationwide licenses maximize or limit the opportunity for licensees to provide the widest array of services, and whether nationwide licenses provide the necessary incentives to foster the growth of existing technologies and the development of new technologies. We also ask commenters to compare the advantages and disadvantages of nationwide licensing to those of licensing by EAs, including economic and financial considerations.

24. In response to the *AWS–2 NPRM*, some commenters argued that licensing the H Block using smaller geographic areas than EAs would accommodate its possible use as complementary spectrum to existing PCS offerings. Other commenters agreed and also noted that small and rural wireless providers would benefit if the Commission licensed the H Block using smaller geographic areas than EAs. Would licensing the H Block by areas smaller than EAs (*e.g.*, Cellular Market Areas comprising Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs)) facilitate its use by smaller and rural operators? Would the benefits of smaller licenses outweigh any potential diseconomies of scale? We also seek comment on whether we should license the H Block by BTAs and the associated costs and benefits of this approach. Are there other geographic licensing methods that would better meet the stated goals for this band?

3. Licensing the Gulf of Mexico

25. In addition, we seek comment on how to license the Gulf of Mexico. Should the Gulf of Mexico be part of another service area(s) or should we separately license a service area(s) to cover the Gulf of Mexico? Are there any public interest benefits that would be served by creating a Gulf of Mexico licensing area? Further, would the interests of the land based licensees be protected if we proceeded to license the Gulf of Mexico? Commenters that advocate a separate service area(s) to cover the Gulf of Mexico should discuss what boundaries should be used, and whether special interference protection criteria or performance requirements are

necessary due to the unique radio propagation characteristics and antenna siting challenges that exist for Gulf licensees.

C. Technical Issues

26. As discussed above, we are proposing that the Upper H Block be used for base station (*i.e.*, high power) operations, and the Lower H Block for mobile and other low-power operations. In this section we consider whether technical standards generally applicable to AWS and PCS stations are appropriate for these bands, or whether different standards are necessary to provide interference protection to services operating in adjacent spectrum bands. In light of the Spectrum Act, and our assessment of the relevant public interest benefits, a key goal in this proceeding is to develop technical rules that will permit optimal use of the H Block without causing harmful interference to commercial mobile service licensees in the 1930–1995 MHz PCS band. In responding to our inquiries, we ask commenting parties to provide test data and specific technical analysis to support their positions.

1. Upper H Block: 1995–2000 MHz

27. Immediately below the Upper H Block is the 1930–1995 MHz PCS band, which is used for base station transmit/mobile receive (*i.e.*, downlink). The Commission has tentatively concluded that base stations operating in the Upper H Block would be compatible with similar use of the spectrum below 1995 MHz, and there would be no need to apply technical standards more restrictive than those established for other AWS stations. The record developed in WT Docket No. 04–356 does not demonstrate any disagreement with this approach.

28. Immediately above the Upper H Block is the 2000–2020 MHz band, which is allocated on a co-primary basis for Fixed, Mobile, and Mobile Satellite (Earth-to-space, *i.e.*, for uplink mobile transmit/satellite receive). In the *AWS–4 Report and Order*, we adopted service rules under which 2000–2020 MHz will be licensed terrestrially for mobile transmit/base station receive. Service Rules for Advanced Wireless Services in the 2000–2020 MHz and 2180–2200 MHz Bands, FCC 12–151. The Commission has previously concluded that there is potential for mutual interference between these two bands, and in WT Docket No. 04–356 MSS commenters raised concerns. In the *AWS–4 Report and Order*, we concluded that the public interest is best served by requiring AWS–4 uplinks to operate at lower power levels in 2000–2005 MHz and emit lower emissions below 2000 MHz. We further concluded that 2 GHz MSS operators and AWS–4 licensees must accept any harmful interference from future, lawful operations in the Upper H Block due to out of band emissions in the 2000–2005 MHz band or receiver overload from transmitters operating within the 1995–2000 MHz band.

a. Upper H Block Power Limits

29. We also propose to adopt the standard base station power limits that apply to AWS and PCS stations: 1640 watts peak equivalent isotropically radiated power (EIRP) in non-rural areas and 3280 watts peak EIRP in rural areas. We seek comment on this proposal.

b. Upper H Block Out of Band Emissions Limits

30. Given the considerations addressed above, we propose an out-of band-emission (OOBE) limit for base stations of $43 + 10 \log_{10} (P)$ dB, where P is the transmit power in watts, outside of the 1995–2000 MHz band. To provide some interference mitigation to AWS–4 uplink operations above 2000 MHz while ensuring that all of the Upper H Block spectrum can be used for more valuable downlink operations, we propose a further OOBE limit of $70 + 10 \log_{10} (P)$ dB above 2005 MHz. We seek comment on our proposals and any alternative proposals, including comments on the associated costs and benefits of each proposal.

c. Co-Channel Interference Between Licensees Operating in Adjacent Regions

31. If we ultimately decide to license this band on the basis of geographic service areas that are less than nationwide (e.g., EAs), we will have to ensure that such licensees do not cause interference to co-channel systems operating along their common geographic borders. In other services, the Commission has offered either a "boundary limit" or a "coordination" approach to provide interference protection between co-channel licensees operating in these bands. Both approaches have certain advantages and disadvantages. For example, coordination would likely minimize the potential for interference to coordinated stations, but could also impose unnecessary costs in coordinating facilities that have a low potential for interference. A boundary limit approach would establish an accepted standard, which would enable licensees to deploy facilities in boundary areas without the need for coordination; but could require some additional planning between licensees to ensure that potential interference does not occur.

32. In other bands where spectrum has been allocated for fixed and mobile services, we have uniformly adopted the boundary limit method to minimize co-channel interference. For example, for the PCS and AWS–1 bands, which are closest in frequency to the H Block, there is a field strength limit of 47 dBμV/m at the boundary of licensed geographic areas. We propose that the boundary limit approach should be adopted for the H Block as the means for protecting licensees from co-channel interference at their borders, and propose to specify a boundary field strength limit of 47 dBμV/m. We seek comment on these proposals. We also ask whether, if the boundary limit method is adopted, we should permit licensees operating in adjoining areas to employ alternative, agreed-upon signal limits at their common borders.

2. Lower H Block: 1915–1920 MHz

33. Immediately below the Lower H Block is the 1850–1915 MHz PCS band, which is used for mobile transmit/base receive. Use of the Lower H Block for mobile transmit/base receive, as we have proposed, would be compatible with this adjacent PCS band. Thus there would be no need to apply technical standards more restrictive than those established for AWS and PCS stations to protect PCS operations below 1915 MHz.

34. Above the Lower H Block is the 1920–1930 MHz unlicensed PCS (UPCS) band, which does not require protection, and the 1930–1995 PCS base transmit/mobile receive band. The latter presents protection challenges for use of the Lower H Block. The Commission has previously concluded that there is potential for mobile transmitters in the 1915–1920 MHz band to cause out-of-band and overload interference to mobile receivers in the 1930–1995 MHz band, but only when certain worst-case conditions are all present. Specifically, "[t]he worst case occurs when the mobile transmitter is operating at maximum power (near the edge of its service area) at the upper edge of the band (near 1920 MHz) and the mobile receiver is trying to receive a weak signal (near the edge of its service area) at the lower edge of the band (near 1930 MHz) and only free space loss is considered." Additionally, both mobiles must be in close proximity to each other, less than a few meters, and in line-of-sight conditions. The Commission found that the confluence of these worst-case circumstances is very infrequent and the risk of actual interference is further mitigated by

normal network management practices such as handoff and power management. Nevertheless, the Commission concluded that technical standards more restrictive for Lower H Block than those established for PCS may be appropriate to avoid impairing incumbent PCS operations above 1930 MHz.

35. The Spectrum Act sharply focuses these concerns by requiring us to auction the H Block spectrum unless we determine that the frequencies cannot be used without causing harmful interference to commercial mobile service licensees in the frequencies between 1930 MHz and 1995 MHz (PCS downlink). We therefore wish to review previous proposals for Lower H Block power and emissions limits, evaluate how the interference environment may have changed since those earlier discussions, and determine what limits are appropriate for the current environment, and whether they may be increased in the future.

a. Lower H Block Power Limits

36. Several parties have expressed concern about the potential for intermodulation interference, which can result from receiver overload, impacting PCS user equipment (UEs) receiving in the PCS B Block (1950–1965 MHz). In the *2008 FNPRM*, the Commission proposed a limit on the EIRP from H Block mobile transmitters of +23 dBm/MHz. In response, Sprint and Verizon Wireless (both licensees of significant portions of PCS including B Block) and Nextel reiterated their 2005 proposal for gradated power limits to avoid interference to PCS as follows: A limit on mobile EIRP of +6 dBm/MHz in the 1917–1920 MHz band, and a limit of +30 dBm/MHz in the 1915–1917 MHz band. This proposal was supported by testing of a variety of mobiles commissioned by CTIA in 2004. Sprint has repeatedly and recently stated that the H Block can be auctioned and licensed without interfering with PCS operations by using these earlier-proposed, gradated power limits. AT&T, also a licensee of a significant portion of PCS spectrum, including the B Block, did not concur with the plan put forth by Sprint, Verizon and Nextel and submitted an alternative solution. AT&T proposed a uniform, "technologically neutral," −13 dBm/MHz power limit on the Lower H Block to protect PCS, arguing that the split-band approach favored CDMA over GSM and wideband technologies, such as W–CDMA and UMTS/HSPA. In response to the *AWS–4 NPRM* AT&T favored leaving the H Block idle to serve as a guard band to protect AWS–4 and PCS. More recently, AT&T argues in the alternative that if the Commission proceeds with an auction of the entire H Block despite AT&T's concerns, we should adopt technical rules to protect PCS devices from harmful interference including appropriate power limits on H Block mobiles.

37. We seek to establish technical requirements that will support flexible use of this spectrum in accordance with the Spectrum Act without causing harmful interference to PCS licensees. The record in WT Docket No. 04–356 was largely developed between four and eight years ago. Since then, the mobile broadband industry, including the wireless network equipment sector, has undergone a rapid evolution. The marketplace has seen greater adoption of wideband technologies such as UMTS and LTE, as well as the authorization and launch of PCS services in the G Block. Advances in mobile device development have unleashed new designs and ushered in the advent of the smartphone. We seek comment on how changes in the industry may have affected the assumptions underlying previous analyses. How have filtering techniques and duplex design improved? Given that the Commission's intentions to authorize mobile service in the H Block have been known in the industry since at least 2004, have better duplexer filters been employed in user equipment? How has the population of mobile devices changed, what is the mix of technologies in use in the marketplace, and what is the performance of this new generation of devices?

38. We seek comment on the appropriate power limit for 1915–1920 MHz mobile devices in order to prevent interference to PCS operations. Commenters are asked to submit detailed technical analyses or studies in support of their recommendations and are encouraged to provide test data wherever possible. The assumptions that underpin the analyses should identify how harmful interference is defined. What probability of interference is deemed acceptable (what percentage of mobiles, what percentage of locations)? For example, the Commission's earlier proposal, 23 dBm/MHz, was based on a mobile separation of two meters between users, while others argued for a one-meter separation. Likewise, is defining harmful interference based on degradation to a receiver's noise floor appropriate for a system which is inherently interference-limited? If stricter limitations on mobile transmit power are deemed necessary to protect current legacy devices, should the power limits sunset after a period of time, allowing time for new, more resilient mobiles to comprise the bulk of the mobile population? How much time will licensees need to obtain and deploy UEs with the better filters, if better filters are still needed? How long will consumers' legacy UEs need to be protected? We also seek comment on the costs and benefits of alternative power limits.

39. The 1915–1920 MHz band is also allocated for fixed services, so fixed stations will be allowed to operate in the band. However, because fixed station antennas are generally located some distance above ground level, the possibility of interference from fixed stations to PCS mobiles will likely be less than the anticipated interference from 1915–1920 MHz mobiles to PCS mobiles. We therefore believe that 1915–1920 MHz fixed stations should be permitted to employ a higher power level than mobiles operating in that band. We seek comment as to what that power level should be.

b. Lower H Block Out of Band Emissions Limits

40. The Commission has previously concluded that, in certain circumstances, attenuating transmitter OOBEs by $43 + 10 \log_{10} (P)$ dB is appropriate to minimize harmful electromagnetic interference between operators. This limit is generally applied in cases where adjacent services have similar characteristics, such as base-to-base or mobile-to-mobile and adhere to similar power limits. This limit has served well as a basis for development of industry standards which may impose tighter limits in some cases. An OOBE limit of $43 + 10 \log_{10} (P)$ dB applies to most of the services authorized under parts 24 and 27. In particular, this is the limit imposed on transmitters operating in both the 1930–1995 MHz PCS band and the 1920–1930 MHz UPCS band adjacent to the Lower H Block. As both of these services in adjacent bands provide for mobiles with similar power, the same OOBE limit appears appropriate for the Lower H Block. The Commission therefore proposes to require attenuation of $43 + 10 \log_{10} (P)$ to emissions from transmitters in the 1915–1920 MHz band.

41. The risk of mobile-to-mobile interference discussed below may require a further OOBE limitation to protect against the potential for interference from the out-of band emissions of Lower H Block transmitters into PCS mobiles receiving in the 1930–1995 MHz band. Currently, the Commission's rules require licensees

operating in the 1850–1915 MHz PCS band to comply with the $43 + 10 \log_{10}$ P dB OOBE limit at the edge of their authorized spectrum block. This level of required attenuation of emissions with respect to the transmitter power can be translated into a power spectral density of −13 dBm/MHz for out-of-band emissions. We are aware that PCS-industry standards require equipment manufacturers to incorporate a stronger OOBE suppression capability in PCS mobiles. In the *2008 FNPRM*, the Commission proposed a stricter limit on out of band emissions from Lower H Block transmitters of −60 dBm/MHz in the frequency range of 1930–1990 MHz (PCS downlink band), equivalent to an attenuation of $90 + 10 \log_{10}$ (P) dB. The joint proposal of Sprint, Verizon and Nextel requested a limit of −76 dBm/MHz. Their analysis assumed a one-meter separation and mobile receivers operating in noise-limited faded signal conditions, and included test data commissioned by CTIA. Most of the mobiles tested met this limit. The −76 dBm/MHz specification is also the industry standard for CDMA devices under TIA–98F. Ericsson and Motorola submitted comments supporting the use of industry standards as the basis for OOBE limits and cited −61 dBm/MHz for the GSM Standard, with Motorola citing −76 dBm/MHz for the CDMA standard. Ericsson provided a later submission specifically supporting a limit of −66 dBm/MHz. Motorola, responding to CTIA's measurements, noted the failure of two GSM devices to meet the tighter CDMA-based OOBE limits of −76 dBm/MHz and thus advocated a limit of −71 dBm/100 kHz, which is equivalent to −61 dBm/MHz.

42. As discussed earlier, there has been considerable technological advancement in devices and technologies deployed in the mobile broadband industry since this issue was last under review. We note that many of the arguments for proposed OOBE limits were linked to industry standards at the time. The 3GPP standard for emerging 4G technology allows for a higher level of OOBE, generally −50 dBm/MHz in most bands, but has implemented a limit of −40 dBm/MHz in several bands. The current LTE standards for the use in PCS requires mobiles in 1850–1915 MHz to meet a limit of −50 dBm/MHz in 1930–1995 MHz. In this and the concurrent AWS–4 proceeding, Sprint has expressed support for an OOBE limit of −40 dBm/MHz from AWS–4 transmitters into the PCS downlink band at 1930–1995 MHz. In the *AWS–4 Report and Order* we apply the limit of $70 + 10 \log_{10}$(P) dB, which is equivalent to −40 dBm/MHz, to all emissions below 2000 MHz. We believe that the current capabilities for mobile device manufacturers will support this level of tolerance for interference. Given that other operations may already be imposing out-of-band emissions at the −40 dBm/MHz level, should the Commission adopt this limit specifically for Lower H Block emissions in the 1930–1995 MHz range?

43. The consensus from the record developed in WT Docket No. 04–356 supports the creation of a specific OOBE limit for emissions from Lower H Block transmitters into the 1930–1995 MHz band, even though no other PCS mobiles are subject to such tighter limits in this band. We seek comment on the appropriate OOBE limit for the Lower H Block necessary to prevent interference to PCS operations. Commenters are asked to submit detailed technical analyses or studies in support of their recommendations and are encouraged to provide test data wherever possible. As with comments regarding power limits, the assumptions that underpin the analyses should identify how harmful interference is defined. What probability of interference is deemed acceptable (what percentage of mobiles, what percentage of locations)? For example, the Commission's earlier proposal was based on a mobile separation of two meters between users, while others argued for a one-meter separation. Commenters should also discuss if certain limits favor or prohibit certain technologies, and are therefore not technologically neutral. For example, would imposing a limit of −76 dBm/MHz favor CDMA2000 over LTE, because CDMA2000 specifies −76 dBm/MHz for this band, while LTE specifies only −50 dBm/MHz? If stricter limitations on OOBE are deemed necessary to protect current legacy devices, should these limits sunset after a period of time, allowing time for new, more resilient mobiles to comprise the bulk of the mobile population? How much time will licensees need to obtain and deploy UEs with the better filters? How long will consumers' legacy UEs need to be protected? We also seek comment on the costs and benefits of alternative OOBE limits.

44. To fully define an emissions limit, the Commission's rules generally specify details on how to measure the power of the emissions, such as the measurement bandwidth. For the Broadband PCS band, the measurement bandwidth used to determine compliance with this limit for mobile stations is one MHz or greater, with some modification in the one-MHz bands immediately outside and adjacent to the frequency block where a resolution bandwidth of at least one percent of the emission bandwidth of the fundamental emission of the transmitter may be employed. We believe that it is reasonable to apply this same procedure to transmissions in the 1915–1920 MHz band.

3. Canadian and Mexican Coordination

45. Section 27.57(c) of our rules provides that AWS–1 operations are subject to international agreements with Mexico and Canada. We propose to use this approach for the H Block. Until such time as any adjusted agreements between the United States, Mexico and/or Canada can be agreed to, operations must not cause harmful interference across the border, consistent with the terms of the agreements currently in force. We note that our proposed rules, and any rules that may ultimately become effective pursuant to the above-captioned proceeding, may need to be modified to comply with any future agreements with Canada and Mexico regarding the use of the H Block. We seek comment on this issue, including the costs and benefits, and on any alternative approaches to this issue.

4. Other Technical Issues

46. Part 27 contains several additional technical rules applicable to all part 27 services, including § 27.51 (Equipment authorization), § 27.52 (RF safety), § 27.54 (Frequency stability), § 27.56 (Antennas structures; air navigation safety), and § 27.63 (Disturbance of AM broadcast station antenna patterns). As we are proposing to license the H Block as Advanced Wireless Services under part 27, we propose that all of these part 27 technical rules should apply to all H Block licenses and licensees, including licensees who acquire their licenses through partitioning or disaggregation. We seek comment on this approach including comments on the associated costs and benefits.

47. We recognize that H Block, governed under part 27 rules, is adjacent to Broadband PCS spectrum administered under part 24. The adjacent blocks are harmonized with the same uplink/downlink configuration. It is possible that the licensee of a PCS G Block geographic area may also acquire the authorization for the adjoining H Block through the competitive bidding process. In that event, the licensee may wish to deploy a wider channel bandwidth operating across both bands, and we believe that such flexibility is appropriate. For one thing, wider channel bandwidths may provide higher data rates and potentially more efficient use of the spectrum. The potential for

this situation raises questions about the possible effects of the combined blocks operating under different rule parts. Under the technical rules proposed herein, the limits on OOBE and power are similar, but not precisely the same. We anticipate that the licensee's combined operations should satisfy the more restrictive limit if a conflict arises. For example, an OOBE limit of 43 + 10 $\log_{10}$ (P) dB applies to both the Upper G Block and the Upper H block. However, the Upper H Block has an additional requirement to meet an OOBE limit of 70 + 10 $\log_{10}$ (P) dB above 2005 MHz. The combined operations of both blocks would still need to meet this tighter restriction above 2005 MHz. We further propose that to the extent a service provider establishes unified operations across the adjacent blocks, the operator may choose not to observe emission limits strictly between its adjacent block licenses in a geographic area, so long as it complies with other Commission rules and is not adversely affecting the operations of other parties by virtue of exceeding the emission limit. We seek comment on this observation. We also seek comment to identify potential conflicts between the two rule parts under this scenario and proposals on how they could be reconciled. Commenters should discuss and quantify any costs and benefits associated with such combined operations and any effects on competition, innovation and investment.

D. Cost Sharing

1. 1915–1920 MHz Band

48. The 1915–1920 MHz band is a subset of a larger band at 1910–1930 MHz that is allocated for Fixed and Mobile services on a primary basis. In 1993, the Commission designated the 1910–1930 MHz band for use by Unlicensed Personal Communications Service (UPCS) devices. Prior to 1993, the 1910–1930 MHz band was allocated for Fixed services and used for fixed point to point microwave links. To facilitate the introduction of UPCS systems, the Commission designated the Unlicensed PCS Ad Hoc Committee for 2 GHz Microwave Transition and Management (now known as "UTAM, Inc.") as the sole entity to coordinate and manage the transition. In accordance with the Commission's policies established in the *Emerging Technologies* proceeding, UTAM subsequently relocated virtually all of the incumbent microwave links, thereby clearing the 1910–1930 MHz band for use by UPCS systems.

49. In 2003, the Commission sought comment on re-designating all or a portion of the 1910–1920 MHz segment for AWS use. In 2004, the Commission re-designated the 1910–1915 MHz band from the UPCS to Fixed and Mobile services and assigned that spectrum to Sprint Nextel, Inc. ("Sprint") as replacement spectrum for Sprint's operations being relocated from the 800 MHz band. Shortly thereafter, the Commission re-designated the 1915–1920 MHz band from UPCS for use by licensed AWS operations. In so doing, the Commission acknowledged that "UTAM must be fully and fairly reimbursed for relocating incumbent microwave users in this band" and agreed "that UTAM should be made whole for the investments it has made in clearing the UPCS bands." Relative to the Lower H Block, the Commission specifically concluded that "UTAM is entitled to reimbursement of twenty-five percent—on a *pro-rata* basis—of the total costs it has incurred, including its future payment obligations for links it has relocated, as of the date that a new entrant gains access to the 1915–1920 MHz spectrum band." The Commission also determined that AWS licensees would be required to pay their portion of the 25 percent of costs prior to commencement of their operations.

50. In the *AWS–2 NPRM*, the Commission requested comments on methods for apportioning the relocation costs among H Block licensees, including what method of allocating relocation costs would be most advantageous to reimbursing UTAM and for providing certainty for bidders. The *AWS–2 NPRM* also sought comment on what rules should govern the allocation of relocation costs among multiple AWS licensees in the 1915–1920 MHz band. Because UTAM requested that reimbursement payments from AWS licensees be due as a precondition to the granting of a license, the Commission sought comment on whether it would be advantageous to require AWS licensees to reimburse UTAM for its band clearing costs "earlier than the commencement of actual service." To the extent that the Commission opted not to do so, the Commission also sought comment on whether it should specify when AWS entrants will be considered to have commenced operations.

51. In deciding how to apportion UTAM's reimbursement among H Block licensees in the 1915–1920 MHz band, we believe it is important to provide auction bidders with reasonable certainty as to the range of the reimbursement obligation associated with each license under various auction outcomes. We also believe it is important for UTAM to be fully reimbursed as soon as possible given that UTAM cleared the band over ten years ago. Accordingly, we propose to require H Block licensees to pay a *pro rata* amount of the 25 percent owed to UTAM based on the gross winning bids of the initial H Block auction. Specifically, we propose that the reimbursement amount owed ("RN") be determined by dividing the gross winning bid ("GWB") for an H Block license (*i.e.*, an individual EA) by the sum of the gross winning bids for all H Block licenses won in the initial auction and then multiplying by $12,629,857. In other words, the cost-sharing formula would read as follows:

$$RN \left(\frac{\text{EA GWB}}{\text{Sum of GWBs}} \right) x \ \$12{,}629{,}857$$

52. This formula would ensure that UTAM receives full reimbursement after the first auction by effectively apportioning the reimbursement costs associated with any unsold H Block licenses among the winning bidders of H Block licenses in the first auction—with an exception in the event a successful bidder's long-form application is not filed or granted, and a contingency to cover an unlikely scenario. We further propose that winning bidders of H Block licenses in the first auction of this spectrum would not have a right to seek reimbursement from other H Block licensees including for licenses awarded in subsequent auctions. We believe this approach would avoid recordkeeping burdens and potential disputes and that it is appropriate given that—in the event that most licenses are awarded—the reimbursement obligation for an individual license will represent but a fraction of overall reimbursement to UTAM. We seek comment on our proposals including the following

contingency: in the unlikely event that licenses covering less than 40 percent of the population of the United States are awarded in the first auction, we propose that winning bidders—in the first auction of this spectrum as well as in subsequent auctions—will be required to timely pay UTAM their *pro rata* share calculated by dividing the population of the individual EA awarded at auction by the total U.S. population and then multiplying by $12,629,857. This contingent proposal would ensure that UTAM is reimbursed as soon as possible while also protecting winning bidders of H Block licenses from bearing an undue burden of the reimbursement obligation due to UTAM. We seek comment on our proposal.

53. Alternatively, we specifically seek comment on the relative costs and benefits of adopting a population based cost-sharing formula as the general rule for the H Block. We acknowledge that using a population based approach in all events would offer bidders certainty as to the obligation attached to each license but this approach could also defer UTAM's full reimbursement indefinitely if less than all of the licenses are awarded during the initial auction.

54. We further propose that winning bidders promptly pay UTAM the amount owed, as calculated pursuant to the formula that we adopt, within 30 days of grant of their long form applications for the licenses. For PCS and AWS–1, and AWS–4, cost sharing obligations are triggered when a licensee proposes to operate a base station in an area cleared of incumbents by another licensee. In this case, however, UTAM's members received no benefit for clearing the Lower H Block nationwide over ten years ago, and the Commission determined in 2003 that the new PCS/AWS licensees entering the band would reap the benefits of UTAM's efforts and that UTAM should be fully reimbursed. Moreover, as noted above, given the relative fraction of overall reimbursement to UTAM that will be owed by each winning bidder, we believe that it will not disincentivize parties from filing applications or impose a burden on winning bidders to reimburse UTAM within 30 days of the grant of their long-form applications. We seek comment on the above proposals, including the costs and benefits.

2. 1995–2000 MHz Band

55. The 1995–2000 MHz band is part of the 1990–2025 MHz band that the Commission reallocated from the Broadcast Auxiliary Service (BAS) to emerging technologies such as PCS, AWS, and MSS. Consistent with the relocation principles established by the Commission, each new entrant had an independent responsibility to relocate incumbent BAS licensees. In addition, as a general rule, the Commission's traditional cost-sharing principles are applicable to the 1990–2025 MHz band. Sprint, which is the PCS licensee at 1990–1995 MHz, completed the BAS transition for the entire 35 megahertz in 2010. In 2011, Sprint notified the Commission that it entered in a private settlement with DISH to resolve the dispute with MSS licensees with respect to MSS licensees' obligation to reimburse Sprint for their share of the BAS relocation costs. Accordingly, the only remaining cost-sharing obligations in the 1990–2025 MHz band are attributable to the remaining, unassigned ten megahertz of spectrum in the 1990–2025 MHz band: 1995–2000 MHz and 2020–2025 MHz.

56. In the *AWS Sixth Report and Order*, the Commission determined that all new entrants to the 1990–2025 MHz band may be required to bear a proportional share of the costs incurred in the BAS clearance, on a *pro rata* basis according to the amount of spectrum each licensee is assigned. However, the Commission did not decide specifically how to allocate that share. In the *AWS–2 NPRM*, the Commission sought comment on how the reimbursement rights and obligations of each AWS licensee could be most efficiently and equitably allocated if the H Block were licensed on a geographic area basis other than as a nationwide license. To the extent that not all spectrum in the 1990–2025 MHz band would have been licensed, the Commission sought comment on whether to require those entrants who are licensed at that time to bear a *pro rata* share of the relocation costs based on the amount of spectrum they have been assigned relative to the amount of 1990–2025 MHz spectrum that has been licensed. In addition, the Commission also sought comment on whether to impose reimbursement obligations on later arriving new entrants, on the appropriate length of such an obligation, and on the mechanism for applying those obligations.

57. Consistent with the Commission's intent that all entrants to the 1990–2025 MHz band bear a proportional share of the costs incurred in the BAS clearance on a *pro rata* basis according to the amount of spectrum each entrant is assigned, H Block licensees will be responsible for reimbursing Sprint for one-seventh of the BAS relocation costs (*i.e.*, the proportional share of the costs associated with Sprint relocating 5 megahertz of BAS spectrum that will be used by H Block entrants). We believe it is important to provide auction bidders with reasonable certainty as to the range of the reimbursement obligation associated with each license under various auction outcomes. We also believe it is important for Sprint to be fully reimbursed as soon as possible given that Sprint cleared the H Block so H Block licensees will receive unencumbered spectrum. Accordingly, we propose to require H Block licensees to reimburse Sprint based on the gross winning bids of the initial H Block auction. Specifically, we propose that the reimbursement amount owed ("RN") be determined by dividing the gross winning bid ("GWB") for an H Block license (*i.e.*, an individual EA) by the sum of the gross winning bids for all H Block licenses won in the initial auction and then multiplying by $94,875,516. In other words, the cost-sharing formula would read as follows:

$$RN \left(\frac{\text{EA GWB}}{\text{Sum of GWBs}} \right) x \$94,875,516$$

Because certain EAs, such as for the Gulf of Mexico, have a relative value that is not directly tied to population, our proposal seeks to allow the market to determine the value of each EA license and the associated amount of the reimbursement obligation. However, parties can comment on alternative cost-sharing formulas, including one based on population as described below. We seek comment on our proposals.

58. This formula would ensure that Sprint receives full reimbursement after the first auction by effectively apportioning the reimbursement costs associated with any unsold H Block licenses among the winning bidders of

H Block licenses in the first auction—with an exception in the event a successful bidder's long-form application is not filed or granted, and a contingency to cover an unlikely scenario. We further propose that winning bidders of H Block licenses in the first auction of this spectrum would not have a right to seek reimbursement from other H Block licensees including for licenses awarded in subsequent auctions. We believe this approach would avoid recordkeeping burdens and potential disputes and that it is appropriate given that—in the event that most licenses are awarded—the reimbursement obligation for an individual license will represent but a fraction of overall reimbursement to Sprint. We seek comment on our proposals including the following contingency: In the unlikely event that licenses covering less than 40 percent of the population of the United States are awarded in the first auction, we propose that winning bidders—in the first auction of this spectrum as well as in subsequent auctions—will be required to timely pay Sprint their *pro rata* share calculated by dividing the population of the individual EA awarded at auction by the total U.S. population and then multiplying by $94,875,516. This contingent proposal would ensure that Sprint is reimbursed as soon as possible while also protecting winning bidders of H Block licenses from bearing an undue burden of the reimbursement obligation due to Sprint. We seek comment on our proposal.

59. Alternatively, we specifically seek comment on the relative costs and benefits of adopting a population based cost-sharing formula as the general rule for the H Block. We acknowledge that using a population based approach in all events would offer bidders certainty as to the obligation attached to each license but this approach could also defer Sprint's full reimbursement indefinitely if less than all of the licenses are awarded during the initial auction.

60. We further propose that winning bidders promptly pay Sprint the amount owed, as calculated pursuant to the formula that we adopt, within 30 days of grant of their long form applications for the licenses. For PCS and AWS–1, and AWS–4, cost sharing obligations are triggered when a licensee proposes to operate a base station in an area cleared of incumbents by another licensee. In this case, rather than Sprint itself benefiting from its band clearing efforts, other entrants in the band will reap the benefits of Sprint's efforts. Accordingly, we find no significant reason to treat Sprint any differently than UTAM and propose that Sprint be fully reimbursed by AWS licensees that will benefit from Sprint's clearing of the H Block. Moreover, as noted above, given the relative fraction of overall reimbursement to Sprint that will be owed by each winning bidder, we believe that it will not disincentivize parties from filing applications or impose a burden on winning bidders to reimburse Sprint within 30 days of the grant of their long-form applications. We seek comment on the above proposals, including the costs and benefits.

61. Consistent with precedent, we propose a specific date on which the reimbursement obligation adopted above will terminate. In recent instances, the relocation and cost-sharing obligations sunset ten years after the first ET license is issued in the respective band. To the extent that Sprint had not completed the relocation of BAS from the 1990–2025 MHz band, BAS operations in the band would have become secondary after December 9, 2013. However, in this instance, we do not believe that the public interest would be served by adopting December 9, 2013 as the sunset date for terminating the requirement that H Block licensees collectively reimburse Sprint for one-seventh of the BAS relocation costs. Rather, we propose a sunset date for the cost-sharing obligations of H Block licensees to Sprint that is ten years after the first H Block license is issued in the band. We find that a number of factors support our proposal. As discussed above, Sprint relocated BAS incumbents from the 1995–2000 MHz band, even though H Block licensees and not Sprint itself will reap the benefits of Sprint's relocation of BAS. In addition, the integrated nature of BAS operations required relocations on a market-by-market basis, and such a requirement would have imposed significant costs on individual H Block entrants because isolated, link-by-link relocation was infeasible. It therefore served the public interest for Sprint to undertake the relocation on an integrated, nationwide basis. Because H Block licenses have yet to be auctioned and because interested applicants will be able to calculate their reimbursement obligation to Sprint in bidding on licenses, we do not believe that our proposal imposes a burden on the winning bidders of H Block licenses. We seek comment on our proposed sunset date, including the costs and benefits.

E. Regulatory Issues; Licensing and Operating Rules

62. We are proposing licensing and operating rules that will provide H Block licensees with the flexibility to provide any fixed or mobile service that is consistent with the allocations for this spectrum. Specifically, we are seeking comment on the appropriate license term, criteria for renewal, and other licensing and operating rules pertaining to the H Block. In addition, we seek comment on the potential impact of all of our proposals on competition. In addressing these issues, commenters should discuss the costs and benefits associated with these proposals and any alternative that commenters propose.

1. Regulatory Status

63. We propose to apply the regulatory status provisions of § 27.10 of the Commission's rules to licensees in the H Block. The Commission's current mobile service license application requires an applicant for mobile services to identify the regulatory status of the service(s) it intends to provide because service offerings may bear on eligibility and other statutory and regulatory requirements. Under part 27, the Commission permits applicants who may wish to provide both common carrier and non-common carrier services (or to switch between them) under a single license to request status as both a common carrier and a non-common carrier. Thus, a part 27 applicant is not required to choose between providing common carrier and non-common carrier services. We propose to adopt this same approach here. Licensees in the H Block would be able to provide all allowable services anywhere within their licensed area at any time, consistent with their regulatory status. We believe that this approach is likely to achieve efficiencies in the licensing and administrative process, and provide flexibility to the marketplace. We seek comment on the appropriate licensing approach and ask that commenters discuss the costs and benefits of their proposed licensing approach.

64. We further propose that applicants and licensees in the H Block be required to indicate a regulatory status for any services they choose to provide. Apart from this designation of regulatory status, we do not propose to require applicants to describe the services they seek to provide. We caution potential applicants that an election to provide service on a common carrier basis typically requires that the elements of common carriage be present; otherwise the applicant must choose non-common carrier status. If potential applicants are

unsure of the nature of their services and their classification as common carrier services, they may submit a petition with their applications, or at any time, requesting clarification and including service descriptions for that purpose. We propose to apply this framework to H Block licensees and seek comment on this proposal, including the costs and benefits of this proposal.

65. We also propose that if a licensee were to change the service or services it offers such that it would be inconsistent with its regulatory status, the licensee must notify the Commission. A change in a licensee's regulatory status would not require prior Commission authorization, provided the licensee was in compliance with the foreign ownership requirements of section 310(b) of the Communications Act that would apply as a result of the change, consistent with the Commission's rules for AWS–1 spectrum. Consistent with our part 27 rules, we propose to require licensees to file the notification within 30 days of a change made without the need for prior Commission approval, except that a different time period may apply where the change results in the discontinuance, reduction, or impairment of the existing service. We seek comment on this proposal, including the costs and benefits.

2. Ownership Restrictions

a. Foreign Ownership Reporting

66. We propose to apply the provisions of § 27.12 of the Commission's rules to applicants for licenses in the H Block. Section 27.12 implements section 310 of the Communications Act, including foreign ownership and citizenship requirements that restrict the issuance of licenses to certain applicants. An applicant requesting authorization to provide services in this band other than broadcast, common carrier, aeronautical en route, and aeronautical fixed services would be subject to the restrictions in section 310(a), but not to the additional restrictions in section 310(b). An applicant requesting authorization for broadcast, common carrier, aeronautical en route, or aeronautical fixed services would be subject to both sections 310(a) and 310(b). We do not believe that applicants for this band should be subject to different obligations in reporting their foreign ownership based on the type of service authorization requested in the application. Consequently, we propose to require all applicants to provide the same foreign ownership information, which covers both sections 310(a) and 310(b), regardless of which service they propose to provide in the band. We note, however, that we would be unlikely to deny a license to an applicant requesting to provide exclusively services that are not subject to section 310(b), solely because its foreign ownership would disqualify it from receiving a license if the applicant had applied for authority to provide such services. However, if any such licensee later desires to provide any services that are subject to the restrictions in section 310(b) we would require the licensee to apply to the Commission for an amended license, and we would consider issues related to foreign ownership at that time. We request comment on this proposal, including any costs and benefits.

b. Eligibility and Mobile Spectrum Holding Policies

67. We propose to adopt an open eligibility standard for the H Block. We believe that adopting such a standard should encourage efforts to develop new technologies, products and services, while helping to ensure efficient use of this spectrum. An open eligibility standard is consistent with the Commission's past practice for mobile wireless spectrum allocations, as well as with section 6404 of the Spectrum Act. We seek comment on our open eligibility approach.

68. We note that an open eligibility approach would not affect citizenship, character, or other generally applicable qualifications that may apply under our rules. Additionally, section 6004 of the Spectrum Act restricts participation in auctions required under the Spectrum Act, which includes the H Block, by "person[s] who [have] been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant." We seek comment on our proposal to address this issue in the competitive bidding procedures section below. Further, as the Commission observed in the *Incentive Auction NPRM*, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, 77 FR 69934 (Nov. 21, 2012) (*Incentive Auction NPRM*), section 6004 does not address eligibility to acquire licenses on the secondary market from the initial or subsequent licensee. We seek comment on whether section 6004 permits or requires the Commission to restrict eligibility of the persons described therein to acquire licenses in the secondary market, and whether and to what extent such restriction is consistent with other provisions of the Communications Act. If such restrictions should be implemented, should we do so by requiring certifications in applications similar to those required under our rules for enforcement of the Anti-Drug Abuse Act of 1988? Would it be permissible and appropriate to address such situations on a case-by-case basis in light of the specific facts and circumstances? Should we apply the same attribution rules in doing so, where the relevant person is not the sole owner of the proposed licensee?

69. We seek comment generally on whether and how to address any mobile spectrum holdings issues involving H Block spectrum in order to meet our statutory requirements and our goals for the H Block. Section 309(j)(3)(B) of the Communications Act provides that in designing systems of competitive bidding, the Commission shall "promot[e] economic opportunity and competition and ensur[e] that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses." More recently, section 6404 of the Spectrum Act recognizes the Commission's authority "to adopt and enforce rules of general applicability, including rules concerning spectrum aggregation that promote competition." We note that we recently initiated a proceeding to revisit the mobile spectrum holdings policies that apply to both transactions and auctions. In the past, the Commission has sought comment on these issues with respect to particular spectrum bands prior to auctioning spectrum licenses.

70. We seek comment on whether the acquisition of H Block spectrum should be subject to the same general mobile spectrum holding policies applicable to frequency bands that the Commission has determined to be available and suitable for wireless services. Alternatively, depending on the specific rules and requirements that apply to H Block spectrum, should we distinguish H Block spectrum for purposes of evaluating mobile spectrum holdings? Commenters should discuss and quantify any costs and benefits associated with any proposals on the applicability of spectrum holdings policies to H Block spectrum.

3. License Term, Performance Requirements, Renewal Criteria, Permanent Discontinuance of Operations

a. License Term

71. We propose to establish a 10-year term for licenses for the H Block. The Communications Act does not specify a term limit for AWS band licenses. The

Commission has adopted 10-year license terms for most wireless radio services licenses. To maintain this consistency among wireless services, in the *AWS–2 NPRM*, the Commission proposed that H Block licenses have a term of 10 years. We continue to believe that a 10-year license term is appropriate, and consequently propose, a 10 year license term for the H Block spectrum. We seek comment on this proposal, including any costs and benefits of the proposal. In addition, we invite commenters to submit alternate proposals for the appropriate license term, which should similarly include a discussion on the costs and benefits.

72. Under our license term proposal, if a license in these bands is partitioned or disaggregated, any partitionee or disaggregatee would be authorized to hold its license for the remainder of the partitioner's or disaggregator's original license term. This approach is similar to the partitioning provisions the Commission adopted for BRS, for broadband PCS licensees, for the 700 MHz band licensees, and for AWS–1 licenses at 1710–1755 MHz and 2110–2155 MHz, and AWS–4. We emphasize that nothing in our proposal is intended to enable a licensee, by partitioning or disaggregating the license, to confer greater rights than it was awarded under the terms of its license grant. Similarly, nothing in our proposal is intended to enable any partitionee or disaggregatee to obtain rights in excess of those previously possessed by the underlying licensee. We seek comment on these proposals, including the cost and benefits thereof.

b. Performance Requirements

73. The Commission establishes performance requirements to promote the efficient deployment of wireless services, including to rural areas, and ensure that spectrum is used. Over the years, the Commission has applied different performance and construction requirements to different spectrum bands. For example, within four (4) years, an AWS–4 licensee must provide reliable terrestrial signal coverage and offer terrestrial service to at least forty (40) percent of its total AWS–4 population. Within seven (7) years, an AWS–4 licensee must provide reliable terrestrial signal coverage and offer terrestrial service to at least seventy (70) percent of the population in each of its license areas. Similarly, for licensees operating in the 2.3 GHz Wireless Communications Services (WCS) band, the Commission adopted performance requirements that included a population-based construction requirements (40 percent of the license area's population within four (4) years and 75 percent within six-and-a-half (6.5) years) and reporting requirements. In the *AWS–2 NPRM*, the Commission broadly sought comment on whether it should establish any specific performance requirements in the H Block, including interim performance requirements.

74. Today, we continue to believe that performance requirements play a critical role in ensuring that licensed spectrum does not lie fallow, and now propose to establish the following performance requirements. We seek comment on the following buildout requirements for the H Block:

- H Block Interim Buildout Requirement: Within four (4) years, an H Block licensee shall provide signal coverage and offer service to at least forty (40) percent of the population in each of its license areas.
- H Block Final Buildout Requirement: By the end of the license term, *i.e.*, within ten (10) years, an H Block licensee shall provide signal coverage and offer service to at least seventy (70) percent of the population in each of its license areas.

75. We propose these performance requirements in an effort to foster deployment expeditiously in the H Block for the provision of wireless, terrestrial broadband service, and to enable the Commission to take appropriate corrective action should such deployment fail to occur. Specifically, the interim benchmark at four years would ensure that a licensee begins deploying facilities quickly, thereby evidencing meaningful utilization of the spectrum. At the same time, by proposing a relatively low population threshold in the interim benchmark, we acknowledge that large-scale network deployment may ramp up over time as equipment becomes available and a customer base is established. In addition, by proposing a final buildout requirement timeline of ten years, we believe we allow a reasonable amount of time for any H Block licensee to attain nationwide scale.

76. We seek comment on these proposed buildout requirements. We encourage comment on whether our proposals represent the appropriate balance between requirements that are too low as to not result in meaningful buildout and those that would be so high as to be unattainable. We also seek comment on whether other benchmarks represent more appropriate requirements? Commenters should discuss and quantify how any supported buildout requirements will affect investment and innovation as well as discuss and quantify other costs and benefits associated with the proposal.

77. *Agreements between H Block and AWS–4 licensees.* In the *AWS–4 Report and Order*, we permit AWS–4 licensees to enter into private operator-to-operator agreements with all 1995–2000 MHz licensees to so that AWS–4 operations above 2000 MHz may have an OOBE level in excess of $70 + 10 \log_{10}(P)$ dB into the 1995–2000 MHz band. In the event that an AWS–4 licensee reaches such an agreement with all 1995–2000 MHz licensees, should the H Block licensees' performance requirements be reduced or eliminated because accepting a higher OOBE level increases the use of the 2000–2005 MHz band? Implementing such an approach would enable a market-based solution for AWS–4 licensees who seek to remove technical rules designed to protect the H Block, by allowing them to acquire H Block licenses at auction (or, later, on the secondary market) and prioritize deployment of AWS–4 over H Block.

78. *Penalties for Failure to Meet Construction Requirements.* Along with construction benchmarks, we seek to adopt meaningful and enforceable consequences, or penalties, for failing to meet the benchmarks. Building on what we have learned from other bands and considering the unique characteristics of the H Block, we propose and seek comment, including on the costs and benefits, of the following penalties in the event an H Block licensee fails to satisfy its buildout requirements:

- In the event an H Block licensee fails to meet the H Block Interim Buildout Requirement in its license area, the term of the license shall be reduced by two years.
- In the event an H Block licensee fails to meet the H Block Final Buildout Requirement in its license area, the H Block license for each license area in which it fails to meet the buildout requirement shall terminate automatically without Commission action.

79. We further propose that, in the event a licensee's authority to operate terminates, the licensee's spectrum rights would become available for reassignment pursuant to the competitive bidding provisions of section 309(j). Further, consistent with the Commission's rules for other spectrum bands, including AWS–1 and the Broadband Radio Service, we propose that any H Block licensee who forfeits its license for failure to meet its performance requirements would be precluded from regaining the license.

80. *Compliance Procedures.* Consistent with § 1.946(d) of the Commission's rules, we propose to

require H Block licensees to demonstrate compliance with the performance requirements by filing a construction notification within 15 days of the relevant milestone certifying that they have met the applicable performance benchmark. Further, we propose that each construction notification include electronic coverage maps and supporting documentation, which must be truthful and accurate and must not omit material information that is necessary for the Commission to determine compliance with its performance requirements.

81. Electronic coverage maps must accurately depict the boundaries of each license area in the licensee's service territory. If a licensee does not provide reliable signal coverage to an entire license area, we propose that its map must accurately depict the boundaries of the area or areas within each license area not being served. Further, we propose that each licensee also must file supporting documentation certifying the type of service it is providing for each licensed area within its service territory and the type of technology used to provide such service. Supporting documentation must include the assumptions used to create the coverage maps, including the propagation model and the signal strength necessary to provide reliable service with the licensee's technology.

c. Renewal Criteria

82. Pursuant to section 308(b) of the Communications Act, the Commission may require renewal applicants to "set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station" as well as "such other information as it may require." We propose to adopt H Block license renewal requirements consistent with those adopted in the *700 MHz First Report and Order* and *the AWS–4 Report and Order*, which form the basis of the renewal paradigm proposed in our *Wireless Radio Services Renewal NPRM. See Service Rules for the 698–746, 747–762 and 777–792 MHz Bands*, 72 FR 24238 (May 2, 2007) (*700 MHz First Report and Order*); *AWS–4 Report and Order; Amendment of parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, 75 FR 38959 (July 7, 2010) (*WRS Renewal NPRM and Order*). We emphasize that, as the Commission made clear in these proceedings, a licensee's performance showing and its renewal showing are two distinct showings. A performance showing provides a snapshot in time of the level of a licensee's service, while a renewal showing provides information regarding the level and types of service provided over the entire license term.

83. We propose that applicants for renewal of H Block licenses file a "renewal showing," in which they demonstrate that they have provided, and are continuing to provide, service to the public, and that they are compliant with the Communications Act and the Commission's rules and policies. In the *700 MHz First Report and Order*, the Commission explained that in the renewal context, the Commission considers "a variety of factors including the level and quality of service, whether service was ever interrupted or discontinued, whether service has been provided to rural areas, and any other factors associated with a licensee's level of service to the public." As we adopted in the *AWS–4 Report and Order*, we also propose to consider the extent to which service is provided to qualifying tribal lands. We propose that these same factors should be considered when evaluating renewal showings for the H Block and seek comment on this approach. Commenters should discuss and quantify the costs and benefits of this approach.

84. As explained above, today we are proposing that H Block licensees meet four and ten-year performance obligations. We therefore seek comment on whether the public interest would be served by awarding H Block licensees renewal expectancies where they maintain the level of service demonstrated at the ten year performance benchmark through the end of their license term, provided that they have otherwise complied with the Communications Act and the Commission's rules and policies during their license term. We also seek comment on whether H Block licensees should obtain a renewal expectancy for subsequent license terms, if they continue to provide at least the level of service demonstrated at the ten year performance benchmark through the end of any subsequent license terms. Commenters should discuss and quantify the costs and benefits of this approach.

85. Finally, consistent with the *AWS–4 Report and Order*, the *700 MHz First Report and Order* and the *WRS Renewals NPRM and Order*, we propose to prohibit the filing of mutually exclusive renewal applications, and that if a license is not renewed, the associated spectrum would be returned to the Commission for reassignment. We seek comment on these proposals, including on the associated costs and benefits.

d. Permanent Discontinuance of Operations

86. We also request comment on the Commission's rules governing the permanent discontinuance of operations, which are intended to afford licensees operational flexibility to use their spectrum efficiently while ensuring that spectrum does not lay idle for extended periods. Under § 1.955(a)(3) of the Commission's rules, an authorization will automatically terminate, without specific Commission action, if service is "permanently discontinued." For the H Block, we propose to define "permanently discontinued" as a period of 180 consecutive days during which a licensee does not operate and does not serve at least one subscriber that is not affiliated with, controlled by, or related to the provider. We believe this definition strikes an appropriate balance between our twin goals of providing licensees operational flexibility while ensuring that spectrum does not lie fallow. Licensees would not be subject to this requirement until the date of the first performance requirement benchmark, which is proposed as 4 years from the license grant, so they will have adequate time to construct their network. In addition, consistent with § 1.955(a)(3) of the Commission's rules, we propose that, if an H Block licensee permanently discontinues service, the licensee must notify the Commission of the discontinuance within 10 days by filing FCC Form 601 or 605 and requesting license cancellation. An authorization will automatically terminate without specific Commission action if service is permanently discontinued even if a licensee fails to file the required form. We seek comment on these proposals, including the associated costs and benefits.

4. Secondary Markets

a. Partitioning and Disaggregation

87. The Commission's part 27 rules generally allow for geographic partitioning and spectrum disaggregation. Geographic partitioning refers to the assignment of geographic portions of a license to another licensee along geopolitical or other boundaries. Spectrum disaggregation refers to the assignment of discrete amounts of spectrum under the license to another entity. Disaggregation allows for multiple transmitters in the same geographic area operated by different companies on adjacent frequencies in

the same band. As the Commission noted when first establishing partitioning and disaggregation rules, allowing such flexibility could facilitate the efficient use of spectrum by enabling licensees to make offerings directly responsive to market demands for particular types of services, increasing competition by allowing market entry by new entrants, and expediting provision of services that might not otherwise be provided in the near term.

88. We propose to permit partitioning and disaggregation by licensees in the H Block. To ensure that the public interest would be served if partitioning or disaggregation is allowed, we propose requiring each H Block licensee that is a party to a partitioning, disaggregation or combination of both to independently meet the applicable performance and renewal requirements. We believe this approach would facilitate efficient spectrum use, while enabling service providers to configure geographic area licenses and spectrum blocks to meet their operational needs. We seek comment on these proposals. Commenters should discuss and quantify the costs and benefits of these proposals with respect to competition, innovation, and investment.

89. We also seek comment on whether the Commission should adopt additional or different mechanisms to encourage partitioning and/or disaggregation of H Block spectrum and the extent to which such policies ultimately may promote more service, especially in rural areas. Commenters should discuss and quantify the costs and benefits of promoting more service using mechanisms to encourage partitioning and disaggregation of H Block spectrum, including the effects of the proposal.

b. Spectrum Leasing

90. In 2003, in order to promote more efficient use of terrestrial wireless spectrum through secondary market transactions, while also eliminating regulatory uncertainty, the Commission adopted a comprehensive set of policies and rules to govern spectrum-leasing arrangements between terrestrial licensees and spectrum lessees. These policies and rules enable terrestrially-based Wireless Radio Service licensees holding "exclusive use" spectrum rights to lease some or all of the spectrum usage rights associated with their licenses to third party spectrum lessees, which then are permitted to provide wireless services consistent with the underlying license authorization. Through these actions, the Commission sought to promote more efficient, innovative, and dynamic use of the terrestrial spectrum, expand the scope of available wireless services and devices, enhance economic opportunities for accessing spectrum, and promote competition among terrestrial wireless service providers. In 2004, the Commission built upon this spectrum leasing framework by establishing immediate approval procedures for certain categories of terrestrial spectrum leasing arrangements and extending the spectrum leasing policies to additional Wireless Radio Services.

91. We propose that the spectrum leasing policies and rules established in those proceedings be applied to the H Block in the same manner that those policies apply to other part 27 services. We seek comment on this proposal. Commenters should discuss the effects on competition, innovation and investment, and on extending our secondary spectrum leasing policies and rules to the H Block.

5. Other Operating Requirements

92. Even though licenses in the H Block may be issued pursuant to one rule part, licensees in this band may be required to comply with rules contained in other parts of the Commission's rules by virtue of the particular services they provide. For example:

- Applicants and licensees would be subject to the application filing procedures for the Universal Licensing System, set forth in part 1 of our rules.
- Licensees would be required to comply with the practices and procedures listed in part 1 of our rules for license applications, adjudicatory proceedings, etc.
- Licensees would be required to comply with the Commission's environmental provisions, including § 1.1307.
- Licensees would be required to comply with the antenna structure provisions of part 17 of our rules.
- To the extent a licensee provides a Commercial Mobile Radio Service, such service would be subject to the provisions of part 20 of the Commission's rules, including 911/E911 and hearing aid-compatibility requirements, along with the provisions in the rule part under which the license was issued. Part 20 applies to all CMRS providers, even though the stations may be licensed under other parts of our rules.
- To the extent a licensee provides interconnected VoIP services, the licensee would be subject to the E911 service requirements set forth in part 9 of our rules.
- The application of general provisions of parts 22, 24, 27, or 101 would include rules related to equal employment opportunity, *etc.*

93. We seek comment on whether we need to modify any of these rules to ensure that H Block licensees are covered under the necessary provisions. We seek comment on applying these rules to the H Block spectrum and specifically on any rules that would be affected by our proposal to apply elements of the framework of these parts, whether separately or in conjunction with other requirements. What are the potential problems that may be associated with the Commission's adoption of any of these potential requirements, and how do they compare to the potential benefits?

6. Facilitating Access to Spectrum and the Provision of Service to Tribal Lands

94. The Commission currently has under consideration various provisions and policies intended to promote greater use of spectrum over Tribal lands. We propose to extend any rules and policies adopted in that proceeding to any licenses that may be issued through competitive bidding in this proceeding. We seek comment on this proposal, including any costs and benefits.

F. Procedures for Any H Block Licenses Subject to Assignment by Competitive Bidding

95. As discussed above, if we adopt a geographic area licensing scheme for the 1915–1920 MHz and 1995–2000 MHz bands, we will resolve mutually exclusive applications through competitive bidding, consistent with our statutory mandate.

1. Application of Part 1 Competitive Bidding Rules

96. We propose that the Commission would conduct any auction for H Block licenses in conformity with the general competitive bidding rules set forth in part 1, subpart Q, of the Commission's rules, and substantially consistent with the competitive bidding procedures that have been employed in previous auctions. Specifically, we propose to employ the part 1 rules governing competitive bidding design, designated entity preferences, unjust enrichment, application and payment procedures, reporting requirements, and the prohibition on certain communications between auction applicants. Under this proposal, such rules would be subject to any modifications that the Commission may adopt for its part 1 general competitive bidding rules in the future. In addition, consistent with our long-standing approach, auction-specific matters such as the competitive bidding design and mechanisms, as well as

minimum opening bids and/or reserve prices, would be determined by the Wireless Telecommunications Bureau pursuant to its delegated authority. We seek comment on this approach, including the costs and benefits of this approach. We also seek comment on whether any of our part 1 rules would be inappropriate or should be modified for an auction of licenses in the H Block.

2. Revision to Part 1 Certification Procedures

97. Section 6004 of the Spectrum Act prohibits "a person who has been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant" from participating in a system of competitive bidding under section 309(j) required to be conducted under Title VI of the Spectrum Act. Accordingly, we propose to require that an auction applicant certify, under penalty of perjury, that it and all of the related individuals and entities required to be disclosed on the short-form application are not such persons. For purposes of this certification, we propose to define "person" as an individual, partnership, association, joint-stock company, trust, or corporation. We also propose to define "reasons of national security" to mean matters relating to the national defense and foreign relations of the United States. Our existing rules also include various certifications that a party must make in any application to participate in competitive bidding. As with other required certifications, failure to include the required certification by the applicable filing deadline would render the application unacceptable for filing, and the application would be dismissed with prejudice. We seek comment on this proposal.

3. Small Business Provisions for Geographic Area Licenses

98. In authorizing the Commission to use competitive bidding, Congress mandated that the Commission "ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services." In addition, section 309(j)(3)(B) of the Communications Act provides that, in establishing eligibility criteria and bidding methodologies, the Commission shall promote "economic opportunity and competition * * * by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women." One of the principal means by which the Commission fulfills this mandate is through the award of bidding credits to small businesses.

99. The Commission has previously stated that it would define eligibility requirements for small businesses on a service-specific basis, taking into account the capital requirements and other characteristics of each particular service in establishing the appropriate threshold. Further, the Commission, while standardizing many auction rules, has determined that it would continue a service-by-service approach to defining small businesses.

100. In the event that the Commission assigns exclusive geographic area licenses for the H Block, we believe that this spectrum would be employed for purposes similar to those for which the AWS–1 band is used. We therefore propose to establish the same small business size standards and associated bidding credits for the H Block as the Commission adopted for the AWS–1 band. We note that these small business size standards and associated bidding credits were proposed for the AWS–1 band because of the similarities between the AWS–1 service and the broadband PCS service and the Commission followed this approach when proposing small business size standards and associated bidding credits in the *AWS 2 NPRM*. Thus, we propose to define a small business as an entity with average gross revenues for the preceding three years not exceeding $40 million, and a very small business as an entity with average gross revenues for the preceding three years not exceeding $15 million. We seek comment on this proposal, including the costs and benefits of the proposal.

101. We propose to provide small businesses with a bidding credit of 15 percent and very small businesses with a bidding credit of 25 percent, as set forth in the standardized schedule in part 1 of our rules. We seek comment on the use of these standards and associated bidding credits, with particular focus on the appropriate definitions of small businesses and very small businesses as they may relate to the size of the geographic area to be served and the spectrum allocated to each license. Commenters should discuss and quantify any costs or benefits associated with these standards and associated bidding credits as they relate to the proposed geographic areas. In discussing these issues, commenters are requested to address and quantify the expected capital requirements for services in these bands and other characteristics of the service. Commenters are also invited to use comparisons with other services for which the Commission has already established auction procedures as a basis for their comments and any quantification of costs and benefits regarding the appropriate small business size standards.

102. In establishing the criteria for small business bidding credits, we acknowledge the difficulty in accurately predicting the market forces that will exist at the time these frequencies are licensed. Thus, our forecasts of types of services that will be offered over these bands may require adjustment depending upon ongoing technological developments and changes in market conditions.

103. We seek comment on whether the small business provisions we propose today are sufficient to promote participation by businesses owned by minorities and women, as well as rural telephone companies. To the extent that commenters propose additional provisions to ensure participation by minority-owned or women-owned businesses, they should address how such provisions should be crafted to meet the relevant standards of judicial review.

104. In addition, we note that under our part 1 rules, a winning bidder for a market will be eligible to receive a bidding credit for serving a qualifying tribal land within that market, provided that it complies with the applicable competitive bidding rules. The Commission currently has under consideration various provisions and policies intended to promote greater use of spectrum over tribal lands. We propose to extend any rules and policies adopted in that proceeding to any H Block licenses that may be assigned through competitive bidding. We seek comment on this proposal.

III. Procedural Matters

A. Ex Parte Presentations

105. The proceedings this *Notice of Proposed Rulemaking* initiate shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in

the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

B. Initial Regulatory Flexibility Analysis

106. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Notice of Proposed Rulemaking (NPRM)*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines specified in the *NPRM* for comments. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

C. Need for, and Objectives of, the Proposed Rules

107. Wireless broadband is a key component of economic growth, job creation and global competitiveness because consumers are increasingly using wireless broadband services to assist them in their everyday lives. The explosive growth of wireless broadband services has created increased demand for wireless spectrum, which is expected to continue increasing, despite technological developments that allow for more efficient spectrum use. Unleashing more spectrum for broadband is essential to meeting this demand In this *NPRM*, we seek to increase the nation's supply of spectrum for mobile broadband by proposing rules for licensed fixed and mobile services, including advanced wireless services (AWS), in the H Block. These service rules would make available 10 MHz of spectrum for flexible use in accordance with the Spectrum Act, without causing harmful interference to PCS licensees. In proposing terrestrial service rules for the band, which include technical rules to protect against harmful interference, licensing rules to establish geographic license areas and spectrum block sizes, and performance requirements to promote robust buildout, we advance toward enabling rapid and efficient deployment in the band. We do so by proposing service, technical, assignment, and licensing rules for this spectrum that generally follow the Commission's part 27 rules that generally govern flexible use terrestrial wireless service—except that in order to protect PCS licenses, our proposed rules are more stringent in certain respects. Overall, these proposals are designed to provide for flexible use of this spectrum by allowing licensees to choose their type of service offerings, to encourage innovation and investment in mobile broadband use in this spectrum, and to provide a stable regulatory environment in which broadband deployment would be able to develop through the application of standard terrestrial wireless rules. The market-oriented licensing framework for these bands would ensure that this spectrum is efficiently utilized and will foster the development of new and innovative technologies and services, as well as encourage the growth and development of broadband services, ultimately leading to greater benefits to consumers.

D. Legal Basis

108. The proposed action is authorized pursuant to sections 1, 2, 4(i), 201, 301, 302, 303, 307, 308, 309, 310, 316, 319, 324, 332, 333, 1404, and 1451 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201, 301, 302, 303, 307, 308, 309, 310, 316, 319, 324, 332, 333, 1404, and 1451.

E. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

109. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

110. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards that encompass entities that could be directly affected by the proposals under consideration. As of 2009, small businesses represented 99.9% of the 27.5 million businesses in the United States, according to the SBA. Additionally, a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." Census Bureau data for 2007 indicate that there were 89,527 governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,761 entities may qualify as "small governmental jurisdictions." Thus, we estimate that most governmental jurisdictions are small.

111. *Wireless Telecommunications Carriers (except satellite).* The *NPRM* proposes to apply various Commission policies and rules to terrestrial service in the MSS bands. We cannot predict who may in the future become a licensee or lease spectrum for terrestrial use in these bands. In general, any wireless telecommunications provider would be eligible to become an Advanced Wireless Service licensee or lease spectrum from the MSS or AWS

licensees. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services. The appropriate size standard under SBA rules is for the category Wireless Telecommunications Carriers. The size standard for that category is that a business is small if it has 1,500 or fewer employees. Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For this category, census data for 2007 show that there were 1,383 firms that operated for the entire year. Of this total, 1,368 firms had employment of 999 or fewer employees and 15 had employment of 1000 employees or more. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

F. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

112. This *NPRM* contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. The projected reporting, recordkeeping, and other compliance requirements resulting from the *NPRM* will apply to all entities in the same manner. The Commission believes that applying the same rules equally to all entities in this context promotes fairness. The Commission does not believe that the costs and/or administrative burdens associated with the rules will unduly burden small entities. The revisions the Commission adopts should benefit small entities by giving them more information, more flexibility, and more options for gaining access to valuable wireless spectrum.

113. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

G. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

114. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): "(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities."

115. The proposal to license the H Block under Economic Areas (EA) geographic size licenses will provide regulatory parity with other AWS bands that are licensed on an EA basis, such as AWS–1 licenses. Additionally, assigning H Block in EA geographic areas would allow H Block licensees to make adjustments to suit their individual needs. EA license areas are small enough to provide spectrum access opportunities for smaller carriers. EA license areas also nest within and may be aggregated up to larger license areas. Depending on the licensing mechanism we adopt, licensees may adjust their geographic coverage through auction or through secondary markets. This proposal should enable H Block providers, or any entities, whether large or small, providing service in other AWS bands to more easily adjust their spectrum to build their networks pursuant to individual business plans.

116. The technical rules of the *NPRM* will protect entities operating in nearby spectrum bands from harmful interference, which may include small entities. These technical rules are based on the rules for AWS–1 spectrum, with specific additions or modifications designed to protect broadband PCS services operating in the 1930–1995 MHz band, as well as future services operating in the 2020–2025 MHz band.

117. The *NPRM* proposal pertaining to how the H Block licenses will be assigned includes proposals to assist small entities in competitive bidding. Specifically, small entities will benefit from the proposal to provide small businesses with a bidding credit of 15 percent and very small businesses with a bidding credit of 25 percent. Providing small businesses and very small businesses with bidding credits will provide an economic benefit to small entities by making it easier for small entities to acquire spectrum or access to spectrum in these bands.

118. The *NPRM* also proposes to provide H Block licensees with the flexibility to provide any fixed or mobile service that is consistent with the allocations for this spectrum, which is consistent with other spectrum allocated or designated for licensed fixed and mobile services, *e.g.*, AWS–1. The *NPRM* further proposes to generally license this spectrum under the Commission's market-oriented part 27 rules, except that certain restrictions would apply. These proposals include applying the Commission's secondary market policies and rules to all transactions involving the use of H Block bands for terrestrial services, which will provide greater predictability and regulatory parity with bands licensed for terrestrial mobile broadband service. This proposal should make it easier for H Block providers to enter secondary market arrangements involving terrestrial use of their spectrum. The secondary market rules apply equally to all entities, whether small or large. As a result, we believe that this proposal will provide an economic benefit to small entities by making it easier for entities, whether large or small, to enter into secondary market arrangements for H Block spectrum.

H. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

119. None.

IV. Ordering Clauses

120. Accordingly, it is ordered, pursuant to sections 1, 2, 4(i), 201, 301, 302, 303, 307, 308, 309, 310, 316, 319, 324, 332, 333, 1404, and 1451 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201, 301, 302, 303, 307, 308, 309, 310, 316, 319, 324, 332, 333, 1404, and 1451, that this *Notice of Proposed Rulemaking* is hereby adopted.

121. It is further ordered that notice is hereby given of the proposed

regulatory changes described in this notice and that comment is sought on these proposals.

122. It is further ordered that the Initial Regulatory Flexibility Analysis is adopted.

123. It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Notice, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 1 and 27

Communications common carriers, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1 and 27 as follows:

PART 1—PRACTICE AND PROCEDURE

■ 1. The authority citation for part 1 is revised to read as follows:

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), 309 and 1404.

■ 2. Section 1.949 is amended by adding paragraph (c) to read as follows:

§ 1.949 Application for renewal of license.

* * * * *

(c) *Renewal Showing.* An applicant for renewal of a geographic-area authorization in the 1915–1920 MHz and 1995–2000 service bands must make a renewal showing, independent of its performance requirements, as a condition of renewal. The showing must include a detailed description of the applicant's provision of service during the entire license period and address:

(1) The level and quality of service provided by the applicant (*e.g.*, the population served, the area served, the number of subscribers, the services offered);

(2) The date service commenced, whether service was ever interrupted, and the duration of any interruption or outage;

(3) The extent to which service is provided to rural areas;

(4) The extent to which service is provided to qualifying tribal land as defined in § 1.2110(f)(3)(i); and

(5) Any other factors associated with the level of service to the public.

■ 3. Section 1.2105 is amended by adding paragraph (a)(2)(xii) to read as follows:

§ 1.2105 Bidding application and certification procedures; prohibition of certain communications.

(a) * * *

(2) * * *

(xii) For auctions required to be conducted under Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96) the Commission may require certification under penalty of perjury that the applicant and all of the person(s) disclosed under paragraph (a)(2)(ii) of this section are not person(s) who have been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant. For the purposes of this certification, the term "person" means an individual, partnership, association, joint-stock company, trust, or corporation, and the term "reasons of national security" means matters relating to the national defense and foreign relations of the United States.

* * * * *

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 4. The authority citation for part 27 is revised to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, 337, and 1451 unless otherwise noted.

■ 5. Section 27.1 is amended by adding paragraph (b)(10) to read as follows:

§ 27.1 Basis and purpose.

* * * * *

(b) * * *

(10) 1915–1920 MHz and 1995–2000 MHz.

* * * * *

■ 6. Section 27.4 is amended by revising the definition of "*Advanced wireless service (AWS)*" to read as follows:

§ 27.4 Terms and definitions.

Advanced wireless service (AWS). A radiocommunication service licensed pursuant to this part for the frequency bands specified in § 27.5(h) or § 27.5(j).

* * * * *

■ 7. Section 27.5 is amended by adding paragraph (j) to read as follows:

§ 27.5 Frequencies.

* * * * *

(j) *1915–1920 MHz and 1995–2000 MHz bands.* The paired 1915–1920 MHz and 1995–2000 MHz bands are available for assignment on an Economic Area basis.

■ 8. Section 27.6 is amended by adding paragraph (i) to read as follows:

§ 27.6 Service areas.

* * * * *

(i) *1915–1920 MHz and 1995–2000 MHz bands.* AWS service areas for the 1915–1920 MHz and 1995–2000 MHz bands are based on Economic Areas (EAs) as defined in paragraph (a) of this section.

■ 9. Section 27.13 is amended by adding paragraph (i) to read as follows:

§ 27.13 License period.

* * * * *

(i) *1915–1920 MHz and 1995–2000 MHz bands.* Authorizations for 1915–1920 MHz and 1995–2000 MHz bands will have a term not to exceed ten years from the date of issuance or renewal.

■ 10. Section 27. 14 is amended by revising the first sentence of paragraphs (a), (f), and (k), and adding paragraph (q) to read as follows:

§ 27.14 Construction requirements; criteria for renewal.

(a) AWS and WCS licensees, with the exception of WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Block C, C1, or C2 in the 746–757 MHz and 776–787 MHz bands, Block D in the 758–763 MHz and 788–793 MHz bands, Block A in the 2305–2310 MHz and 2350–2355 MHz bands, Block B in the 2310–2315 MHz and 2355–2360 MHz bands, Block C in the 2315–2320 MHz band, and Block D in the 2345–2350 MHz band, and with the exception of licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands, must, as a performance requirement, make a showing of "substantial service" in their license area within the prescribed license term set forth in § 27.13. * * *

* * * * *

(f) Comparative renewal proceedings do not apply to WCS licensees holding authorizations for the 698–746 MHz, 747–762 MHz, and 777–792 MHz bands and licensees holding AWS authorizations for the 1915–1920 MHz and 1995–2000 MHz bands. * * *

* * * * *

(k) Licensees holding WCS or AWS authorizations in the spectrum blocks enumerated in paragraphs (g), (h), (i), or (q) of this section, including any licensee that obtained its license pursuant to the procedures set forth in paragraph (j) of this section, shall demonstrate compliance with performance requirements by filing a construction notification with the Commission, within 15 days of the expiration of the applicable benchmark, in accordance with the provisions set forth in § 1.946(d) of this chapter. * * *

* * * * *

(q) The following provisions apply to any licensee holding an AWS authorization in the 1915–1920 MHz and 1995–2000 MHz bands (an "H Block licensee"):

(1) An H Block licensee shall provide signal coverage and offer service within four (4) years from the date of the initial license to at least forty (40) percent of the total population in each service area that it has licensed in the 1915–1920 MHz and 1995–2000 MHz bands ("H Block Interim Buildout Requirement").

(2) An H Block licensee shall provide signal coverage and offer service within ten (10) years from the date of the initial license to at least seventy (70) percent of the population in each of its licensed areas in the 1915–1920 MHz and 1995–2000 MHz bands ("H Block Final Buildout Requirement").

(3) If an H Block licensee fails to establish that it meets the H Block Interim Buildout Requirement for a particular licensed area, then the H Block Final Buildout Requirement (in this paragraph (q)) and the H Block license term (as set forth in § 27.13) for each license area in which it fails to meet the H Block Interim Buildout Requirement shall be accelerated by two years (from ten to eight years).

(4) If an H Block licensee fails to establish that it meets the H Block Final Buildout Requirement for a particular licensed areas in the 1915–1920 MHz and 1995–2000 MHz bands, its authorization for each license area in which it fails to meet the H Block Final Buildout Requirement shall terminate automatically without Commission action. The H Block licensee that has its license automatically terminate under paragraph (q) of this subsection will be ineligible to regain it if the Commission makes the license available at a later date.

(5) To demonstrate compliance with these performance requirements, licensees shall use the most recently available U.S. Census Data at the time of measurement and shall base their measurements of population served on areas no larger than the Census Tract level. The population within a specific Census Tract (or other acceptable identifier) will only be deemed served by the licensee if it provides signal coverage to and offers service within the specific Census Tract (or other acceptable identifier). To the extent the Census Tract (or other acceptable identifier) extends beyond the boundaries of a license area, a licensee with authorizations for such areas may only include the population within the Census Tract (or other acceptable identifier) towards meeting the performance requirement of a single, individual license.

■ 11. Section 27.15 is amended by revising the first sentence in paragraph (d)(1)(i); adding paragraph (d)(1)(iii); revising the first sentence in paragraph (d)(2)(i), and adding paragraph (d)(2)(iii) to read as follows:

§ 27.15 Geographic partitioning and spectrum disaggregation.

* * * * *

(d) * * *

(1) * * *

(i) Except for WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Blocks C, C1, or C2 in the 746–757 MHz and 776–787 MHz bands, or Block D in the 758–763 MHz and 788–793 MHz bands; and for licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands; the following rules apply to WCS and AWS licensees holding authorizations for purposes of implementing the construction requirements set forth in § 27.14. * * *

* * * * *

(iii) For licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands, the following rules apply for purposes of implementing the construction requirements set forth in § 27.14. Each party to a geographic partitioning must individually meet any service-specific performance requirements (*i.e.*, construction and operation requirements). If a partitioner or partitionee fails to meet any service-specific performance requirements on or before the required date, then the consequences for this failure shall be those enumerated in § 27.14(q).

(2) * * *

(i) Except for WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Blocks C, C1, or C2 in the 746–757 MHz and 776–787 MHz bands, or Block D in the 758–763 MHz and 788–793 MHz bands; and for licensees holding AWS authorizations in 1915–1920 MHz and 1995–2000 MHz bands; the following rules apply to WCS and AWS licensees holding authorizations for purposes of implementing the construction requirements set forth in § 27.14. * * *

* * * * *

(iii) For licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands, the following rules apply for purposes of implementing the construction requirements set forth in § 27.14. Each party to a spectrum disaggregation must individually meet any service-specific performance requirements (*i.e.*, construction and operation requirements). If a disaggregator or a disagregatee fails to meet any service-specific performance reqnirements on or before the required date, then the consequences for this failure shall be those enumerated in § 27.14(q).

■ 12. Section 27.17 is added to read as follows:

§ 27.17 Discontinuance of service in the 1915–1920 MHz and 1995–2000 MHz bands.

(a) *Termination of Authorization.* A licensee's AWS authorization in the 1915–1920 MHz and 1995–2000 MHz bands will automatically terminate, without specific Commission action, without specific Commission action, if it permanently discontinues service after meeting the H Block Interim Buildout Requirement specified in § 27.14.

(b) Permanent discontinuance of service is defined as 180 consecutive days during which a licensee holding AWS authority in the 1915–1920 MHz and 1995–2000 MHz bands does not operate or, in the case of a commercial mobile radio service provider, does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to the providing carrier.

(c) *Filing Requirements.* A licensee of the 1915–1920 MHz and 1995–2000 MHz bands that permanently discontinues service as defined in this section must notify the Commission of the discontinuance within 10 days by filing FCC Form 601 or 605 requesting license cancellation. An authorization will automatically terminate, without specific Commission action, if service is permanently discontinued as defined in this section, even if a licensee fails to file the required form requesting license cancellation.

■ 13. Section 27.50 is amended by revising paragraph (d) introductory text, paragraphs (d)(1) and (2) introductory text, and adding paragraph (d)(7), to read as follows:

§ 27.50 Power limits and duty cycle.

* * * * *

(d) The following power and antenna height requirements apply to stations transmitting in the 1710–1755 MHz, 2110–2155 MHz, 1915–1920 MHz and 1995–2000 MHz bands:

(1) The power of each fixed or base station transmitting in the 1995–2000 MHz or the 2110–2155 MHz band and located in any county with population density of 100 or fewer persons per

square mile, based upon the most recently available population statistics from the Bureau of the Census, is limited to:

* * * * *

(2) The power of each fixed or base station transmitting in the 1995–2000 MHz or the 2110–2155 MHz band and situated in any geographic location other than that described in paragraph (d)(1) is limited to:

* * * * *

(7) Fixed, mobile and portable (hand-held) stations operating in the 1915–1920 MHz band are limited to 1 Watt EIRP, except that the total power of any portion of an emission that falls within the 1917–1920 MHz band may not exceed 4 milliwatts (6 dBm).

* * * * *

■ 14. Section 27.53 is amended by revising paragraph (h) to read as follows:

§ 27.53 Emission limits.

* * * * *

(h) *AWS Emission Limits.* (1) *General Protection Levels.* Except as otherwise specified below, for operations in the 1710–1755 MHz, 2110–2155 MHz, 1915–1920 MHz, and 1995–2000 MHz bands, the power of any emission outside a licensee's frequency block shall be attenuated below the transmitter power (P) by at least 43 + 10 $\log_{10}$(P) dB.

(2) *Additional Protection Levels.* Notwithstanding the foregoing paragraph (h)(1) of this section:

(i) For operations in the 1915–1920 MHz band, the power of any emission above 1930 MHz shall be attenuated below the transmitter power (P) in watts by at least 70 + 10 $\log_{10}$(P) dB.

(ii) For operations in the 1995–2000 MHz band, the power of any emission above 2005 MHz shall be attenuated below the transmitter power (P) in watts by at least 70 + 10 $\log_{10}$(P) dB.

(3) *Measurement Procedure.*

(i) Compliance with this provision is based on the use of measurement instrumentation employing a resolution bandwidth of 1 megahertz or greater. However, in the 1 megahertz bands immediately outside and adjacent to the licensee's frequency block, a resolution bandwidth of at least one percent of the emission bandwidth of the fundamental emission of the transmitter may be employed. The emission bandwidth is defined as the width of the signal between two points, one below the carrier center frequency and one above the carrier center frequency, outside of which all emissions are attenuated at least 26 dB below the transmitter power.

(ii) When measuring the emission limits, the nominal carrier frequency shall be adjusted as close to the licensee's frequency block edges, both upper and lower, as the design permits.

(iii) The measurements of emission power can be expressed in peak or average values, provided they are expressed in the same parameters as the transmitter power.

* * * * *

■ 15. Section 27.55 is amended by revising paragraphs (a)(1) to read as follows:

§ 27.55 Power strength limits.

(a) * * *

(1) 1995–2000, 2110–2155, 2305–2320, 2345–2360 MHz bands: 47 dBμV/m.

* * * * *

■ 16. Section 27.57 is amended by revising paragraph (c) to read as follows:

§ 27.57 International coordination.

* * * * *

(c) Operation in the 1710–1755 MHz, 1915–1920 MHz, 1995–2000 MHz and 2110–2155 MHz bands is subject to international agreements with Mexico and Canada.

■ 17. Add subpart K to part 27 to read as follows:

Subpart K—1915–1920 MHz and 1995–2000 MHz

Licensing and Competitive Bidding Provisions

Sec.

Reimbursement Obligations of AWS Licensees at 1915–1920 and 1995–2000 MHz

Sec.

Licensing and Competitive Bidding Provisions

§ 27.1001 1915–1920 MHz and 1995–2000 MHz bands subject to competitive bidding.

Mutually exclusive initial applications for 1915–1920 MHz and 1995–2000 MHz band licenses are subject to competitive bidding. The general competitive bidding procedures set forth in 47 CFR part 1, subpart Q will apply unless otherwise provided in this subpart.

§ 27.1002 Designated entities in the 1915–1920 MHz and 1995–2000 MHz bands.

Eligibility for small business provisions:

(a)(1) A small business is an entity that, together with its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship, has average gross revenues not exceeding $40 million for the preceding three years.

(2) A very small business is an entity that, together with its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship, has average gross revenues not exceeding $15 million for the preceding three years.

(b) *Bidding credits.* A winning bidder that qualifies as a small business as defined in this section or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter. A winning bidder that qualifies as a very small business as defined in this section or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter.

Reimbursement Obligations of AWS Licensees at 1915–1920 and 1995–2000 MHz

§ 27.1021 Reimbursement obligation of AWS licensees at 1915–1920 MHz.

AWS licensees of the H Block (1915–1920 MHz paired with 1995–2000 MHz) are collectively responsible for reimbursing UTAM, Inc. a *pro rata* share of the expenses that UTAM, Inc. has incurred from relocating and clearing incumbent Fixed Microwave Service (FS) licensees from the 1910–1930 MHz band. Specifically, within 30 days of grant of its long-form application, AWS licensees in the 1915–1920 MHz band, which constitutes 25 percent of the 1910–1930 MHz band, shall, on a *pro rata* shared basis as set forth in paragraph (a) in this section reimburse 25 percent of the total relocation costs incurred by UTAM, Inc.

(a) To the extent that H Block licenses awarded in the first auction for this spectrum cover, collectively, at least forty (40) percent of the nation's population, the amount owed to UTAM, Inc. by the winning bidder of each individual H Block license awarded in the first auction will be determined by dividing the gross winning bid ("GWB") for each individual H Block license (*i.e.*, an Economic Area (EA)) by the sum of the gross winning bids for all H Block licenses awarded in the first auction, and then multiplying by $12,629,857.

$$RN = \left(\frac{\text{BTA GWB}}{\text{Sum of GWBs}} \right) \times \$12{,}629{,}857.00$$

Except as provided in paragraphs (b) and (c) of this section, an AWS licensee that obtains a license for a market not awarded in the first H Block auction will not have a reimbursement obligation to UTAM, Inc.

(b) The Commission imposes payment obligations on bidders that withdraw provisionally winning bids during the course of an auction, on those that default on payments due after an auction closes, and on those that are disqualified. *See* 47 CFR 1.2110(f)(2)(i). In the initial auction, a winning bidder of an EA license that is not awarded a license for any reason will be deemed to have triggered a reimbursement obligation to UTAM, Inc. that will be paid to UTAM, Inc. by the licensee acquiring the EA license at reauction. The amount owed to UTAM, Inc. by the licensee acquiring the EA license at reauction will be based on the gross winning bid for the EA license in the initial auction. Accordingly, an applicant at reauction will know with certainty the reimbursement obligation it will owe for each EA license subject to this paragraph (b).

(c) To the extent that H Block licenses awarded in the first auction for this spectrum cover, collectively, less than forty (40) percent of the nation's population, then the amount owed to UTAM, Inc. shall be more equitably dispersed across all EA licenses based on the relative population of the EA to the population of the United States. Specifically, the amount that the licensee of an individual H Block license must reimburse UTAM, Inc. shall be calculated by dividing the population of the individual BTA by the total U.S. population, and then multiplying by $12,629,857.

$$RN = \left(\frac{\text{EA POP}}{\text{U.S. POP}} \right) \times \$12{,}629{,}857$$

(d) For purposes of compliance with this section, licensees should determine population based on 2000 U.S. Census Data or such other data or measurements that the Wireless Telecommunications Bureau proposes and adopts under the notice and comment process for the auction procedures.

§ 27.1031 Reimbursement obligation of AWS licensees at 1995–2000 MHz.

AWS licensees of the H Block (1915–1920 MHz paired with 1995–2000 MHz) are collectively responsible for reimbursing Sprint Nextel, Inc. or a successor in interest to Sprint Nextel, Inc. (Sprint), a *pro rata* share of the eligible expenses that Sprint has incurred from relocating and clearing Broadcast Auxiliary Service (BAS), Cable Television Relay Service (CARS), and Local Television Transmission Service (LTTS) incumbents from the 1990–2025 MHz band. Specifically, within 30 days of grant of its long-form application, AWS licensees in the 1995–2000 MHz band, which constitutes one-seventh of the 35 megahertz of spectrum at 1990–2025 MHz, shall, on a *pro rata* shared basis as set forth below in this section reimburse one-seventh of the eligible expenses incurred by Sprint.

(a) To the extent that H Block licenses awarded in the first auction for this spectrum cover, collectively, at least forty (40) percent of the nation's population, the amount owed to Sprint by the winning bidder of each individual H Block license awarded in the first auction will be determined by dividing the gross winning bid ("GWB") for each individual H Block license (*i.e.*, an Economic Area (EA)) by the sum of the gross winning bids for all H Block licenses awarded in the first auction, and then multiplying by $94,875,516.

$$RN = \left(\frac{\text{EA GWB}}{\text{Sum of GWBs}} \right) \times \$94{,}875{,}516$$

Except as provided in paragraphs (b) and (c), an AWS licensee that obtains a license for a market not awarded in the first H Block auction will not have a reimbursement obligation to Sprint.

(b) The Commission imposes payment obligations on bidders that withdraw provisionally winning bids during the course of an auction, on those that default on payments due after an auction closes, and on those that are disqualified. *See* 47 CFR 1.2110(f)(2)(i). In the first auction, a winning bidder of an EA license that is not awarded a license for any reason will be deemed to have triggered a reimbursement obligation to Sprint that will be paid to Sprint by the licensee acquiring the EA license at reauction. The amount owed to Sprint by the licensee acquiring the EA license at reauction will be based on the gross winning bid for the EA license in the first auction. Accordingly, an applicant at reauction will know with certainty the reimbursement obligation it will owe for each EA license subject to this paragraph (b).

(c) To the extent that H Block licenses awarded in the first auction for this spectrum cover, collectively, less than forty (40) percent of the nation's population, then the amount owed to Sprint shall be more equitably dispersed across all EA licenses based on the relative population of the EA to the population of the United States. Specifically, the amount that the licensee of an individual H Block license must reimburse Sprint shall be calculated by dividing the population of the individual EA by the total U.S. population, and then multiplying by $94,875,516.

$$RN = \left(\frac{EA\ POP}{U.S.\ POP} \right) \times \$94,875,516$$

(d) For purposes of compliance with this section, licensees should determine population based on 2000 U.S. Census Data or such other data or measurements that the Wireless Telecommunications Bureau proposes and adopts under the notice and comment process for the auction procedures.

§ 27.1041 Termination of Cost-Sharing Obligations.

(a) The cost-sharing obligation adopted in this subpart will sunset ten years after the first H Block license is issued in the band.

(b) An H Block licensee must satisfy in full its payment obligations under this subpart K within thirty days of the grant of its long-form application. The failure to timely satisfy a payment obligation in full prior to the applicable sunset date will not terminate the debt owed or a party's right to collect the debt.

[FR Doc. 2013–00157 Filed 1–7–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 95

[GN Docket No. 12–354; FCC 12–148]

Commercial Operations in the 3550–3650 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes to create a new Citizens Broadband Radio Service under part 95 of its rules for shared small cell use in the 3550–3650 MHz band (3.5 GHz Band). The Commission seeks comment on other techniques that could be used to manage access within the 3.5 GHz band as well as protections for incumbent Department of Defense (DoD) and Fixed Satellite Service (FSS) users. The Commission also seeks comment on how the unique characteristics of small cells may help reduce the need for geographic protections and enable shared access of the 3.5 GHz Band across the widest possible geographic footprint. In addition, the Commission offers a supplemental proposal to integrate the 3650–3700 MHz band within the proposed Citizens Broadband Service, thereby encompassing an additional 50 megahertz of contiguous spectrum. This approach would leverage the benefits of small cell technology to enable widespread broadband access to the 3.5 GHz Band while minimizing the possibility of harmful interference to incumbent DoD and FSS users.

DATES: Submit comments on or before February 20, 2013 and reply comments on or before March 22, 2013.

ADDRESSES: You may submit comments, identified by GN Docket No. 12–354, by any of the following methods:

- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Mail:* All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Paul Powell, Attorney Advisor, Wireless Bureau's Mobility Division, at (202) 744–3597 or *Paul.Powell@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking and Order* (NPRM), in GN Docket No. 12–354, FCC 12–148, adopted and released December 12, 2012. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, (202)488–5300, facsimile (202) 488–5563, or via email at *Fcc@bcpiweb.com*. The full text may also be downloaded at: www.fcc.gov. Alternative formats are available to persons with disabilities by sending an email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Synopsis of the NPRM

I. Introduction

1. With this *NPRM*, the Federal Communications Commission (Commission) propose to create a new Citizens Broadband Service in the 3550–3650 MHz band (3.5 GHz Band) currently utilized for military and satellite operations, which will promote two major advances that enable more efficient use of radio spectrum: small cells and spectrum sharing. The 3.5 GHz Band was identified by the National Telecommunications and Information Administration (NTIA) for shared federal and non-federal use in the 2010 Fast Track Report. *See NTIA, An Assessment of the Near-Term Viability of Accommodating Wireless Broadband Systems et al,* at *http://www.ntia.doc.gov/files/ntia/publications/fasttrack evaluation_11152010.pdf.* Our proposal builds on our experience with spectrum sharing in the television white spaces (TVWS), proposes ideas teed up in our recent Notice of Inquiry on Dynamic Spectrum Access technologies, and broadly reflects recommendations made in a recent report by the President's Council of Advisors on Science and Technology (PCAST). *See PCAST, Report to the President: Realizing the Full Potential of Government-Held Spectrum to Spur Economic Growth* at *http://www.whitehouse.gov/sites/default/files/microsites/ostp/pcast_spectrum_report_final_july_20_2012.pdf.* We also seek comment on whether to include under these proposed new, flexible rules the neighboring 3650–3700 MHz band,

which is already used for commercial broadband services. Together, these proposals would make up to 150 megahertz of contiguous spectrum available for innovative mobile and fixed wireless broadband services without displacing mission-critical incumbent systems.

2. Demand for wireless broadband capacity is growing much faster than the availability of new spectrum. While the Commission and the President have outlined a path for nearly doubling the amount of available spectrum for fixed and wireless broadband uses, some experts forecast a need for a thousand-fold increase in wireless capacity by 2020. To meet this demand, future generations of wireless technology and services must continue to increase their yield of bits per hertz per second. Future wireless traffic demands also require new wireless network architectures and new approaches to spectrum management.

3. The PCAST Report identifies two technological advances as holding great promise for increasing our nation's wireless broadband capabilities. First, increased use of small cell network deployments can multiply wireless capacity within existing spectrum resources. *See PCAST Report at vi, 17–20.* Second, increased spectrum sharing can make large swaths of otherwise "stovepiped" spectrum—nationwide bands set aside for important, but localized, government and non-government uses—newly available for broadband use. The proposed Citizens Broadband Service would foster the widespread utilization of both of these technological advances and promote the efficient use of the 3.5 GHz Band.

4. Small cells are low-powered wireless base stations intended to cover targeted indoor or localized outdoor areas ranging in size from homes and offices to stadiums, shopping malls, hospitals, and metropolitan outdoor spaces. Typically, they provide wireless connectivity in areas that present capacity and coverage challenges to traditional wide-area macrocell networks. Small cells can be deployed relatively easily and inexpensively by consumers, enterprise users, and service providers. Networks that incorporate small cell technology can take advantage of greater "reuse" of scarce wireless frequencies, greatly increasing data capacity within the network footprint. For example, deploying ten small cells in a location in place of a single macro cell could result in a tenfold increase in capacity, using the same quantity of spectrum. Small cells can also be used to help fill in coverage gaps created by buildings, tower siting difficulties, and/or challenging terrain.

5. Spectrum sharing in this context refers to the use of automated techniques to facilitate the coexistence of disparate unaffiliated spectrum dependent systems that would conventionally require separate bands to avoid interference. Such coexistence may happen, for example, by authorizing targeted use of new commercial systems in specific geographical areas where interference into incumbent systems is not a problem. The need to minimize interference risks has caused, over time, much spectrum to be reserved for "high value" systems that protect national security, safety of life, etc. For example, the military may need spectrum for advanced radar systems or hospitals may deploy networks to enable real-time monitoring of patient vital signs. However, many of these uses are highly localized in nature. Therefore, more agile technologies and sharing mechanisms could potentially allow large quantities of special-purpose federal and non-federal spectrum to be used for more general purposes, such as commercial broadband services, on a shared basis.

6. The 3.5 GHz Band appears to be an ideal band in which to propose small cell deployments and shared spectrum use. The NTIA Fast Track Report identified the 3.5 GHz Band for potential shared federal and non-federal broadband use. Incumbent uses in the band include high powered Department of Defense (DoD) radars as well as non-federal Fixed Satellite Service (FSS) earth stations for receive-only, space-to-earth operations and feeder links. In the adjacent band below 3550 MHz there are high-powered ground and airborne military radars. The Fast Track Report recommended, based on the commercial wireless broadband technology that was assessed, that new commercial uses of the band occur outside of large "exclusion zones." For this reason, and because of limited signal propagation at 3.5 GHz, the commercial wireless industry has expressed a viewpoint that the 3.5 GHz Band would not be particularly well-suited for macrocell deployment, with some suggesting that it might be more appropriate for fixed wireless or unlicensed use. We agree with the PCAST Report that the perceived disadvantages of the 3.5 GHz Band might be turned into advantages from the standpoint of promoting spectrum sharing and small cell innovation. Such a paradigm could vastly increase the usability of the band for wireless broadband.

7. We propose to structure the Citizens Broadband Service according to a multi-tiered shared access model that reflects the PCAST recommendation. We propose that the Citizens Broadband Service be managed by a spectrum access system (SAS) incorporating a dynamic database and, potentially, other interference mitigation techniques. The SAS would ensure that Citizens Broadband Service users operate only in areas where they would not cause harmful interference to incumbent users and could also help manage interference protection among different tiers of Citizens Broadband Service users. The three tiers of service would be: (1) Incumbent Access; (2) Priority Access; and (3) General Authorized Access (GAA). We seek comment on this approach. In addition, consistent with the Fast Track Report, we propose to protect existing federal systems operating in the 3.5 GHz Band and seek comment on appropriate allocation models to accomplish the goals set forth in this Notice.

8. We propose that the Incumbent Access tier would consist solely of authorized federal and grandfathered licensed FSS 3.5 GHz Band users. These Incumbent Access users would be protected from harmful interference from Citizens Broadband Service users through appropriate regulatory and technical means. Citizens Broadband Service users would not be permitted to operate within geographically designated Incumbent Use Zones, which would encompass the geographic area where low-powered small cells could cause harmful interference to incumbent operations. We seek comment on whether the use of small cell technology incorporating lower power levels and other distinguishing technical characteristics compared to higher power cellular architecture systems could significantly reduce the exclusion zones proposed in NTIA's Fast Track Report. Outside of these zones, the SAS would manage Citizens Broadband Service access and would ensure that lower tiered users would not operate in a manner that would cause harmful interference to federal and FSS users in the 3.5 GHz Band.

9. The Priority Access tier would consist of a portion of the 3.5 GHz Band designated for small cell use by certain critical, quality-of-service dependent users at specific, targeted locations. We seek comment on who these eligible users should be and suggest that they could include hospitals, utilities, state and local governments, and/or other users with a distinct need for reliable, prioritized access to broadband spectrum at specific, localized facilities.

We expect that the availability of the Priority Access tier could bring the benefits of mass-market commercial scale to specialized uses and provide a new alternative to dedicated spectrum, which is in short supply. In order to prevent an expectation of quality of service in areas where such an expectation might not be warranted, Priority Access operations would only be permitted in geographic zones with no likelihood of harmful interference from Incumbent Access users and no expectation of harmful interference from Citizens Broadband Service users to Incumbent Access users. Priority Access users would be required to register in the SAS and accorded protection from interference from lower tier users and other Priority Access users within their local facilities.

10. The General Authorized Access (GAA) tier would be assigned for use by the general public on an opportunistic, non-interfering basis within designated geographic areas. GAA users could include a wide range of residential, business, and others, including wireless telephone and Internet service providers. We propose to authorize GAA use in zones where small cell use would not interfere with incumbent operations. Unlike the Priority Access tier, we propose to allow GAA use in areas where some interference from incumbent operations might be expected. We also propose that GAA users be required to register in the SAS and comply with all applicable technical, regulatory, and enforcement rules to ensure that GAA users avoid causing harmful interference to Incumbent Access and Priority Access users and always accept harmful interference from such users. We also seek comment on whether federal entities could be authorized GAA users. We seek comment on what technologies could be used to enable effective GAA use of the 3.5 GHz Band.

11. Under our main proposal, users in the Priority Access and GAA tiers would be licensed by rule as Citizens Broadband Service users under part 95 of the Commission's rules. A license-by-rule approach would provide individuals, organizations, and service providers with "automatic" authorization to deploy small cell systems, in much the same way that our Part 15 unlicensed rules have allowed widespread deployment of Wi-Fi access points. In the present context, we believe licensing by rule provides two advantages compared to unlicensed authorization. First, as a licensed service, 3.5 GHz Band operations would enjoy greater interference protection status in the Table of Frequency Allocations consistent with the proposed multi-tiered approach. Second, licensing by rule might allow for a more unified authorization framework for multiple tiers of users that otherwise might fall into different parts of the Commission's rules. We seek comment on whether the proposed framework could be implemented through other regulatory approaches, including through the part 15 unlicensed rules or through geographic area licensing. We also seek comment on the benefits that could accrue to federal users through use of the Citizens Broadband Service.

12. We also offer a supplemental proposal to integrate the 3650–3700 MHz band within the proposed Citizens Broadband Service, thereby encompassing an additional 50 megahertz of contiguous spectrum. The Commission currently licenses the 3650–3700 MHz band on a non-exclusive basis, with protections for incumbent FSS operations. The 3650–3700 MHz band is used extensively by wireless Internet service providers, among others, to provide commercial broadband service. Expanding the Citizens Broadband Service to include this band could bring benefits of greater spectrum availability and equipment scale economies to current 3650–3700 MHz licensees. Under our proposal, the SAS would authorize existing licensees as GAA users in the larger, combined band, and would authorize higher power levels in less congested areas, provided there is no risk of harmful interference to Incumbent Access or Priority Access operations. This proposal contemplates conversion of the existing non-exclusive licensing framework to the license-by-rule framework proposed herein. We also note that the 3650–3700 MHz band is currently allocated on a primary basis to the federal radiolocation service in three locations. We seek comment on the potential impact of these proposed changes in the use of the 3650–3700 MHz band on these and other incumbent operations.

13. If implemented, the new Citizens Broadband Service could help address the ongoing capacity shortage and promote new innovations in broadband technology, deployment, and spectrum management while protecting incumbent authorized federal and grandfathered FSS users. In order to develop a comprehensive record on this proposal, we seek comment on a wide range of technical, licensing, and other related issues. To that end, we seek comment on: (1) Appropriate licensing schemes; (2) specific flexible and resilient interference mitigation technologies and techniques that could be implemented by Citizens Broadband Service users; (3) appropriate deployment strategies for Citizens Broadband Service devices; and (4) the SAS dynamic database that is envisioned to manage access to and use of the 3.5 GHz Band. To ensure the development of a comprehensive record, we may release additional notices, analyses, or white papers for comment during the course of this proceeding. Moreover, because this proceeding raises significant novel technical issues with respect to sharing with federal users, we expect to work closely with NTIA and relevant federal agencies to perform necessary further analysis, and we encourage commenters to provide relevant technical input to inform this analysis, where appropriate.

14. *Freeze on New Earth Stations.* To preserve the stability of the spectral environment in the 3.5 GHz Band and ensure that opportunities continue to exist for wireless broadband services as proposed in the foregoing Notice, we direct the International Bureau to stop accepting applications in the 3600–3650 MHz band for new earth stations in the fixed-satellite service that are more than 10 statute miles from a licensed earth station's coordinates for the duration of this proceeding. This application freeze is narrowly tailored to ensure a stable spectral ecosystem for the proposed Citizens Broadband Service, while providing reasonable opportunities to obtain suitable real estate for the placement of new FSS earth station facilities near grandfathered earth stations. In light of the limited number of such grandfathered stations, such a freeze is expected to meet the immediate needs of earth station operators without significantly reducing the availability of spectrum for wireless broadband services by prohibiting expansion of new FSS earth stations in the 3600–3650 MHz band segment.

15. The decision to impose this freeze is procedural in nature, and therefore the freeze is not subject to the notice and comment requirements of the Administrative Procedure Act. Moreover, for the reasons set forth above, in these circumstances there is good cause to find that notice and comment are impractical, unnecessary, and contrary to the public interest because it would undercut the purposes of the freeze. For the same reasons, and in order to avoid undercutting the purposes of the freeze, we find that there is good cause for making the freeze effective as of the release date of this *NPRM*.

II. Procedural Matters

A. Ex Parte Rules

16. The proceeding this *NPRM* initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex'parte presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

17. We exempt from the disclosure requirement under our ex parte rules all ex parte presentations made by NTIA or Department of Defense representatives. This *NPRM* raises significant technical issues implicating federal and non-federal spectrum allocations and users. Staff from NTIA, DoD, and the FCC have engaged in technical discussions in the development of this Notice, and we anticipate these discussions will continue after this *NPRM* is released. We believe that these discussions will benefit from an open exchange of information between agencies, and may involve sensitive information regarding the strategic federal use of the 3.5 GHz Band. Recognizing the value of federal agency collaboration on the technical issues raised in this Notice, NTIA's shared jurisdiction over the 3.5 GHz Band, the importance of protecting federal users in the 3.5 GHz Band from interference, and the goal of enabling spectrum sharing to help address the ongoing spectrum capacity crunch, we find that this exemption serves the public interest.

B. Filing Requirements

18. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8:00 a.m. to 7:00 p.m.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

19. Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

20. To request information in accessible formats (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at: *http://www.fcc.gov.*

21. For additional information on this proceeding, please contact Paul Powell of the Wireless Telecommunications Bureau at (202) 418–1613 or *Paul.Powell@fcc.gov.*

C. Paperwork Reduction Act of 1995 Analysis

22. This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due March 11, 2013. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) way to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

23. In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to

the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

D. Initial Regulatory Flexibility Analysis

24. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) relating to the foregoing Notice. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments filed in response to this *NPRM* as set forth on the first page of this document and have a separate and distinct heading designating them as responses to the IRFA.

1. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

25. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. *See* 5 U.S.C. 603(b)(3). The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." *See* 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small-business concern" under the Small Business Act. *See* 5 U.S.C. 601(3). A small-business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. *See* 15 U.S.C. 632.

26. In the following paragraphs, the Commission further describes and estimates the number and type of small entities that may be affected by the proposals set forth in the Notice. However, since the 3.5 GHz Band is not currently used by small businesses for terrestrial broadband, the proposed new service is unlikely to impose significant new burdens on small businesses. However, if our proposals were adopted, small businesses that choose to use the Citizens Broadband Service on a Priority Access or GAA basis would most likely be required to comply with new registration and compliance requirements, including registration in the SAS. In addition, any device manufacturers that choose to manufacture devices for use in the 3.5 GHz Band will have to ensure that such devices comply with any rules adopted in this proceeding. Finally, if our supplemental proposal to incorporate the 3650–3700 MHz band into the proposed Citizens Broadband Service is adopted, these new rules will apply to any small businesses currently licensed to operate in the 3650–3700 MHz hand.

27. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* The proposals set forth in the Notice, may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards that encompass entities that could be directly affected by the proposals under consideration. As of 2009, small businesses represented 99.9% of the 27.5 million businesses in the United States, according to the SBA. Additionally, a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." Census Bureau data for 2007 indicate that there were 89,527 governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,761 entities may qualify as "small governmental jurisdictions." Thus, we estimate that most governmental jurisdictions are small.

28. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services. The appropriate size standard under SBA rules is for the category Wireless Telecommunications Carriers (except satellite). The size standard for that category is that a business is small if it has 1,500 or fewer employees. For this category, census data for 2007 show that there were 1,383 firms that operated for the entire year. Of this total, 1,368 firms had 999 or fewer employees and 15 had 1000 employees or more. Thus, under this category and the associated small business size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities that may be affected by our proposed action.

29. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment." The SBA has developed a small business size standard for firms in this category, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

30. *3650–3700 MHz Band Licensees.* In March 2005, the Commission released an order providing for the nationwide, non-exclusive licensing of terrestrial operations, utilizing contention-based technologies, in the 3650 MHz hand (i.e., 3650–3700 MHz). As of April 2010, more than 1270 licenses have been granted and more than 7433 sites have been registered. The Commission has not developed a definition of small entities applicable to 3650–3700 MHz band nationwide, non-exclusive licensees. However, we estimate that the majority of these licensees are Internet Access Service Providers (ISPs) and that most of those licensees are small businesses.

2. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

31. Under the Commission's proposal, all Citizens Broadband Service devices must comply with technical and operational requirements aimed at preventing interference to Incumbent Access and Priority Access users, including: complying with technical parameters (*e.g.*, power and unwanted emission limits) as well as RF exposure requirements for the type of device; and incorporation of geo-location capabilities. Citizens Broadband Service users would be required to register such devices in the SAS.

32. In addition, if our supplemental proposal to incorporate the 3650–3700

MHz band into the proposed Citizens Broadband Service is adopted, small businesses operating in this band will be required to transition from the current non-exclusive nationwide licensing approach to the Citizens Broadband Service license-by-rule approach. This will likely entail additional costs and administrative burdens. In the *NPRM*, we seek comment on the extent of any such potential burdens.

33. While our proposals would require small businesses to register in the SAS and comply with the rules established for the Citizens Broadband Service, they would receive the ability to access spectrum that is currently unavailable to them. On balance, this would constitute a significant benefit for small business.

3. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

34. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): "(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities." *See* 5 U.S.C. 603(c)(1)–(c)(4).

35. In the *NPRM*, the Commission proposes that all Citizens Broadband Service users register in the SAS which will manage interference between different tiers of users. The *NPRM* specifically invites comments on a range of potential technical, legal, and policy aspects of its proposal, including equipment authorization requirements and the specific mechanics of the SAS. At this time, the Commission has not excluded any alternative proposal concerning the operation of the Citizens Broadband Service from its consideration, but it would do so in this proceeding if the record indicates that a particular proposal would have a significant and unjustifiable adverse economic impact on small entities. The Commission also solicits alternative licensing proposals, especially those that would not incur significant and unjustifiable adverse impacts on small entities.

36. With regard to the supplemental proposal to include the 3650–3700 MHz band, we seek comment on the costs and benefits of extending the Citizens Broadband Service to this band. We also specifically seek comment on the projected cost to existing 3650–3700 MHz licensees and the amount of time it would take such licensees to transition to the new proposed licensing regime.

4. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

37. None.

E. Congressional Review Act

38. The Commission will not send a copy of the foregoing Order pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the application freeze implemented in such *Order* is a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties. *Id.* at 804(3)(C).

III. Ordering Clauses

39. Pursuant to sections 1, 2, 4(i), 4(j), 7, 301, 302(a), 303, 307(e), and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 157, 301, 302(a), 303, 307(e), and 316, this *NPRM and Order* in GN Docket No. 12–148 is adopted.

40. License applications for new earth stations in the fixed satellite service, which would receive on frequencies in the 3600–3650 MHz band on a primary basis, filed on or after December 12, 2012, shall not be accepted unless frequencies in this same band are currently licensed to an earth station within 10 miles of the requested coordinates.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–00155 Filed 1–7–13; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Chapter VIII

[Docket No. NTSB–GC–2012–0002]

Retrospective Analysis of Existing Rules; Notification

AGENCY: National Transportation Safety Board (NTSB or Board).

ACTION: Notification.

SUMMARY: On June 25, 2012, the NTSB published a request for information stating it was undertaking a review of all its regulations. 77 FR 37865. The NTSB indicated this review would occur as a result of Executive Order 13579, "Regulation and Independent Regulatory Agencies," issued July 11, 2011, (76 FR 41587, July 14, 2011), which directs agencies to review all regulations to ensure they are up-to-date and comply with the principles articulated in Executive Order 13579. The NTSB stated it would specifically analyze all regulations within 49 CFR part 831, concerning accident investigation procedures, and publish a document setting forth its plan for proceeding with updates to its regulations. The NTSB collected comments from the public concerning its regulations, and herein notifies the public of its plan to update all NTSB regulations.

ADDRESSES: Copies of this notification, published in the **Federal Register** (FR), are available for inspection and copying in the NTSB's public reading room, located at 490 L'Enfant Plaza SW., Washington, DC 20594–2003. Alternatively, documents related to this comprehensive review of NTSB regulations are available on the government-wide Web site on regulations at *http://www.regulations.gov* (Docket ID Number NTSB–GC–2012–0002).

FOR FURTHER INFORMATION CONTACT: David Tochen, General Counsel, (202) 314–6080.

SUPPLEMENTARY INFORMATION:

I. Requirement To Review Regulations

In accordance with Executive Order 13579, the NTSB published a request for information stating it would undertake a comprehensive review of its regulations. Executive Order 13579 requests independent agencies issue public plans for periodic retrospective analysis of their existing "significant regulations." The executive order states such analyses should identify any significant regulations that may be outmoded, ineffective, insufficient, or excessively burdensome. Then, the agency's plan should describe how it will modify, streamline, expand, or repeal those regulations in order to achieve the agency's regulatory objective. The President ordered agencies to allow for public participation in retrospective reviews; prioritize their reviews by first addressing the regulations that will provide the most significant monetary savings or in reductions in paperwork burdens; and regularly report the status of retrospective reviews to OIRA. The NTSB is committed to fulfilling the

requirements set forth in this follow-up order.

As described in the NTSB's June 25, 2012 request for information, Executive Order 13579 encourages independent agencies to review "significant regulations"; however, the executive order does not define what agencies should consider to be "significant regulations." The NTSB decided to utilize the definition of a "significant regulatory action" provided in Executive Order 12866, "Regulatory Planning and Review," which is the executive order that established the modern regulatory review structure.[1] The NTSB then determined that a very limited number of its regulatory actions are "major rules," because they do not have a "significant economic impact upon a substantial number of small entities." The NTSB's request for information, therefore, described only the NTSB regulations that could, when viewed in the broadest sense, have a significant economic impact upon a substantial number of small entities.

The NTSB's request for information set forth a 6-month timeframe in which the NTSB indicated it would specifically review all provisions within part 831. In particular, the request for information states the NTSB would:

> [R]eview 49 CFR part 831 within the next 6 months to determine if any sections within part 831 could be modified, streamlined, expanded, or repealed, pursuant to the direction of Executive Order 13579. The NTSB's findings will form the basis for the NTSB's decision concerning whether the NTSB should make any changes to part 831. The NTSB is committed to issuing a Notice of Proposed Rulemaking within 6 months of the published findings, should the findings counsel in favor of changing any sections of part 831.

77 FR at 37867.

As explained more fully below, the NTSB has reviewed part 831 and anticipates publishing a notice of proposed rulemaking (NPRM) to suggest various changes to part 831.

[1] Section 3(f) of Executive Order 12866 defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel, legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

II. The NTSB's Review and Upcoming Changes

Since publishing its June 25, 2012 request for information, the NTSB has reviewed all parts of its regulations: 49 CFR Parts 800–850. The NTSB has determined to update certain parts in the near future, in accordance with the standard informal rulemaking procedure of soliciting comments from the public (Phase I). The NTSB then plans to publish a document indicating its changes to rules applicable only to internal agency matters (Phase II). Finally, the NTSB also plans to update other parts at a later date, as these parts require coordination with other agencies, and therefore should appear on a different timeline (Phase III).

Phase I: Review of Parts Requiring Comment

The NTSB has carefully reviewed the following regulatory parts, and plans to publish a notice of proposed rulemaking updating these parts within three months of the date of this notification: Parts 801, 802, 803, 804, 806, 807, 825, 830, 831, 835, 837, 840, and 845. The NTSB has also drafted an additional part, to set forth requirements of notification applicable to certain highway accidents.

As discussed in the June 25, 2012 request for information, the NTSB identified one part of its regulations that may contain "significant regulations" pursuant to the definition contemplated above: 49 CFR part 831. This part, entitled "Accident/Incident Investigation Procedures," contains a set of 14 sections describing the NTSB's "party process," which involves the NTSB's invitation to outside entities to assist with an investigation as a "party." The NTSB typically extends party status to those organizations that can provide the necessary technical assistance to the investigation. The role of party representatives is to support the NTSB's investigation at the direction of the NTSB, all with the ultimate goal of improving transportation safety. These parties could be small entities, which the NTSB may request be available for the on-scene portion of an investigation, as well as follow-up meetings and/or tasks. The NTSB does not reimburse investigation participants for the amount of time expended for an NTSB investigation, nor does the NTSB pay for any travel costs that arise out of such participation. As a result, it is remotely possible that a combination of NTSB investigations could result in costs that exceed $100 million.

The NTSB has undertaken a comprehensive review of part 831, and carefully considered the five comments the NTSB received as a result of its June 25, 2012 announcement indicating the plan to update NTSB regulations. The NTSB posted these comments in the public rulemaking docket, available at *www.regulations.gov*, Docket No. NTSB–GC–2012–0002. The NTSB plans to publish an NPRM that responds to all comments and sets forth proposed changes to part 831.

In addition, the NTSB has undertaken a review of its other regulatory parts, and also plans to issue an NPRM proposing changes to the other parts listed above. Within this NPRM, the NTSB will most likely propose a new part to address notification of certain highway accidents.

The NTSB may publish its proposed changes to part 831 in the same NPRM as its changes to the other parts. In this regard, Phase I of the NTSB's comprehensive review of its regulations may consist of two tiers.

Phase II: Changes Not Requiring Public Comment

In Phase II, the NTSB will issue changes to 49 CFR part 800. The NTSB has identified several sections of part 800 that are outdated. In addition, the NTSB recognizes several additional duties should be included in certain sections within part 800. Part 800 solely consists of internal agency procedures that are not relevant to the NTSB's work with the public, its parties, or any other agency. As a result, the NTSB does not plan to seek comments from the public concerning changes to part 800. 5 U.S.C. 553(b)(3)(A) (exempting from the public comment requirement "rules of agency organization, procedure, or practice"). The NTSB plans to publish its changes to part 800 in conjunction with, or shortly after, its publication of the final NPRM described in the plan for Phase I.

Phase III: Changes Requiring Consultation With Other Agencies

The NTSB, at this time, is not prepared to alter part 850 of its regulations, which set forth procedures applicable to marine accident investigations. The NTSB maintains a close working relationship with the United States Coast Guard in accordance with 49 U.S.C. 1131, part 850 and a Memorandum of Understanding. The NTSB plans to address with the Coast Guard any changes to part 850, and prepare such changes on a distinct timeline, rather than contemporaneously with all other updates from Phases I and II of this project.

In the event the NTSB identifies the need for additional regulatory changes or additions it believes would benefit the agency, but require collaborating with other Federal agencies, the NTSB will also attempt to include such changes in Phase III of this project.

III. Biennial Review

As stated in its June 25, 2012 request for information, the NTSB has not overseen any investigations that come within the definition of "significant regulatory actions." Nevertheless, the NTSB indicated it is committed to reviewing its regulations within 49 CFR part 831, in the interest of ensuring none are "outmoded, ineffective, insufficient, or excessively burdensome" under Executive Orders 13563,"Regulation and Independent Regulatory Agencies," issued January 18, 2011 (76 FR 3821, January 21, 2011) and 13579. As a result, following the comprehensive review and publication of the NPRM and final rule documents discussed in this notification, the NTSB will undertake a biennial review of part 831 to ensure no regulations are outmoded, ineffective, insufficient, or excessively burdensome. Following each biennial review, the NTSB will make its findings available for public comment.

IV. Cultural Change

The NTSB's June 25, 2012 request for information also stated it was committed to encouraging and fostering a culture at the NTSB that ensures agency employees are aware NTSB regulations must remain up-to-date. The NTSB believes it has begun to achieve this goal, as almost all offices at the NTSB have been involved in the comprehensive review of regulations the NTSB recently concluded. Offices are aware of the importance of ensuring regulations are not outdated or difficult to comprehend.

Deborah A.P. Hersman,

Chairman.

[FR Doc. 2012–31623 Filed 1–7–13; 8:45 am]

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Notices

Federal Register
Vol. 78, No. 5
Tuesday, January 8, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2012–0052]

Codex Alimentarius Commission: Meeting of the Ad Hoc Codex Intergovernmental Task Force on Animal Feeding

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Center for Veterinary Medicine (CVM), Food and Drug Administration (FDA), are sponsoring a public meeting on January 17, 2013. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States (U.S.) positions that will be discussed at the 7th Session of the Ad Hoc Codex Intergovernmental Task Force on Animal Feeding (AFTF) of the Codex Alimentarius Commission (Codex), which will be held in Berne, Switzerland, February 4–8, 2013. The Under Secretary for Food Safety and the Center for Veterinary Medicine, Food and Drug Administration, recognize the importance of providing interested parties the opportunity to obtain background information on the 7th Session of the AFTF and to address items on the agenda.

DATES: The public meeting is scheduled for Thursday January 17, 2013, from 1:00 p.m.–3:00 p.m.

ADDRESSES: The public meeting will be held in the Jamie L. Whitten Building, United States Department of Agriculture (USDA), 1400 Independence Avenue SW., Room 107–A, Washington, DC 20250. Documents related to the 7th Session of the AFTF will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.org/meetings-reports/en/*

Dr. Daniel McChesney, U.S. Delegate to the 7th Session of the AFTF, invites U.S. interested parties to submit their comments electronically to the following email address *Daniel.McChesney@fda.hhs.gov* and *uscodex@fsis.usda.gov*.

Call-In Number

If you wish to participate in the public meeting for the 7th session of the AFTF by conference call, please use the call-in number and participant code listed below.

Call-in Number: 1 (888) 858–2144.

Participant Code: 6208658.

For Further Information About the 7th Session of the AFTF *Contact:* Dr. Daniel G. McChesney, Director, Office of Surveillance and Compliance, Center for Veterinary Medicine, FDA, 7529 Standish Place, Rockville, MD 20855 Phone: (240) 453–6830, Fax: (240) 453–6880, Email: *Daniel.McChesney@fda.hhs.gov*.

For Further Information About the Public Meeting Contact: Doreen Chen-Moulec, U.S. Codex Office, 1400 Independence Avenue SW., Room 4861, Washington, DC 20250, Phone: (202) 205–7760, Fax: (202) 720–3157, E-mail: *uscodex@fsis.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in trade.

The AFTF is responsible for:

(a) The development of guidelines, intended for governments on how to apply the existing Codex risk assessment methodologies to the various types of hazards related to contaminants/residues in feed ingredients, including feed additives used in feeding stuffs for food producing animals. The guidelines should include specific science-based risk assessment criteria to apply to feed contaminants/residues. These criteria should be consistent with existing Codex methodologies.

The guidelines should also consider the need to address the establishment of rates of transfer and accumulation from feed to edible tissues in animal-derived products according to the characteristics of the hazard.

The guidelines should be drawn up in such a way as to enable countries to prioritize and assess risks based upon local conditions, use, exposure of animals and the impact, if any, on human health.

(b) Develop a prioritized list of hazards in feed ingredients and feed additives for governmental use. The list should contain hazards of international relevance that are reasonably likely to occur, and are thus likely to warrant future attention.

In doing so, due consideration should be given to the prioritized list of hazards as recommended by the FAO/WHO Expert Meeting on Animal Feed Impact on Food Safety. Clear criteria should be used to prioritize the list of hazards and take account of the potential transfer of contaminants/residues in feed to edible animal products (e.g. meat, fish meat, milk and eggs).

The Committee is hosted by Switzerland.

Issues to be Discussed at the Public Meeting

The following items on the agenda for the 7th Session of the AFTF will be discussed during the public meeting:

- Matters referred to the AFTF by Codex and other Codex committees and task forces
- Report on activities of FAO, WHO and other international intergovernmental organizations
- Draft guidelines on application of risk assessment for feed
- Proposed draft guidance for use by governments in prioritizing the national feed hazards

Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat prior to the meeting. Members of the public may access copies of these documents (see **ADDRESSES**).

Public Meeting

At the January 17, 2013, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the

opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to Daniel McChesney, U.S. Delegate for the 7th Session of the AFTF (see **ADDRESSES**). Written comments should state that they relate to activities of the 7th Session of the AFTF.

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Federal_Register_Notices/index.asp*.

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/News_&_Events/Email_Subscription/*. Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call 202–720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

Done at Washington, DC on: December 21, 2012.

MaryFrances Lowe,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2013–00169 Filed 1–7–13; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1875]

Reorganization/Expansion of Foreign-Trade Zone 8 Under Alternative Site Framework; Toledo, OH

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Toledo-Lucas County Port Authority, grantee of Foreign-Trade Zone 8, submitted an application to the Board (FTZ Docket B–49–2012, docketed 7/12/2012) for authority to reorganize and expand the zone under the ASF with a service area of Sandusky, Henry, Wood, Lucas and Defiance Counties, Ohio, in and adjacent to the Toledo-Sandusky Customs and Border Protection port of entry, FTZ 8's existing Sites 1, 2, 4 and 5 would be categorized as magnet sites and Sites 7 and 8 as usage-driven sites, Site 3 would be removed from the zone and the grantee proposes an additional subzone (Subzone 8I) under the ASF;

Whereas, notice inviting public comment was given in the **Federal Register** (77 FR 43048, 7/23/2012) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize and expand FTZ 8 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, to a five-year ASF sunset provision for magnet sites that would terminate authority for Sites 2, 4 and 5 if not activated by December 31, 2017, and to three-year ASF sunset provisions for subzone/usage-driven sites that would terminate authority for Sites 7 and 8 as well as each site of Subzone 8I if no foreign-status merchandise is admitted for a *bona fide* customs purpose by December 31, 2015.

Signed at Washington, DC, this 20th day of December 2012.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

ATTEST:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–00156 Filed 1–7–13; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1876]

Reorganization of Foreign-Trade Zone 32 Under Alternative Site Framework; Miami, FL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Greater Miami Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 32, submitted an application to the Board (FTZ Docket B–51–2012, docketed July 13, 2012; amended October 9, 2012) for authority to reorganize under the ASF with a service area that includes a portion of Miami-Dade County, Florida, within the Miami Customs and Border Protection port of entry, FTZ 32's existing Site 1 would be categorized as a magnet site, Site 2 would be removed from the zone, and Sites 3 and 4 would be categorized as usage-driven sites;

Whereas, notice inviting public comment was given in the **Federal Register** (77 FR 43048–43049, 7/23/2012) and the application, as amended, has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal, as amended, is in the public interest;

Now, therefore, the Board hereby orders:

The application, as amended, to reorganize FTZ 32 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, and to a three-year ASF sunset provision for usage-driven sites that would terminate authority for Sites 3 and 4 if no foreign-status merchandise is admitted for a *bona fide* customs purpose by December 31, 2015.

Signed at Washington, DC, this 20th day of December 2012.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

ATTEST:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–00160 Filed 1–7–13; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

The Sensors and Instrumentation Technical Advisory Committee (SITAC) will meet on January 29, 2013, 9:30 a.m., in the Herbert C. Hoover Building, Room 6087B, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

Agenda

Public Session

1. Welcome and Introductions.
2. Remarks from the Bureau of Industry and Security Management.
3. Industry Presentations.
4. New Business.

Closed Session

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yspringer@bis.doc.gov* no later than January 22, 2013.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that the materials be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 11, 2012 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d), that the portion of this meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information contact Yvette Springer on (202) 482–2813.

Dated: January 2, 2013.

Yvette Springer,

Committee Liaison.

[FR Doc. 2013–00153 Filed 1–7–13; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on January 23 and 24, 2013, 9:00 a.m., at Qualcomm Incorporated, 5775 Morehouse Drive, Building QRC, Room 119B, San Diego, California. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Wednesday, January 23

Open Session

1. Welcome and Introductions
2. Working Group Reports
3. Industry presentation: Space Qualification
4. Industry presentation: FPGAs
5. Industry presentation: Rad-hard semiconductors
6. Industry presentation: Trends in Cellular/Mobile Telecomm
7. New business

Thursday, January 24

Closed Session

8. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov*, no later than January 16, 2013.

A limited number of seats will be available for the public session. Reservations are not accepted. If attending in person, forward your name, Name (to appear on badge), Title, Citizenship, Organization name, Organization address, Email, and Phone to Ms. Springer. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 21, 2012, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d))), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: January 2, 2013.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2013–00154 Filed 1–7–13; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–836]

Light-Walled Rectangular Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On September 7, 2012, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on light-walled rectangular pipe and tube (LWR pipe and tube) from Mexico. This review covers two respondent companies and the period of review is from August 1, 2010, through July 31, 2011. We invited interested parties to comment on the preliminary results but we received no such comments. Therefore, our final results remain unchanged from the preliminary results of review.

DATES: *Effective Date:* January 8, 2013.

FOR FURTHER INFORMATION CONTACT: Edythe Artman or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3931 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 2012, the Department published the preliminary results of the administrative review on LWR pipe and tube from Mexico in the **Federal Register.**[1] In these results, we preliminarily determined that the respondents, Maquilacero S.A. de C.V. (Maquilacero) and Regiomontana de Perfiles y Tubos S.A. de C.V. (Regiopytsa) did not sell subject merchandise at less than normal value during the period of review. We invited interested parties to comment on the preliminary results but received no such comments. We also did not receive a request for a hearing.

Period of Review

The period of review is August 1, 2010, through July 31, 2011.

Scope of the Order

The merchandise that is the subject of the order is certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to the order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Final Results of Review

We determine that the following weighted-average dumping margins exist for the period August 1, 2010, through July 31, 2011:

Manufacturer/Exporter	*Weighted-average dumping margins (percent)*
Maquilacero S.A. de C.V.	0.00
Regiomontana de Perfiles y Tubos S.A. de C.V.	0.00

Assessment Rates

We will instruct U.S. Customs and Border Protection (CBP) to apply an assessment rate of zero percent to all entries of subject merchandise during the period of review that were produced and exported by Maquilacero and Regiopytsa.

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Assessment of Antidumping Duties.* This clarification will apply to entries of subject merchandise during the period of review produced by Maquilacero and Regiopytsa for which they did not know that their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate of 3.76 percent, as established in the less-than-fair-value investigation of this proceeding[2], if there is no rate for the intermediate company(ies) involved in the transaction.

In accordance with 19 CFR 356.8(a), the Department intends to issue assessment instructions to CBP on or after 41 days following the publication of the final results of this review.

Cash-Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered or withdrawn from warehouse for consumption on or after the publication date of these final results, consistent with section 751(a)(2)(C) of the Act: (1) For subject merchandise manufactured and exported by the Maquilacero and Regiopytsa, the cash deposit rate will be zero; (2) for previously reviewed or investigated companies, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, the prior review, or the investigation but the manufacturer is, then the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, a previous

[1] *See Light-Walled Rectangular Pipe and Tube From Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 77 FR 55186 (September 7, 2012) (*Preliminary Results*). Please note that reference to a partial rescission in this notice was erroneous, as no companies were rescinded from the review.

[2] *See Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value*, 73 FR 45403, 45405 (August 5, 2008).

review or the less-than-fair-value investigation conducted by the Department, then the cash deposit rate will be the all-others rate of 3.76 percent. These deposit requirements, when imposed, shall remain in effect until further notice.

Notifications to Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation, which is subject to sanction.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: December 26, 2012.

Lynn Fischer Fox,

Deputy Assistant Secretary for Policy and Negotiations.

[FR Doc. 2013–00054 Filed 1–7–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–900]

Diamond Sawblades and Parts Thereof From the People's Republic of China: Initiation of Antidumping Duty Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: Pursuant to section 751(b) of the Tariff Act of 1930, as amended, and 19 CFR 351.216 and 351.221(c)(3), the Department of Commerce is initiating a changed circumstances review of the antidumping duty order on diamond sawblades and parts thereof from the People's Republic of China with respect to Husqvarna (Hebei) Co., Ltd.

DATES: *Effective Date:* January 8, 2013.

FOR FURTHER INFORMATION: Yang Jin Chun AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5760.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published the antidumping duty order on diamond sawblades and parts thereof from the People's Republic of China on November 4, 2009. *See Diamond Sawblades and Parts Thereof From the People's Republic of China and the Republic of Korea: Antidumping Duty Orders*, 74 FR 57145 (November 4, 2009).

On October 1, 2012, Husqvarna (Hebei) Co., Ltd. ("Hebei Husqvarna"), an interested party in the ongoing, 2010–2011 administrative review, filed a request for a changed circumstances review. In its letter, Hebei Husqvarna informed the Department that Hebei Husqvarna Jikai Diamond Tools Co., Ltd. changed its name to Husqvarna (Hebei) Co., Ltd. on April 27, 2012, and it requested that the Department find Hebei Husqvarna to be the successor-in-interest to Hebei Husqvarna Jikai Diamond Tools Co., Ltd..

Scope of the Order

The products covered by the order are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof. Merchandise subject to the order is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. On October 11, 2011, the Department added HTSUS 6804.21.00.00 to the scope description pursuant to a request by U.S. Customs and Border Protection. The tariff classification is provided for convenience and customs purposes; however, the written description, available in *Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review: 2010–2011*, 77 FR 73417 (December 10, 2012), is dispositive.

Initiation of Changed Circumstances Review

Based on Hebei Husqvarna's request and in accordance with section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(b), the Department is initiating a changed circumstances review to determine whether Hebei Husqvarna is the successor-in-interest to Hebei Husqvarna Jikai Diamond Tools Co., Ltd. In accordance with 19 CFR 351.221(b)(2), we will send to interested parties questionnaires requesting factual information for review.

In accordance with 19 CFR 351.221(c)(3), the Department will publish in the **Federal Register** a notice of preliminary results of this changed circumstances review, which will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action proposed based on those results.

This notice of initiation is in accordance with section 751(b)(1) of the Act, 19 CFR 351.216(b) and (d), and 19 CFR 351.221(b)(1).

Dated: December 31, 2012.

Gary Taverman,

Senior Advisor for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–00158 Filed 1–7–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC424

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of a scientific purposes and Enhancement of survival permit application and Hatchery and Genetic Management Plan (HGMP); notice of availability of draft environmental assessment (EA)..

SUMMARY: Notice is hereby given that NMFS has received an application for a permit for scientific purposes and to enhance the propagation and survival of a listed species under the Endangered Species Act of 1973, as amended (ESA), from the California Department of Fish and Game (CDFG) and PacifiCorp for a 10 year period. As part of this permit application, the CDFG has submitted a

draft HGMP. The HGMP specifies methods for the operation of the Iron Gate hatchery coho salmon program, located along the Klamath River, within the State of California. This document serves to notify the public of the availability of the permit application and HGMP for public review and comment prior to a decision by NMFS whether to issue the permit.

This notice also announces the availability for public review and comment of a Draft Environmental Assessment (EA) regarding issuance of the permit, which involves take of coho salmon listed as threatened under the ESA.

DATES: Written comments on the permit application, draft HGMP, and draft EA must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on February 7, 2013.

ADDRESSES: Written comments on the application, draft HGMP or draft EA should be submitted to Jim Simondet, Klamath Branch Supervisor, NMFS Northern California Office, 1655 Heindon Rd, Arcata, California 95521. Comments may also be submitted via fax (707) 825–4840, or you may transmit your comment as an attachment to the following email address: *IronGate HGMP.SWR@noaa.gov*.

Copies of the draft EA and HGMP are available for public review during regular business hours from 9:00 a.m. to 5 p.m. at the NMFS Arcata office, 1655 Heindon Road, Arcata, CA 95521, (707) 825–5171. The permit application may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm*.

FOR FURTHER INFORMATION CONTACT: Jim Simondet, Klamath Branch Supervisor, NMFS, telephone (707) 825–5171, email: *jim.simondet@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the ESA (16 U.S.C. 1538) and Federal regulations prohibit the take of fish or wildlife species listed as endangered or threatened. The term "take" is defined under the ESA to mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). NMFS may issue permits to take listed species for scientific purposes or to enhance the propagation or survival of the affected species under section 10(a)(1)(A) of the ESA (16 U.S.C. 1539(a)(1)(A)). NMFS regulations governing such permits are found at 50 CFR 222.308.

The CDFG and PacifiCorp have applied for a permit under section 10(a)(1)(A) of the ESA for a period of 10 years that would allow CDFG to take adult and juvenile coho salmon in the threatened Southern Oregon/Northern California Coast Evolutionarily Significant Unit pursuant to a HGMP, which was developed with technical assistance from NMFS. The HGMP will be implemented as part of the existing coho salmon artificial propagation program at Iron Gate Hatchery. Actions taken pursuant to the permit are designed to enhance the survival of coho salmon residing in the Upper Klamath River below Iron Gate Dam.

The HGMP incorporates two main components: Artificial propagation and monitoring and evaluation (M&E). Artificial propagation activities that could lead to the take of listed coho salmon include: Adult broodstock collection, spawning, rearing, handling, evaluation, tagging and release of progeny. The HGMP includes measures to increase the fertilization of eggs and survival rate for each life stage and to minimize the likelihood of genetic or ecological effects to listed natural fish resulting from the hatchery operations and propagation of hatchery fish.

Monitoring and evaluation will occur by conducting coho spawning ground and carcass surveys in the mainstem Klamath River and tributaries that comprise habitat for the Upper Klamath River coho salmon population unit. These data will be used to estimate adult natural and hatchery escapement levels and spawn timing to each stream for the Upper Klamath population unit as a whole. M&E activities will also collect necessary data to document achievement of performance indicators specified in the HGMP. For a more detailed discussion of the project please see the permit application package.

National Environmental Policy Act Compliance

Proposed permit issuance triggers the need for compliance with the National Environmental Policy Act (NEPA). NMFS has prepared a draft EA which evaluates the impacts of the proposed issuance of the permit and implementation of the HGMP, as well as the No Action Alternative in which the permit would not be issued and the HGMP may not be fully implemented.

Public Comments Solicited

NMFS invites the public to comment on the permit application, draft HGMP, and draft EA during a 30 day public comment period beginning on the date of this notice. All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public. This notice is provided pursuant to section 10(c) of the ESA (16 U.S.C. 1529(c)) and regulations for implementing NEPA (40 CFR 1506.6). We provide this notice in order to allow the public, agencies, or other organizations to review and comment on these documents.

Next Steps

NMFS will evaluate the application, associated documents, and comments submitted to determine whether the application meets the requirements of section 10(a)(1)(A) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period and after NMFS has fully considered all relevant comments received during the comment period. NMFS will publish notice of its final action in the **Federal Register**.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–00137 Filed 1–7–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC425

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Applications for two new scientific research permits and four research permit renewals.

SUMMARY: Notice is hereby given that NMFS has received six scientific research permit application requests relating to Pacific salmon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts. The applications may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm*.

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on February 7, 2013.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by email to *nmfs.nwr.apps@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Rob Clapp, Portland, OR (ph.: 503–231–2314), Fax: 503–230–5441, email: *Robert.Clapp@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov*.

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): endangered upper Columbia River (UCR); threatened Snake River (SR) spring/sum (spr/sum); threatened SR fall;

Steelhead (*O. mykiss*): threatened UCR; threatened SR; threatened middle Columbia River (MCR).

Sockeye salmon (*O. nerka*): endangered SR.

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 1124—5R

The Idaho Department of Fish and Game (IDFG) is seeking to renew for five years a permit under which they have been conducting six research projects in the Snake River basin for more than 10 years. The permit would continue to cover the following actions: One general fish population inventory; one project designed to monitor fish health throughout the state; two projects looking at natural and hatchery Chinook salmon production (in which sockeye may rarely be captured); one project monitoring natural steelhead; and one project centering on recovering sockeye salmon in Idaho. Much of the work being conducted under these projects is covered by other ESA authorizations; the work contemplated here is only the work that may affect sockeye salmon. The purposes of the research are therefore to monitor listed salmonid health, help guide sockeye salmon recovery operations, and out rightly rescue sockeye salmon in need of help due to circumstances such as being trapped by low flows. The benefits to the salmon will come in the form of information to help guide resource managers in restoring the listed fish and, as stated, in directly rescuing them from peril. The fish would be captured by various methods–screw traps, electrofishing, hook-and-line-angling, mid-water trawl–and most would immediately be released. A few of the captured fish may die as a result of the research.

Permit 1134—6R

The Columbia River Inter-Tribal Fish Commission (CRITFC) is seeking to renew for five years a permit under which they have been conducting research for nearly 15 years. The permit would continue covering five study projects that, among them, would annually take adult and juvenile threatened SR fall Chinook salmon, adult and juvenile threatened SR spring/summer Chinook salmon, and adult and juvenile threatened SR steelhead in the Snake River basin. There have been some changes in the research over the last ten years; nonetheless, the projects proposed are largely continuations of ongoing research. They are: Project 1—Adult Spring/summer and Fall Chinook Salmon and Summer Steelhead Ground and Aerial Spawning Ground Surveys; Project 2—Cryopreservation of Spring/summer Chinook Salmon and Summer Steelhead Gametes; Project 3—Adult Chinook Salmon Abundance Monitoring Using Video Weirs, Acoustic Imaging, and PIT tag Detectors in the South Fork Salmon River; Project 4—Snorkel, Seine, fyke net, Minnow Trap, and Electrofishing Surveys and Collection of Juvenile Chinook Salmon and Steelhead; and Project 5—Juvenile Anadromous Salmonid Emigration Studies Using Rotary Screw Traps. Under these tasks, listed adult and juvenile salmon would be variously (1) observed/harassed during fish population and production monitoring surveys; (2) captured (using seines, trawls, traps, hook-and-line angling equipment, and electrofishing equipment) and anesthetized; (3) sampled for biological information and tissue samples, (4) PIT-tagged or tagged with other identifiers, (5) and released.

The research has many purposes and would benefit listed salmon and steelhead in different ways. However, in general, the studies are part of ongoing efforts to monitor the status of listed species in the Snake River basin and to use those data to inform decisions about land- and fisheries management actions and to help prioritize and plan recovery measures for the listed species. Under the proposal, the studies would continue to benefit listed species by generating population abundance estimates, allowing comparisons to be made between naturally reproducing populations and those being supplemented with hatchery fish, and helping preserve listed salmon and steelhead genetic diversity. The CRITFC does not intend to kill any of the fish being captured, but a small percentage may die as a result of the research activities.

Permit 1480—3R

The United States Geological Survey (USGS) is seeking to renew for five years a permit under which they have been conducting research for more than a decade. The renewed permit would continue to allow the USGS to annually take adult and juvenile endangered UCR Chinook and threatened UCR steelhead in nine tributaries to the Methow River (and its mainstem) in Washington State. The purpose of the research is to monitor the contribution these streams make to Chinook and steelhead production in the Methow subbasin—both before and after human-made passage barriers in the streams have been removed. The research would benefit the fish by generating information on the effectiveness of such restoration actions in the area and that information, in turn, would be used to guide other such efforts throughout the region. The USGS proposes to capture the fish—using weirs/traps, nets, and electrofishing equipment—anesthetize them, PIT-tag them (if they are large enough), allow them to recover, and release them. Several instream PIT-tag interrogation sites would be put into place to monitor the fish in the tributaries. In addition, tissue samples would be taken from some of the fish. The USGS does not intend to kill any of the fish being captured, but a small percentage may die as an unintended result of the research activities.

Permit 13380—2R

The NWFSC is seeking to renew for five years a permit that currently allows them to annually take natural juvenile SR spring/summer Chinook salmon and SR steelhead in the Salmon River subbasin in Idaho. This research has been in progress for over ten years and is designed to assess three alternative methods of nutrient enhancement (Salmon carcasses, carcass analogues, and nutrient pellets) on biological communities in Columbia River tributaries. In general, the purpose of the research is to learn how salmonids acquire nutrients from the carcasses of dead spawners and test three methods of using those nutrients to increase growth and survival among naturally produced salmonids. The research would benefit the fish by helping managers use nutrient enhancement techniques to recover listed salmonid populations. Moreover, managers would gain a broader understanding of the role marine-derived nutrients play in ecosystem health as a whole. This, in turn, would help inform management decisions and actions intended to help salmon recovery in the future.

Under the proposed research, the fish would variously be (a) captured (using seines, nets, traps, and possibly, electrofishing equipment) and anesthetized; (b) measured, weighed and fin-clipped; (c) held for a time in enclosures in the stream from which they are captured; and (d) released. A number of the captured fish would also be intentionally killed so the researchers may conduct stable isotope, otolith, and diet analyses with the purpose of linking growth and survival to habitat conditions. It is also likely that a small percentage of the fish being captured would unintentionally be killed during the process; in such instances, any unintentional mortalities would be used in place of any fish that would otherwise be lethally taken. In addition, tissue samples would be taken from adult carcasses.

Permit 16979

The Washington Department of Fish and Wildlife (WDFW) is seeking a five-year permit to collect data on UCR Chinook and steelhead abundance, status, distribution, diversity, species/ecological interactions, and behavior in the Columbia River from its confluence with the Yakima River upstream to Chief Joseph Dam. The research will benefit fish by helping managers (a) understand the distribution and proportion of hatchery and natural origin steelhead, and Chinook in UCR tributaries, (b) understand the influences of other biotic and abiotic factors with respect to recovering listed species, (c) understand the potential effects of proposed land use practices, (d) determine appropriate regulatory and habitat protection measures in the areas where land use actions are planned, (e) project the impacts of potential hydraulic projects, and (f) evaluate the effectiveness of local forest practices and instream habitat improvement projects in terms of their ability to protect and enhance listed salmonid populations.

The researchers would capture fish via a wide variety of means (snorkeling, dip netting, seining, using electrofishing equipment, traps and weirs, and barbless hook-and-line sampling). The captured fish would be variously tissue sampled, measured, tagged, allowed to recover, and released. The researchers do not intend to kill any of the fish being captured, but a small percentage of them may inadvertently be killed as a result of the proposed activities.

Permit 17306

The Oregon Department of Fish and Wildlife (ODFW) is seeking a five-year permit to capture threatened MCR steelhead (adults and juveniles) in the upper Deschutes River, Oregon. The various proposed activities would include adult and juvenile snorkel surveys throughout the basin, screw trapping, backpack and boat electrofishing and mark/recapture studies, hook and line surveys, telemetry, seining, spawning ground surveys using weirs and redd counts, monitoring habitat restoration projects, and setting traps and nets in reservoirs for population monitoring. Data collected from this work would be used to inform management decisions. Biologists from the ODFW have been conducting this work in the area for decades without the need for a permit, but since threatened MCR steelhead have recently been reintroduced to the area, they are seeking a permit that would allow them to continue it. The researchers do not intend to kill any of the fish being captured, but a small percentage may be killed as an inadvertent result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–00138 Filed 1–7–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC426

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of five scientific research permits.

SUMMARY: Notice is hereby given that NMFS has issued Permit 14808 to the California Department of Fish and Game (CDFG), Permit 15573 to the Glenn-Colusa Irrigation District (GCID), Permit 16543 to the California Department of Water Resources (CDWR), Permit 13791 to the United States Fish and Wildlife Service (USFWS), and Permit 17077 to Dr. Peter Moyle with the University of California, Davis (UCD).

ADDRESSES: The approved application for each permit is available on the Applications and Permits for Protected Species (APPS), *https://apps.nmfs.noaa.gov* Web site by searching the permit number within the Search Database page. The applications, issued permits and supporting documents are also available upon written request or by appointment: Protected Resources Division, NMFS, 650 Capitol Mall, Room 5–100, Sacramento, CA 95814 (phone: (916) 930–3600, fax: (916) 930–3629).

FOR FURTHER INFORMATION CONTACT: Amanda Cranford at 916–930–3706, or email: *Amanda.Cranford@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Authority

The issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the

ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations (50 CFR parts 222–226) governing listed fish and wildlife permits.

Species Covered in This Notice

This notice is relevant to federally endangered Sacramento River (SR) winter-run Chinook salmon (*Oncorhyncus tshawytscha*), threatened Central Valley (CV) spring-run Chinook salmon (*O. tshawytscha*), threatened California Central Valley (CCV) steelhead (*O. mykiss*), and threatened southern distinct population segment (SDPS) of North American green sturgeon (*Acipenser medirostris*), henceforth referred to as ESA-listed salmonids and SDPS green sturgeon.

Permits Issued

Permit 14808

A notice of the receipt of an application for a scientific research permit (14808) was published in the **Federal Register** on April 24, 2012 (77 FR 24469). Permit 14808 was issued to CDFG on September 26, 2012 and expires on December 31, 2017.

Permit 14808 is for research to be conducted at two different sites within the upper Sacramento River, California. The main purpose of the research conducted by CDFG is to monitor the outmigration of juvenile salmonids on a real-time basis and provide daily summaries of timing, abundance and size distribution of salmonids in the Sacramento River at two different sites before they enter the Delta. Data can then be forwarded to various water agencies for better management decisions and to reduce frequency of ESA-listed fish entrainment. Permit 14808 authorizes capture (by rotary screw trap), anesthetizing, handling (fork length measurements and wet weights), and release of smolt and juvenile SR winter-run and CV spring-run Chinook salmon, adult and juvenile CCV steelhead and juvenile SDPS green sturgeon downstream of the trapping location.

Permit 14808 authorizes non-lethal take and low levels (not to exceed two percent) of unintentional lethal take. Permit 14808 also authorizes intentional, directed lethal take of smolt and juvenile adipose fin-clipped, hatchery produced, SR winter-run Chinook salmon for coded wire tag retrieval and processing.

Permit 15573

A notice of the receipt of an application for a scientific research and enhancement permit renewal (15573) was published in the **Federal Register** on December 15, 2010 (75 FR 78226). Permit 15573 was issued to GCID on October 5, 2012 and expires on December 31, 2017.

Permit 15573 is for research to be conducted in an oxbow of the Sacramento River, immediately downstream of the Hamilton City Pumping Plant, Glenn County, California. The primary objectives to which ESA-listed salmonids and SDPS green sturgeon may be taken are to collect emigration data as a reference and research tool to provide short-term monitoring specifically related to restoration actions and long-term monitoring to detect annular and cyclic population changes. Take activities associated with research on smolt and juvenile ESA-listed salmonids and juvenile SDPS green sturgeon include the following: capture (by rotary screw trap), anesthetizing, and release of fish downstream of the trapping location.

Permit 15573 authorizes non-lethal and low levels (not to exceed two percent) of unintentional lethal take of smolt and juvenile ESA-listed salmonids and juvenile SDPS green sturgeon. Permit 15573 does not authorize any intentional lethal take of ESA-listed salmonids and SDPS green sturgeon.

Permit 16543

A notice of the receipt of an application for a scientific research and enhancement permit (16543) was published in the **Federal Register** on July 18, 2012 (77 FR 42278). Permit 16543 was issued to CDWR on October 22, 2012 and expires on December 31, 2014.

Permit 16543 is for research to be conducted in the Sacramento-San Joaquin Delta, California. The primary objectives to which ESA-listed salmonids and SDPS green sturgeon may be taken are to provide information on spatial and environmental patterns of predation; critical information for guiding future restoration projects on conditions likely to support or discourage higher predation rates on ESA-listed and native fishes. Take activities associated with research on adult ESA-listed salmonids and both juvenile and adult SDPS green sturgeon include the following: capture (by trammel net), handling (species identification and enumeration), and release of fish downstream of the capture location.

Permit 16543 authorizes CDWR non-lethal take of adult ESA-listed salmonids and both juvenile and adult SDPS green sturgeon. Permit 16543 does not authorize any unintentional or intentional lethal take of ESA-listed salmonids and SDPS green sturgeon.

Permit 13791

A notice of the receipt of an application for a scientific research and enhancement permit (13791) was published in the **Federal Register** on April 24, 2012 (77 FR 24469). Permit 13791 was issued to USFWS on October 23, 2012 and expires on December 31, 2015.

Permit 13791 is for research to be conducted in the Sacramento River basin and the Sacramento-San Joaquin Delta, California. The primary objectives to which ESA-listed salmonids and SDPS green sturgeon may be taken by the USFWS' Delta Juvenile Fish Monitoring Program and the Breach III Project are to provide basic biological and population information on fishes of management concern. Additionally, data collected can be used by natural resource managers to evaluate the effectiveness of water operations, aquatic habitat restoration, and fish management practices within the San Francisco Estuary (SFE) and its watershed. Take activities associated with research on juvenile ESA-listed salmonids and SDPS green sturgeon include the following: capture (by fyke nets, multi-mesh gill nets, larval fish trawls, midwater trawls, Kodiak trawls, electrofishing and beach seines), handling (species and race identification and enumeration, fork-length measurements, tissue/scale samples if applicable), and release of fish downstream of the capture location.

Permit 13791 authorizes non-lethal take and low levels (not to exceed 12.5 percent) of unintentional lethal take. Permit 13791 also authorizes intentional, directed lethal take of smolt and juvenile adipose fin-clipped, hatchery produced, SR winter-run and CV spring-run Chinook salmon for coded wire tag retrieval and processing.

Permit 17077

A notice of the receipt of an application for a scientific research and enhancement permit (17077) was published in the **Federal Register** on August 24, 2012 (77 FR 51520). Permit 17077 was issued to Dr. Peter Moyle on November 26, 2012 and expires on December 31, 2015.

Permit 17077 is for research to be conducted in three distinct regions across the SFE: the Cache-Lindsay Slough complex, the Sherman Lake

complex, and Suisun Marsh. The primary objectives to which ESA-listed salmonids and SDPS green sturgeon may be taken by Dr. Moyle are to determine the extent that native fishes use intertidal and subtidal shallow water and marsh (SWM) habitats in the northern arc of the SFE and to understand how fishes commonly inhabiting Suisun Marsh use the Sacramento River corridor to access SWM habitats that are not currently surveyed in Sherman Lake, Cache Slough and Lindsey Slough. Further, Dr. Moyle will model fish abundance and assembly using biophysical habitat data (including slough geomorphology, hydrology, and water quality) to guide restoration projects that will successfully support native fishes and discourage aliens.

Permit 17077 authorizes non-lethal take and low levels (not to exceed 20 percent, equivalent to one fish) of unintentional lethal take of adult and juvenile ESA-listed salmonids and both adult and juvenile SDPS green sturgeon. Permit 17077 does not authorize any intentional lethal take of ESA-listed salmonids or SDPS green sturgeon.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–00139 Filed 1–7–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC359

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Hydrographic Surveys

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS' Office of Protected Resources has received a request from the NOAA Office of Coast Survey (OCS) for authorization to take small numbers of marine mammals incidental to conducting hydrographic surveys, over the course of 5 years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of OCS's request under the MMPA for the development and implementation of regulations governing the incidental taking of marine mammals. We invite information, suggestions, and comments on OCS's application and request.

DATES: Comments and information must be received no later than February 7, 2013.

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *ITP.Laws@noaa.gov*. We are not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of OCS's application may be obtained by visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*.

The OCS released a draft Environmental Assessment, prepared pursuant to requirements of the National Environmental Policy Act, for the conduct of their hydrographic surveys on June 20, 2012. A copy of the draft EA which would also support our proposed rulemaking under the MMPA, is also available at *http://www.nauticalcharts.noaa.gov/Legal/*.

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued.

Incidental taking shall be allowed if NMFS finds that the taking will have a negligible impact on the species or stock(s) affected and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival." Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: "any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment]."

Summary of Request

On December 27, 2012, we received a complete and adequate application from OCS requesting authorization for take of marine mammals incidental to hydrographic surveys conducted by OCS. The requested governing regulations would be valid for 5 years from the date of issuance. OCS operates active acoustic devices that have the potential to disturb marine mammals, and operates throughout coastal waters of the U.S. Exclusive Economic Zone. During 2013–18, OCS plans to conduct surveys in all coastal waters of the U.S. except for those in the Caribbean and in Hawaii and other Pacific islands. Because the specified activities have the potential to take marine mammals present within the action areas, OCS requests authorization to take small numbers of multiple species or stocks of marine mammal.

Specified Activities

Hydrographic survey projects support OCS's mandated mission to provide reliable nautical charts and other products necessary for safe navigation, economic security, and environmental sustainability in U.S. coastal waters. OCS surveys approximately 3,000 square nautical miles of coastal waters each year, and proposes to continue the same level of activity. In order to conduct these surveys, OCS uses active acoustic devices, including some that may result in behavioral harassment of marine mammals. These include high-frequency single-beam and multibeam echosounders and side-scan sonars mounted on or towed behind vessels traveling at a slow speed.

A more detailed description of the hydrographic surveys conducted by OCS may be found in their application, which is available at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning OCS's request (see **ADDRESSES**). We will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by OCS, if appropriate.

Helen M. Golde,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–00135 Filed 1–7–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy.

The following patents are available for licensing: Patent application 12/650,413: Finite State Machine Architecture for Software Development (a system for developing an application program having functionality that corresponds to a finite state machine model)//U.S. Patent No. 8,238,924: Real-Time Optimization of Allocation of Resources//U.S. Patent No. 7,685,207: Adaptive Web-Based Asset Control System.

ADDRESSES: Requests for copies of the patents cited should be directed to Office of Counsel, Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522–5001.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Monsey, Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522–5001, telephone (812) 854–4100.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: December 31, 2012.

C. K. Chiappetta,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2013–00066 Filed 1–7–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Allied Communications, LLC

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Allied Communications, LLC., a revocable, nonassignable, exclusive license to practice in the United States, the Government-owned inventions described in U.S. Patent No. 7,685,207: Adaptive Web-Based Asset Control System, Navy Case No. 83634, issued March 23, 2010.//U.S. Patent application No. 12/650,413: Finite State Machine Architecture For Software Development, Navy Case No. 99,766, filed December 30, 2009.//U.S. Patent No. 8,238,924: Real-Time Optimization of Allocation of Resources, Navy Case No. 99956, issued August 7, 2012.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than January 23, 2013.

ADDRESSES: Written objections are to be filed with Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522–5001.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Monsey, Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522–5001, telephone 812–854–4100.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: December 31, 2012.

C. K. Chiappetta,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2013–00068 Filed 1–7–13; 8:45 am]

BILLING CODE 3810–FF–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Second Extension of Hearing Record Closure Date

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Second extension of hearing record closure date.

SUMMARY: The Defense Nuclear Facilities Safety Board (Board) published a document in the **Federal Register** on August 15, 2012, (77 FR 48970), as amended, September 7, 2012, (77 FR 55196). The publication concerned notice of a hearing and meeting on October 2, 2012, regarding safety-related aspects of the design and factors that could affect the timely execution of the Uranium Processing Facility (UPF) project at the Y–12 National Security Complex. The Board stated in the August 15, 2012, hearing notice that the hearing record would remain open until November 2, 2012, for the receipt of additional materials. The Board subsequently extended the hearing record closure date to January 2, 2013 (77 FR 65871).

Extension of Time: The Board now extends the period of time for which the hearing record will remain open to January 16, 2013, to further accommodate submission of answers to questions taken for the record during the course of the public hearing.

Contact Person for Further Information: Debra H. Richardson, Deputy General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

Dated: January 2, 2013.

Peter S. Winokur,

Chairman.

[FR Doc. 2013–00096 Filed 1–7–13; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records—Evaluation of the Pell Grant Experiments Under the Experimental Sites Initiative—2012

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice of a new system of records entitled "Evaluation of the Pell Grant Experiments Under the Experimental Sites Initiative—2012" (18–13–31).

DATES: Submit your comments on this proposed new system of records on or before February 7, 2013.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Government Reform, and the Administrator of the Office of Information and Regulatory Affairs,

Office of Management and Budget (OMB) on January 3, 2013. This system of records will become effective at the later date of: (1) The expiration of the 40-day period for OMB review on February 12, 2013, unless OMB waives 10 days of the 40–day review period for compelling reasons shown by the Department, or (2) February 7, 2013, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments about this new system of records to Dr. Audrey Pendleton, Associate Commissioner, Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue NW., room 502D, Washington, DC 20208–0001. Telephone: (202) 208–7078. If you prefer to send comments through the Internet, use the following address: *comments@ed.gov*.

You must include the term "Pell Grant Experiments Under the Experimental Sites Initiative—2012" in the subject line of the electronic message.

During and after the comment period, you may inspect all comments about this notice at the U.S. Department of Education in room 502D, 555 New Jersey Avenue NW., Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Dr. Marsha Silverberg. Telephone: (202)208–7178. If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a) requires the Department to publish in the **Federal Register** this notice of a new system of records maintained by the Department. The Department's regulations implementing the Privacy Act are contained in part 5b of Title 34 of the Code of Federal Regulations (CFR).

The Privacy Act applies to any record about an individual that is maintained in a system of records from which individually identifying information is retrieved by a unique identifier associated with each individual, such as a name or Social Security Number. The information about each individual is called a "record," and the system, whether manual or computer-based, is called a "system of records."

The Privacy Act requires each agency to publish a notice of a system of records in the **Federal Register** and to prepare and send a report to OMB whenever the agency publishes a new system of records or makes a significant change to an established system of records. Each agency is also required to send copies of the report to the Chair of the Senate Committee on Homeland Security and Governmental Affairs and the Chair of the House Committee on Oversight and Government Reform. These reports are included to permit an evaluation of the probable effect of the proposal on the privacy rights of individuals.

The National Center for Education Evaluation and Regional Assistance at the Department's Institute of Education Sciences (IES) commissioned a study to conduct an evaluation of the impacts of two different experiments involving the Pell Grant eligibility criteria. The first experiment expands eligibility for Pell Grants to income-eligible students who already possess a bachelor's degree and who enroll in occupational training. The second experiment expands eligibility for Pell Grants to students who enroll in occupational programs that have a shorter duration than allowable under current rules. Both experiments are being implemented under the Experimental Sites Initiative (ESI), authorized by section 487A(b) of the Higher Education Act of 1965 (HEA) (20 U.S.C. 1094a(b)), which allows the Secretary to grant waivers from specific title IV HEA statutory or regulatory requirements to allow institutions to test alternative methods for administering those Federal student aid programs. The study will compare students with expanded access to Pell Grants to similar students who will not have access, in order to assess the effects of expanded Pell Grant access on educational attainment, employment, and earnings. It will be conducted under a contract that IES awarded in September 2012.

The study will provide credible and reliable information to help guide future policy decisions in the area of Federal financial aid. The central research questions that the study will address are: What is the impact of expanding Pell Grant eligibility on employment and earnings? Does it improve access to occupational training? How does it affect financial aid receipt and student debt?

The system will contain records on approximately 10,800 students from approximately 51 participating institutions of higher education.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: January 3, 2013.

John Q. Easton,

Director, Institute of Education Sciences.

For the reasons discussed in the preamble, the Director of the Institute of Education Sciences, U.S. Department of Education, publishes a notice of a new system of records to read as follows:

SYSTEM NUMBER:

18–13–31.

SYSTEM NAME:

Evaluation of the Pell Grants Experiments Under the Experimental Sites Initiative—2012.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

(1) Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences (IES), U.S.

Department of Education, 555 New Jersey Avenue NW., room 502D, Washington, DC 20208–0001.

(2) Social Policy Research Associates, 1330 Broadway, Suite 1426, Oakland, CA 94612–2513 (contractor).

(3) Mathematica Policy Research, Inc., 600 Alexander Park, Princeton, NJ 08540–6346 (subcontractor).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will contain records on approximately 10,800 students from approximately 51 institutions of higher education.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records includes individually identifying information about the students who agree to participate in the study. This information includes name, birth date, and contact information; demographic information such as race, ethnicity, gender, age, and educational background; the type of program in which the student is enrolled, the student's progress through the program (credits earned) including completion; methods used to pay for the education and training, including financial aid received and amount of student debt incurred; receipt of support services; and information on employment and earnings.

It is also our intention to include students' Social Security Numbers (SSNs) to obtain information on their financial aid and their employment and earnings; we expect to obtain the students' employment and earnings data from the administrative records of another Federal agency. Other methods for obtaining the information (i.e., self-reporting) have proven to be infeasible and unreliable. SSNs are necessary to obtain the needed employment and earnings data, and this method will place a low burden on students and will not be costly to the Federal government.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The study is authorized by section 487A(b)(2) of the Higher Education Act of 1965 (HEA), 20 U.S.C. 1094a(b)(2), which requires the Secretary of Education to review and evaluate the experiences of institutions that participate as experimental sites and to submit a biennial report based on the review and evaluation to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives. The study is also authorized by section 173(a)(1)(A) of the Education Sciences Reform Act of 2002 (ESRA) (20 U.S.C. 9563(a)(1)(A)), which authorizes the National Center for Education Evaluation and Regional Assistance to conduct evaluations of Federal education programs administered by the Secretary and to determine the impact of such programs.

PURPOSE(S):

The information contained in the records maintained in this system will support an evaluation of the impacts of two different experimental expansions to the Pell Grant eligibility criteria. The first experiment expands eligibility for Pell Grants to income-eligible students who already possess a bachelor's degree and who enroll in occupational training, while the second experiment expands eligibility for Pell Grants to students who enroll in occupational programs that have a shorter duration than allowable under current rules. Both experiments are being implemented under the Experimental Sites Initiative (ESI), authorized by section 487A(b) of the HEA. The study will compare students with expanded access to Pell Grants to similar students who will not have access in order to assess the effects of expanded Pell Grant access on educational attainment, employment, and earnings. The study will address the following research questions:

1. What is the impact of expanding Pell Grant eligibility on employment and earnings? The ultimate goal of the study is to determine if providing Pell Grants for those with a bachelor's degree and for relatively short-term job training affects participants' job prospects and income levels.

2. Does it improve access to occupational training? Understanding whether the experiments made a difference in training enrollments will help in interpreting the presence or lack of earnings impacts.

3. How does it affect financial aid receipt and student debt? With student debt loads being an increasing public policy concern, expansions in Pell Grant eligibility are intended to reduce reliance on loans that may carry high interest levels. The study will examine the impacts of the experiments on the types and amounts of financial aid students receive and on their expenditures for education and training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement. Any disclosure of individually identifiable information from a record in this system must also comply with the requirements of section 183 of the ESRA (20 U.S.C. 9573) providing for confidentiality standards that apply to all collections, reporting, and publication of data by IES.

(1) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(2) *Federal Agency Disclosure.* The Department may disclose records from this system of records to another Federal agency for the purposes of allowing that agency to provide assistance to the Department with the evaluation of a federally supported education program. Under the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g and 34 CFR part 99, the Department will enter into an interagency agreement with the other Federal agency designating that agency as the Department's authorized representative before disclosing any personally identifiable information from any students' education records to that Federal agency. Under the terms of such an interagency agreement, the Federal agency will not be permitted to redisclose any personally identifiable information obtained from students' education records, and will be required to destroy any personally identifiable information from students' education records when no longer needed for the purposes of the evaluation as well as to maintain safeguards to protect the confidentiality of any personally identifiable information disclosed.

(3) *Research Disclosure.* The Director of the Institute of Education Sciences may disclose information from this system of records to qualified researchers solely for the purpose of carrying out specific research that is compatible with the purpose(s) of this system of records. The researcher shall be required to maintain safeguards under the Privacy Act of 1974 and section 183 of the ESRA (20 U.S.C.

9573(c)) with respect to such records. When personally identifiable information from a student's education record will be disclosed to the researcher under FERPA, the researcher also shall be required to comply with the requirements in the applicable FERPA exception to consent.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Department maintains records on CD–ROM, and the contractor (Social Policy Research Associates) and subcontractor (Mathematica Policy Research, Inc.) maintain data for this system on computers and in hard copy.

RETRIEVABILITY:

Records in this system are indexed and retrieved by a number assigned to each individual that is cross-referenced by the individual's name on a separate list.

SAFEGUARDS:

All physical access to the Department's site and to the site of the Department's contractor and subcontractor, where this system of records is maintained, is controlled and monitored by security personnel. The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a need-to-know basis, and controls individual users' ability to access and alter records within the system. The contractor and subcontractor will establish a similar set of procedures at its site to ensure confidentiality of data. The contractor's and subcontractor's systems are required to ensure that information identifying individuals is in files physically separated from other research data. The contractor and subcontractor will maintain security of the complete set of all master data files and documentation. Access to individually identifying data will be strictly controlled. All data will be kept in locked file cabinets during nonworking hours, and work on hardcopy data will take place in a single room, except for data entry. Physical security of electronic data will also be maintained. Security features that protect project data include: Password-protected accounts that authorize users to use the contractor's system but to access only specific network directories and network software; user rights and directory and file attributes that limit those who can use particular directories and files and determine how they can use them; and additional security features that the network administrators will establish for projects as needed. The contractor's and subcontractor's employees who "maintain" (collect, maintain, use, or disseminate) data in this system shall comply with the requirements of the confidentiality standards in section 183 of the ESRA (20 U.S.C. 9573).

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with the Department's Records Disposition Schedule 068 (NARA Disposition Authority N1–441–08–18).

SYSTEM MANAGER AND ADDRESS:

Associate Commissioner, Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue NW., room 502D, Washington, DC 20208–0001.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the systems manager. Your request must meet the requirements of regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURE:

If you wish to gain access to your record in the system of records, contact the system manager. Your request must meet the requirements of regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURE:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

This system contains records on students participating in the Evaluation of the Pell Grant Experiments Under the Experimental Sites Initiative. Data will be obtained through student records maintained by participating institutions, a survey of students, data extracts from Free Applications for Federal Student Aid, and from the administrative records of another Federal agency with data on the students' earnings and employment outcomes.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2013–00163 Filed 1–7–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Energy Efficiency and Renewable Energy

State Energy Advisory Board (STEAB)

AGENCY: Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of Open Teleconference.

SUMMARY: This notice announces a teleconference call of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, January 24, 2013 from 3:30 p.m. to 4:00 p.m. (EST). To receive the call-in number and passcode, please contact the Board's Designated Federal Officer (DFO) at the address or phone number listed below.

FOR FURTHER INFORMATION CONTACT: Gil Sperling, STEAB Designated Federal Officer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585. Phone number is (202) 287–1644.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Receive an update on the activities of the STEAB's Taskforces, review the activities of the newly formed STEAB Strategic Planning Subcommittee, and provide an update to the Board on routine business matters and other topics of interest, and begin discussion planning for a spring 2013 meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gil Sperling at the address or telephone number listed above. Requests to make oral comments must be received five days prior to the

meeting; reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days on the STEAB Web site at: *www.steab.org.*

Issued at Washington, DC, on January 2, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–00106 Filed 1–7–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ13–8–000]

City of Anaheim, California; Notice of Filing

Take notice that on December 21, 2012, City of Anaheim, California submitted its tariff filing per 35.28(e): Anaheim 2013 TRBAA Update to be effective 1/1/2013.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on January 11, 2013.

Dated: January 2, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–00119 Filed 1–7–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2524–018]

Grand River Dam Authority; Notice of Telephone Meeting To Discuss the Salina Pumped Storage Project Water Quality Study Results

a. *Date and Time of Meeting:* Wednesday, January 16, 2013; 2 p.m. Central Standard Time, (3 p.m. Eastern Standard Time).

b. *Place:* Teleconference hosted by Grand River Dam Authority. (An RSVP is required. See paragraph f below.)

c. *FERC Contact:* Stephen Bowler at (202) 505–6861 or *stephen.bowler@ferc.gov;* or Jeanne Edwards at (202) 502–6181 or *jeanne.edwards@ferc.gov.*

d. *Purpose of Meeting:* As a follow-up to its study report meeting of October 11, 2012, the Grand River Dam Authority (GRDA) is holding a technical meeting to discuss the results of the Water Quality Study as they stand at the conclusion of fieldwork.

e. *Proposed Agenda:*

(1) GRDA: Introduction

(2) Oklahoma Water Resources Control Board (OWRB): Water quality study results at the conclusion of fieldwork

(3) GRDA, OWRB, and other participants: Discussion

f. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to participate by phone. Please email Jacklyn Jaggars by close of business on Monday, January 14, 2013, at *jjaggars@grda.com* to RSVP and to receive specific instructions on how to participate.

Dated: January 2, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–00120 Filed 1–7–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Membership of Performance Review Board for Senior Executives (PRB)

The Federal Energy Regulatory Commission hereby provides notice of the membership of its Performance Review Board (PRB) for the Commission's Senior Executive Service (SES) members. The function of this board is to make recommendations relating to the performance of senior executives in the Commission. This action is undertaken in accordance with Title 5, U.S.C., Section 4314(c)(4).

The Commission's PRB will remove the following member:

Joseph H. McClelland

Dated: January 2, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–00121 Filed 1–7–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Membership of Performance Review Board for Senior Executives (PRB)

The Federal Energy Regulatory Commission hereby provides notice of the membership of its Performance Review Board (PRB) for the Commission's Senior Executive Service (SES) members. The function of this board is to make recommendations relating to the performance of senior executives in the Commission. This action is undertaken in accordance with Title 5, U.S.C., Section 4314(c)(4).

The Commission's PRB will remove the following member:

Charles H. Schneider

The Commission's PRB will add the following member:

Anton C. Porter, PRB Chairman

Dated: January 2, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–00118 Filed 1–7–13; 8:45 am]

BILLING CODE 6717–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 2012–0561]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

Ex-Im Bank has made the following changes to this form:

Under Approved Finance Provided added the following programs:

Master Guarantee Agreement
Working Capital Guarantee
Global Credit Express—Originating Lender
Other (please specify)

Under Required Supplemental Information paragraph d—change to read:

d. Description of Applicant's trace finance and or commercial lending or asset based lending experience and a description of said experience of each member of senior management and each person who will be responsible for the Ex-Im Bank relationship, including each person who will sign the MGA (if one is being requested) or other documents to be submitted to Ex-Im Bank.

Updated all Certifications and Notices as needed.

The Application for Approved Finance Provider will be used to determine if the finance provider has the financial strength and administrative staff to originate, administer, collect, and if needed, restructure international loans. This application will also improve Ex-Im Bank's compliance with the Open Government initiative by providing transparency into specific information used to determine if an applicant is qualified to use our loan guarantee programs. Export-Import Bank potential finance providers will be able to submit this form on paper. In the future, we will consider allowing the submission of this information electronically.

The survey form can be viewed at *www.exim.gov/pub/EIB10.06.pdf.*

DATES: Comments should be received on or before February 7, 2013 to be assured of consideration.

ADDRESSES: Comments may be submitted through *www.Regulations.Gov* or mailed to Jeffrey Abramson, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 10–06 Application for Approved Finance Provider.

OMB Number: 3048–0032.

Type of Review: Renewal.

Need and Use: The Application for Approved Finance Provider will be used to determine if the finance provider has the financial strength and administrative staff to originate, administer, collect, and if needed, restructure international loans. This application will also improve Ex-Im Bank's compliance with the Open Government initiative by providing transparency into specific information used to determine if an applicant is qualified to use our loan guarantee programs. Export-Import Bank potential finance providers will be able to submit this form on paper.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 50.

Estimated Time per Respondent: 3.0 hours.

Government Burden Hours: 100 hours.

Estimated Government Burden Cost: $6,000.00.

Frequency of Reporting or Use: Yearly.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2013–00143 Filed 1–7–13; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 2012–0558]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 million: AP086856XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States ("Ex-Im Bank"), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction.

Reference: AP086856XX.

Purpose and Use

Brief description of the purpose of the transaction:

To support the export of U.S.-manufactured commercial aircraft to Luxembourg.

Brief non-proprietary description of the anticipated use of the items being exported:

To provide cargo services globally.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported are not expected to be used to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties

Principal Supplier: The Boeing Company.

Obligor: Cargolux Airlines International S.A.

Guarantor(s): N/A.

Description of Items Being Exported

The items being exported are Boeing 747 aircraft.

Information On Decision: Information on the final decision for this transaction will be available in the "Summary Minutes of Meetings of Board of Directors" on *http://www.exim.gov/articles.cfm/board%20minute.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

DATES: Comments must be received on or before February 4, 2013 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *www.regulations.gov.* To submit a comment, enter EIB–2012–0053 under the heading "Enter Keyword or ID" and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name,

company name (if any) and EIB–2012–0053 on any attached document.

Sharon A. Whitt,

Records Clearance Officer.

[FR Doc. 2013–00142 Filed 1–7–13; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 1, 2013.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Van Buren Bancorporation, Inc.*, Keosauqua, Iowa; to acquire 100 percent of First Iowa State Bank, Albia, Iowa.

Board of Governors of the Federal Reserve System, January 3, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–00108 Filed 1–7–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 23, 2013.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Baylake Corporation*, Sturgeon Bay, Wisconsin; to acquire 100 percent of the voting shares of Admiral Asset Management, LLC, Green Bay, Wisconsin and thereby indirectly engage in providing financial advice and agency transactional services for customers, pursuant to sections 225.28(b)(6) and (b)(7) all of Regulation Y.

Board of Governors of the Federal Reserve System, January 3, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–00107 Filed 1–7–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Natural History and Prevention of Viral Hepatitis Among Alaska Natives, Funding Opportunity Announcement (FOA) PS13–001, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 1:00 p.m.–3:00 p.m., February 11, 2013 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to "Natural History and Prevention of Viral Hepatitis Among Alaska Natives, FOA PS13–001."

Contact Person for More Information: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road, NE., Mailstop E60, Atlanta, Georgia 30333, Telephone: (404) 718–8833.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 2, 2013.

Dana Redford,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–00136 Filed 1–7–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10457]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection (request for a new OMB control number). *Title of Information Collection:* MAC Satisfaction Indicator (MSI) Participant Information Registration Form. *Use:* Section 1874(A)(b)(3)(B) of the Social Security Act requires that provider satisfaction be a performance standard for the work of Medicare Administrative Contractors (MACs). In order to gain provider feedback regarding their satisfaction with their MACs, we need to be able to contact the providers. Therefore, we need accurate contact information to: select from a random sample, forward the survey to the appropriate respondent, and increase response rates. The survey will not be added to this package. Instead, it will be processed under a different control number via an Interagency Agreement. *Form Number:* CMS–10457 (OCN 0938–New). *Frequency:* Yearly. *Affected Public:* Private Sector (business or other for-profit and not-for-profit institutions). *Number of Respondents:* 150,000. *Total Annual Responses:* 150,000. *Total Annual Hours:* 2,500. (For policy questions regarding this collection contact Teresa Mundell at 410–786–9176. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *March 11, 2013*:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov*. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 2,,2013.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–00065 Filed 1–7–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Descriptive Study of County versus State-Administered Temporary Assistance for Needy Families (TANF) Programs.

OMB No.: New Collection.

Description: The Administration for Children and Families (ACF) is proposing an information collection activity as part of the Descriptive Study of County and State Administered TANF Programs. The proposed information collection consists of semi-structured interviews with key County and State staff on questions of county TANF administration, policies, service delivery, and program context. Through this information collection, ACF seeks to gain an in-depth, systematic understanding of the differences in program implementation, operations, outputs and outcomes between state and county administered TANF programs, and identify special technical assistance needs of state supervised, county administered programs.

Respondents: Semi-structured interviews will be held with state and county TANF administrators and staff.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Discussion Guide for use with county TANF Administrators	12	1	1.5	18
Discussion Guide for use with state TANF Administrators or program managers	6	1	1	6
Discussion Guide for use with state human service department director or cabinet-level official	6	1	1	6
Discussion Guide for use with county executives or county board members	12	1	1	12
Discussion Guide for use with County TANF directors' associations, or similar organizations	6	1	1.5	9
Estimated Total Annual Burden Hours:				51

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer.

Email address: *OPREinfocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Steven M. Hammer,

Reports Clearance Officer; Office of Planning, Research and Evaluation

[FR Doc. 2012–31714 Filed 1–7–13; 8:45 am]

BILLING CODE 4184–09–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Head Start Grant Application and Budget Instruments.

OMB No.: 0970–0207.

Description: The Office of Head Start is proposing to renew, without changes, the Head Start Grant Application and Budget Instrument, which standardizes the grant application information that is requested from all Head Start and Early Head Start grantees applying for continuation grants. The application and budget forms are available in a password-protected, web-based system. Completed applications can be transmitted electronically to Regional and Central Offices. The Administration for Children and Families believes that this application form makes the process of applying for Head Start program grants more efficient for applicants.

Respondents: Head Start and Early Head Start grantees.

Respondents

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
HS grant and budget instrument	1,600	1	33	52,800

Estimated Total Annual Burden Hours: 52,800.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov*.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2013–00127 Filed 1–7–13; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1984.

HRSA especially requests comments on: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Information Collection Request Title: National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners—45 CFR Part 60 Regulations and Forms OMB No. 0915–0126—Revision

Abstract: This is a request for a revision of OMB approval of the information collections contained in regulations found at 45 CFR Part 60 governing the National Practitioner Data Bank (NPDB) and the forms to be used in registering with, reporting information to, and requesting information from the NPDB. Section 6403 of the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) Public Law 111–148 requires the transfer of all data in the Healthcare Integrity and Protection Data Bank (HIPDB) to the NPDB. Data collection will not change; however, the merger will consolidate forms from OMB No. 0915–0239 for HIPDB under OMB No. 0915–0126 for NPDB. Responsibility for NPDB implementation and operation resides in the Bureau of Health Professions, Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS). Operation of the HIPDB was delegated by the HHS Office of the Inspector General to HRSA. This rule

eliminates duplicative data reporting and access requirements between the HIPDB [established through the Health Insurance Portability and Accountability Act of 1996 (HIPPA) under Section 1128(b)(5) of the Social Security Act (42 U.S.C. 1320a–7e)] and the NPDB [established through the Health Care Quality Improvement Act of 1986 under Title IV (42 U.S.C. 11101 *et seq.*) and expanded by Section 1921 of the Social Security Act (42 U.S.C. 1396r–2)]. Information previously collected and disclosed through the HIPDB will be collected and disclosed through the NPDB. Section 6403 of the Affordable Care Act consolidates the collection and disclosure of information from both data banks under Title 45 part 60 of the Code of Federal Regulations (CFR). The Department of Health and Human Services (HHS) will subsequently remove Title 45 part 61, which implemented the HIPDB.

The intent of NPDB is to improve the quality of health care by encouraging hospitals, state licensing boards, professional societies, and other entities providing health care services, to identify and discipline those who engage in unprofessional behavior; and to restrict the ability of incompetent health care practitioners, providers, or suppliers to move from state to state without disclosure of previous damaging or incompetent performance. It also serves as a fraud and abuse clearinghouse for the reporting and disclosing of certain final adverse actions (excluding settlements in which no findings of liability have been made) taken against health care practitioners, providers, or suppliers by health plans, federal agencies, and state agencies.

The NPDB acts primarily as a flagging system; its principal purpose is to facilitate comprehensive review of practitioners' professional credentials and background. Information is collected from, and disseminated to, eligible entities (entities that are entitled to query and/or report to the NPDB under the three aforementioned statutory authorities) on the following: (1) Medical malpractice payments, (2) licensure actions taken by Boards of Medical Examiners, (3) state licensure and certification actions, (4) federal licensure and certification actions, (5) negative actions or findings taken by peer review organizations or private accreditation entities, (6) adverse actions taken against clinical privileges, (7) federal or state criminal convictions related to the delivery of a health care item or service, (8) civil judgments related to the delivery of a health care item or service, (9) exclusions from participation in federal or state health care programs, and (10) other adjudicated actions or decisions. It is intended that NPDB information should be considered with other relevant information in evaluating credentials of health care practitioners, providers, and suppliers.

The reporting forms and the request for information forms (query forms) are accessed, completed, and submitted to the NPDB electronically through the NPDB Web site at *http://www.npdb-hipdb.hrsa.gov/*. All reporting and querying is performed through this secure Web site.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

The annual estimate of burden is as follows:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Entity Registration (initial)	856	1	856	1	856
Entity Registration (renewal)	12,748	1	12,748	1	12,748
Individual Subject Query	4,460,926	1	4,460,926	0.1	446,093
Individual Self Query	64,187	1	64,187	0.4	25,675
Title IV Clinical Privileges Action	862	1	862	0.75	647
Professional Society Membership Action	67	1	67	0.75	50
State Licensure Action	62,178	1	62,178	0.75	46,634
DEA/Federal Licensure Action	497	1	497	0.75	373
Exclusion/Debarment	16,243	1	16,243	0.75	12,182
Government and Administrative Action	2,592	1	2,592	0.75	1,944
Health Plan Action	515	1	515	0.75	386
Civil Judgment	10	1	10	0.75	8
Criminal Conviction	1,253	1	1,253	0.75	940
Medical Malpractice Payment	13,326	1	13,326	0.75	9,995
Private Accreditation Entity and Peer Review Organization	10	1	10	0.75	8
Authorized Agent Designation Form (Add & Edit)	2055	1	2055	0.25	514
Account Discrepancy Report	20	1	20	0.25	5
Report Review Request Form	83	1	83	.25	21
Electronic Transfer Funds Authorization	276	1	276	0.25	69
Subject Statement and Dispute Initiation Form (Individual & Organization)	100	1	100	1	100
TOTAL	4,641,704		4,641,704		561,395

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Deadline: Comments on this Information Collection Request must be received within 60 days of this notice.

Dated: December 21, 2012.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–00031 Filed 1–7–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group Bioengineering of Neuroscience, Vision and Low Vision Technologies Study Section.

Date: February 7, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin St. Francis Hotel, 335 Powell Street, San Francisco, CA 94102.

Contact Person: Robert C Elliott, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group, Biomedical Imaging Technology A Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

Contact Person: Behrouz Shabestari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–2409, *shabestb@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Cellular Aspects of Diabetes and Obesity Study Section.

Date: February 7, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Robert Garofalo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 6156, MSC 7892, Bethesda, MD 20892, 301–435–1043, *garofalors@csr.nih.gov*.

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group Neuroscience and Ophthalmic Imaging Technologies Study Section.

Date: February 7, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington DC, Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Yvonne Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5199, MSC 7846, Bethesda, MD 20892, 301–379–3793, *bennetty@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group Chemo/Dietary Prevention Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Sally A Mulhern, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, MSC 7804, Bethesda, MD 20892, (301) 408–9724, *mulherns@csr.nih.gov*.

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group Enabling Bioanalytical and Imaging Technologies Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Dennis Hlasta, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6185, MSC, Bethesda, MD 20892, 301–435–1047, *dennis.hlasta@nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Clinical and Integrative Diabetes and Obesity Study Section.

Date: February 7, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Nancy Sheard, SCD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046–E, MSC 7892, Bethesda, MD 20892, 301–408–9901, *sheardn@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 2, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–00088 Filed 1–7–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: January 24, 2013.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: The NIH Recombinant DNA Advisory Committee (RAC) will discuss Biosafety measures for research with highly pathogenic avian influenza H5N1 strains that have the potential to be transmissible through respiratory droplets and related data management activities. Please check the meeting agenda at OBA Meetings Page (available at the following URL: *http://oba.od.nih.gov/rdna_rac/rac_meetings.html*) for more information.

Place: National Institutes of Health, Building 45, Lower Level, Conference Room C1–C2, 45 Center Drive, Rockville, MD 20892.

Contact Person: Chezelle George, Office of Biotechnology Activities, Office of Science Policy/OD, National Institutes of Health, 6705 Rockledge Drive, Room 750, Bethesda, MD 20892, 301–496–9838, *georgec@od.nih.gov*.

Information is also available on the Institute's/Center's home page: *http://oba.od.nih.gov/rdna/rdna.html*, where an agenda and any additional information for the meeting will be posted when available.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11,

1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

OBA will offer those members of the public viewing the meeting via webcast (see link on *OBA Meetings Page*) the opportunity to submit comments to be read during the scheduled public comment periods. Individuals wishing to submit comments should use the comment form, which will accommodate comments up to 1500 characters, and will be available on the *OBA Meetings Page* during the meeting. Please submit your comment prior to the start of the public comment period. Please limit your comment to a statement that can be read in one to two minutes. Please include your name and affiliation with your comment.

OBA will read comments into the record during the public comment periods that are specified on the agenda. Please note, while every effort is made to keep the meeting discussions to the times stated on the agenda, it is not unusual for the meeting to run ahead or behind schedule due to changes in the time needed to review a protocol. It is advisable to monitor the webcast to determine when public comments will be read. Comments submitted electronically will follow any comments by individuals attending the meeting in person. Comments will be read in the order received and your name and affiliation will be read with the comment. Please note OBA may not be able to read every comment received in the time allotted for public comment. Comments not read will become part of the public record.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Dated: January 3, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–00089 Filed 1–7–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel Chemosensory P50 Review.

Date: January 31, 2013.

Time: 12:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sheo Singh, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683, *singhs@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel, SBIR Review Meeting.

Date: February 5, 2013.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852.

Contact Person: Sheo Singh, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683, *singhs@nidcd.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: December 31, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–00087 Filed 1–7–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2012–1080]

Merchant Marine Personnel Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Merchant Marine Personnel Advisory Committee (MERPAC). This Committee advises the Secretary of the Department of Homeland Security on matters related to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards.

DATES: Applicants should submit a cover letter and resume in time to reach the Alternate Designated Federal Officer (ADFO) on or before March 11, 2013.

ADDRESSES: Applicants should send their cover letter and resume to the following address: Commandant (CG–OES–1), ATTN MERPAC, US Coast Guard, 2100 2ND ST SW STOP 7126, WASHINGTON DC 20593–7126; or by faxing (202) 372–1926; or by emailing to *davis.j.breyer@uscg.mil.* This notice is available in our online docket, USCG–2012–1080, at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Davis J. Breyer, ADFO of MERPAC; telephone 202–372–1445 or email at *davis.j.breyer@uscg.mil.*

SUPPLEMENTARY INFORMATION: MERPAC is a Federal advisory committee established under the authority of section 871 of The Homeland Security Act of 2002, (Title 6, United States Code, section 451). This committee is established in accordance with and operates under the provisions of the *Federal Advisory Committee Act* (FACA) (Title 5, United States Code, Appendix). MERPAC advises the Secretary of the Department of Homeland Security on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

MERPAC is expected to meet approximately twice a year as called for by its charter, once at or near Coast Guard Headquarters, Washington, DC, and once at a location outside of Washington. It may also meet for extraordinary purposes. Its subcommittees and working groups may also meet to consider specific tasks as required.

We will consider applications for six positions that expire or become vacant on June 1, 2013. To be eligible, you should have experience in one or more of the following areas of expertise: One position for a marine educator representing the viewpoint of State Maritime Academies; one position for a licensed engineering officer who is licensed as either a limited chief engineer or a designated duty engineer; one position for a licensed deck officer with an unlimited tonnage master's license with experience on tank vessels; one position for a member who represents the viewpoint of shipping companies employed in ship operation management; one position for an unlicensed seaman who represents the viewpoint of Qualified Members of the Engine Department; and one position for a member who will be drawn from the general public.

If you are selected as a member from the general public, you will be appointed and serve as a Special Government Employee (SGE) as defined in section 202(a) of title 18, United States Code. As a candidate for appointment as a SGE, applicants are required to complete a Confidential Financial Disclosure Report (OGE Form 450). A completed OGE Form 450 is not releasable to the public except under an order issued by a Federal court or as otherwise provided under the *Privacy Act* (5 U.S.C. 552a). Only the Designated Agency Ethics Official (DAEO) or his or her designee may release a Confidential Financial Disclosure Report. Applicants can obtain this form by going to the Web site of the Office of Government Ethics (*www.oge.gov*) or by contacting the individual listed above in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Applications not accompanied by a completed OGE-Form 450 will not be considered.

Registered lobbyists are not eligible to serve on federal advisory committees. Registered lobbyists are lobbyists required to comply with provisions contained in the *Lobbying Disclosure Act of 1995* (Pub. L. 104–65 as amended).

Each MERPAC committee member serves a term of office of up to three years. Members may be considered to serve consecutive terms. All members serve without compensation from the Federal Government; however, upon request, they do receive travel reimbursement and per diem.

The Department of Homeland Security (DHS) does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or any other non-merit factor.

If you are interested in applying to become a member of the Committee, send your cover letter and resume to Davis J. Breyer, ADFO of MERPAC by mail, fax, or email according to the instructions in the **ADDRESSES** section of this notice. Send your cover letter and resume in time for it to be received by the ADFO on or before March 11, 2013.

To visit our online docket, go to *http://www.regulations.gov*, enter the docket number for this notice (USCG–2012–1080) in the Search box, and click "Search". Please do not post your resume on this site. During the vetting process, applicants may be asked to provide date of birth and social security number.

Dated: December 31, 2012.

J. G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2013–00090 Filed 1–7–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0010]

Agency Information Collection Activities: Nonimmigrant Petition Based on Blanket L Petition; Form I–129S; Revision of a Currently Approved Collection

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until March 11, 2013.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0010 in the subject box, the agency name and Docket ID USCIS–2006–0050. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *www.Regulations.gov* under e-Docket ID number USCIS–2006–0050;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov*;

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov*, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal

information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov*.

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check "My Case Status" online at: *https://egov.uscis.gov/cris/Dashboard.do*, or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Nonimmigrant Petition Based on Blanket L Petition.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–129S; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or others for profit. This form is used by an employer to classify employees as L–1 nonimmigrant intracompany transferees under a blanket L petition approval. USCIS will use the data on this form to determine eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 75,000 responses at 1.5 hours (1 hour and 30 minutes) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 112,500 annual burden hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov*. We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

Dated: January 3, 2013.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2013–00161 Filed 1–7–13; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Delivery Ticket

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Delivery Ticket (CBP 6043). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (77 FR 65900) on October 31, 2012, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before February 7, 2013.

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC. 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Delivery Ticket.

OMB Number: 1651–0081.

Form Number: CBP Form 6043.

Abstract: CBP Form 6043, *Delivery Ticket*, is used to document transfers of imported merchandise between parties. This form collects information such as the name and address of the consignee; the name of the importing carrier; lien information; the location of where the goods originated and where they were delivered; and information about the imported merchandise. CBP Form 6043 is filled out by warehouse proprietors,

carriers, Foreign Trade Zone operators and others involved in transfers of imported merchandise. This form is authorized by 19 U.S.C .1551a and 1565, and provided for by 19 CFR 4.34, 4.37 and 19.9. It is accessible at: *http://forms.cbp.gov/pdf/CBP_Form_6043.pdf*

Action: CBP proposes to extend the expiration date of this information collection with no change to the estimated burden hours.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 1000.

Estimated Number of Annual Responses per Respondent: 200.

Estimated Number of Total Annual Responses: 200,000.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 66,000.

Dated: January 3, 2013.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2013–00141 Filed 1–7–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Guarantee of Payment

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Guarantee of Payment (CBP Form I–510). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (77 FR 65899) on October 31, 2012, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before February 7, 2013.

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Guarantee of Payment.

OMB Number: 1651–0127.

Form Number: CBP Form I–510.

Abstract: Section 253 of the Immigration and Nationality Act (INA) requires that an alien crewman found to be or suspected of being afflicted with any of the diseases named in section 255 of the INA shall be placed in a hospital for treatment and/or observation with the expense of such observation and/or treatment being borne by the carrier. The guarantee of payment for medical and other related expenses required by section 253 of the Act shall be executed by the owner, agent, consignee, commanding officer or master of the vessel or aircraft on CBP Form I–510, *Guarantee of Payment.* No vessel or aircraft can be granted clearance until such expenses are paid or the payment is appropriately guaranteed.

CBP Form I–510 collects information such as the name of the owner, agent, commander officer or master of the vessel or aircraft; the name of the crewman; the port of arrival; and signature of the guarantor. This form is provided for by 8 CFR 253.1 and is accessible at: *http://forms.cbp.gov/pdf/CBP_Form_i510.pdf.*

Action: CBP proposes to extend the expiration date of this information collection with no change to the estimated burden hours or to CBP Form I–510.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 100.

Estimated Number of Total Annual Responses: 100.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 8.

Dated: January 3, 2013.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2013–00150 Filed 1–7–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Regulations Relating to Recordation and Enforcement of Trademarks and Copyrights

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Regulations Relating to Recordation and Enforcement of Trademarks and Copyrights (Part 133 of

the CBP Regulations). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (77 FR 64533) on October 22, 2012, allowing for a 60-day comment period. Two comments were received. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before February 7, 2013.

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency/component estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Regulations Relating to Recordation and Enforcement of Trademark and Copyrights (Part 133 of the CBP Regulations).

OMB Number: 1651–0123.

Form Number: None.

Abstract: In accordance with 19 CFR part 133, trademark and trade name owners and those claiming copyright protection may submit information to CBP to enable CBP officers to identify violating articles at the borders. Parties seeking to have merchandise excluded from entry must provide proof to CBP of the validity of the rights they seek to protect. The information collected by CBP is used to identify infringing goods at the borders and determine if such goods infringe on intellectual property rights for which federal law provides import protection. Respondents may submit their information to CBP electronically at *https://apps.cbp.gov/e-recordations/*, or they may submit their information on paper in accordance with 19 CFR 133.2 and 133.3 for trademarks, or 19 CFR 133.32 and 133.33 for copyrights.

Current Actions: This submission is being made to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses and Individuals.

Estimated Number of Respondents: 2,000.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 4,000.

Dated: January 3, 2013.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2013–00144 Filed 1–7–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Ponstel® (Mefenamic Acid) Capsules

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection ("CBP") has issued a final determination concerning the country of origin of Ponstel® (mefenamic acid) capsules. Based upon the facts presented, CBP has concluded in the final determination that India is the country of origin of the Ponstel (mefenamic acid) capsules for purposes of U.S. Government procurement.

DATES: The final determination was issued on December 26, 2012. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination on or before February 7, 2013.

FOR FURTHER INFORMATION CONTACT: Heather K. Pinnock, Valuation and Special Programs Branch: (202) 325–0034.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on December 26, 2012, pursuant to subpart B of part 177, Customs and Border Protection Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of Ponstel (mefenamic acid) capsules, which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, in HQ H233356, was issued at the request of West-Ward Pharmaceutical Corp., under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination CBP concluded that, based upon the facts presented, mefenamic acid from India, blended with excipients and packaged into dosage form in the United States, was not substantially transformed in the United States, such that India is the country of origin of the finished Ponstel (mefenamic acid) capsules for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register.**

Dated: January 3, 2013.

Jeremy Baskin,

Acting Executive Director, Regulations and Rulings, Office of International Trade.

Attachment

HQ H233356

December 26, 2012

MAR-2 OT:RR:CTF:VS H233356HkP

CATEGORY: Origin

Ms. Susan Todd
Senior Manager, Regulatory Affairs
West-Ward Pharmaceutical Corp.
435 Industrial Way West
Eatontown, NJ 07724

RE: Government Procurement; Trade Agreements Act; Country of Origin of Ponstel® (mefenamic acid) Capsules; Substantial Transformation

Dear Ms. Todd:

This is in response to your letter, dated August 21, 2012, requesting a final determination on behalf of West-Ward Pharmaceutical Corp. ("West-Ward") pursuant to subpart B of part 177 of the U.S. Customs and Border Protection ("CBP") Regulations (19 C.F.R. Part 177). Under these regulations, which implement Title III of the Trade Agreements Act of 1979 ("TAA"), as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of Ponstel (mefenamic acid) capsules. As a U.S. importer, West-Ward is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

West-Ward imports mefenamic acid powder in bulk form from India, where it is manufactured. Mefenamic acid is the active pharmaceutical ingredient ("API") in the pharmaceutical product Ponstel. Ponstel is indicated for the relief of mild to moderate pain caused by primary dysmenorrhea and is approved by the U.S. Food and Drug Administration, NDA no. 015034.

After importation, West-Ward combines the API, mefenamic acid, with inactive ingredients and processes it into dosage form. The inactive ingredients are lactose monohydrate, D&C Yellow No. 10, FD&C Yellow No. 6, gelatin, titanium dioxide, and food-grade inks. The mefenamic acid is added to a tumbler and blended. Lactose monohydrate, a diluent, is then added to the tumbler and blended with the API. The blend is transferred to an encapsulating machine and used to fill capsules purchased from a U.S. supplier. The capsules are packed into bottles of 30 capsules each, which are packaged and shipped to the U.S.-holder of the New Drug Application for Ponstel.

ISSUE:

What is the country of origin of Ponstel (mefenamic acid) capsules for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 CFR § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 C.F.R. § 177.22(a).

A substantial transformation occurs when an article emerges from a process with a new name, character and use different from that possessed by the article prior to processing. A substantial transformation will not result from a minor manufacturing or combining process that leaves the identity of the article intact. *See United States v. Gibson-Thomsen Co.*, 27 C.C.P.A. 267 (1940); and, *National Juice Products Association v. United States*, 628 F. Supp. 978 (Ct. Int'l Trade 1986).

In determining whether a substantial transformation occurs in the manufacture of chemical products such as pharmaceuticals, CBP has consistently examined the complexity of the processing and whether the final article retains the essential identity and character of the raw material. To that end, CBP has generally held that the processing of pharmaceutical products from bulk form into measured doses does not result in a substantial transformation of the product. *See e.g.*, Headquarters Ruling Letter ("HQ") 561975, dated April 3, 2002; HQ 561544, dated May 1, 2000; and, HQ 735146, dated November 15, 1993.

For instance, in HQ 561975, the anesthetic drug sevoflurane imported into the U.S. in bulk form and processed into dosage form by extensive testing operations, followed by filtering and packaging into bottles, was found not to have undergone a substantial transformation in the U.S. There was no change in name (the product was identified as sevoflurane in both its bulk and processed form). The sevoflurane retained its chemical and physical properties after the U.S. processing. Lastly, because the imported bulk sevoflurane had a predetermined medicinal use as an inhalable anesthetic drug, the processing in the United States resulted in no change in the product's use.

Likewise, in HQ 561544, the testing, filtering and sterile packaging of Geneticin Sulfate bulk powder, to create Geneticin Selective Antibiotic, was not found to have substantially transformed the antibiotic substance because the processing only involved the removal of impurities from the bulk chemical and the placement of the chemical into smaller packaging.

In HQ 735146, 100 percent pure acetaminophen imported from China was blended with excipients in the United States, granulated and sold to pharmaceutical companies to process into tablets for retail sale under private labels. U.S. Customs (now CBP) found that the process in the United States did not substantially transform the imported product because the product was referred to as acetaminophen both before importation and after U.S. processing, as imported the acetaminophen was used for medicinal purposes and continued to be so used after U.S. processing, and the granulating process minimally affected the chemical and physical properties of the acetaminophen.

In this case, the mefenamic acid imported from India is blended with excipients and packaged into dosage form in the United States. Based on the rulings above, we find that this process does not substantially transform the mefenamic acid because its chemical character remains the same. As such, we find that the country of origin of the Ponstel (mefenamic acid) capsules is India, where the mefanamic acid was manufactured.

HOLDING:

Based on the facts in this case, the blending and packaging operations performed in the United States do not substantially transform the mefenamic acid imported from India. Therefore, the country of origin of the Ponstel® (mefenamic acid) capsules is India for purposes of U.S. Government procurement.

Notice of this final determination will be given in the **Federal Register**, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Jeremy Baskin,

Acting Executive Director, Regulations and Rulings, Office of International Trade.

[FR Doc. 2013–00140 Filed 1–7–13; 8:45 am]

BILLING CODE:P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning January 1, 2013, the interest rates for

overpayments will be 2 percent for corporations and 3 percent for non-corporations, and the interest rate for underpayments will be 3 percent for both corporations and non-corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

DATES: *Effective Date:* January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614–4516.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2012–32, the IRS determined the rates of interest for the calendar quarter beginning January 1, 2013, and ending on March 31, 2013. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (1%) plus one percentage point (1%) for a total of two percent (2%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). These interest rates are subject to change for the calendar quarter beginning April 1, 2013, and ending June 30, 2013.

For the convenience of the importing public and U.S. Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	*Under-payments (percent)*	Over-payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
070174	063075	6	6	.....
070175	013176	9	9	.....
020176	013178	7	7	.....
020178	013180	6	6	.....
020180	013182	12	12	.....
020182	123182	20	20	.....
010183	063083	16	16	.....
070183	123184	11	11	.....
010185	063085	13	13	.....
070185	123185	11	11	.....
010186	063086	10	10	.....
070186	123186	9	9	.....
010187	093087	9	8	.....
100187	123187	10	9	.....
010188	033188	11	10	.....
040188	093088	10	9	.....
100188	033189	11	10	.....
040189	093089	12	11	.....
100189	033191	11	10	.....
040191	123191	10	9	.....
010192	033192	9	8	.....
040192	093092	8	7	.....
100192	063094	7	6	.....
070194	093094	8	7	.....
100194	033195	9	8	.....
040195	063095	10	9	.....
070195	033196	9	8	.....
040196	063096	8	7	.....
070196	033198	9	8	.....
040198	123198	8	7	.....
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6

Beginning date	Ending date	*Under-payments (percent)*	Over-payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	033113	3	3	2

Dated: January 2, 2013.

Thomas S. Winkowski,

Acting Deputy Commissioner, U.S. Customs and Border Protection.

[FR Doc. 2013–00146 Filed 1–7–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5667–N–01]

Supportive Housing for the Elderly; Advance Notice of Senior Preservation Rental Assistance Contracts Award Process

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

ACTION: Notice.

SUMMARY: The Section 202 Supportive Housing for the Elderly Act of 2010, signed into law in January 2011, authorizes HUD to provide Senior Preservation Rental Assistance Contracts (SPRACs) with 20-year terms to prevent displacement of elderly residents of certain projects assisted under HUD's Section 202 Supportive Housing for the Elderly program in the case of refinancing or recapitalization and to further preserve and maintain affordability of Section 202 Direct Loan projects. In Fiscal Year (FY) 2012, $16 million was made available for SPRAC funding. This notice advises of HUD's intent to award SPRACs through the proposed application process described in this notice. HUD is soliciting comments on the proposed process for awarding SPRACs and the associated criteria for establishing eligibility to apply for a SPRAC.

DATES: *Comment Due Date: March 11, 2013.*

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

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

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Margaret Salazar, Deputy Director of the Office of Affordable Housing Development, Office of Multifamily Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6112, Washington, DC 20410; telephone number 202–708–2495 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Section 202 Supportive Housing for the Elderly Act of 2010 (Pub. L. 111–372, approved January 4, 2011) (Section 202 of 2010 Act) authorizes HUD to provide SPRACs with 20-year terms to prevent displacement of elderly residents of certain projects assisted under HUD's Section 202 Supportive Housing for the Elderly program (Section 202 program) in the case of refinancing or recapitalization and to further preserve and maintain affordability of Section 202 Direct Loan projects. General authority for a Section 202 Direct Loan is provided by Section 811 of the American Homeownership and Economic Opportunity (AHEO) Act of 2000, as amended by the Section 202 of 2010 Act (12 U.S.C. 1701q note). Pursuant to this authority, SPRAC assistance may be provided to Section 202 properties with original interest rates of 6 percent or less (financed prior to 1974), when the property is refinanced to make capital repairs and the owner does not anticipate debt service savings from the refinance. In FY 2012, $16 million was made available for SPRAC funding.

II. This Notice—Solicitation of Comment

This notice advises of HUD's intent to award SPRACs through the proposed application process described in this notice. HUD is soliciting comments on

the proposed process for awarding SPRACs and the associated criteria for establishing eligibility to apply for a SPRAC. Specifically, HUD requests comment on the following sections of this notice:

Eligibility Criteria

1. Are any additional eligibility criteria necessary to ensure those elderly residents most at risk of displacement receive SPRAC assistance?

2. Should any of the eligibility criteria be removed or modified?

3. Is eligibility criterion six—a seven percent or below vacancy rate—realistic for Section 202 properties with interest rates of 6 percent or less financed prior to 1974? If not, why not (please provide any data you have supporting your comments)?

Award Process

1. Is the SPRAC award process an effective and efficient means of providing rental assistance to elderly residents at risk of displacement? Should HUD modify the award process? If so, how?

2. Is separating qualified Owner-applicants into two pools based on willingness to target very low income elderly tenants an effective means of serving the population most in need? If so, how? If not, why (please provide any data or information you have supporting your comments)?

HUD will take all comments into consideration and issue a final notice that will provide threshold criteria for Owner-applicant eligibility and final details of the FY 2012 SPRAC award process.

III. Proposed SPRAC Application and Award Process

Purpose of the Program

The Section 202 Supportive Housing for the Elderly Act of 2010 (Pub. L. 111–372, approved January 4, 2011) (Section 202 of 2010 Act) authorizes HUD to provide SPRACs to unassisted Section 202 units. The SPRAC contracts will have 20-year terms, with funding subject to annual appropriations. The purpose of SPRACs is to prevent displacement of income-eligible elderly residents of Section 202 Direct Loan properties with original interest rates of 6 percent or less, when the property is refinanced and the Owner does not anticipate debt service savings from the refinance. General authority for a Section 202 Direct Loan is provided by Section 811 of the American Homeownership and Economic Opportunity (AHEO) Act of 2000, as amended by the Section 202 of 2010 Act (12 U.S.C. 1701q note). In order to be income-eligible to receive SPRAC assistance, household income must be 80 percent or below area median income (AMI).

In addition to protecting elderly residents from displacement, SPRAC assistance is also intended to further preservation and affordability of these pre-1974 Section 202 Direct Loan projects. The mortgages on these properties, originally for 40 or 50-year terms, are reaching their maturity dates. When mortgages mature, the use and affordability restrictions of these properties expire, putting the long term affordability of this senior housing at risk. Very low-income elderly tenants of maturing mortgage properties are at the most immediate risk of displacement. The award process described in this notice will target these maturing mortgage properties by ranking qualified applications received by mortgage maturity date. Properties with mortgage maturity dates that predate the SPRAC application deadline, and properties with maturity dates sooner than 60 days following the SPRAC application deadline will not be eligible for SPRAC awards.

HUD oversees a portfolio of 209 Section 202 properties with original interest rates of six percent or less. All were financed prior to 1974. Many pre-1974 Section 202 Direct Loan properties have never completed a rehabilitation effort and are in need of significant capital repairs. Owners may wish to prepay the existing Section 202 Direct Loan in order to obtain new financing to address the physical needs of the project. Even in a time of historically low interest rates, however, it is unlikely that the refinancing of an eligible Section 202 Direct Loan would result in a reduction in debt service.

The anticipated increase in debt service from the Section 202 refinance places unassisted elderly residents in danger of displacement. Tenants may be at risk as Owners seek additional income to pay the increased debt service. The majority of pre-1974 Direct Loan projects are "partially assisted," meaning that some, but not all units receive Section 8 Project Based Rental assistance. Under AHEO, as amended, the Owner may qualify to receive a Section 8 rent adjustment on the Section 8 units, which could bring additional income to cover the increased debt service requirement. However, it is unlikely that this income will be sufficient to pay the increased debt service. The Owner may look to the unassisted households of the project to pay a rent increase to cover the costs of the new loan. The imposition of a rent increase places unassisted elderly residents at risk of possible displacement. SPRAC assistance will provide rental assistance on previously unassisted units. In addition, this assistance may provide revenue that could offset the cost of a service coordinator or other operating costs. This assistance eliminates the need for Owners to impose rent increases on these vulnerable households.

The provision of SPRACs is contingent on HUD approval of the Section 202 Direct Loan prepayment. As a matter of policy, HUD has determined that the amount of proposed repairs must rise to the level of substantial rehabilitation as defined in the HUD *Multifamily Accelerated Processing (MAP) Guide, 4430–G, Rev-1.* Otherwise, the transaction could have the effect of merely trading low interest debt for higher interest debt.[1] The substantial rehabilitation must be in compliance with the Section 504 accessibility requirements described in 24 CFR part 8. HUD applies the Uniform Federal Accessibility Standards (UFAS) through its regulations under part 8. The prepayment, in conjunction with the substantial rehabilitation of the project and the provision of SPRAC, will facilitate the improvement of the project and the long-term preservation of the project as housing affordable to current and future elderly households.

The HUD Section 202 Direct Loan portfolio includes 18,600 unassisted units. To receive SPRAC assistance for these unassisted units, the project Owner must meet all SPRAC Notice requirements, and all prepayment requirements of AHEO. Over the next decade, an average of 2,000 unassisted units per year risk losing affordability due to maturing Section 202 loans.

The Consolidated and Further Continuing Appropriations Act, 2012 (Public Law 112–55, approved November 18, 2011) makes funds available to fund the first year of assistance for 20-year project-based rental assistance contracts for unassisted units in qualifying Section 202 projects. The precise number of units/households to receive assistance will be determined based on the availability of funds.

SPRACs are not Section 8 project based rental assistance Housing Assistance Payment (HAP) contracts. However, pursuant to the Section 202 of 2010 Act, HUD will administer SPRACs under the same requirements governing project-based rental assistance made

[1] The MAP Guide may be accessed at *http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/hsg-GB4430*

available under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1473f), and implemented through the regulations at 24 CFR part 883. To be eligible for SPRAC assistance, residents must be income-eligible (at-or-below 80 percent of AMI). SPRAC assistance will only be provided to units occupied by income-eligible households at the time the SPRAC is executed. Initial SPRAC rents will be established based on market comparables. Over the 20-year term of the SPRAC, contracts will be administered using the processes described in the HUD *Section 8 Renewal Policy Guidebook*, under Option 1: Mark up to Market. Rents will be adjusted annually using the Operating Cost Adjustment Factor (OCAF) described in the *Section 8 Renewal Policy Guidebook*. An updated Rent Comparability Study (RCS) will be required every five (5) years. At the end of the 20-year term, subject to the availability of appropriations, HUD may renew the SPRAC for an additional 20-year term. Please note that though SPRACs will be administered under Section 8 guidance, this does not mean that SPRACs are a form of Section 8 rental assistance. SPRACs will be administered in accordance with the current Section 8 regulations until HUD publishes regulations to govern SPRACs in the near future.

I. Available Funds

HUD is making $16 million in FY 2012 funds available to fund the initial year of SPRAC units for selected properties. HUD anticipates this could fund up to 2,000 unassisted units. Funding for future contract years are subject to appropriations. HUD may make new SPRAC contract awards in future funding rounds if and when appropriations are available for this purpose.

Award Process

The proposal is to award SPRAC requests through an application process, open to those projects electing to prepay and refinance the Section 202 Direct Loan under the terms of AHEO and HUD guidance provided in Housing Notice 12–08 for Section 202 Direct Loan prepayment requirements.[2]

Section 202 projects that apply and meet eligibility criteria will be separated into two pools:

(1) Pool One—those Owner-applicants that commit to use SPRAC assistance for existing low income and very low income tenants residing at the property at the time of the 202 Direct Loan prepayment, and for new very low income tenants (50 percent of AMI) upon unit turnover; and

(2) Pool Two—those Owner-applicants that do not commit to use SPRAC assistance exclusively for low income and very low income tenants residing at the property at the time of the 202 Direct Loan prepayment, and for new very low income tenants (50 percent of AMI) upon unit turnover, but rather for tenants at or below 80 percent of AMI.

All qualified Owner-applicants and the respective properties in both Pool One and Pool Two will be ranked by mortgage maturity date. Beginning with those in Pool One, SPRAC awards will be made based on the mortgage maturity date of each property. HUD will select the property with the earliest chronological maturity date first, the property with the second earliest maturity date second, and so forth, until funding is exhausted. If there are not enough qualified Owner-applicants in Pool One to exhaust available SPRAC funding, those qualified Owner-applicants in Pool Two will become eligible for SPRAC awards. The process for award will be identical to that for Pool Two and will be based on mortgage maturity date. Properties with mortgage maturity dates that predate the SPRAC application deadline will not be eligible for SPRAC awards.[3] There is no maximum award ceiling per project.

HUD will not make partial awards. HUD will only select projects that can be fully funded with available SPRAC funds. For example, if the next eligible project on the list (ranked by mortgage maturity date) includes 100 unassisted income-eligible units, HUD will only select this project for funding if there are sufficient SPRAC resources to fund all 100 income-eligible units. If resources are not sufficient, HUD will select the next eligible project that can be fully funded or will close the award process until further notice. (Following public comment on this notice and incorporation of these comments, a SPRAC Housing Notice will establish minimum basic eligibility criteria for Owner-applicants to apply by a certain deadline, which will be provided in the final notice that follows and takes into consideration public comment on this notice.)

Eligibility Criteria

Eligible Owner-applicants will own properties that meet the following criteria:

1. Their property must be a Section 202 property with an original interest rate of six percent or less (funded prior to 1974) and with unassisted units.

2. Their most recent Real Estate Assessment Center (REAC) score at the property must be 60 or above, and the property must have no open Exigent Health and Safety findings.

3. Their most recent Management and Occupancy Review score at the property must be satisfactory or higher.

4. Their property must have no open referrals to the Departmental Enforcement Center.

5. The Owner-applicant must intend to refinance under the terms and conditions of AHEO, as amended, with no anticipated debt service savings from the refinance. A purchase/acquisition transaction is also eligible if the project will not experience debt service savings as a result of the transaction. (In the case of an acquisition, the current Owner must submit the SPRAC request but may provide evidence in the form of a purchase/sale agreement that the prepayment will include an acquisition.) The Owner-applicant must demonstrate that without SPRAC the rents for unassisted elderly tenants will be raised to compensate for the increased debt service costs resulting from prepayment at a higher interest rate. Rent increases will place unassisted elderly tenants at high risk of displacement.

6. Their property vacancy rate must be seven percent or lower for the 24 month period prior to application or the Owner-applicant must intend to convert efficiency units to one-bedroom units in accordance with Housing Notice 2011–03.[4] In order to convert efficiency units to one-bedroom units, the Owner-applicant must demonstrate an average vacancy rate in the efficiency units of at least 25 percent for at least 24 months or documentation must be shown that supports that the proposed conversion units are functionally obsolete.

7. Their property is proximate to the amenities and services needed by elderly residents.

8. The Owner-applicant is not eligible to request assistance if such owner:

i. Has been charged with a systemic violation of the Fair Housing Act or received a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of a substantially

[2] See *http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/hsg.*

[3] Pursuant to AHEO, SPRAC awards must be linked to a qualifying mortgage prepayment, not a mortgage maturity. Therefore a property will not receive SPRAC if the mortgage matures before the Direct Loan prepayment is completed.

[4] See *http://portal.hud.gov/hudportal/documents/huddoc?id=11-03hsgn.pdf.*

equivalent state or local fair housing law proscribing discrimination because of race, color, religion, sex, national origin, disability or familial status;

ii. Is a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging a pattern or practice of discrimination or denial of rights to a group of persons raising an issue of general public interest pursuant to 42 U.S.C. 3614(a);

iii. Has received a letter of findings identifying systemic noncompliance under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, or Section 109 of the Housing and Community Development Act of 1974;

iv. Has received a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of provisions of a state or local law proscribing discrimination in housing based on sexual orientation or gender identity; or

v. Has received a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of a state or local law proscribing discrimination in housing based on lawful source of income; and

vi. If applicable, has not resolved to HUD's satisfaction, the charge, lawsuit, letter of findings or cause determination referenced in subparagraphs (i), (ii), (iii), (iv) or (v) and/or is not in current compliance with any agreement or consent order resolving the matter.

Award Process

Funding for SPRAC awards is extremely limited and a significant number of equally worthy projects are expected to compete for SPRAC funding. To allocate these scarce resources effectively, HUD proposes to make SPRAC awards using an application process where applications are separated into two pools:

(1) Pool One—those Owner-applicants that commit to use SPRAC assistance for existing low income and very low income tenants residing at the property at the time of the 202 Direct Loan prepayment, and for new very low income tenants (50 percent of Area Media Income) upon unit turnover; and

(2) Pool Two—those Owner-applicants that do not commit to use SPRAC assistance exclusively for low income and very low income tenants residing at the property at the time of the 202 Direct Loan prepayment, and for new very low income tenants (50 percent of AMI) upon unit turnover, but rather for tenants at or below 80 percent of AMI.

Both Pools will be ranked by mortgage maturity date, and beginning with Pool One, projects will be awarded SPRAC in chronological order until funding is exhausted. If funding is not exhausted from Pool One, awards will be made in chronological order of mortgage maturity date for Pool Two. HUD believes all pre-1974 Section 202 properties that meet the eligibility requirements are in need of preservation, and all unassisted residents of these properties are potentially vulnerable to rent increases or displacement. Elderly tenants of properties with imminent mortgage maturity dates are at greatest risk of displacement because those properties are closer to terminating their relationship with HUD. As the mortgage matures, the property is no longer obligated to operate as housing affordable to very low, low, and/or moderate-income elderly households.

HUD's top priority is protecting very low income unassisted elderly tenants from displacement and providing assistance to this population in the future. Therefore, HUD will give priority to those qualified Owner-applicants that commit to target 100 percent of SPRAC assistance to very low-income and low income elderly residents residing in the project at the time of the Direct Loan prepayment, and exclusively to very low income tenants at unit turnover. These projects will go into Pool One for SPRAC awards. Households that currently reside in unassisted units at the Section 202 Direct Loan project, and that meet the low income eligibility criteria (at or below 80 percent of AMI) will be eligible to receive SPRAC assistance. However, upon unit turnover, the Owner-applicants will commit to make the vacant units available exclusively to very low income households.

To determine very low income thresholds, the Owner-applicant should determine annual income by following the income verification process described in HUD Handbook 4350.3, *Occupancy Requirements of Subsidized Multifamily Housing Programs*.[5] The Owner-applicant must compare the household's annual income with HUD's current FY low income limits. For this comparison, Owner-applicants must know the size of the household (e.g., 1 person household). Owner-applicants may find HUD's low income limits by visiting *http://www.huduser.org/portal/datasets/il/il12/index_il2012.html*. At this site, Owner-applicants click "Click Here for FY 2012 IL Documentation." The Owner-applicant then selects the state and county in which the property is located, and clicks "Next Screen." The relevant information is located in the row labeled "Very Low (50%) Income Limits." If the household's annual income is greater than the very low-income limit found in this row, the household does not qualify as a very low income household for the purposes of SPRAC eligibility.

Qualified Owner-applicants in Pool One will be ranked by project mortgage maturity date, and those projects will be funded based on chronological maturity date, with the earliest maturity date selected first, until all SPRAC funds are exhausted. Properties with mortgage maturity dates that predate the SPRAC application deadline will not be eligible for SPRAC awards. This approach allows HUD to target those properties with imminent maturing mortgages to meet the statutory intent to protect unassisted elderly residents from displacement.

If two properties have the same mortgage maturity date, projects in low-vacancy areas[6] will be given priority, because residents in these areas would have the most difficulty securing affordable housing if they did not have access to rental assistance. To determine if a project is in a low-vacancy area, please see Attachment 1. If none of the projects with the same mortgage maturity date are in a low-vacancy area, the project with the greatest number of unassisted units will be funded within the limitation of available funds, in order to reach the greatest number of impacted elderly residents.

If there are not enough qualified Owner-applicants in Pool One to utilize all available SPRAC funding, qualified Owner-applicants that meet the threshold criteria but do not commit to use SPRAC assistance for existing low income and very low income tenants residing at the property at the time of the 202 Direct Loan prepayment, and for new very low income tenants (50 percent of AMI) upon unit turnover, but rather tenants at or below 80 percent of AMI (Pool Two) will become eligible. The award process for Pool Two Owner-

[5] See *http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsgh/4350.3*.

[6] "Low-vacancy area" was defined for the purposes of this assistance as a county that currently and historically demonstrates a moderate to tight rental housing market for low-income renters. HUD determined this definition with two thresholds. First, the county must be below the national vacancy rate for units affordable to low-income household in 2000, which is 7.3 percent. Second, the county must be below the 80th percentile vacancy rate for low-income renters as estimated by the 2005–2009 American Community Survey 5 year estimates, which is 8.7 percent. A list of low-vacancy areas is included in Attachment 1.

applicants will be identical to that for Pool One.

Properties selected via the outlined application process will receive a preliminary notification of SPRAC award. Final SPRAC awards will be contingent on the property successfully receiving HUD approval to prepay the Section 202 Direct Loan under the requirements of AHEO and any standing or subsequent HUD guidance related to Section 202 Direct Loan prepayments.

HUD is proposing a six-stage process for the award of SPRACs:

(1) Submission by the Owner-applicant of an Expression of Interest Letter (*an Expression of Interest is not being solicited at this time*);

(2) Separation of qualified Owner-Applicants into Pool One and Pool Two based on Owner-applicant commitment to target very low income elderly residents;

(3) Ranking of Applications by Mortgage Maturity Date;

(4) Notification to Proceed;

(5) Completion of Prepayment Request and Approval; and

(6) Fund Reservation and Obligation.

Stage 1: Owner Submits an Expression of Interest Letter

An Owner-applicant must first determine that the 202 Direct Loan property meets the above basic eligibility criteria for SPRAC award. An interested and eligible Owner-applicant will then submit an Expression of Interest Letter for SPRAC award to HUD. HUD proposes the following information should be included in or with the Expression of Interest Letter:

1. Project name and FHA number.

2. Statement that the Owner-applicant plans to refinance and does not anticipate debt service savings from the refinance, and must plan repairs that rise to the level of substantial rehabilitation.

3. Statement that the Owner-applicant will commit to target SPRAC assistance exclusively for existing low income and very low income tenants residing at the property at the time of the 202 Direct Loan prepayment, and for new very low income tenants (50 percent of Area Media Income) upon unit turnover (if applicable).

4. Rent rolls from the 3 months preceding the Letter of Intent, verifying that the property has a vacancy rate of seven percent or lower.

or

The Owner-applicant must include a statement of intent to convert efficiency units to one-bedroom units.in accordance with Housing Notice 2011–03. In order to convert efficiency units to one-bedroom units, the property rent roll must demonstrate that average vacancy rate in the efficiency units is at least 25 percent for at least 24 months or the Owner-applicant must provide a letter from a licensed appraiser or a licensed architect indicating that the efficiency units proposed for conversion are functionally obsolete.

5. Rent Comparability Study (RCS), commissioned by the Owner, to estimate the approximate amount of SPRAC funding needed to provide assistance at market rent levels for the unassisted units. The RCS must be completed in accordance with Chapter 9 of the *Section 8 Renewal Policy Guidebook* (*http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_14528.pdf*). If the property has a Section 8 HAP contract and the Owner has commissioned an RCS within the last five years, the RCS may be used per the guidelines of Chapter 9 of the *Section 8 Renewal Policy Guidebook*. HUD will use the RCS to approximate the SPRAC contract rents based on comparable market rents.[7]

6. The Owner-Applicant must submit one of the following to demonstrate the property is proximate to amenities and services needed by the elderly residents:

A. Submit a letter, signed by the Housing, Planning, or Community Development office of the local municipality verifying that:

(i) This Section 202 property is proximate to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services; or

(ii) If the Section 202 property is not currently proximate to social, recreational, educational, commercial, and health facilities or services, the preservation of this Section 202 property is an integral part of a concerted community revitalization plan.

or

B. Provide a certification from the Designated Point of Contact for the designated Preferred Sustainability Status Community where the property is located, using form HUD2995. A list of Preferred Sustainability Status Communities and the corresponding points of contact can be found here: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/grants/nofa11/psscontacts*. The form will certify the nexus between the proposed preservation of the Section 202 property by the owner applicant and the Livability Principles as they are being advanced in the Preferred Sustainability Status Community. This certification must be signed and dated anytime from the date of the publication of the SPRAC Final Notice to the deadline date of the SPRAC funding opportunity. Any certifications signed before or after those dates will not be acceptable.

8. Statement certifying that the Owner-applicant is in compliance with the civil rights threshold requirements set forth under "Eligibility Criteria" in this Notice.

Note: HUD will remove the application from the pool and notify those Owner-applicants who do not meet the qualifications for a SPRAC award.

Stage 2: Separation of Applications by Very low Income Targeting into Pool One and Pool Two

Those qualified Owner-Applicants that include a statement of commitment to use SPRAC assistance for existing low income and very low income tenants residing at the property at the time of the 202 Direct Loan prepayment, and for new very low income tenants (50 percent of AMI) upon unit turnover will be placed in Pool One and those qualified Owner-applicants that do not include a statement of commitment will be placed in Pool Two. Once all qualified Owner-applicants in Pool One have received SPRAC assistance, awards will begin for Pool Two.

Stage 3: Ranking of Applications by Mortgage Maturity Date

Upon the submission deadline for the Expression of Interest Letter and the separation of qualified Owner-applicants into Pool One and Pool Two, HUD will rank the qualified Owner-applicants and corresponding projects by mortgage maturity date. If two or more qualified applicants have the same mortgage maturity date, the project(s) in low-vacancy areas listed in the appendix to this Notice will be given priority. If none of the projects with the same mortgage maturity date are in low-vacancy areas, the project with the most unassisted units will be selected within limitations of funding.

Beginning with Pool One, HUD will allocate SPRAC funding in chronological order of mortgage maturity date, using the RCS, the number of unassisted units, and contract cost information in comparable properties to estimate needed funding,

[7] At this stage, HUD will use the RCS to forecast the potential SPRAC rent levels and cost of providing assistance to the unassisted units at the property. The RCS will not be interpreted as the final rent or assistance level, which will be determined at a later stage of the process. The Owner is not required to provide an assessment or calculation of assistance at this stage.

until all SPRAC funds are exhausted. HUD will not make partial awards. HUD will only select projects that can be fully funded with available SPRAC funds. For example, if the next project on the list includes 100 unassisted units HUD will only select this project for funding if there are sufficient SPRAC resources to fund all 100 units under the contract. If resources are not sufficient, HUD will select the next eligible project that can be fully funded or will close the award process until further notice.

Once all qualified Owner-applicants in Pool One have been funded, HUD will award SPRAC to those qualified Owner-applicants in Pool Two chronologically by mortgage maturity date. Awards made to Pool Two Owner-applicants will follow the same procedures outlined above for Pool One.

Stage 4: Notification to Proceed

Upon selection, the Owner-applicant will receive a Notification to Proceed letter confirming the project was selected to receive a SPRAC award. This Notification will specify that SPRAC assistance will only be provided for unassisted units occupied by income-eligible residents (at or below 80 percent of AMI) at the time of execution of the SPRAC. The Notification to Proceed letter will not guarantee funding, as the Owner-applicant will need to meet all criteria and complete the Section 202 prepayment process successfully before receiving funds. The Notification to Proceed letter will include an estimated dollar amount for potential SPRAC assistance, determined by the required RCS submitted by the Owner-applicant. This amount is subject to change based on the determination of the number of income-eligible unassisted units at the property and market comparable rents using the RCS. The Owner-applicant will be required to verify tenant incomes to determine the number of income-eligible households (at 80 percent AMI or below) residing in unassisted units at the time the SPRAC is executed.

The Notification to Proceed letter will be conditioned on HUD approval of a prepayment request and the closing of the proposed refinance. The Owner-applicant must submit a *complete* prepayment request to the Multifamily Hub/PC office within 60 days of the date of receipt of the Notification to Proceed letter. The prepayment request must include all information required by Housing Notice 12–08. Failure to submit the prepayment request within 60 days of the date of receipt of the Notification to Proceed letter will nullify the Notification to Proceed and the Owner-applicant's eligibility for SPRAC for this round of funding. The Notification to Proceed letter will be valid for no more than 180 days (six months). During this 180 day period, the Owner-applicant will finalize and submit the prepayment request and secure the refinance loan. If the prepayment approval is not granted in that time, and/or if the Owner-applicant does not close the refinancing in this time period, the project's selection in the lottery will be cancelled and the corresponding funds released.

If the Owner-applicant is planning to use FHA financing, HUD will extend the Notification to Proceed to accommodate the timeline for FHA application reviews, provided that the Owner-applicant submits evidence of submission of an FHA insured loan application. HUD may also consider extending the Notification to Proceed if the Owner-applicants pursues Low Income Housing Tax Credits (LIHTCs), either in the form of 9 percent or 4 percent LIHTCs. The Owner-applicant must submit evidence of tax credit application in order to receive an extension. If the project is selected and issued a Notification to Proceed and the Owner-applicant proposes to use 9 percent tax credits, the Owner-Applicant will have one opportunity to apply for the 9 percent tax credits in the next scheduled application round administered by the state or local issuing agency. If 9 percent tax credits cannot be secured during that first application cycle, the Notification to Proceed will be cancelled unless the Owner can demonstrate feasibility to meet Section 202 prepayment requirements without tax credits.

Stage 5: Prepayment Request and Approval

1. Submission of Prepayment request to Hub/PC within 60 days of receipt of the Notification to Proceed letter. The Owner-applicant will submit a Section 202 Direct Loan prepayment request to the Hub/PC. The Hub/PC will screen, review and process the application to ensure it meets the requirements of Housing Notice 12–08 and any subsequent guidance on Section 202 Direct Loan prepayments.[8] The review will ensure compliance with all applicable statutes, regulations and policies. The review will include an environmental review by HUD Multifamily Development staff pursuant to the requirements at 24 CFR Part 50. Guidance for completion of this review may be found in Chapter 9 of the *Multifamily Accelerated Processing* (MAP) Guide. The review will include an assessment to verify the proposed repairs rise to the level of substantial rehabilitation and the proposed refinance will result in an increase in debt service, placing unassisted elderly residents at risk of increased rents and concomitantly displacement. If there is no anticipated increase in debt service, the project will not be eligible for SPRAC and the Notification to Proceed will be revoked. The Hub/PC Director will forward recommendations for Direct Loan prepayment approval to HUD Headquarters Office of Asset Management. Upon receipt of the Hub/PC recommendation, the Office of Asset Management will review the prepayment request and, within 30 days of the date of receipt of the Hub/PC recommendation, will make a determination of prepayment approval and notify the Hub/PC and the Owner-applicant.

2. Rent Comparability Study and Contract Request.[9] After receiving the Notification to Proceed letter, and while the prepayment application is completed, the Owner-applicant will be required to submit a copy of the Rent Comparability Study submitted with their Letter of Intent, that meets the requirements of the *Section 8 Renewal Policy Guidebook*. The Owner-applicant should also submit income verification information and a Contract Renewal Request Form (HUD Form 9264)[10] requesting a 20-year contract under Option 1: Mark up to Market. The Hub/PC will determine the rents for the project for the units occupied by income-eligible residents (those at or below 80 percent of AMI), and prepare the SPRAC for execution.

Stage 6: Fund Reservation and Obligation

Upon approval of the prepayment request by HUD headquarters Office of Asset Management, HUD will issue an official fund reservation for the final SPRAC funding amount for that project. Once the fund reservation is complete, HUD will execute the SPRAC.

On the date of closing, the owner will execute the required Use Agreement and other loan documents as well as the SPRAC. Upon closing, HUD will obligate the SPRAC funds. Following

[8] **Note:** HUD intends to issue an update to Housing Notice 12–08 in the near future to clarify prepayment processing and requirements, including environmental review requirements.

[9] The SPRAC Notification to Proceed will provide the maximum number of units that may be assisted under the SPRAC. The lender should be advised of the possibility that the number of SPRAC-assisted units on the contract could decrease if residents are found to be over-income. The lender would rely on the RCS for "market" rents on which to underwrite the loan.

[10] (*http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_14523.pdf*)

the closing, the SPRAC will be administered under the rules and terms of the *Section 8 Renewal Policy Guidebook* by the PBCA and the HUD field office staff.

Environmental Impact

An Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) with respect to the environment has been made for this Advance Notice in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The EA and FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10276, Washington DC 20410–0500. Due to security measures at this HUD Headquarters Building, an advance appointment to review the EA and FONSI must be scheduled by calling the Regulations Division at 202–708–3055 (not a toll free number).

Dated: January 2, 2013.

Carol J. Galante,

Acting Assistant Secretary for Housing-Federal Housing Commissioner.

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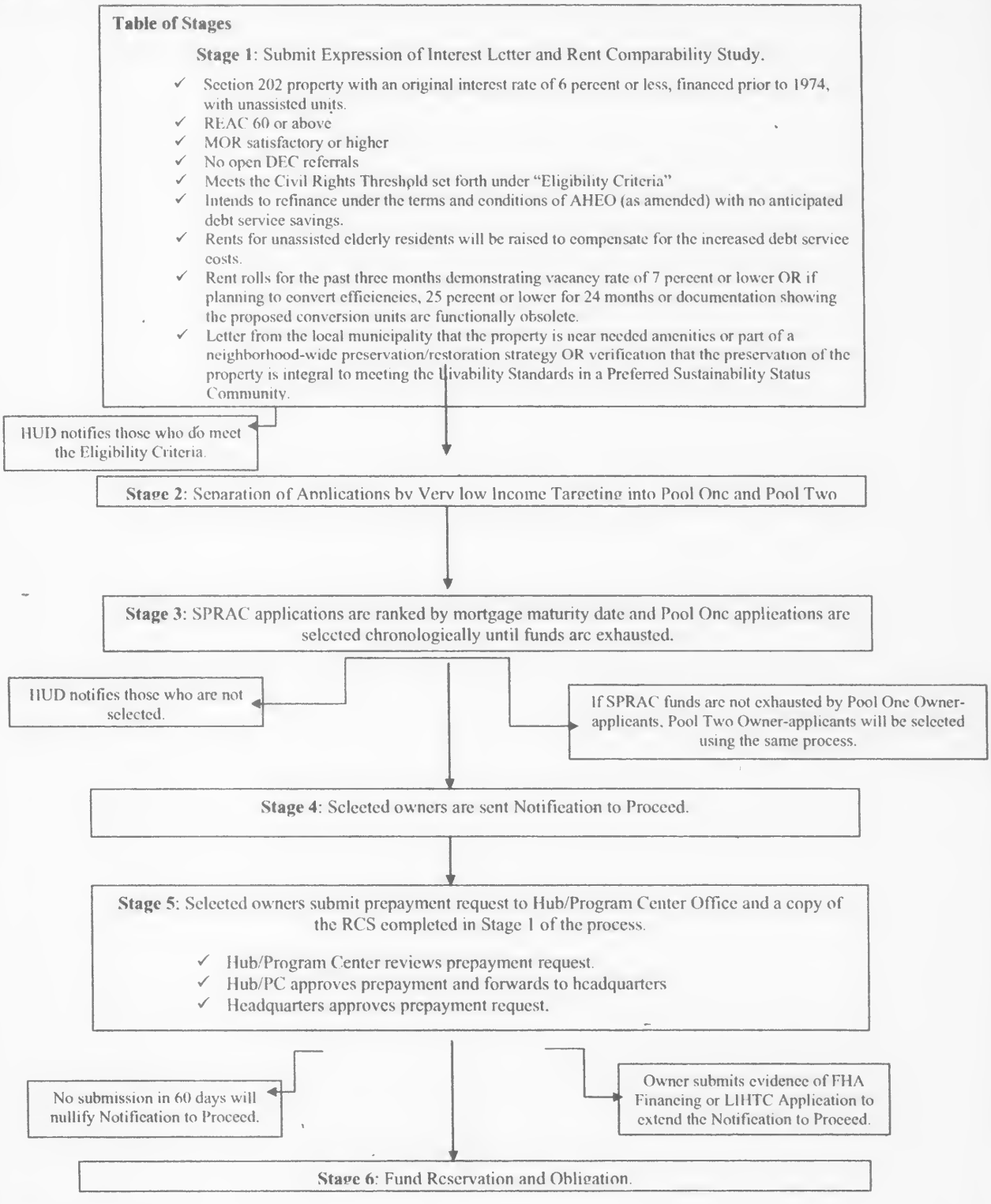

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ATTACHMENT 1—LOW VACANCY AREAS

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
01007	Bibb County; Birmingham-Hoover, AL Metro Area; Alabama	0.6	6.2
01063	Greene County; Tuscaloosa, AL Metro Area; Alabama	0.4	3.4
01065	Hale County; Tuscaloosa, AL Metro Area; Alabama	0.9	2.6
01085	Lowndes County; Montgomery, AL Metro Area; Alabama	3.9	6.6
01091	Marengo County, Alabama	3.3	7.1
01107	Pickens County, Alabama	5.7	5.9
01131	Wilcox County, Alabama	3.6	5.4
02020	Anchorage Municipality; Anchorage, AK Metro Area; Alaska	4.8	5.4
02050	Bethel Census Area, Alaska	2.6	6.8
02110	Juneau City and Borough; Juneau, AK Micro Area; Alaska	1.8	6.2
02188	Northwest Arctic Borough, Alaska	2.6	4.9
02195	Petersburg Census Area, Alaska	6.8	N/A
02220	Sitka City and Borough, Alaska	1.3	5.1
02270	Wade Hampton Census Area, Alaska	1.0	5.0
04005	Coconino County; Flagstaff, AZ Metro Area; Arizona	6.8	7.2
05041	Desha County, Arkansas	6.2	7.1
05057	Hempstead County; Hope, AR Micro Area; Arkansas	3.2	5.4
05079	Lincoln County; Pine Bluff, AR Metro Area; Arkansas	6.8	7.1
05085	Lonoke County; Little Rock-North Little Rock-Conway, AR Metro Area; Arkansas	3.0	6.2
05099	Nevada County; Hope, AR Micro Area; Arkansas	2.4	4.7
06001	Alameda County; San Francisco-Oakland-Fremont, CA Metro Area; California	6.7	2.5
06007	Butte County; Chico, CA Metro Area; California	4.7	5.9
06009	Calaveras County, California	6.2	5.8
06011	Colusa County, California	2.8	2.9
06013	Contra Costa County; San Francisco-Oakland-Fremont, CA Metro Area; California	7.6	3.0
06019	Fresno County; Fresno, CA Metro Area; California	4.9	6.9
06023	Humboldt County; Eureka-Arcata-Fortuna, CA Micro Area; California	6.3	5.8
06025	Imperial County; El Centro, CA Metro Area; California	5.6	5.5
06027	Inyo County; Bishop, CA Micro Area; California	3.4	7.2
06031	Kings County; Hanford-Corcoran, CA Metro Area; California	3.7	6.7
06037	Los Angeles County; Los Angeles-Long Beach-Santa Ana, CA Metro Area; California	2.4	4.2
06039	Madera County; Madera-Chowchilla, CA Metro Area; California	3.8	6.2
06041	Marin County; San Francisco-Oakland-Fremont, CA Metro Area; California	2.6	1.8
06045	Mendocino County; Ukiah, CA Micro Area; California	5.0	3.5
06047	Merced County; Merced, CA Metro Area; California	6.3	4.7
06053	Monterey County; Salinas, CA Metro Area; California	5.7	2.4
06055	Napa County; Napa, CA Metro Area; California	5.1	2.0
06057	Nevada County; Truckee-Grass Valley, CA Micro Area; California	6.7	3.2
06059	Orange County; Los Angeles-Long Beach-Santa Ana, CA Metro Area; California	2.7	2.7
06061	Placer County; Sacramento—Arden-Arcade—Roseville, CA Metro Area; California	7.5	4.3
06067	Sacramento County; Sacramento—Arden-Arcade—Roseville, CA Metro Area; California.	7.6	5.2
06069	San Benito County; San Jose-Sunnyvale-Santa Clara, CA Metro Area; California	3.4	2.6
06073	San Diego County; San Diego-Carlsbad-San Marcos, CA Metro Area; California	4.7	3.0
06075	San Francisco County; San Francisco-Oakland-Fremont, CA Metro Area; California	4.2	2.3
06077	San Joaquin County; Stockton, CA Metro Area; California	6.3	4.5
06079	San Luis Obispo County; San Luis Obispo-Paso Robles, CA Metro Area; California	3.4	3.0
06081	San Mateo County; San Francisco-Oakland-Fremont, CA Metro Area; California	4.0	1.6
06083	Santa Barbara County; Santa Barbara-Santa Maria-Goleta, CA Metro Area; California	3.7	2.8
06085	Santa Clara County; San Jose-Sunnyvale-Santa Clara, CA Metro Area; California	3.3	1.6
06087	Santa Cruz County; Santa Cruz-Watsonville, CA Metro Area; California	3.4	2.1
06089	Shasta County; Redding, CA Metro Area; California	6.5	7.0
06091	Sierra County, California	1.4	6.9
06095	Solano County; Vallejo-Fairfield, CA Metro Area; California	7.1	4.0
06097	Sonoma County; Santa Rosa-Petaluma, CA Metro Area; California	5.3	1.8
06099	Stanislaus County; Modesto, CA Metro Area; California	6.6	4.1
06101	Sutter County; Yuba City, CA Metro Area; California	7.1	5.5
06107	Tulare County; Visalia-Porterville, CA Metro Area; California	3.3	6.6
06109	Tuolumne County; Phoenix Lake-Cedar Ridge, CA Micro Area; California	5.5	6.9
06111	Ventura County; Oxnard-Thousand Oaks-Ventura, CA Metro Area; California	3.2	2.8
06113	Yolo County; Sacramento—Arden-Arcade—Roseville, CA Metro Area; California	3.9	3.1
08005	Arapahoe County; Denver-Aurora-Broomfield, CO Metro Area; Colorado	8.5	4.3
08013	Boulder County; Boulder, CO Metro Area; Colorado	4.8	3.6
08014	Broomfield County; Denver-Aurora-Broomfield, CO Metro Area; Colorado	6.5	N/A
08021	Conejos County, Colorado	7.5	5.7
08045	Garfield County, Colorado	2.6	3.7
08059	Jefferson County; Denver-Aurora-Broomfield, CO Metro Area; Colorado	5.6	4.0
08069	Larimer County; Fort Collins-Loveland, CO Metro Area; Colorado	5.3	4.3

ATTACHMENT 1—LOW VACANCY AREAS—Continued

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
08071	Las Animas County, Colorado	8.3	5.7
08077	Mesa County; Grand Junction, CO Metro Area; Colorado	2.7	6.1
08079	Mineral County, Colorado	N/A	6.2
08087	Morgan County; Fort Morgan, CO Micro Area; Colorado	8.4	6.0
08097	Pitkin County, Colorado	4.7	6.2
09001	Fairfield County; Bridgeport-Stamford-Norwalk, CT Metro Area; Connecticut	7.5	4.4
09003	Hartford County; Hartford-West Hartford-East Hartford, CT Metro Area; Connecticut	7.5	6.6
09005	Litchfield County; Torrington, CT Micro Area; Connecticut	7.5	4.6
09007	Middlesex County; Hartford-West Hartford-East Hartford, CT Metro Area; Connecticut	5.9	5.0
09009	New Haven County; New Haven-Milford, CT Metro Area; Connecticut	7.3	6.7
09011	New London County; Norwich-New London, CT Metro Area; Connecticut	5.6	6.7
09013	Tolland County; Hartford-West Hartford-East Hartford, CT Metro Area; Connecticut	6.2	3.9
09015	Windham County; Willimantic, CT Micro Area; Connecticut	4.3	5.2
11001	District of Columbia; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; District of Columbia.	5.8	6.6
12003	Baker County; Jacksonville, FL Metro Area; Florida	1.5	7.1
12086	Miami-Dade County; Miami-Fort Lauderdale-Pompano Beach, FL Metro Area; Florida	7.8	7.1
13007	Baker County; Albany, GA Metro Area; Georgia	7.2	1.1
13013	Barrow County; Atlanta-Sandy Springs-Marietta, GA Metro Area; Georgia	8.6	5.6
13035	Butts County; Atlanta-Sandy Springs-Marietta, GA Metro Area; Georgia	4.0	5.9
13043	Candler County, Georgia	2.6	6.2
13079	Crawford County; Macon, GA Metro Area; Georgia	7.0	6.6
13083	Dade County; Chattanooga, TN–GA Metro Area; Georgia	8.6	6.4
13085	Dawson County; Atlanta-Sandy Springs-Marietta, GA Metro Area; Georgia	3.5	3.6
13105	Elbert County, Georgia	7.5	7.1
13117	Forsyth County; Atlanta-Sandy Springs-Marietta, GA Metro Area; Georgia	6.5	4.5
13129	Gordon County; Calhoun, GA Micro Area; Georgia	8.4	6.4
13133	Greene County, Georgia	7.3	3.4
13139	Hall County; Gainesville, GA Metro Area; Georgia	7.3	5.9
13159	Jasper County; Atlanta-Sandy Springs-Marietta, GA Metro Area; Georgia	3.7	3.2
13171	Lamar County; Atlanta-Sandy Springs-Marietta, GA Metro Area; Georgia	4.6	6.9
13181	Lincoln County, Georgia	2.2	4.7
13197	Marion County; Columbus, GA-AL Metro Area; Georgia	8.3	3.7
13199	Meriwether County; Atlanta-Sandy Springs-Marietta, GA Metro Area; Georgia	4.9	6.2
13205	Mitchell County, Georgia	2.2	3.4
13211	Morgan County, Georgia	3.1	3.8
13217	Newton County; Atlanta-Sandy Springs-Marietta, GA Metro Area; Georgia	7.7	6.6
13231	Pike County; Atlanta-Sandy Springs-Marietta, GA Metro Area; Georgia	8.1	4.2
13237	Putnam County, Georgia	1.0	4.3
13249	Schley County; Americus, GA Micro Area; Georgia	3.2	6.4
13293	Upson County; Thomaston, GA Micro Area; Georgia	2.7	7.0
13297	Walton County; Atlanta-Sandy Springs-Marietta, GA Metro Area; Georgia	4.0	5.5
13301	Warren County, Georgia	1.2	4.7
13307	Webster County, Georgia	N/A	N/A
15005	Kalawao County, Hawaii	N/A	N/A
16001	Ada County; Boise City-Nampa, ID Metro Area; Idaho	6.6	5.6
16017	Bonner County, Idaho	5.0	7.0
16027	Canyon County; Boise City-Nampa, ID Metro Area; Idaho	7.8	7.1
16041	Franklin County; Logan, UT-ID Metro Area; Idaho	1.1	3.0
16045	Gem County; Boise City-Nampa, ID Metro Area; Idaho	N/A	6.1
16047	Gooding County, Idaho	4.7	4.0
16053	Jerome County; Twin Falls, ID Micro Area; Idaho	4.1	6.9
16057	Latah County; Moscow, ID Micro Area; Idaho	5.8	5.3
16065	Madison County; Rexburg, ID Micro Area; Idaho	3.0	6.3
16069	Nez Perce County; Lewiston, ID-WA Metro Area; Idaho	3.3	4.3
16071	Oneida County, Idaho	5.3	6.3
16077	Power County; Pocatello, ID Metro Area; Idaho	3.8	4.9
16087	Washington County, Idaho	3.8	6.4
17007	Boone County; Rockford, IL Metro Area; Illinois	6.8	6.5
17009	Brown County, Illinois	2.4	6.4
17013	Calhoun County; St. Louis, MO-IL Metro Area; Illinois	4.1	7.1
17019	Champaign County; Champaign-Urbana, IL Metro Area; Illinois	8.5	7.1
17027	Clinton County; St. Louis, MO-IL Metro Area; Illinois	3.5	4.4
17031	Cook County; Chicago-Naperville-Joliet, IL-IN-WI Metro Area; Illinois	8.0	6.1
17037	DeKalb County; Chicago-Naperville-Joliet, IL-IN-WI Metro Area; Illinois	4.5	3.8
17043	DuPage County; Chicago-Naperville-Joliet, IL-IN-WI Metro Area; Illinois	8.3	5.2
17053	Ford County; Champaign-Urbana, IL Metro Area; Illinois	2.5	5.0
17055	Franklin County, Illinois	6.8	6.7

ATTACHMENT 1—LOW VACANCY AREAS—Continued

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
17057	Fulton County; Canton, IL Micro Area; Illinois	5.2	4.4
17061	Greene County, Illinois	5.0	5.6
17071	Henderson County; Burlington, IA-IL Micro Area; Illinois	1.0	7.0
17073	Henry County; Davenport-Moline-Rock Island, IA-IL Metro Area; Illinois	8.0	5.5
17075	Iroquois County, Illinois	6.7	6.6
17083	Jersey County; St. Louis, MO-IL Metro Area; Illinois	4.8	5.2
17087	Johnson County, Illinois	1.3	3.4
17089	Kane County; Chicago-Naperville-Joliet, IL-IN-WI Metro Area; Illinois	7.2	5.1
17091	Kankakee County; Kankakee-Bradley, IL Metro Area; Illinois	7.2	6.4
17097	Lake County; Chicago-Naperville-Joliet, IL-IN-WI Metro Area; Illinois	8.2	5.5
17109	McDonough County; Macomb, IL Micro Area; Illinois	3.4	6.9
17111	McHenry County; Chicago-Naperville-Joliet, IL-IN-WI Metro Area; Illinois	7.1	4.0
17125	Mason County, Illinois	3.6	5.8
17131	Mercer County; Davenport-Moline-Rock Island, IA-IL Metro Area; Illinois	4.9	5.2
17139	Moultrie County, Illinois	8.0	5.2
17141	Ogle County; Rochelle, IL Micro Area; Illinois	5.8	6.0
17147	Piatt County; Champaign-Urbana, IL Metro Area; Illinois	5.7	4.8
17149	Pike County, Illinois	4.6	6.6
17153	Pulaski County, Illinois	5.2	6.6
17161	Rock Island County; Davenport-Moline-Rock Island, IA-IL Metro Area; Illinois	7.0	7.1
17169	Schuyler County, Illinois	N/A	6.3
17171	Scott County; Jacksonville, IL Micro Area; Illinois	4.1	6.8
17173	Shelby County, Illinois	3.9	6.7
17181	Union County, Illinois	1.8	4.4
17195	Whiteside County; Sterling, IL Micro Area; Illinois	3.6	7.0
17197	Will County; Chicago-Naperville-Joliet, IL-IN-WI Metro Area; Illinois	8.0	6.5
17203	Woodford County; Peoria, IL Metro Area; Illinois	4.4	6.7
18001	Adams County; Decatur, IN Micro Area; Indiana	8.0	6.2
18007	Benton County; Lafayette, IN Metro Area; Indiana	4.3	6.8
18015	Carroll County; Lafayette, IN Metro Area; Indiana	4.2	4.5
18029	Dearborn County; Cincinnati-Middletown, OH-KY-IN Metro Area; Indiana	8.6	7.0
18031	Decatur County; Greensburg, IN Micro Area; Indiana	1.7	6.4
18037	Dubois County; Jasper, IN Micro Area; Indiana	6.1	3.8
18073	Jasper County; Chicago-Naperville-Joliet, IL-IN-WI Metro Area; Indiana	5.1	5.2
18085	Kosciusko County; Warsaw, IN Micro Area; Indiana	3.0	6.4
18087	LaGrange County, Indiana	5.7	6.4
18089	Lake County; Chicago-Naperville-Joliet, IL-IN-WI Metro Area; Indiana	7.8	7.0
18105	Monroe County; Bloomington, IN Metro Area; Indiana	8.5	6.4
18111	Newton County; Chicago-Naperville-Joliet, IL-IN-WI Metro Area; Indiana	5.9	6.7
18119	Owen County; Bloomington, IN Metro Area; Indiana	4.6	5.5
18121	Parke County, Indiana	7.5	5.5
18127	Porter County; Chicago-Naperville-Joliet, IL-IN-WI Metro Area; Indiana	7.1	7.1
18137	Ripley County, Indiana	6.0	4.7
18149	Starke County, Indiana	3.9	4.5
18157	Tippecanoe County; Lafayette, IN Metro Area; Indiana	6.6	5.2
18159	Tipton County; Kokomo, IN Metro Area; Indiana	1.8	6.3
18161	Union County, Indiana	5.7	6.2
18165	Vermillion County; Terre Haute, IN Metro Area; Indiana	7.5	5.4
18171	Warren County, Indiana	6.4	5.8
18175	Washington County; Louisville-Jefferson County, KY-IN Metro Area; Indiana	6.3	6.5
18181	White County, Indiana	8.5	6.6
18183	Whitley County; Fort Wayne, IN Metro Area; Indiana	6.7	7.3
19003	Adams County, Iowa	4.5	6.9
19005	Allamakee County, Iowa	7.4	6.2
19009	Audubon County, Iowa	4.3	6.3
19011	Benton County; Cedar Rapids, IA Metro Area; Iowa	3.8	6.7
19013	Black Hawk County; Waterloo-Cedar Falls, IA Metro Area; Iowa	4.8	4.9
19015	Boone County; Boone, IA Micro Area; Iowa	2.9	7.2
19017	Bremer County; Waterloo-Cedar Falls, IA Metro Area; Iowa	3.0	5.4
19021	Buena Vista County; Storm Lake, IA Micro Area; Iowa	1.8	5.7
19023	Butler County, Iowa	2.5	4.7
19031	Cedar County, Iowa	0.9	5.3
19033	Cerro Gordo County; Mason City, IA Micro Area; Iowa	8.0	5.4
19037	Chickasaw County, Iowa	3.4	6.8
19041	Clay County; Spencer, IA Micro Area; Iowa	7.3	4.2
19049	Dallas County; Des Moines-West Des Moines, IA Metro Area; Iowa	4.5	6.3
19073	Greene County, Iowa	4.7	6.3
19075	Grundy County; Waterloo-Cedar Falls, IA Metro Area; Iowa	5.0	4.7

ATTACHMENT 1—LOW VACANCY AREAS—Continued

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
19079	Hamilton County, Iowa	6.4	5.0
19081	Hancock County, Iowa	5.3	5.6
19085	Harrison County; Omaha-Council Bluffs, NE-IA Metro Area; Iowa	5.5	7.0
19091	Humboldt County, Iowa	5.3	5.7
19097	Jackson County, Iowa	6.0	5.2
19103	Johnson County; Iowa City, IA Metro Area; Iowa	5.3	3.4
19105	Jones County; Cedar Rapids, IA Metro Area; Iowa	6.5	5.1
19113	Linn County; Cedar Rapids, IA Metro Area; Iowa	6.9	5.9
19121	Madison County; Des Moines-West Des Moines, IA Metro Area; Iowa	4.4	7.2
19131	Mitchell County, Iowa	N/A	6.9
19135	Monroe County, Iowa	N/A	6.8
19139	Muscatine County; Muscatine, IA Micro Area; Iowa	5.1	6.3
19153	Polk County; Des Moines-West Des Moines, IA Metro Area; Iowa	5.7	6.5
19159	Ringgold County, Iowa	1.0	5.3
19163	Scott County; Davenport-Moline-Rock Island, IA-IL Metro Area; Iowa	8.0	7.2
19169	Story County; Ames, IA Metro.Area; Iowa	4.2	4.8
19177	Van Buren County, Iowa	7.0	5.9
19179	Wapello County; Ottumwa, IA Micro Area; Iowa	7.4	7.0
19181	Warren County; Des Moines-West Des Moines, IA Metro Area; Iowa	2.8	7.2
19185	Wayne County, Iowa	2.2	6.9
19187	Webster County, Fort Dodge, IA Micro Area; Iowa	4.6	7.3
19191	Winneshiek County, Iowa	7.0	5.9
19197	Wright County, Iowa	6.7	7.1
20017	Chase County; Emporia, KS Micro Area; Kansas	N/A	4.8
20023	Cheyenne County, Kansas	5.8	7.1
20045	Douglas County; Lawrence, KS Metro Area; Kansas	6.3	3.7
20049	Elk County, Kansas	N/A	7.3
20059	Franklin County; Kansas City, MO-KS Metro Area; Kansas	6.5	5.4
20073	Greenwood County, Kansas	3.7	6.2
20079	Harvey County; Wichita, KS Metro Area; Kansas	8.7	7.0
20087	Jefferson County; Topeka, KS Metro Area; Kansas	4.9	4.8
20091	Johnson County; Kansas City, MO-KS Metro Area; Kansas	7.6	7.2
20107	Linn County; Kansas City, MO-KS Metro Area; Kansas	4.7	6.2
20121	Miami County; Kansas City, MO-KS Metro Area; Kansas	2.9	5.9
20131	Nemaha County, Kansas	4.7	6.3
20133	Neosho County, Kansas	3.3	7.3
20161	Riley County; Manhattan, KS Metro Area; Kansas	4.3	3.7
20183	Smith County, Kansas	6.3	4.4
20199	Wallace County, Kansas	4.8	7.1
21017	Bourbon County; Lexington-Fayette, KY Metro Area; Kentucky	4.7	7.0
21023	Bracken County; Cincinnati-Middletown, OH-KY-IN Metro Area; Kentucky	6.1	3.5
21025	Breathitt County, Kentucky	2.4	7.0
21029	Bullitt County; Louisville-Jefferson County, KY-IN Metro Area; Kentucky	6.1	7.0
21031	Butler County, Kentucky	7.3	7.0
21045	Casey County, Kentucky	2.1	6.3
21051	Clay County, Kentucky	4.0	5.2
21069	Fleming County, Kentucky	4.5	6.9
21097	Harrison County, Kentucky	7.3	6.2
21101	Henderson County; Evansville, IN-KY Metro Area; Kentucky	6.7	6.4
21103	Henry County; Louisville-Jefferson County, KY-IN Metro Area; Kentucky	1.8	6.3
21105	Hickman County, Kentucky	N/A	4.5
21109	Jackson County, Kentucky	4.7	4.9
21113	Jessamine County; Lexington-Fayette, KY Metro Area; Kentucky	5.6	5.4
21129	Lee County, Kentucky	5.9	6.9
21153	Magoffin County, Kentucky	8.3	6.6
21185	Oldham County; Louisville-Jefferson County, KY-IN Metro Area; Kentucky	5.7	4.8
21189	Owsley County, Kentucky	1.1	6.4
21197	Powell County, Kentucky	3.1	7.2
21211	Shelby County; Louisville-Jefferson County, KY-IN Metro Area; Kentucky	7.1	5.0
21221	Trigg County; Clarksville, TN-KY Metro Area; Kentucky	7.6	4.6
21229	Washington County, Kentucky	6.3	1.9
21239	Woodford County; Lexington-Fayette, KY Metro Area; Kentucky	3.2	6.0
22007	Assumption Parish; Pierre Part, LA Micro Area; Louisiana	6.0	4.5
22009	Avoyelles Parish, Louisiana	6.1	4.9
22025	Catahoula Parish, Louisiana	2.9	6.2
22029	Concordia Parish; Natchez, MS-LA Micro Area; Louisiana	5.6	5.8
22037	East Feliciana Parish; Baton Rouge, LA Metro Area; Louisiana	1.2	6.9
22039	Evangeline Parish, Louisiana	8.5	6.4

ATTACHMENT 1—LOW VACANCY AREAS—Continued

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
22041	Franklin Parish, Louisiana	1.8	5.4
22045	Iberia Parish; New Iberia, LA Micro Area; Louisiana	4.0	5.9
22065	Madison Parish; Tallulah, LA Micro Area; Louisiana	3.7	5.7
22075	Plaquemines Parish; New Orleans-Metairie-Kenner, LA Metro Area; Louisiana	2.6	5.0
22081	Red River Parish, Louisiana	2.9	7.1
22083	Richland Parish, Louisiana	5.4	6.6
22087	St. Bernard Parish; New Orleans-Metairie-Kenner, LA Metro Area; Louisiana	4.4	6.0
22091	St. Helena Parish; Baton Rouge, LA Metro Area; Louisiana	N/A	4.6
22125	West Feliciana Parish; Baton Rouge, LA Metro Area; Louisiana	2.5	7.1
23005	Cumberland County; Portland-South Portland-Biddeford, ME Metro Area; Maine	5.7	3.7
23009	Hancock County, Maine	8.1	4.9
23013	Knox County; Rockland, ME Micro Area; Maine	7.3	5.1
23019	Penobscot County; Bangor, ME Metro Area; Maine	5.9	6.2
23023	Sagadahoc County; Portland-South Portland-Biddeford, ME Metro Area; Maine	7.5	6.2
24003	Anne Arundel County; Baltimore-Towson, MD Metro Area; Maryland	6.3	4.7
24005	Baltimore County; Baltimore-Towson, MD Metro Area; Maryland	6.2	6.0
24009	Calvert County; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; Maryland.	3.9	7.2
24011	Caroline County, Maryland	4.5	7.1
24013	Carroll County; Baltimore-Towson, MD Metro Area; Maryland	6.0	4.9
24017	Charles County; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; Maryland.	5.4	4.4
24019	Dorchester County; Cambridge, MD Micro Area; Maryland	4.7	7.1
24021	Frederick County; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; Maryland.	5.5	4.8
24025	Harford County; Baltimore-Towson, MD Metro Area; Maryland	6.0	5.9
24031	Montgomery County; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; Maryland.	5.3	3.1
24033	Prince George's County; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; Maryland.	8.1	5.4
24035	Queen Anne's County; Baltimore-Towson, MD Metro Area; Maryland	4.9	5.2
24041	Talbot County; Easton, MD Micro Area; Maryland	3.1	5.9
24043	Washington County; Hagerstown-Martinsburg, MD-WV Metro Area; Maryland	7.4	5.7
24045	Wicomico County; Salisbury, MD Metro Area; Maryland	5.6	5.2
25001	Barnstable County; Barnstable Town, MA Metro Area; Massachusetts	6.5	5.8
25005	Bristol County; Providence-New Bedford-Fall River, RI-MA Metro Area; Massachusetts	5.1	5.6
25007	Dukes County, Massachusetts	6.6	4.3
25009	Essex County; Boston-Cambridge-Quincy, MA-NH Metro Area; Massachusetts	6.3	3.4
25011	Franklin County; Springfield, MA Metro Area; Massachusetts	2.3	2.9
25013	Hampden County; Springfield, MA Metro Area; Massachusetts	5.0	5.5
25015	Hampshire County; Springfield, MA Metro Area; Massachusetts	4.8	2.4
25017	Middlesex County; Boston-Cambridge-Quincy, MA-NH Metro Area; Massachusetts	5.8	2.4
25021	Norfolk County; Boston-Cambridge-Quincy, MA-NH Metro Area; Massachusetts	3.8	2.8
25023	Plymouth County; Boston-Cambridge-Quincy, MA-NH Metro Area; Massachusetts	4.4	3.4
25025	Suffolk County; Boston-Cambridge-Quincy, MA-NH Metro Area; Massachusetts	5.5	3.4
25027	Worcester County; Worcester, MA Metro Area; Massachusetts	7.8	4.5
26005	Allegan County; Allegan, MI Micro Area; Michigan	6.5	7.1
26007	Alpena County; Alpena, MI Micro Area; Michigan	6.8	5.5
26015	Barry County; Grand Rapids-Wyoming, MI Metro Area; Michigan	7.6	6.6
26027	Cass County; South Bend-Mishawaka, IN-MI Metro Area; Michigan	8.5	6.3
26029	Charlevoix County, Michigan	5.9	5.4
26031	Cheboygan County, Michigan	8.0	6.3
26045	Eaton County; Lansing-East Lansing, MI Metro Area; Michigan	8.0	5.2
26051	Gladwin County, Michigan	6.8	5.9
26055	Grand Traverse County; Traverse City, MI Micro Area; Michigan	8.3	5.0
26061	Houghton County; Houghton, MI Micro Area; Michigan	4.4	6.7
26063	Huron County, Michigan	8.2	6.7
26067	Ionia County; Grand Rapids-Wyoming, MI Metro Area; Michigan	6.3	6.5
26077	Kalamazoo County; Kalamazoo-Portage, MI Metro Area; Michigan	8.6	6.8
26081	Kent County; Grand Rapids-Wyoming, MI Metro Area; Michigan	7.8	6.2
26087	Lapeer County; Detroit-Warren-Livonia, MI Metro Area; Michigan	7.2	7.2
26091	Lenawee County; Adrian, MI Micro Area; Michigan	6.8	7.0
26099	Macomb County; Detroit-Warren-Livonia, MI Metro Area; Michigan	7.2	5.1
26111	Midland County; Midland, MI Micro Area; Michigan	6.0	6.7
26115	Monroe County; Monroe, MI Metro Area; Michigan	8.0	6.6
26119	Montmorency County, Michigan	4.2	5.0
26123	Newaygo County; Grand Rapids-Wyoming, MI Metro Area; Michigan	6.2	6.4
26129	Ogemaw County, Michigan	4.8	4.5

ATTACHMENT 1—LOW VACANCY AREAS—Continued

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
26145	Saginaw County; Saginaw-Saginaw Township North, MI Metro Area; Michigan	8.7	7.0
26165	Wexford County; Cadillac, MI Micro Area; Michigan	5.4	6.5
27003	Anoka County; Minneapolis-St. Paul-Bloomington, MN-WI Metro Area; Minnesota	7.6	2.1
27005	Becker County, Minnesota	1.7	5.7
27007	Beltrami County; Bemidji, MN Micro Area; Minnesota	6.2	4.0
27013	Blue Earth County; Mankato-North Mankato, MN Metro Area; Minnesota	5.6	3.4
27017	Carlton County; Duluth, MN-WI Metro Area; Minnesota	2.5	4.3
27019	Carver County; Minneapolis-St. Paul-Bloomington, MN-WI Metro Area; Minnesota	4.3	2.8
27021	Cass County; Brainerd, MN Micro Area; Minnesota	4.6	4.1
27025	Chisago County; Minneapolis-St. Paul-Bloomington, MN-WI Metro Area; Minnesota	5.3	2.2
27029	Clearwater County, Minnesota	5.5	5.3
27031	Cook County, Minnesota	4.9	6.3
27035	Crow Wing County; Brainerd, MN Micro Area; Minnesota	4.6	2.6
27037	Dakota County; Minneapolis-St. Paul-Bloomington, MN-WI Metro Area; Minnesota	8.2	2.5
27041	Douglas County; Alexandria, MN Micro Area; Minnesota	2.3	6.5
27049	Goodhue County; Red Wing, MN Micro Area; Minnesota	6.0	4.7
27053	Hennepin County; Minneapolis-St. Paul-Bloomington, MN-WI Metro Area; Minnesota	6.5	2.7
27059	Isanti County; Minneapolis-St. Paul-Bloomington, MN-WI Metro Area; Minnesota	8.7	6.0
27061	Itasca County, Minnesota	4.5	4.2
27065	Kanabec County, Minnesota	3.1	5.0
27087	Mahnomen County, Minnesota	5.9	6.8
27093	Meeker County, Minnesota	7.4	4.3
27095	Mille Lacs County, Minnesota	3.4	3.3
27097	Morrison County, Minnesota	3.0	4.0
27099	Mower County; Austin, MN Micro Area; Minnesota	5.1	6.2
27103	Nicollet County; Mankato-North Mankato, MN Metro Area; Minnesota	2.3	6.4
27105	Nobles County; Worthington, MN Micro Area; Minnesota	2.4	7.1
27111	Otter Tail County; Fergus Falls, MN Micro Area; Minnesota	6.1	6.0
27115	Pine County, Minnesota	3.9	4.2
27121	Pope County, Minnesota	4.2	4.0
27123	Ramsey County; Minneapolis-St. Paul-Bloomington, MN-WI Metro Area; Minnesota	6.6	2.6
27137	St. Louis County; Duluth, MN-WI Metro Area; Minnesota	5.2	6.1
27139	Scott County; Minneapolis-St. Paul-Bloomington, MN-WI Metro Area; Minnesota	6.7	4.7
27143	Sibley County, Minnesota	7.9	5.7
27145	Stearns County; St. Cloud, MN Metro Area; Minnesota	6.8	3.4
27149	Stevens County, Minnesota	7.2	6.8
27157	Wabasha County; Rochester, MN Metro Area; Minnesota	7.4	5.2
27159	Wadena County, Minnesota	7.0	6.4
27163	Washington County; Minneapolis-St. Paul-Bloomington, MN-WI Metro Area; Minnesota	6.7	5.0
27169	Winona County; Winona, MN Micro Area; Minnesota	4.8	5.1
27171	Wright County; Minneapolis-St. Paul-Bloomington, MN-WI Metro Area; Minnesota	3.9	2.5
28005	Amite County; McComb, MS Micro Area; Mississippi	4.7	4.0
28011	Bolivar County; Cleveland, MS Micro Area; Mississippi	6.2	6.5
28013	Calhoun County, Mississippi	2.7	6.5
28021	Claiborne County, Mississippi	8.7	7.1
28027	Coahoma County; Clarksdale, MS Micro Area; Mississippi	5.9	5.1
28051	Holmes County, Mississippi	2.6	4.7
28053	Humphreys County, Mississippi	N/A	3.5
28061	Jasper County; Laurel, MS Micro Area; Mississippi	3.2	4.5
28069	Kemper County; Meridian, MS Micro Area; Mississippi	1.2	2.4
28089	Madison County; Jackson, MS Metro Area; Mississippi	6.8	5.3
28093	Marshall County; Memphis, TN-MS-AR Metro Area; Mississippi	5.6	7.0
28103	Noxubee County, Mississippi	2.3	7.2
28119	Quitman County, Mississippi	8.2	3.7
28123	Scott County, Mississippi	6.8	7.0
28125	Sharkey County, Mississippi	6.5	6.7
28133	Sunflower County; Indianola, MS Micro Area; Mississippi	3.4	6.3
28135	Tallahatchie County, Mississippi	7.8	4.0
28137	Tate County; Memphis, TN-MS-AR Metro Area; Mississippi	7.1	4.6
28145	Union County, Mississippi	7.6	5.8
28147	Walthall County, Mississippi	3.5	4.9
28155	Webster County, Mississippi	2.3	4.4
28157	Wilkinson County, Mississippi	2.2	1.3
29003	Andrew County; St. Joseph, MO-KS Metro Area; Missouri	N/A	6.3
29013	Bates County; Kansas City, MO-KS Metro Area; Missouri	4.9	6.3
29017	Bollinger County; Cape Girardeau-Jackson, MO-IL Metro Area; Missouri	5.9	6.4
29019	Boone County; Columbia, MO Metro Area; Missouri	6.6	7.3
29037	Cass County; Kansas City, MO-KS Metro Area; Missouri	6.5	7.1

ATTACHMENT 1—LOW VACANCY AREAS—Continued

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
29045	Clark County; Fort Madison-Keokuk, IA-MO Micro Area; Missouri	6.3	7.2
29049	Clinton County; Kansas City, MO-KS Metro Area; Missouri	6.2	7.2
29051	Cole County; Jefferson City, MO Metro Area; Missouri	6.0	7.0
29093	Iron County, Missouri	3.9	7.1
29183	St. Charles County; St. Louis, MO-IL Metro Area; Missouri	6.8	5.8
29186	Ste. Genevieve County, Missouri	6.6	5.8
29189	St. Louis County; St. Louis, MO-IL Metro Area; Missouri	6.7	7.0
29219	Warren County; St. Louis, MO-IL Metro Area; Missouri	1.9	6.7
29227	Worth County, Missouri	8.6	6.1
30005	Blaine County, Montana	5.5	7.0
30013	Cascade County; Great Falls, MT Metro Area; Montana	5.3	6.5
30029	Flathead County; Kalispell, MT Micro Area; Montana	7.0	6.3
30031	Gallatin County; Bozeman, MT Micro Area; Montana	4.5	6.0
30049	Lewis and Clark County; Helena, MT Micro Area; Montana	5.3	5.6
30063	Missoula County; Missoula, MT Metro Area; Montana	6.0	4.6
30081	Ravalli County, Montana	8.1	6.2
30095	Stillwater County, Montana	3.4	5.6
30099	Teton County, Montana	1.5	6.1
30103	Treasure County, Montana	3.8	6.9
30105	Valley County, Montana	7.8	7.3
30111	Yellowstone County; Billings, MT Metro Area; Montana	4.0	5.4
31005	Arthur County, Nebraska	N/A	5.3
31007	Banner County; Scottsbluff, NE Micro Area; Nebraska	2.7	N/A
31019	Buffalo County; Kearney, NE Micro Area; Nebraska	7.2	5.9
31021	Burt County, Nebraska	5.0	6.3
31039	Cuming County, Nebraska	0.8	5.3
31051	Dixon County; Sioux City, IA-NE-SD Metro Area; Nebraska	5.6	6.4
31059	Fillmore County, Nebraska	1.4	7.2
31061	Franklin County, Nebraska	8.2	5.6
31109	Lancaster County; Lincoln, NE Metro Area; Nebraska	7.5	6.6
31117	McPherson County; North Platte, NE Micro Area; Nebraska	4.5	6.2
31121	Merrick County; Grand Island, NE Micro Area; Nebraska	4.6	6.1
31149	Rock County, Nebraska	6.7	6.9
31153	Sarpy County; Omaha-Council Bluffs, NE-IA Metro Area; Nebraska	6.9	5.1
31159	Seward County; Lincoln, NE Metro Area; Nebraska	5.3	6.9
31165	Sioux County, Nebraska	6.9	5.7
31167	Stanton County; Norfolk, NE Micro Area; Nebraska	N/A	6.1
31173	Thurston County, Nebraska	7.0	4.1
31177	Washington County; Omaha-Council Bluffs, NE-IA Metro Area; Nebraska	5.8	6.9
31179	Wayne County, Nebraska	7.1	6.0
33001	Belknap County; Laconia, NH Micro Area; New Hampshire	4.7	6.3
33005	Cheshire County; Keene, NH Micro Area; New Hampshire	4.9	3.4
33009	Grafton County; Lebanon, NH-VT Micro Area; New Hampshire	7.6	3.8
33011	Hillsborough County; Manchester-Nashua, NH Metro Area; New Hampshire	6.9	2.5
33013	Merrimack County; Concord, NH Micro Area; New Hampshire	4.5	3.1
33015	Rockingham County; Boston-Cambridge-Quincy, MA-NH Metro Area; New Hampshire	7.4	3.0
33017	Strafford County; Boston-Cambridge-Quincy, MA-NH Metro Area; New Hampshire	4.7	2.6
33019	Sullivan County; Claremont, NH Micro Area; New Hampshire	3.9	6.5
34003	Bergen County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New Jersey.	3.8	2.8
34005	Burlington County; Philadelphia-Camden-Wilmington, PA-NJ-DE-MD Metro Area; New Jersey.	6.1	5.9
34007	Camden County; Philadelphia-Camden-Wilmington, PA-NJ-DE-MD Metro Area; New Jersey.	5.5	7.2
34011	Cumberland County; Vineland-Millville-Bridgeton, NJ Metro Area; New Jersey	8.1	6.1
34013	Essex County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New Jersey.	7.1	5.8
34015	Gloucester County; Philadelphia-Camden-Wilmington, PA-NJ-DE-MD Metro Area; New Jersey.	7.7	6.7
34017	Hudson County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New Jersey.	6.2	3.5
34019	Hunterdon County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New Jersey.	2.2	4.4
34021	Mercer County; Trenton-Ewing, NJ Metro Area; New Jersey	7.7	6.0
34023	Middlesex County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New Jersey.	5.3	3.0
34025	Monmouth County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New Jersey.	5.6	4.5

ATTACHMENT 1—LOW VACANCY AREAS—Continued

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
34027	Morris County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New Jersey.	6.0	2.8
34031	Passaic County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New Jersey.	6.5	3.1
34037	Sussex County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New Jersey.	3.5	4.8
34039	Union County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New Jersey.	6.5	3.9
34041	Warren County; Allentown-Bethlehem-Easton, PA-NJ Metro Area; New Jersey	7.0	6.5
35033	Mora County, New Mexico	7.1	5.6
36001	Albany County; Albany-Schenectady-Troy, NY Metro Area; New York	4.8	6.7
36005	Bronx County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New York.	3.7	4.6
36019	Clinton County; Plattsburgh, NY Micro Area; New York	5.3	7.0
36021	Columbia County; Hudson, NY Micro Area; New York	5.9	5.6
36027	Dutchess County; Poughkeepsie-Newburgh-Middletown, NY Metro Area; New York	6.0	4.8
36047	Kings County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New York.	3.7	3.8
36059	Nassau County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New York.	6.3	2.2
36061	New York County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New York.	2.5	3.9
36071	Orange County; Poughkeepsie-Newburgh-Middletown, NY Metro Area; New York	4.2	4.7
36079	Putnam County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New York.	5.0	2.7
36081	Queens County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New York.	3.3	2.8
36085	Richmond County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New York.	8.2	4.8
36087	Rockland County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New York.	4.2	3.1
36091	Saratoga County; Albany-Schenectady-Troy, NY Metro Area; New York	6.0	5.8
36103	Suffolk County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New York.	6.5	3.7
36109	Tompkins County; Ithaca, NY Metro Area; New York	3.3	4.1
36111	Ulster County; Kingston, NY Metro Area; New York	4.2	5.6
36119	Westchester County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; New York.	5.2	3.5
36121	Wyoming County, New York	5.2	7.0
37005	Alleghany County, North Carolina	2.1	5.7
37015	Bertie County, North Carolina	4.4	6.9
37023	Burke County; Hickory-Lenoir-Morganton, NC Metro Area; North Carolina	8.5	7.1
37029	Camden County; Elizabeth City, NC Micro Area; North Carolina	N/A	3.0
37041	Chowan County, North Carolina	1.6	6.8
37043	Clay County, North Carolina	7.6	5.1
37057	Davidson County; Thomasville-Lexington, NC Micro Area; North Carolina	6.1	6.0
37073	Gates County, North Carolina	2.0	3.7
37077	Granville County, North Carolina	3.6	6.7
37079	Greene County; Greenville, NC Metro Area; North Carolina	4.5	6.7
37083	Halifax County; Roanoke Rapids, NC Micro Area; North Carolina	6.0	7.0
37091	Hertford County, North Carolina	7.2	5.6
37109	Lincoln County; Lincolnton, NC Micro Area; North Carolina	4.5	5.6
37111	McDowell County, North Carolina	7.5	5.8
37117	Martin County, North Carolina	5.6	5.7
37121	Mitchell County, North Carolina	1.2	6.6
37123	Montgomery County, North Carolina	5.9	5.3
37131	Northampton County; Roanoke Rapids, NC Micro Area; North Carolina	1.7	4.9
37143	Perquimans County; Elizabeth City, NC Micro Area; North Carolina	2.6	5.3
37145	Person County; Durham-Chapel Hill, NC Metro Area; North Carolina	5.5	5.8
37169	Stokes County; Winston-Salem, NC Metro Area; North Carolina	7.0	7.1
37175	Transylvania County; Brevard, NC Micro Area; North Carolina	4.6	5.6
37177	Tyrrell County, North Carolina	3.7	5.0
37179	Union County; Charlotte-Gastonia-Concord, NC-SC Metro Area; North Carolina	5.5	3.6
37181	Vance County; Henderson, NC Micro Area; North Carolina	6.4	5.7
37187	Washington County, North Carolina	4.4	6.1
37189	Watauga County; Boone, NC Micro Area; North Carolina	6.6	7.0
37195	Wilson County; Wilson, NC Micro Area; North Carolina	6.5	5.2
38015	Burleigh County; Bismarck, ND Metro Area; North Dakota	5.5	5.3

ATTACHMENT 1—LOW VACANCY AREAS—Continued

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
38017	Cass County; Fargo, ND-MN Metro Area; North Dakota	4.5	5.0
38035	Grand Forks County; Grand Forks, ND-MN Metro Area; North Dakota	6.9	6.2
38079	Rolette County, North Dakota	7.8	7.3
38085	Sioux County, North Dakota	3.5	3.3
38091	Steele County, North Dakota	5.0	5.2
38101	Ward County; Minot, ND Micro Area; North Dakota	3.7	5.3
39001	Adams County, Ohio	8.6	7.0
39005	Ashland County; Ashland, OH Micro Area; Ohio	5.1	6.5
39015	Brown County; Cincinnati-Middletown, OH-KY-IN Metro Area; Ohio	6.3	7.1
39019	Carroll County; Canton-Massillon, OH Metro Area; Ohio	2.9	5.9
39029	Columbiana County; East Liverpool-Salem, OH Micro Area; Ohio	6.2	6.1
39037	Darke County; Greenville, OH Micro Area; Ohio	3.9	5.7
39045	Fairfield County; Columbus, OH Metro Area; Ohio	5.8	6.3
39055	Geauga County; Cleveland-Elyria-Mentor, OH Metro Area; Ohio	7.3	5.9
39057	Greene County; Dayton, OH Metro Area; Ohio	6.1	7.2
39067	Harrison County, Ohio	2.0	7.2
39069	Henry County, Ohio	5.9	6.6
39071	Highland County, Ohio	5.0	7.1
39073	Hocking County, Ohio	6.1	4.3
39075	Holmes County, Ohio	5.0	5.7
39077	Huron County; Norwalk, OH Micro Area; Ohio	7.9	5.8
39083	Knox County; Mount Vernon, OH Micro Area; Ohio	5.5	6.4
39085	Lake County; Cleveland-Elyria-Mentor, OH Metro Area; Ohio	7.4	6.3
39089	Licking County; Columbus, OH Metro Area; Ohio	5.3	6.5
39091	Logan County; Bellefontaine, OH Micro Area; Ohio	2.5	7.3
39097	Madison County; Columbus, OH Metro Area; Ohio	4.3	7.0
39107	Mercer County; Celina, OH Micro Area; Ohio	5.4	6.4
39109	Miami County; Dayton, OH Metro Area; Ohio	8.1	7.1
39117	Morrow County; Columbus, OH Metro Area; Ohio	1.0	4.6
39121	Noble County, Ohio	5.5	3.9
39125	Paulding County, Ohio	8.6	6.5
39129	Pickaway County; Columbus, OH Metro Area; Ohio	6.9	5.9
39135	Preble County; Dayton, OH Metro Area; Ohio	1.7	6.0
39137	Putnam County, Ohio	8.1	5.7
39163	Vinton County, Ohio	4.8	3.7
39169	Wayne County; Wooster, OH Micro Area; Ohio	6.3	7.0
39171	Williams County, Ohio	6.5	5.5
39173	Wood County; Toledo, OH Metro Area; Ohio	7.5	5.4
41027	Hood River County; Hood River, OR Micro Area; Oregon	7.4	2.1
41029	Jackson County; Medford, OR Metro Area; Oregon	3.8	5.7
41033	Josephine County; Grants Pass, OR Micro Area; Oregon	4.0	6.7
41039	Lane County; Eugene-Springfield, OR Metro Area; Oregon	4.4	6.4
41051	Multnomah County; Portland-Vancouver-Beaverton, OR-WA Metro Area; Oregon	5.1	6.8
41053	Polk County; Salem, OR Metro Area; Oregon	7.6	7.1
41067	Washington County; Portland-Vancouver-Beaverton, OR-WA Metro Area; Oregon	5.7	7.1
41071	Yamhill County; Portland-Vancouver-Beaverton, OR-WA Metro Area; Oregon	5.0	5.5
42001	Adams County; Gettysburg, PA Micro Area; Pennsylvania	1.7	3.9
42005	Armstrong County; Pittsburgh, PA Metro Area; Pennsylvania	4.0	6.5
42009	Bedford County, Pennsylvania	3.8	6.7
42011	Berks County; Reading, PA Metro Area; Pennsylvania	6.1	6.7
42013	Blair County; Altoona, PA Metro Area; Pennsylvania	5.8	7.2
42017	Bucks County; Philadelphia-Camden-Wilmington, PA-NJ-DE-MD Metro Area; Pennsylvania.	8.2	4.4
42019	Butler County; Pittsburgh, PA Metro Area; Pennsylvania	5.6	6.0
42027	Centre County; State College, PA Metro Area; Pennsylvania	2.4	3.4
42029	Chester County; Philadelphia-Camden-Wilmington, PA-NJ-DE-MD Metro Area; Pennsylvania.	5.4	5.0
42031	Clarion County, Pennsylvania	8.2	6.6
42033	Clearfield County; DuBois, PA Micro Area; Pennsylvania	5.5	6.0
42035	Clinton County; Lock Haven, PA Micro Area; Pennsylvania	2.4	5.2
42037	Columbia County; Bloomsburg-Berwick, PA Micro Area; Pennsylvania	5.5	7.1
42041	Cumberland County; Harrisburg-Carlisle, PA Metro Area; Pennsylvania	3.0	6.7
42045	Delaware County; Philadelphia-Camden-Wilmington, PA-NJ-DE-MD Metro Area; Pennsylvania.	7.3	6.3
42053	Forest County, Pennsylvania	3.3	7.0
42055	Franklin County; Chambersburg, PA Micro Area; Pennsylvania	4.5	7.1
42057	Fulton County, Pennsylvania	2.0	6.9
42061	Huntingdon County; Huntingdon, PA Micro Area; Pennsylvania	8.1	6.9

ATTACHMENT 1—LOW VACANCY AREAS—Continued

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
42065	Jefferson County, Pennsylvania	4.2	6.3
42067	Juniata County, Pennsylvania	2.4	5.4
42071	Lancaster County; Lancaster, PA Metro Area; Pennsylvania	4.2	5.1
42075	Lebanon County; Lebanon, PA Metro Area; Pennsylvania	3.6	6.9
42077	Lehigh County; Allentown-Bethlehem-Easton, PA-NJ Metro Area; Pennsylvania	4.9	7.1
42085	Mercer County; Youngstown-Warren-Boardman, OH-PA Metro Area; Pennsylvania	7.9	6.8
42089	Monroe County; East Stroudsburg, PA Micro Area; Pennsylvania	4.9	5.8
42091	Montgomery County; Philadelphia-Camden-Wilmington, PA-NJ-DE-MD Metro Area; Pennsylvania.	6.4	5.9
42095	Northampton County; Allentown-Bethlehem-Easton, PA-NJ Metro Area; Pennsylvania	5.2	6.2
42103	Pike County; New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area; Pennsylvania.	5.8	5.0
42105	Potter County, Pennsylvania	5.7	6.8
42109	Snyder County; Selinsgrove, PA Micro Area; Pennsylvania	2.0	5.1
42111	Somerset County; Somerset, PA Micro Area; Pennsylvania	5.7	7.1
42115	Susquehanna County, Pennsylvania	2.7	7.0
42117	Tioga County, Pennsylvania	3.6	6.2
42119	Union County; Lewisburg, PA Micro Area; Pennsylvania	3.6	6.4
42121	Venango County; Oil City, PA Micro Area; Pennsylvania	3.7	6.4
42127	Wayne County, Pennsylvania	3.7	7.1
42131	Wyoming County; Scranton-Wilkes-Barre, PA Metro Area; Pennsylvania	1.0	5.2
44001	Bristol County; Providence-New Bedford-Fall River, RI-MA Metro Area; Rhode Island	2.8	4.3
44003	Kent County; Providence-New Bedford-Fall River, RI-MA Metro Area; Rhode Island	5.1	4.8
44005	Newport County; Providence-New Bedford-Fall River, RI-MA Metro Area; Rhode Island.	6.4	5.5
44007	Providence County; Providence-New Bedford-Fall River, RI-MA Metro Area; Rhode Island.	7.7	5.1
45005	Allendale County, South Carolina	7.4	4.6
45017	Calhoun County; Columbia, SC Metro Area; South Carolina	1.8	4.8
45039	Fairfield County; Columbia, SC Metro Area; South Carolina	7.5	6.5
45065	McCormick County, South Carolina	6.5	7.0
45081	Saluda County; Columbia, SC Metro Area; South Carolina	6.8	5.5
45089	Williamsburg County, South Carolina	2.9	6.6
46011	Brookings County; Brookings, SD Micro Area; South Dakota	4.8	7.0
46015	Brule County, South Dakota	2.7	6.7
46017	Buffalo County, South Dakota	N/A	4.9
46031	Corson County, South Dakota	3.5	4.1
46033	Custer County, South Dakota	8.2	5.1
46049	Faulk County, South Dakota	4.1	5.7
46059	Hand County, South Dakota	3.7	5.1
46067	Hutchinson County, South Dakota	6.0	5.9
46079	Lake County, South Dakota	5.8	3.0
46099	Minnehaha County; Sioux Falls, SD Metro Area; South Dakota	7.7	5.0
46103	Pennington County; Rapid City, SD Metro Area; South Dakota	6.7	5.8
46109	Roberts County, South Dakota	5.2	5.7
46111	Sanborn County, South Dakota	3.2	6.3
46113	Shannon County, South Dakota	1.1	0.6
46121	Todd County, South Dakota	8.1	4.8
47003	Bedford County; Shelbyville, TN Micro Area; Tennessee	4.7	6.1
47021	Cheatham County; Nashville-Davidson—Murfreesboro—Franklin, TN Metro Area; Tennessee.	3.9	6.6
47047	Fayette County; Memphis, TN-MS-AR Metro Area; Tennessee	6.4	6.7
47127	Moore County; Tullahoma, TN Micro Area; Tennessee	4.4	3.5
47147	Robertson County; Nashville-Davidson—Murfreesboro—Franklin, TN Metro Area; Tennessee.	7.4	5.2
47171	Unicoi County; Johnson City, TN Metro Area; Tennessee	8.1	6.4
47175	Van Buren County, Tennessee	5.9	6.4
48013	Atascosa County; San Antonio, TX Metro Area; Texas	5.7	5.7
48015	Austin County; Houston-Sugar Land-Baytown, TX Metro Area; Texas	8.5	3.6
48033	Borden County, Texas	N/A	N/A
48035	Bosque County, Texas	7.0	6.5
48041	Brazos County; College Station-Bryan, TX Metro Area; Texas	7.7	6.6
48053	Burnet County, Texas	4.9	6.9
48055	Caldwell County; Austin-Round Rock, TX Metro Area; Texas	3.8	4.6
48095	Concho County, Texas	1.7	5.6
48097	Cooke County; Gainesville, TX Micro Area; Texas	5.8	6.0
48119	Delta County; Dallas-Fort Worth-Arlington, TX Metro Area; Texas	1.0	6.1
48123	DeWitt County, Texas	7.1	7.1

ATTACHMENT 1—LOW VACANCY AREAS—Continued

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
48137	Edwards County, Texas	2.7	4.3
48139	Ellis County; Dallas-Fort Worth-Arlington, TX Metro Area; Texas	6.9	6.8
48157	Fort Bend County; Houston-Sugar Land-Baytown, TX Metro Area; Texas	7.3	6.4
48171	Gillespie County; Fredericksburg, TX Micro Area; Texas	1.5	3.6
48173	Glasscock County, Texas	N/A	7.0
48205	Hartley County, Texas	1.1	6.8
48209	Hays County; Austin-Round Rock, TX Metro Area; Texas	6.1	4.6
48225	Houston County, Texas	7.3	7.1
48247	Jim Hogg County, Texas	5.9	4.8
48251	Johnson County; Dallas-Fort Worth-Arlington, TX Metro Area; Texas	5.8	6.8
48257	Kaufman County; Dallas-Fort Worth-Arlington, TX Metro Area; Texas	6.7	7.2
48261	Kenedy County; Kingsville, TX Micro Area; Texas	N/A	N/A
48267	Kimble County, Texas	5.1	5.9
48269	King County, Texas	N/A	N/A
48293	Limestone County, Texas	6.0	6.1
48301	Loving County, Texas	N/A	N/A
48305	Lynn County, Texas	N/A	7.3
48307	McCulloch County, Texas	0.5	5.8
48327	Menard County, Texas	3.7	6.5
48397	Rockwall County; Dallas-Fort Worth-Arlington, TX Metro Area; Texas	3.0	6.1
48421	Sherman County, Texas	5.5	6.5
48425	Somervell County; Granbury, TX Micro Area; Texas	N/A	6.6
48453	Travis County; Austin-Round Rock, TX Metro Area; Texas	8.1	3.2
48467	Van Zandt County, Texas	4.2	5.6
48477	Washington County; Brenham, TX Micro Area; Texas	4.0	6.6
48479	Webb County; Laredo, TX Metro Area; Texas	6.4	6.6
48491	Williamson County; Austin-Round Rock, TX Metro Area; Texas	6.3	3.8
48495	Winkler County, Texas	0.8	5.2
49005	Cache County; Logan, UT-ID Metro Area; Utah	4.8	4.7
49009	Daggett County, Utah	3.7	3.3
49011	Davis County; Ogden-Clearfield, UT Metro Area; Utah	6.5	6.2
49021	Iron County; Cedar City, UT Micro Area; Utah	6.8	7.0
49023	Juab County; Provo-Orem, UT Metro Area; Utah	3.4	2.3
49027	Millard County, Utah	4.3	6.9
49031	Piute County, Utah	N/A	4.3
49035	Salt Lake County; Salt Lake City, UT Metro Area; Utah	5.9	6.9
49047	Uintah County; Vernal, UT Micro Area; Utah	5.3	6.7
49049	Utah County; Provo-Orem, UT Metro Area; Utah	5.3	3.4
50001	Addison County, Vermont	8.1	3.4
50003	Bennington County; Bennington, VT Micro Area; Vermont	2.2	4.8
50005	Caledonia County, Vermont	6.9	6.3
50007	Chittenden County; Burlington-South Burlington, VT Metro Area; Vermont	3.8	1.8
50011	Franklin County; Burlington-South Burlington, VT Metro Area; Vermont	5.4	2.7
50013	Grand Isle County; Burlington-South Burlington, VT Metro Area; Vermont	4.6	5.6
50015	Lamoille County, Vermont	4.5	2.9
50021	Rutland County; Rutland, VT Micro Area; Vermont	7.2	4.7
50023	Washington County; Barre, VT Micro Area; Vermont	6.1	3.5
50025	Windham County, Vermont	8.2	5.1
50027	Windsor County; Lebanon, NH-VT Micro Area; Vermont	6.7	5.0
51003	Albemarle County; Charlottesville, VA Metro Area; Virginia	5.5	3.9
51005	Alleghany County, Virginia	3.1	5.3
51007	Amelia County; Richmond, VA Metro Area; Virginia	N/A	4.9
51009	Amherst County; Lynchburg, VA Metro Area; Virginia	2.3	5.0
51013	Arlington County; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; Virginia.	6.6	2.3
51015	Augusta County; Staunton-Waynesboro, VA Micro Area; Virginia	6.0	5.4
51017	Bath County, Virginia	5.6	2.9
51019	Bedford County; Lynchburg, VA Metro Area; Virginia	6.9	6.3
51021	Bland County, Virginia	3.8	6.7
51025	Brunswick County, Virginia	1.7	1.8
51029	Buckingham County, Virginia	3.5	3.5
51031	Campbell County; Lynchburg, VA Metro Area; Virginia	4.6	6.9
51033	Caroline County; Richmond, VA Metro Area; Virginia	8.1	3.9
51043	Clarke County; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; Virginia	7.1	3.1
51045	Craig County; Roanoke, VA Metro Area; Virginia	1.1	3.9
51047	Culpeper County; Culpeper, VA Micro Area; Virginia	7.4	2.5
51049	Cumberland County; Richmond, VA Metro Area; Virginia	N/A	3.3
51057	Essex County, Virginia	2.7	3.0

ATTACHMENT 1—LOW VACANCY AREAS—Continued

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
51059	Fairfax County; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; Virginia	5.0	2.3
51063	Floyd County, Virginia	7.8	6.4
51065	Fluvanna County; Charlottesville, VA Metro Area; Virginia	3.8	4.0
51067	Franklin County; Roanoke, VA Metro Area; Virginia	6.4	5.8
51069	Frederick County; Winchester, VA-WV Metro Area; Virginia	6.6	5.5
51073	Gloucester County; Virginia Beach-Norfolk-Newport News, VA-NC Metro Area; Virginia.	2.5	4.9
51075	Goochland County; Richmond, VA Metro Area; Virginia	6.0	6.9
51079	Greene County; Charlottesville, VA Metro Area; Virginia	1.4	3.0
51081	Greensville County, Virginia	5.7	3.1
51083	Halifax County, Virginia	8.4	7.1
51085	Hanover County; Richmond, VA Metro Area; Virginia	5.2	5.7
51087	Henrico County; Richmond, VA Metro Area; Virginia	6.8	5.2
51093	Isle of Wight County; Virginia Beach-Norfolk-Newport News, VA-NC Metro Area; Virginia.	3.0	5.1
51097	King and Queen County; Richmond, VA Metro Area; Virginia	2.7	2.6
51101	King William County; Richmond, VA Metro Area; Virginia	3.2	5.0
51103	Lancaster County, Virginia	1.8	7.0
51109	Louisa County; Richmond, VA Metro Area; Virginia	3.9	3.5
51111	Lunenburg County, Virginia	7.4	4.6
51113	Madison County, Virginia	4.7	3.4
51115	Mathews County; Virginia Beach-Norfolk-Newport News, VA-NC Metro Area; Virginia	N/A	4.0
51119	Middlesex County, Virginia	7.8	4.9
51121	Montgomery County; Blacksburg-Christiansburg-Radford, VA Metro Area; Virginia	4.9	3.5
51125	Nelson County; Charlottesville, VA Metro Area; Virginia	7.6	3.2
51127	New Kent County; Richmond, VA Metro Area; Virginia	N/A	2.1
51131	Northampton County, Virginia	3.8	4.6
51133	Northumberland County, Virginia	N/A	3.0
51135	Nottoway County, Virginia	3.0	4.8
51139	Page County, Virginia	3.6	4.2
51149	Prince George County; Richmond, VA Metro Area; Virginia	4.8	4.6
51153	Prince William County; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; Virginia.	8.3	3.6
51155	Pulaski County; Blacksburg-Christiansburg-Radford, VA Metro Area; Virginia	6.3	6.6
51157	Rappahannock County, Virginia	N/A	3.3
51159	Richmond County, Virginia	2.1	3.6
51161	Roanoke County; Roanoke, VA Metro Area; Virginia	6.4	5.6
51165	Rockingham County; Harrisonburg, VA Metro Area; Virginia	2.3	4.2
51171	Shenandoah County, Virginia	6.3	4.1
51183	Sussex County; Richmond, VA Metro Area; Virginia	1.5	4.4
51187	Warren County; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; Virginia.	7.9	3.7
51191	Washington County; Kingsport-Bristol-Bristol, TN-VA Metro Area; Virginia	6.1	6.9
51193	Westmoreland County, Virginia	1.2	4.2
51199	York County; Virginia Beach-Norfolk-Newport News, VA-NC Metro Area; Virginia	4.8	3.7
51510	Alexandria city; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; Virginia	5.6	2.3
51515	Bedford city; Lynchburg, VA Metro Area; Virginia	N/A	6.2
51530	Buena Vista city, Virginia	2.1	3.6
51540	Charlottesville city; Charlottesville, VA Metro Area; Virginia	6.1	2.9
51550	Chesapeake city; Virginia Beach-Norfolk-Newport News, VA-NC Metro Area; Virginia	1.6	4.9
51595	Emporia city, Virginia	5.4	6.4
51600	Fairfax city; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; Virginia	N/A	1.6
51610	Falls Church city; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; Virginia.	4.6	3.6
51650	Hampton city; Virginia Beach-Norfolk-Newport News, VA-NC Metro Area; Virginia	7.7	6.7
51660	Harrisonburg city; Harrisonburg, VA Metro Area; Virginia	4.0	3.6
51678	Lexington city, Virginia	N/A	3.3
51700	Newport News city; Virginia Beach-Norfolk-Newport News, VA-NC Metro Area; Virginia.	6.6	6.6
51735	Poquoson city; Virginia Beach-Norfolk-Newport News, VA-NC Metro Area; Virginia	5.2	0.8
51740	Portsmouth city; Virginia Beach-Norfolk-Newport News, VA-NC Metro Area; Virginia	4.6	7.0
51750	Radford city; Blacksburg-Christiansburg-Radford, VA Metro Area; Virginia	2.5	6.1
51760	Richmond city; Richmond, VA Metro Area; Virginia	7.2	6.4
51770	Roanoke city; Roanoke, VA Metro Area; Virginia	5.4	6.4
51800	Suffolk city; Virginia Beach-Norfolk-Newport News, VA-NC Metro Area; Virginia	5.0	6.9
51810	Virginia Beach city; Virginia Beach-Norfolk-Newport News, VA-NC Metro Area; Virginia.	5.2	4.6
51820	Waynesboro city; Staunton-Waynesboro, VA Micro Area; Virginia	6.5	5.8

ATTACHMENT 1—LOW VACANCY AREAS—Continued

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
51830	Williamsburg city; Virginia Beach-Norfolk-Newport News, VA-NC Metro Area; Virginia	8.6	2.8
53007	Chelan County; Wenatchee-East Wenatchee, WA Metro Area; Washington	7.3	7.1
53011	Clark County; Portland-Vancouver-Beaverton, OR-WA Metro Area; Washington	5.3	7.0
53029	Island County; Oak Harbor, WA Micro Area; Washington	6.1	4.4
53031	Jefferson County, Washington	3.0	5.3
53033	King County; Seattle-Tacoma-Bellevue, WA Metro Area; Washington	4.8	4.2
53035	Kitsap County; Bremerton-Silverdale, WA Metro Area; Washington	6.2	6.9
53037	Kittitas County; Ellensburg, WA Micro Area; Washington	3.7	6.6
53043	Lincoln County, Washington	1.5	6.0
53045	Mason County; Shelton, WA Micro Area; Washington	5.0	6.5
53053	Pierce County; Seattle-Tacoma-Bellevue, WA Metro Area; Washington	6.4	6.8
53055	San Juan County, Washington	5.8	6.9
53057	Skagit County; Mount Vernon-Anacortes, WA Metro Area; Washington	4.2	4.9
53059	Skamania County; Portland-Vancouver-Beaverton, OR-WA Metro Area; Washington	0.4	7.1
53061	Snohomish County; Seattle-Tacoma-Bellevue, WA Metro Area; Washington	4.7	5.8
53065	Stevens County, Washington	6.9	6.4
53067	Thurston County; Olympia, WA Metro Area; Washington	4.1	6.3
53069	Wahkiakum County, Washington	N/A	5.1
53073	Whatcom County; Bellingham, WA Metro Area; Washington	2.7	6.0
54001	Barbour County, West Virginia	5.1	4.8
54003	Berkeley County; Hagerstown-Martinsburg, MD-WV Metro Area; West Virginia	5.8	7.0
54013	Calhoun County, West Virginia	6.5	6.9
54017	Doddridge County; Clarksburg, WV Micro Area; West Virginia	0.9	5.6
54027	Hampshire County; Winchester, VA-WV Metro Area; West Virginia	3.9	6.7
54037	Jefferson County; Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area; West Virginia.	7.1	4.1
54041	Lewis County, West Virginia	3.1	7.2
54043	Lincoln County; Charleston, WV Metro Area; West Virginia	1.9	5.6
54051	Marshall County; Wheeling, WV-OH Metro Area; West Virginia	3.2	5.1
54071	Pendleton County, West Virginia	2.7	5.9
54083	Randolph County, West Virginia	6.4	6.8
54085	Ritchie County, West Virginia	6.0	5.9
54087	Roane County, West Virginia	2.1	6.7
54095	Tyler County, West Virginia	3.9	7.2
54101	Webster County, West Virginia	8.3	6.9
54109	Wyoming County, West Virginia	1.1	6.3
55001	Adams County, Wisconsin	5.7	6.9
55003	Ashland County, Wisconsin	8.0	7.0
55005	Barron County, Wisconsin	4.5	4.6
55007	Bayfield County, Wisconsin	5.0	6.7
55009	Brown County; Green Bay, WI Metro Area; Wisconsin	6.5	4.1
55013	Burnett County, Wisconsin	4.5	5.2
55017	Chippewa County; Eau Claire, WI Metro Area; Wisconsin	4.5	5.2
55019	Clark County, Wisconsin	7.1	6.3
55021	Columbia County; Madison, WI Metro Area; Wisconsin	8.2	6.9
55025	Dane County; Madison, WI Metro Area; Wisconsin	7.0	4.3
55031	Douglas County; Duluth, MN-WI Metro Area; Wisconsin	7.5	6.6
55035	Eau Claire County; Eau Claire, WI Metro Area; Wisconsin	4.0	3.6
55037	Florence County; Iron Mountain, MI-WI Micro Area; Wisconsin	7.7	5.3
55055	Jefferson County; Watertown-Fort Atkinson, WI Micro Area; Wisconsin	6.6	6.0
55061	Kewaunee County; Green Bay, WI Metro Area; Wisconsin	2.6	6.2
55063	La Crosse County; La Crosse, WI-MN Metro Area; Wisconsin	3.1	4.8
55077	Marquette County, Wisconsin	3.1	6.8
55079	Milwaukee County; Milwaukee-Waukesha-West Allis, WI Metro Area; Wisconsin	4.8	5.8
55081	Monroe County, Wisconsin	5.2	6.7
55083	Oconto County; Green Bay, WI Metro Area; Wisconsin	4.9	5.8
55087	Outagamie County; Appleton, WI Metro Area; Wisconsin	5.1	5.0
55089	Ozaukee County; Milwaukee-Waukesha-West Allis, WI Metro Area; Wisconsin	8.3	5.0
55093	Pierce County; Minneapolis-St. Paul-Bloomington, MN-WI Metro Area; Wisconsin	3.5	3.0
55097	Portage County; Stevens Point, WI Micro Area; Wisconsin	4.3	4.1
55101	Racine County; Racine, WI Metro Area; Wisconsin	6.0	7.1
55107	Rusk County, Wisconsin	3.3	6.0
55109	St. Croix County; Minneapolis-St. Paul-Bloomington, MN-WI Metro Area; Wisconsin	4.2	3.3
55113	Sawyer County, Wisconsin	1.6	6.5
55115	Shawano County, Wisconsin	5.9	6.4
55117	Sheboygan County; Sheboygan, WI Metro Area; Wisconsin	6.8	5.6
55119	Taylor County, Wisconsin	6.7	4.9
55123	Vernon County, Wisconsin	6.8	6.8

ATTACHMENT 1—LOW VACANCY AREAS—Continued

County FIPS code	County name	Vacancy Rate for Units Affordable to 80% of AMI	
		2009 ACS 5 Year average (percent)	2000 Census (percent)
55127	Walworth County; Whitewater, WI Micro Area; Wisconsin	7.9	4.9
55131	Washington County; Milwaukee-Waukesha-West Allis, WI Metro Area; Wisconsin	3.8	5.0
55133	Waukesha County; Milwaukee-Waukesha-West Allis, WI Metro Area; Wisconsin	4.6	5.4
55137	Waushara County, Wisconsin	3.3	6.3
55139	Winnebago County; Oshkosh-Neenah, WI Metro Area; Wisconsin	7.5	6.0
55141	Wood County; Marshfield-Wisconsin Rapids, WI Micro Area; Wisconsin	6.6	6.0
56001	Albany County; Laramie, WY Micro Area; Wyoming	7.4	5.7
56005	Campbell County; Gillette, WY Micro Area; Wyoming	5.3	6.5
56019	Johnson County, Wyoming	1.4	5.0
56033	Sheridan County; Sheridan, WY Micro Area; Wyoming	3.6	5.2
72003	Aguada Municipio; Aguadilla-Isabela-San Sebastián, PR Metro Area; Puerto Rico	N/A	6.7
72005	Aguadilla Municipio; Aguadilla-Isabela-San Sebastián, PR Metro Area; Puerto Rico	4.3	6.5
72007	Aguas Buenas Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	2.2	6.5
72015	Arroyo Municipio; Guayama, PR Metro Area; Puerto Rico	2.5	3.7
72017	Barceloneta Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	4.7	5.0
72019	Barranquitas Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	1.0	6.9
72025	Caguas Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	2.5	5.2
72029	Canovanas Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	2.1	6.4
72031	Carolina Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	4.4	7.2
72033	Cataño Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	3.6	5.2
72035	Cayey Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	4.1	6.3
72037	Ceiba Municipio; Fajardo, PR Metro Area; Puerto Rico	1.6	6.9
72039	Ciales Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	N/A	6.2
72041	Cidra Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	N/A	5.6
72043	Coamo Municipio; Coamo, PR Micro Area; Puerto Rico	N/A	5.7
72047	Corozal Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	1.2	4.8
72057	Guayama Municipio; Guayama, PR Metro Area; Puerto Rico	3.9	5.3
72059	Guayanilla Municipio; Yauco, PR Metro Area; Puerto Rico	2.2	5.4
72061	Guaynabo Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	2.0	6.6
72063	Gurabo Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	6.7	3.9
72065	Hatillo Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	6.0	4.8
72071	Isabela Municipio; Aguadilla-Isabela-San Sebastián, PR Metro Area; Puerto Rico	2.2	6.8
72073	Jayuya Municipio; Jayuya, PR Micro Area; Puerto Rico	N/A	2.6
72075	Juana Díaz Municipio; Ponce, PR Metro Area; Puerto Rico	1.9	5.1
72077	Juncos Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	4.6	4.9
72087	Lofza Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	1.3	4.4
72093	Maricao Municipio, Puerto Rico	N/A	4.5
72095	Maunabo Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	N/A	1.7
72101	Morovis Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	2.3	4.7
72103	Naguabo Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	6.4	6.3
72107	Orocovis Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	0.6	5.1
72111	Peñuelas Municipio; Yauco, PR Metro Area; Puerto Rico	1.9	5.0
72113	Ponce Municipio; Ponce, PR Metro Area; Puerto Rico	2.6	4.7
72115	Quebradillas Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	2.4	4.7
72119	Rio Grande Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	4.0	6.5
72121	Sabana Grande Municipio; San Germán-Cabo Rojo, PR Metro Area; Puerto Rico	1.0	5.1
72123	Salinas Municipio; Coamo, PR Micro Area; Puerto Rico	1.8	2.8
72125	San Germán Municipio; San Germán-Cabo Rojo, PR Metro Area; Puerto Rico	1.9	6.0
72127	San Juan Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	4.5	6.2
72133	Santa Isabel Municipio; Santa Isabel, PR Micro Area; Puerto Rico	N/A	1.6
72143	Vega Alta Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	5.0	4.8
72147	Vieques Municipio, Puerto Rico	8.4	7.0
72149	Villalba Municipio; Ponce, PR Metro Area; Puerto Rico	1.8	4.4
72151	Yabucoa Municipio; San Juan-Caguas-Guaynabo, PR Metro Area; Puerto Rico	3.8	4.8
72153	Yauco Municipio; Yauco, PR Metro Area; Puerto Rico	2.0	6.1

Note: A property meets the low-vacancy threshold if it is located in a county that was below the national rental vacancy rate for units affordable to low-income households in 2000 (7.3 percent) and was within the 80th percentile of low-income rental vacancy rates (8.7 percent) as measured by the 2009 5 year ACS (meaning that 80 percent of counties had a vacancy rate below 8.7 percent in the 2009 5 year ACS).

[FR Doc. 2013–00072 Filed 1–7–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–R–2012–N270; FXRS12610800000–134–FF08RSDC00]

Otay River Estuary Restoration Project; South San Diego Bay Unit and Sweetwater Marsh Unit of the San Diego Bay National Wildlife Refuge, California; Intent To Prepare an Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; reinitiation of scoping and request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are reinitiating scoping with regard to the environmental impact statement (EIS) for the proposed Otay River Estuary Restoration Project. As originally proposed, the project involved the restoration of estuarine and salt marsh (subtidal and intertidal wetlands) habitats within the western terminus of the Otay River and a portion of the salt ponds in the San Diego Bay National Wildlife Refuge–South San Diego Bay Unit. Based on information developed since the original scoping period, the proposed project may now also include the restoration of a portion of the D Street Fill, located within the San Diego Bay National Wildlife Refuge–Sweetwater Marsh Unit. We originally published a notice of intent on November 14, 2011 (76 FR 70480), and scoping comments were accepted through January 12, 2012. Since then, we have expanded the Area of Potential Effect of the restoration project to include the salt ponds and D Street Fill within the San Diego Bay National Wildlife Refuge. This second notice advises the public that we intend to gather additional information through scoping regarding an EIS for the expanded project. We encourage the public and other agencies to participate in the NEPA scoping process by sending written suggestions and information on the issues and concerns that should be addressed in the draft EIS, including the range of alternatives, appropriate mitigation measures, and the nature and extent of potential environmental impacts. Comments submitted during the earlier scoping period do not need to be resubmitted.

DATES: To ensure that we have adequate time to evaluate and incorporate suggestions and other input, we must receive your comments on or before February 8, 2013.

ADDRESSES: Send your comments or requests for more information by one of the following methods.

Email: Otay_NOI@fws.gov. Please include "Otay Estuary NOI" in the subject line of the message

Fax: Attn: Brian Collins, (619) 476–9149

U.S. Mail: Brian Collins, U.S. Fish and Wildlife Service, San Diego National Wildlife Refuge Complex, P.O. Box 2358, Chula Vista, CA 91912

FOR FURTHER INFORMATION CONTACT: Brian Collins, Refuge Manager (619–575–2704, extension 302), or Andrew Yuen, Project Leader (619–476–9150, extension 100).

SUPPLEMENTARY INFORMATION:

Background

In 2006, we completed a Comprehensive Conservation Plan (CCP) and EIS/Record of Decision (ROD) to guide the management of the San Diego Bay National Wildlife Refuge over a 15-year period (71 FR 64552, November 2, 2006). The wildlife and habitat management goal of the selected management alternative in the CCP for the South San Diego Bay Unit is to "Protect, manage, enhance, and restore * * * coastal wetlands * * * to benefit the native fish, wildlife, and plant species supported within the South San Diego Bay Unit." One of the strategies identified to meet this goal is to restore native habitats in the Otay River floodplain and the salt ponds. The wildlife and habitat management goal of the selected alternative for the Sweetwater Marsh Unit is to "Protect, manage, enhance, and restore coastal wetland and upland habitats to benefit native fish, wildlife, and plant species within the Sweetwater Marsh Unit." The proposed restoration project represents step-down restoration planning for the western portion of the Otay River floodplain, salt ponds, and D Street Fill. The site-specific EIS for this project will tier from the programmatic EIS and ROD prepared for the CCP. Funding for the proposed restoration is being provided by the Poseidon Resources Carlsbad Desalination Project to fulfill part of their mitigation requirement for the desalination project. On November 15, 2007, the California Coastal Commission (Commission) approved a Coastal Development Permit (CDP No. E–06–013) for the Poseidon desalination facility in Carlsbad, San Diego County. As part of that approval, the Commission required Poseidon to implement a Marine Life Mitigation Plan (MLMP).

In early 2010, Poseidon submitted an initial proposal to the Commission identifying possible mitigation sites. The submittal compared about a dozen potential sites in the Southern California Bight and concluded that the Otay River floodplain portion of the San Diego Bay NWR was most suited to provide the type and amount of mitigation the MLMP required. Commission staff and members of the Commission's Scientific Advisory Panel reviewed Poseidon's analysis and concurred that the Otay River floodplain site was most likely to meet the MLMP requirements and objectives. Final site selection required approval by both the Commission and the San Diego Regional Water Quality Control Board (SDRWQCB). On February 9, 2011, the Commission unanimously approved the Otay River floodplain site, and the site was approved by the SDRWQCB on March 9, 2011. On October 15, 2012, the Commission's Executive Director approved an 18-month extension to Poseidon Resources to submit a Coastal Development Permit application based on the potential additional benefits of restoration or partial restoration of salt ponds as part of the Otay River Estuary Restoration Project. The MLMP requirements and objectives are consistent with the goals and objectives set forth in our CCP for the Otay River floodplain, salt ponds, and D Street Fill.

Prior to implementation of the restoration project, the California Coastal Commission must approve a Coastal Development Permit (CDP) for the proposed restoration. In accordance with the California Environmental Quality Act, the CDP process is exempt from the requirement of preparing an environmental impact report. The Commission's staff report and findings related to the CDP application for the project will be the environmental analysis document prepared under the Commission's certified regulatory program. The Commission will allow sufficient opportunity during the CDP process for public review and comment.

Proposed Project

We propose to convert disturbed uplands within the western portion of the Otay River floodplain and salt ponds

to functional estuarine and salt marsh habitats. We may also restore a portion of the D Street Fill to salt marsh habitat. Upland buffers to be provided around portions of the restored wetlands would be planted with native upland and wetland/upland transitional vegetation. The major goals of the project are to protect, manage, enhance, and restore open water coastal wetlands and native upland to benefit native fish, wildlife, and plant species supported within the South San Diego Bay Unit and Sweetwater Marsh Unit of the San Diego Bay NWR and to provide habitat for migratory shorebirds and other salt-marsh-dependent species.

The uplands portion of the project site, which is located within the City of San Diego to the west of Interstate 5 between Main Street to the north and Palm Avenue to the south, is included entirely within an area managed by the Service as a National Wildlife Refuge. The eastern portion of the uplands site is owned by the Service in fee title, while the western portion is leased to the Service by the State Lands Commission. D Street Fill is located west of Interstate 5 and south of the Sweetwater River. The Salt Ponds are located west of Interstate 5 and south of the Chula Vista Marina.

In order to restore estuarine habitat in the Otay River floodplain, we have initially estimated that approximately 75 acres would need to be graded to provide both the wetland and upland components of the proposed restoration. To achieve elevations appropriate for supporting the desired estuarine habitat types, excavation of 3 to 11 feet of soil over an area of approximately 65 acres would be required, generating an estimated 750,000 to 1 million cubic yards of material. The excavated soil may be used to create estuarine and salt marsh habitats in the salt ponds, with the remainder being transported off site to an approved disposal site. The proposed wetlands would be tidally connected to San Diego Bay, directly and through the existing Otay River channel. Additional grading to potentially deepen and widen the Otay River channel from the western edge of the project site out to the mouth of the river, and potentially dredging channels in the mudflats to increase tidal circulation to the adjacent restored salt ponds, may be needed pending hydraulic modeling. At the D Street Fill, material would be excavated and removed to restore historic salt marsh.

Public Comment

We are furnishing this second notice in accordance with section 1501.7 of the NEPA implementing regulations, to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. The Service is currently developing a range of restoration alternatives to be analyzed in the draft EIS, and we invite written comments from interested parties to ensure identification of the full range of alternatives, issues, and concerns. Information gathered through this scoping process will assist us in developing a range of alternatives. A detailed description of the proposed action and alternatives will be included in the EIS. The EIS will also address the direct, indirect, and cumulative impacts of the alternatives on environmental resources and identify appropriate mitigation measures for adverse environmental effects.

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

In addition to providing written comments, the public is encouraged to attend a public scoping meeting to provide us with suggestions and information on the scope of issues and alternatives to consider when drafting the EIS. A public scoping meeting will be held in San Diego County, California, in early 2013. We will mail a separate announcement to the public with the exact date, time, and location of the public scoping meeting. Requests to be contacted about the scoping meeting should be directed to the contact provided under **ADDRESSES** above. We will accept both oral and written comments at the scoping meeting. Written comments previously provided in response to the November 2011 notice of intent and during the December 2011 scoping meeting are part of the public record and will be considered during our NEPA review. Comments submitted previously do not need to be resubmitted.

NEPA Compliance

We will conduct environmental review in accordance with the requirements of NEPA, as amended (42 U.S.C. 4321 *et seq.*), its implementing regulations (40 CFR parts 1500–1508), other applicable regulations, and our procedures for compliance with those regulations. We anticipate that a draft EIS will be available for public review in the winter of 2014.

Alexandra Pitts,

Acting Regional Director, Pacific Southwest Region.

[FR Doc. 2013–00134 Filed 1–7–13; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–862]

Certain Electronic Devices, Including Wireless Communication Devices, Tablet Computers, Media Players, and Televisions, and Components Thereof; Institution of Investigation Pursuant to United States Code

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 30, 2012, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Ericsson Inc. of Plano, Texas and Telefonaktiebolaget LM Ericsson of Stockholm, Sweden. Letters supplementing the complaint were filed on December 3, December 12, and December 19, 2012. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices, including wireless communication devices, tablet computers, media players, and televisions, and components thereof by reason of infringement of certain claims of U.S. Patent No. 6,029,052 ("the '052 patent"); U.S. Patent No. 6,058,359 ("the '359 patent"); U.S. Patent No. 6,278,888 ("the '888 patent"); U.S. Patent No. 6,301,556 ("the '556 patent"); U.S. Patent No. 6,418,310 ("the '310 patent"); U.S. Patent No. 6,445,917 ("the '917 patent"); U.S. Patent No. 6,473,506 ("the '506 patent"); U.S. Patent No. 6,519,223 ("the '223 patent"); U.S. Patent No. 6,624,832 ("the '832 patent"); U.S. Patent No. 6,772,215 ("the '215 patent"); and U.S. Patent No. 8,169,992 ("the '992 patent"). The complaint further alleges that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an

exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2012).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 2, 2013, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain electronic devices, including wireless communication devices, tablet computers, media players, and televisions, and components thereof that infringe one or more of claims 1–3, 5, 8, 11, 13, 14, and 18 of the '052 patent; claims 28–33, 36, 37, 39–43, 46, 47, 50, 51, and 54 of the '359 patent; claim 30 of the '888 patent; claims 1–3, 8, 10, 19, 20, 23, 24, 26–33, 38, 40, 50, 53–55, 57, and 62–68 of the '556 patent; 1, 4, 6, 9–13, and 16–20 of the '310 patent; claims 1, 24–26, 28, 30, and 54 of the '917 patent; claims 1, 4, 6, 7, 17, 20, 22, and 23 of the '506 patent; claims 1–3, 11–14, 19, 21, 22, and 30–32 of the '223 patent, claims 1, 4, 9, 10, and 12 of the '832 patent; claims 1, 2, 4, 6, 8, 15, 22, 25, 26, 29, 32, 34, 45, 46, 49, 52, and 54 of the '215 patent; claims 1, 3, 5–8, and 10–15 of the '992 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors, 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Ericsson Inc., 6300 Legacy Drive, Plano, TX 75024;

Telefonaktiebolaget LM Ericcson, Torshamsgatan 23, Kista, 164 83 Stockholm, Sweden.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Samsung Electronics America, Inc., 85 Challenger Road, Ridgefield Park, NJ 07660.

Samsung Telecommunications America LLC, 1301 East Lookout Drive, Richardson, TX 75082.

Samsung Electronics Co., Ltd., Samsung Electronics Building, 1320–10, Seocho 2-dong, Seocho-gu, Seoul 137–857, Republic of Korea.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

Issued: January 3, 2013.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–00149 Filed 1–7–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–812]

Certain Computing Devices With Associated Instruction Sets and Software; Notice of Commission Determination Not To Review an Initial Determination Granting a Joint Motion To Terminate This Investigation Based on a Settlement; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 18) granting a joint motion to terminate this investigation based on a settlement. The investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission

may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on February 27, 2012, based upon a complaint filed on behalf of VIA Technologies, Inc. of New Taipei City, Taiwan; IP-First, LLC of Fremont, California; and Centaur Technology, Inc. of Austin, Texas (collectively, "VIA") on September 22, 2011, as amended on October 13, 2011, and as further amended on October 31, 2011. 76 FR 70490 (November 14, 2011). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the sale for importation, importation, or sale after importation in the United States of certain computing devices with associated instruction sets and software by reason of infringement of claims 1–4, 7–10, and 26–29 of U.S. Patent No. 6,253,312; claims 1, 14, and 21 of U.S. Patent No. 6,253,311; claims 20, 27, and 30 of U.S. Patent No. 6,754,810; claims 1–3 and 10–14 of U.S. Patent No. 7,185,180; and claims 23, 24 and 28–30 of U.S. Patent No. 7,155,598. The notice of institution named as respondent Apple Inc., a/k/a Apple Computer, Inc. of Cupertino, California ("Apple").

On November 19, 2012, VIA and Apple filed a joint motion seeking to terminate the investigation based upon a settlement agreement. On November 29, 2012, the Commission investigative attorney filed a response in support of the motion. On November 30, 2012, the administrative law judge granted the motion, finding that termination of the investigation based on a settlement between VIA and Apple does not impose any undue burdens on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers. No petitions for review were filed.

Having considered the record in the investigation, the Commission has determined not to review the subject ID and to terminate the investigation.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.
Issued: January 2, 2013.

William R. Bishop,

Supervisory Hearing and Information Officer.

[FR Doc. 2013–00070 Filed 1–7–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–NEW]

Agency Information Collection Activities; Extension of a Currently Approved Collection; Comment Request: Equal Employment Opportunity Plan Certification and Short Form

ACTION: 30-Day Notice.

The U.S. Department of Justice (DOJ), Office of Justice Programs (OJP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register**, Volume 77, Number 207, page 65204, on October 25, 2012, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 7, 2013. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Equal Employment Opportunity Plan Certification and Short Form.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* The Office for Civil Rights, Office of Justice Programs, United States Department of Justice, is sponsoring the collection.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, and local, government instrumentalities. Other: For-profit Institutions. 28 CFR 42.301 et seq. authorizes the Department of Justice to collect information regarding employment practices from State or Local units of government, agencies of State and Local governments, and Private entities, institutions or organizations to which OJP, COPS or OVW extend Federal financial assistance.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* There are a total of 6371 respondents. It is estimated that it will take 1,290 respondents receiving a grant of $500,000 or more one hour to complete an Equal Employment Opportunity Plan Short Form and submit it to the Office of Justice Programs. In addition, an estimated 5,081 of respondents seeking grants ranging from $25,000 up to $500,000 will be required to complete Certification stating that they are maintaining a current Equal Employment Opportunity Plan on file and submit the certification to OJP. Completion and submission of the Certification will take ¼ hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* For the 6371 respondents, the total estimated burden hours on respondents would be 2,560 to complete the EEOP Short Form or Certification.

If additional information is required, contact Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: January 3, 2013.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2013–00147 Filed 1–7–13; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1103–NEW]

Agency Information Collection Activities: Proposed New Collection; Comments Requested; Stress Resiliency Study Questionnaires for Milwaukee Police Department

ACTION: 60–Day notice.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The revision of a previously approved information collection is published to obtain comments from the public and affected agencies.

The purpose of this notice is to allow for 60 days for public comment until March 11, 2013. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Danielle Ouellette, Department of Justice, Office of Community Oriented Policing Services, 145 N Street NE., Washington, DC 20530. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Proposed new collection; comments requested.

(2) *Title of the Form/Collection:* Stress Resiliency Study Questionnaires for Milwaukee Police Department.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The Milwaukee Police Department (MPD) will be the affected public who is subject to this survey through a COPS cooperative agreement with the MPD. These surveys will be used to collect data on MPD officers' perceived stress, responses to stressful experiences, stress and its relationship to biometrics and related questionnaires.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 120 respondents annually will complete the form within .57 hours (34 minutes).

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 68 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: January 3, 2013.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2013–00148 Filed 1–7–13; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On December 20, 2012, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Massachusetts in the lawsuit entitled, *United States of America* v. *Solutia, Inc. and INEOS Melamines, LLC,* Civil Action No. 3:12–cv–12377–KPN.

In its Complaint, the United States alleged that the Defendant's actions at their chemical manufacturing plant violated the Clean Air Act, and regulations promulgated pursuant to the Clean Air Act. The alleged violations occurred at the Defendants' Indian Orchard Plant in Springfield, Massachusetts. The United States alleges in its Complaint that Defendants violated: (A) Sections 112 and 502 of the Clean Air Act, 42 U.S.C. 7412 and 7661a, and implementing regulations; (B) the Final Reasonably Available Control Technology Compliance Plan Conditional Approval issued by the Massachusetts Department of Environmental Protection ("Massachusetts DEP") on June 20, 1989 which contains requirements on the operation of the Plant; and (C) the Air Quality Operating Permit issued to Solutia Inc. on June 26, 2005 by the Massachusetts DEP pursuant to Title V of the Clean Air Act and 310 C.M.R. 7.00: Appendix C which also contains requirements on the operation of the Plant.

Upon entry of Consent Decree, the Defendants will pay a civil penalty in the amount of $970,000 to the United States. In addition, under the terms of the Consent Decree, the Defendants will implement an enhanced leak detection and repair system to control and manage the air pollutants emitted at the facility. As part of this leak detection and repair system, the Defendants will undertake efforts above and beyond what is currently required by the Clean Air Act and the regulations that the United States alleged were violated at the Plant. Pursuant to the proposed Consent Decree, the Defendants will conduct more frequent monitoring for possible equipment leaks, use lower thresholds for the repairs of leaks, replace leaking equipment more quickly with improved equipment, and conduct third-party audits of its leak detection and repair program.

The proposed Consent Decree resolves both Solutia Inc.'s liability, and INEOS Melamines, LLC's liability for all of the violations of the Clean Air Act

that the United States alleges in its Complaint.

The publication of this notice initiates a 30-day period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America* v. *Solutia, Inc. and INEOS Melamines, LLC*, D.J. Ref. No. 90–5–2–1–09980. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html*. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $18.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–00092 Filed 1–7–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act, the Clean Water Act and the Resource Conservation and Recovery Act

On December 31, 2012, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of South Carolina in the lawsuit entitled *United States* v. *Weylchem US, Inc.*, Civil Action No. 3:12-cv-03639–CMC.

In *Weylchem*, the United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint pursuant to the Clean Air Act, 42 U.S.C. 7401 *et seq.*; the Clean Water Act, 33 U.S.C. 1301 *et seq.*; and the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, alleging violations of these statutes at Weylchem US, Inc.'s ("Weylchem") facilities in Elgin, South Carolina and Lugoff, South Carolina. The South Carolina Department of Health and Environmental Control ("SCDHEC") filed a Complaint in Intervention alleging claims under the South Carolina Pollution Control Act, S.C. Code Section 48–1–110. Under the proposed consent decree, Weylchem agrees to come into compliance with the requirements of the environmental statutes and pay a civil penalty of $500,000, of which $175,000 shall be paid to SCDHEC.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Weylchem US, Inc.*, D.J. Ref. No. 90–5–2–1–08542/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html*. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $30.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $13.00.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–00060 Filed 1–7–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Oil Pollution Act

On December 21, 2012, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Hawaii in *United States and the State of Hawaii* v. *Cape Flattery Limited et al.*, Civil Action No. 12–00693JMS–BMK. The proposed consent decree would require Cape Flattery Limited and Pacific Basin (HK) Limited to pay $7.5 million to resolve the United States' and the State of Hawaii's ("the State") natural resource damage claims brought pursuant to Sections 1002 and 1006 of the Oil Pollution Act, 33 U.S.C. 2702, 2706, and Section 128D of the Hawaii Environmental Response law, Haw. Rev. Stat. § 128D.

In this action, the United States and the State seek removal costs, natural resource damages, and natural resource damage assessment costs relating to the February 2005 grounding of the M/V Cape Flattery on coral reef habitat outside the entrance channel to Barbers Point Harbor, Oahu, Hawaii. The proposed $7.5 million payment would reimburse the United States and the State for removal costs, damages to natural resources, and assessment costs.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Hawaii* v. *Cape Flattery Limited et al., D.J. Ref. No. 90–5–1–1–10600*. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $5.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–00062 Filed 1–7–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–80,399; TA–W–80,399A]

CalAmp Wireless Networks Corporation (CWNC), Satellite Products Division, Including On-Site Leased Workers From Select Staffing, Oxnard, CA; CalAmp Wireless Networks Corporation (CWNC), Including On-Site Leased Workers From Spherion Staffing, Waseca, MN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 2, 2011, applicable to workers of CalAmp Products, Inc., Satellite Products Division, including on-site leased workers from Select Staffing, Oxnard, California (TA–W–80,399). The workers are engaged in the production of converter/amplifiers for satellite television. The Department's Notice was published in the **Federal Register** on December 13, 2011 (76 FR 77556).

At the request of the State of Minnesota, the Department reviewed the certification for workers and former workers of CalAmp Products, Inc., Satellite Products Division, Oxnard, California.

New information shows that, following a corporate merger in March 2012, the correct legal name of the subject firm located in Waseca, Minnesota and Oxnard, California should read CalAmp Wireless Networks Corporation (CWNC), and that the manufacturing of wireless networking products was transferred from the Waseca, Minnesota location of the subject firm to Oxnard, California in order to better utilize plant capacity at the Oxnard, California facility that was available following the shift of production from the Oxnard, California facility to a foreign country. The Waseca, Minnesota location is currently being shut down.

Accordingly, the Department is amending the certification to correctly identify the name of the subject firm in its entirety and to include the Waseca, Minnesota location of the subject firm and leased workers from Spherion Staffing working on-site at the Waseca, Minnesota facility.

The amended notice applicable to TA–W–80,399 is hereby issued as follows:

"All workers of CalAmp Wireless Networks Corporation (CWNC), Satellite Products Division, including on-site leased workers from Select Staffing, Oxnard, California (TA–W–80,399) and CalAmp Wireless Networks Corporation (CWNC), including on-site leased workers from Spherion Staffing, Waseca Minnesota (TA–W–80,399A), who became totally or partially separated from employment on or after August 18, 2010 through December 2, 2013, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended."

Signed at Washington, DC, this 16th day of November, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–00102 Filed 1–7–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,250]

Schneider Electric, U.S.A., Subsidiary of Schneider Electric, Power Business Unit, Power Solutions Division, Including On-Site Leased Workers From Volt Workforces Solutions and Resource Tek, Lavergne, TN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 7, 2012, applicable to workers of Schneider Electric, U.S.A., subsidiary of Schneider Electric, Power Business Unit, Power Solutions Division, including on-site leased workers from Volt Workforces Solutions, LaVergne, Tennessee. The workers are engaged in activities related to the production of electric monitoring devices used for measuring and monitoring electric consumption. The notice was published in the **Federal Register** on February 28, 2012 (77 FR 12083).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. New information from the company shows that workers leased from Resource Tek were employed on-site at the LaVergne, Tennessee location of Schneider Electric, U.S.A., Power Business Unit, Power Solutions Division. The Department has determined that these workers were sufficiently under the control of Schneider Electric, U.S.A., Power Business Unit, Power Solutions Division to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in production to India. Based on these findings, the Department is amending this certification to include workers leased from Resource Tek working on-site at the LaVergne, Tennessee location of the subject firm. The amended notice applicable to TA–W–81,250 is hereby issued as follows:

"All workers from Schneider Electric, U.S.A., Subsidiary of Schneider Electric,

Power Business Unit, Power Solutions Division, including on-site leased workers from Volt Workforces Solutions and Resource Tek, LaVergne, Tennessee, who became totally or partially separated from employment on or after February 13, 2010, through February 7, 2014, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended."

Signed at Washington, DC, this 16th day of November, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–00104 Filed 1–7–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–80,405]

Schweizer Aircraft Corporation, a Subsidiary of Sikorsky Aircraft Corporation, a Division of United Technologies, Inc., DBA Sikorsky Military Completion Center, Including On-Site Leased Workers From Adecco, Aerotek, Inc., Aquinas Consulting & Staffing Solutions, Belcan Engineering Group, Butler America, LLC., Cameron Mfg. and Design, Inc., Express Employment Professionals, Kelly Engineering, Kelly Services, Inc., New Era Recruiting, Normatec Consultings, Inc., RCM Technologies, Morris Protective Service, Inc., Pinkerton Government Services, Temco Service, Inc., and Wesco Distribution, Inc. and Including Dr. Marc Immerman and Mr. Dominic Insogna Horseheads, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 28, 2011, applicable to workers and former workers of Schweizer Aircraft Corporation, a subsidiary of Sikorsky Aircraft Corporation, a division of United Technologies, Inc., dba Sikorsky Military Completion Center, including on-site leased workers from Adecco, Aerotek, Inc., Aquinas Consulting & Staffing Solutions, Belcan Engineering Group, Butler America, LLC., Cameron Mfg. and Design, Inc., Express Employment Professionals, Kelly Engineering, Kelly Services, Inc., New ERA Recruiting, Normatec Consultants, Inc., and RCM Technologies, Horseheads, New York.

Workers of Schweizer Aircraft Corporation, a subsidiary of Sikorsky Aircraft Corporation, a division of United Technologies, Inc., Horseheads, New York (Schweizer) are engaged in activities related to the production of helicopters and surveillance aircraft. The Department's Notice of determination was published in the **Federal Register** on January 12, 2012 (77 FR 1951).

At the request of State of New York, the Department reviewed the certification for workers of Schweizer. New information from the subject firm shows that workers leased from Morris Protective Service, Inc., Pinkerton Government Services, Temco Service, Inc., and Wesco Distribution, Inc., and two individuals were employed on-site at Schweizer. The Department has determined that these workers were sufficiently under the control of the Horsehead, New York location to be considered leased workers.

The intent of the Department's certification is to include all workers of Schweizer who were adversely affected by increased aggregate imports of helicopters and surveillance aircraft.

Based on these findings, the Department is amending this certification to include workers leased from Morris Protective Service, Inc., Pinkerton Government Services, Temco Service, Inc., and Wesco Distribution, Inc., and including Dr. Marc Immerman and Mr. Dominic Insogna, who worked on-site at the Horseheads, New York location of Schweizer. The amended notice applicable to TA–W–80,405 is hereby issued as follows:

"All workers from Schweizer Aircraft Corporation, a subsidiary of Sikorsky Aircraft Corporation, a division of United Technologies Corporation, dba Sikorsky Military Completion Center, including on-site leased workers from Adecco, Aerotek, Inc., Aquinas Consulting & Staffing Solutions, Belcan Engineering group, Butler America, LLC., Cameron Mfg. and Design, Inc., Express Employment Professionals, Kelly Engineering, Kelly Services, Inc., New Era Recruiting, Normatec Consultants, Inc., RCM Technologies, Morris Protective Services, Inc., Pinkerton Government Services, Temco Service, and Wesco Distribution, Inc., and including Dr. Marc Immerman and Mr. Dominic Insogna, Horseheads, New York, who became totally or partially separated from employment on or after August 30, 2010, through December 28, 2013, and all workers in the group threatened with total or partial separation from employment on December 28, 2011 through December 28, 2013, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended."

Signed at Washington, DC this 16th day of November, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–00103 Filed 1–7–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of November 13, 2012 through November 16, 2012.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,952	American Airlines, Dallas-FT. Worth International Airport, Aerotek, Cornerstone RPC, etc.	DFW International Airport, TX	September 6, 2011.
81,990	American Airlines, Tulsa International Airport, Aerotek, Cornerstone Staff, RPC Staffing, etc.	Tulsa, OK	September 19, 2011.
81,999	Ferrara Candy Company, Inc., Formerly Known as Farley's & Sathers Candy Company, Inc.	Round Lake, MN	August 13, 2012.
81,999A	Ferrara Candy Company, Inc., Formerly Known as Farley's & Sathers Candy Company, Inc.	Chicago, IL	September 21, 2011.
82,018	American Airlines, Alliance Maintenance Base, Aerotek, Cornerstone, RPC, Henderson, etc.	Fort Worth, TX	September 26, 2011.
82,034	DB Hedgeworks, LLC, Deutsche Bank, AG, Advantage Professional	Santa Ana, CA	October 2, 2011.
82,069	UTC Aerospace Systems, fka Hamilton Sundstrand, Air Management Systems Division.	Windsor Locks, CT	October 9, 2011.
82,094	Anthem Insurance Companies, Inc., Wellpoint, Inc., Bluecard Home Claims Operations Division.	Cape Girardeau, MO	June 9, 2012.
82,094A	Anthem Insurance Companies, Inc., Wellpoint, Inc., Group Claims Operations Division.	Springfield, MO	June 9, 2012.

TA–W No.	Subject firm	Location	Impact date
82,094B	Anthem Insurance Companies, Wellpoint, Inc., Group Claims Operations Division.	Platteville, WI	June 9, 2012.
82,094C	Anthem Insurance Companies, Inc., Wellpoint, Inc., Enrollment and Billing Division.	Cape Girardeau, MO	June 9, 2012.
82,098	Choice Hotels International, Inc., Call Center Operations	Grand Junction, CO	October 18, 2011.
82,103	American Airlines, O'Hare International Airport, Aerotek, Cornerstone, RPC, Henderson, Johnson.	Chicago, IL	October 18, 2011.
82,115	Cinch Connectors, Inc., Belfuse, Express Personnel Services, and Penmac Personnel Services.	Vinita, OK	October 29, 2011.
82,116	Heraeus Kulzer, LLC, People Link Staffing and Forge Staffing	South Bend, IN	October 30, 2011.
82,120	Welch Allyn Inc., Finance Department, Kelly Services and Contemporary Personnel.	Skaneateles Falls, NY	October 31, 2011.
82,126	Covidien Plc, Cash Application and Invoice Adjustments Department, Kelly Services.	Mansfield, MA	November 1, 2011.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,024	Thermo King Corporation, Ingersoll-Rand, Manpower and Aerotek Professional Services.	Louisville, GA	October 1, 2011.
82,031	Kinder Morgan Bulk Terminals, Inc., 1575 Sparrows Point Boulevard, Baltimore, MD, 21219.	Baltimore, MD	September 28, 2011.
82,114	BRP US, Inc., Bombardier Recreational Products, Outboard Engine Division, Manpower.	Spruce Pine, NC	October 31, 2011.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
82,104	Kohler Company	Kohler, WI	
82,104A	Sauk Technologies, Generator Division	Saukville, WI	

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
82,109	ArcelorMittal Georgetown, Inc., ArcelorMittal USA	Georgetown, SC	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
82,107	Sub-Zero Group, Inc., UI Wages Through Sub-Zero, Inc. & Wolf Appliances, Inc.	Madison, WI	

I hereby certify that the aforementioned determinations were issued during the period of November 13, 2012 through November 16, 2012. These determinations are available on the Department's Web site tradeact/taa/taa search form.cfm under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: November 26, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–00100 Filed 1–7–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Guam Military Base Realignment Contractor Recruitment Standards

AGENCY: Employment and Training Administration, Labor.

ACTION: Final notice.

SUMMARY: The U.S. Department of Labor's (Department) Employment and Training Administration (ETA) is issuing this notice to announce recruitment standards that construction contractors are required to follow when recruiting United States (U.S.) workers for Guam military base realignment projects funded through the National Defense Authorization Act (NDAA) for Fiscal Year 2010.

DATES: This notice is effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais or Frank Gallo, Office of Workforce Investment, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room S–4231, Washington, DC 20210. Telephone (202) 693–2784 or (202) 693–3755, respectively (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–3015. Email: *dais.anthony@dol.gov* or *gallo.frank@dol.gov*.

SUPPLEMENTARY INFORMATION: Section 2834(a) of the NDAA for Fiscal Year 2010 (Pub. L. 111–84, enacted October 28, 2009) amended Section 2824(c) of the Military Construction Authorization Act (Pub. L. 110–417, Division B) by adding a new subsection (6). This provision prohibits contractors engaged in construction projects related to the realignment of U.S. military forces from Okinawa to Guam from hiring workers holding H–2B visas under the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(H)(ii)(b), unless the Governor of Guam (Governor), in consultation with the Secretary of Labor (Secretary), certifies that: (1) There is an insufficient number of U.S. workers that are able, willing, qualified, and available to perform the work; and (2) that the employment of workers holding H–2B visas will not have an adverse effect on either the wages or the working conditions of workers in Guam.

In order to allow the Governor to make this certification, the NDAA requires contractors to recruit workers in the U.S., including in Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the U.S. Virgin Islands, and Puerto Rico, according to the terms of a recruitment plan developed and approved by the Secretary. That recruitment plan has been reproduced in full in Section I below ("Contractor Recruitment Standards").

The Department has developed the Contractor Recruitment Standards in full consultation with, and with the approval of, the Guam Department of Labor (GDOL). Although the Department has developed the recruitment standards, it has assigned oversight of the Contractor Recruitment Standards and the NDAA-required consultation with the Governor to GDOL through a Memorandum of Understanding between the Department and GDOL, effective November 22, 2011 (the MOU can be found on the RegInfo.gov Web site listed at the end of this **Federal Register** Notice).

Under the NDAA, no Guam base realignment construction project work may be performed by a person holding an H–2B visa under the Immigration and Nationality Act until the contractor complies with the Department's Contractor Recruitment Standards, and the Governor of Guam issues the certification noted above.

The Department issued interim recruitment standards in the **Federal Register** on January 24, 2012 (77 FR 3503).

This Final Notice has made several changes to the interim contractor recruitment standards, the most significant of which reduced the data collection burden and clarified the information that contractors must include in the construction job postings. These changes include the following.

1. Eliminating the requirement that contractors post the job openings on a separate Internet job bank in addition to the other posting requirements. The posting on the Guam Job Bank will be widely available through the US.jobs Web site (formerly the National Labor Exchange). The Department determined that this posting was sufficient, and that additional Internet postings would be redundant.

2. Eliminating the requirement to advertise job opportunities in an American Samoa newspaper, in favor of Internet job postings. This change was made because the Department determined that utilization of the American Samoa job bank for recruitment no longer requires supplementation by newspaper advertising, as a result of improvements made to that job bank.

3. Adding a statement to the job posting requirement concerning whether the contractor will pay for worker transportation to Guam. This change was made to conform the information included in advertisements placed under this recruitment standard with information commonly included in job orders submitted to the GDOL.

4. Clarifying the overtime pay requirement for the job postings. This change was made to clarify that contractors must include a statement regarding the availability and payment of overtime wages in their advertisements, if overtime is required by law.

5. Adding a statement to the job posting requirement regarding board, lodging, and fringe benefit information. This change was made to conform the information included in advertisements placed under this recruitment standard with information commonly included in job orders submitted to the GDOL.

6. Eliminating the requirement that the recruitment report describe the dates that the newspaper advertisements appeared in an American Samoa newspaper. The Department eliminated this requirement, because the removal of the requirement to advertise in an American Samoa newspaper rendered this requirement moot.

7. Clarifying that contractors do not need to provide their recruitment report in a narrative form. This change was made in order to clarify that contractor recruitment reports may be in other formats, including a table or spreadsheet, rather than only in a narrative form.

As required by Section 2834(b)(2) of the NDAA for Fiscal Year 2010, the Department assessed, among other things, the opportunities to expand the recruitment of workers in the U.S. (including Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Commonwealth of Puerto Rico), and the ability of labor markets to support the Guam realignment. This assessment is included in *U.S. Department of Labor Report to Congress Required by the National Defense Authorization Act for Fiscal Year 2010* (July 29, 2011). The Department submitted this assessment to the Senate Committees on Health, Education, Labor, and Pensions, and Armed Services; and the House of

Representatives Committees on Education and the Workforce, and Armed Services (this report can be found at the RegInfo.gov Web site listed at the end of this **Federal Register** Notice).

I. Guam Military Base Realignment Contractor Recruitment Standards

Guam military base realignment contractors must take the following actions to recruit U.S. workers.

1. At least 60 days before the start date of workers under a base realignment contract, contractors must

a. Submit a job posting via a completed Job Order (Guam Form GES 514) in person at the Guam Employment Service office, which is open Monday to Friday (except holidays) from 8 a.m. to 5 p.m. at 414 W. Soledad Avenue, Suite 400, Hagatna (for assistance call 671–475–7000). The job posting must be posted on the GDOL Job Bank for at least 21 consecutive days;

b. Submit a job posting with the state workforce agency's Internet job bank in American Samoa at *http://www.asjobs.org/job-search*, the Commonwealth of the Northern Mariana Islands at *https://marianaslabor.net/employer.asp*, and in the following states:

i. Alaska (*www.jobs.state.ak.us*);

ii. California (*www.caljobs.ca.gov*);

iii. Hawaii (*www.hirenethawaii.com*);

iv. Oregon (*www.emp.state.or.us/jobs*); and

v. Washington (*https://fortress.wa.gov/esd/worksource/Employment.aspx*).

For contractors needing assistance with job postings, additional contact information and a link to the required Guam form GES 514 are listed at *www.jobbankinfo.org*.

Each job posting must be posted for at least 21 consecutive days.

c. Submit a job posting with an Internet-based job bank that

i. is national in scope, including the entire U.S., Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Commonwealth of Puerto Rico;

ii. allows job postings for all occupations; and

iii. is free of charge for job seekers and their intermediaries in American Job Centers (formerly called One-Stop Career Centers) and the U.S. employment service delivery system nationwide.

d. Where the occupation or industry is customarily unionized, contact the local union in Guam in writing to seek U.S. workers who are qualified and who will be available for the job opportunity.

2. Each job posting in (1)(a) through (d) must include, at a minimum, the following information.

a. The contractor's name and appropriate contact information for applicants to inquire about the job opportunity, or to send applications and/or résumés directly to the employer;

b. The geographic area of employment, with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the services or labor;

c. A statement indicating whether or not the employer will pay for the worker's transportation to Guam;

d. If the employer provides it, a statement that daily transportation to and from the worksite(s) will be provided by the employer;

e. A description of the job opportunity with sufficient information to apprise U.S. workers of the services or labor to be performed, including the duties, the minimum education and experience requirements, the work hours and days, and the anticipated start and end dates of the job opportunity;

f. If the employer makes on-the-job training available, a statement that it will be provided to the worker;

g. If required by law, a statement that overtime will be available to the worker and the wage offer for working any overtime hours;

h. The wage offer, and the benefits, if any, offered;

i. A statement that the position is temporary;

j. The total number of job openings the employer intends to fill; and

k. If the employer provides the worker with the option of board, lodging, or other facilities, including fringe benefits, or intends to assist workers to secure such lodging, a statement disclosing the provision and cost of the board, lodging, or other facilities, including fringe benefits or assistance to be provided.

3. During the 28-day recruitment period, which begins on the earliest job posting date, contractors must interview all qualified and available Guam and U.S. construction workers who have applied for the employment opportunity.

4. After the close of the recruitment period, and no later than 30 days before the start date of workers under a contract, the contractor must provide a report including the following information via email to GDOL at *ndaa.recruitment@dol.guam.gov*, documenting its efforts to recruit U.S. workers from the U.S. and all U.S. territories.

a. Indicate all the recruitment approaches used to recruit realignment workers, including an identification of the Internet job banks where the postings occurred, the occupation or trade, a description of wages and other terms and conditions of employment, the dates of each posting, and the job order or requisition number;

b. A copy of each job posting;

c. How each job posting and response was handled, including

i. the number of job applications received;

ii. the name of each applicant;

iii. the position applied for;

iv. the final employment determination for each applicant or job candidate; and

v. for each U.S. job applicant not hired, a description of the specific, lawful, job-related reason for rejecting the applicant for employment, which includes a comparison of the job applicant's skills and experience against the terms listed in the original job posting.

Contractors may provide much of this information in the form of a table or spreadsheet, so that instead of a narrative style the contractor need only check an appropriate box or provide a phrase, number or date (e.g., to indicate whether an individual reported for an interview or not, or lacked specific qualifications).

II. Departmental Recruitment Support Activities

Separate from the Contractor Recruitment Standards, ETA will facilitate a nationwide outreach and recruitment effort to maximize hiring of U.S. construction workers, including outreach to its workforce investment system. ETA will do the following:

- Develop and issue a Training and Employment Notice (TEN), and hold an Internet-based training session ("Webinar") to inform contractors, state workforce agencies, state and local workforce investment boards, and American Job Centers (formerly called One-Stop Career Centers) of the anticipated construction employment opportunities on Guam and how these opportunities will be posted [interested individuals can automatically receive notice of the TEN by going to *http://wdr.doleta.gov/directives* and clicking on the last bullet, stating "To be added to the ETA Advisory electronic distribution list—click here," and interested individuals can automatically receive notice of the Webinar by registering for ETA's Workforce3One by going to *https://www.workforce3one.org/register.aspx*, then going to the fourth category

(Newsletters and Updates) and checking the box for "Webinars/Live Events," and should also check both boxes under "Reemployment Works" in the preceding category (labeled "Join Communities")];

- Develop telephone scripts for a Toll-Free Help Line directing job seekers to the GDOL job bank;
- Ensure that Departmental offices—including the Office of Unemployment Insurance, the Office of Apprenticeship, the Office of Job Corps, the Veterans' Employment and Training Service, and the YouthBuild program—are informed of the construction employment opportunities; and
- Brief pertinent inter-governmental and labor organizations (including the National Governors Association, National Conference of State Legislatures, and building trades unions), so that they can assist in spreading information about the U.S. worker outreach effort.

III. Public Burden Statement

The Office of Management and Budget (OMB) has approved the Department's request to extend the information collection (OMB Control Number 1205–0484) for three years, expiring September 30, 2015.

Persons are not required to respond to this collection of information unless it displays a valid OMB control number (1205–0484). The public reporting burden for this collection of information is estimated at three hours per job order, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Further information on this ICR can be accessed using control number 1205–0484 at the RegInfo.gov Web site at *www.reginfo.gov/public/do/PRAMain*. To do this, use the following instructions.

1. Go to the first "Select Agency" box and click on the drop-down arrow, and then select "Department of Labor." Then click on the "Submit" button to the right of the box.
2. Each entry lists the OMB Control Number at the top of the entry. Scroll down the screen until 1205–0484 appears (the entries are in numerical order).
3. Once you reach 1205–0484, click on the number immediately *below* that, the ICR Reference Number (*not* the Control Number itself).
4. To see the Information Collection notices themselves, click on "View Information Collection (IC) List" near the top of the page on the left. To see the Report to Congress, the MOU, the ICR Supporting Statement and other relevant documents, click on "View Supporting Statement and Other Documents" near the top of the page on the right.

Signed at Washington, DC this 26th day of December, 2012.

Jane Oates,

Assistant Secretary for Employment and Training.

[FR Doc. 2013–00114 Filed 1–7–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 18, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 18, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 21st day of November 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[18 TAA petitions instituted between 11/12/12 and 11/16/12]

TA–W	Subject Firm (Petitioners)	Location	Date of institution	Date of petition
82144	Electrolux (State/One-Stop)	El Paso, TX	11/13/12	11/09/12
82145	Hutchinson Technology Inc. (State/One-Stop)	Plymouth, MN & Eau Claire, WI	11/13/12	11/09/12
82146	Precision Dynamics Corporation (State/One-Stop).	San Fernando, CA	11/13/12	11/09/12
82147	Pioneer Press (State/One-Stop)	Saint Paul, MN	11/13/12	11/09/12
82148	Texas Instruments Incorporated (Company)	Stafford, TX	11/13/12	11/09/12
82149	Texon USA (Company)	Russell, MA	11/13/12	10/04/12
82150	Badger Meter, Inc. (Company)	Milwaukee, WI	11/13/12	11/12/12
82151	GenOn Energy Services, LLC (Workers)	Canonsburg, PA	11/13/12	11/12/12
82152	Systemax Manufacturing (State/One-Stop)	Fletcher, OH	11/14/12	11/13/12
82153	SOLAE, LLC (Workers)	Louisville, KY	11/14/12	11/08/12
82154	The Gemesis Diamond Company (Workers)	Lakewood Ranch/Bradenton, FL	11/14/12	11/13/12
82155	Juniata Fabrics (Workers)	Juniata, PA	11/14/12	10/26/12
82156	Johnstown Specialty Castings (Union)	Johnstown, PA	11/14/12	11/06/12
82157	Henkel Harris Company, Inc. (Company)	Winchester, VA	11/15/12	11/14/12
82158	Mohawk Industries, Inc. (State/One-Stop)	Waynesboro, VA	11/15/12	11/14/12
82159	Home Dynamix (State/One-Stop)	Moonachie, NJ	11/16/12	11/15/12

APPENDIX—Continued

[18 TAA petitions instituted between 11/12/12 and 11/16/12]

TA–W	Subject Firm (Petitioners)	Location	Date of institution	Date of petition
82160	Redman Card Clothing Company (State/One-Stop).	Andover, MA	11/16/12	11/15/12
82161	Remington Medical Inc. (Workers)	Alpharetta, GA	11/16/12	11/15/12

[FR Doc. 2013–00098 Filed 1–7–13; 8:45 am]
BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2013 Adverse Effect Wage Rates

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the 2013 Adverse Effect Wage Rates (AEWRs) for the employment of temporary or seasonal nonimmigrant foreign workers (H–2A workers) to perform agricultural labor or services.

AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H–2A workers and workers in corresponding employment for a particular agricultural job and area so that the wages of similarly employed U.S. workers will not be adversely affected. 20 CFR 655.100(b). In this notice, the Department announces the AEWRs for 2013.

DATES: *Effective Date:* This notice is effective January 8, 2013.

FOR FURTHER INFORMATION CONTACT: William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, Room C–4312, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202–693–3010 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The U.S. Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H–2A nonimmigrant temporary agricultural workers in the U.S. unless the petitioner has received from the Department an H–2A labor certification. The labor certification provides that: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5).

Adverse Effect Wage Rates for 2013

The Department's H–2A regulations at 20 CFR 655.120(l) provide that employers must pay their H–2A workers and workers in corresponding employment at least the highest of: (i) The AEWR; (ii) the prevailing hourly wage rate; (iii) the prevailing piece rate; (iv) the agreed-upon collective bargaining wage rate, if applicable; or (v) the Federal or State minimum wage rate, in effect at the time the work is performed.

Except as otherwise provided in 20 CFR part 655, subpart B, the region-wide AEWR for all agricultural employment (except those occupations deemed inappropriate under the special procedure provisions of 20 CFR 655.102) for which temporary H–2A certification is being sought is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) in the State or region as published annually by the United States Department of Agriculture (USDA). 20 CFR 655.120(c) requires that the Administrator of the Office of Foreign Labor Certification publish the USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** notice. Accordingly, the 2013 AEWRs to be paid for agricultural work performed by U.S. and H–2A workers on or after the effective date of this notice are set forth in the table below:

TABLE—2013 ADVERSE EFFECT WAGE RATES

State	2013 AEWRs
Alabama	$9.78
Arizona	9.73
Arkansas	9.50
California	10.74
Colorado	10.08
Connecticut	10.91
Delaware	10.87
Florida	9.97
Georgia	9.78
Hawaii	12.72
Idaho	9.99
Illinois	11.74
Indiana	11.74
Iowa	11.41
Kansas	12.33
Kentucky	9.80
Louisiana	9.50
Maine	10.91
Maryland	10.87
Massachusetts	10.91
Michigan	11.30
Minnesota	11.30
Mississippi	9.50
Missouri	11.41
Montana	9.99
Nebraska	12.33
Nevada	10.08
New Hampshire	10.91
New Jersey	10.87
New Mexico	9.73
New York	10.91
North Carolina	9.68
North Dakota	12.33
Ohio	11.74
Oklahoma	10.18
Oregon	12.00
Pennsylvania	10.87
Rhode Island	10.91
South Carolina	9.78
South Dakota	12.33
Tennessee	9.80
Texas	10.18
Utah	10.08
Vermont	10.91
Virginia	9.68
Washington	12.00
West Virginia	9.80
Wisconsin	11.30
Wyoming	9.99

Pursuant to the H–2A regulations at 20 CFR 655.173, the Department will publish a separate **Federal Register** notice in early 2013 to announce (1) the allowable charges for 2013 that employers seeking H–2A workers may charge their workers for providing them three meals a day; and (2) the maximum travel subsistence reimbursement that a worker with receipts may claim in 2013.

Signed in Washington, DC on this 13th day of December, 2012.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2013–00117 Filed 1–7–13; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: Prevailing Wage Rates for Certain Occupations Processed Under H–2A Special Procedures

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (we or the Department) is issuing this notice to announce new prevailing wage and piece rates covering the employment of temporary or seasonal nonimmigrant foreign workers (H–2A workers) and corresponding employees to perform agricultural labor or services in certain occupations with special procedures established under 20 CFR 655.102 in the H–2A program, including open range production of livestock, itinerant animal shearing, sheepherding, goatherding, and custom combine operations. The new prevailing wages are based on surveys conducted by State Workforce Agencies (SWA) of employers and transmitted to the Department between May 1, 2012 and June 1, 2012 in accordance with the Department's Training and Employment Guidance Letters (TEGLs) for these occupations. For open range production of livestock, sheepherding, and goatherding occupations, which are characterized by other than a reasonably regular workday or workweek, the prevailing wage results, reflected as monthly or daily prevailing wage rates, are deemed to be the Adverse Effect Wage Rates (AEWR) for those occupations.

DATES: This notice is effective January 8, 2013.

FOR FURTHER INFORMATION CONTACT: For further information, contact William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room C–4312, Washington, DC 20210; Telephone (202) 693–3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The H–2A nonimmigrant worker visa program enables United States (U.S.) agricultural employers to employ foreign workers on a temporary basis to perform agricultural labor or services. Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (INA or the Act), 8 U.S.C. 1101(a)(15)(H)(ii)(a); see also 8 U.S.C. 1184(c)(1) and 1188. The INA authorizes the Secretary of the Department of Homeland Security (DHS) to permit employers to import foreign workers to perform temporary agricultural labor or services of a temporary or seasonal nature if the Secretary of the U.S. DOL (Secretary) certifies that: (1) There are not sufficient U.S. workers who are able, willing, and qualified, and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. 8 U.S.C. 1188(a)(1). The Department's H–2A regulations at 20 CFR 655.120(a) provide that employers must pay their H–2A workers and workers in corresponding employment at least the highest of: (i) The AEWR; (ii) the prevailing hourly wage or piece rate; (iii) the agreed-upon collective bargaining wage, if applicable; or (iv) the Federal or State minimum wage, in effect at the time the work is performed, except where a special procedure has been approved for use in an occupation or specific class of agricultural employment.

On June 14, 2011, the Department issued four TEGLs revising special procedures for occupations involved in the open range production of livestock, itinerant animal shearing, sheepherding and goatherding, and custom combine operations in the H–2A program. TEGL No. 15–06, Change 1, *Special Procedures: Labor Certification Process for Occupations Involved in the Open Range Production of Livestock under the H–2A Program;* TEGL No. 17–06, Change 1, *Special Procedures: Labor Certification Process for Employers in the Itinerant Animal Shearing Industry under the H–2A Program;* TEGL No. 32–10: *Special Procedures: Labor Certification Process for Employers Engaged in Sheepherding and Goatherding Occupations under the H–2A Program;* and TEGL No. 16–06, Change 1, *Special Procedures: Labor Certification Process for Multi-State Custom Combine Owners/Operators under the H–2A Program.* These revised special procedures clarified the process for establishing the annual prevailing wage and/or piece rates for those occupations, but largely continued industry-specific variances to the offered wage requirement. For example, since occupations involving the open range production of livestock, sheepherding and/or goatherding are characterized by other than a reasonably regular workday or workweek, the Department has continued a special variance to the offered wage requirements contained at 20 CFR 655.120(a) by permitting an employer to offer, advertise in the course of its recruitment, and pay the daily, monthly, weekly, or semi-monthly prevailing wage established by the Department for each State in an approved itinerary. As provided in the H–2A regulations at 20 CFR 655.102, for open range production of livestock, sheepherding, and goatherding occupations, which are characterized by other than a reasonably regular workday or workweek, the prevailing wage results, reflected as monthly or daily prevailing wage rates, are deemed to be the Adverse Effect Wage Rates (AEWR) for those occupations.

As described in each of the TEGLs, the Department continues to use findings from prevailing wage surveys conducted by the SWAs in accordance with the procedures in the *ET Handbook No. 385, Domestic Agricultural In-Season Wage Finding Process,* to determine the prevailing wage and/or piece rates for these occupations. The SWAs transmit their findings for occupations covered by the special procedures to the Office of Foreign Labor Certification (OFLC) between May 1st and June 1st of each calendar year. Upon receipt of the wage findings and review of the SWA-reported survey results, the OFLC publishes the new prevailing rates with an immediate effective date.[1] For occupations involving the open range production of livestock, animal shearing, sheepherding and/or goatherding where the SWA survey results were insufficient to establish a prevailing wage rate for an occupation, due to inadequate sample size or another valid reason, the applicable TEGL's wage setting procedures allow the Department to issue a prevailing

[1] In accordance with *ET Handbook 385*, the SWAs only report the wage findings for occupations that are present in the wage reporting area; prevailing wage rates are established only for those States where the activity subject to the special procedure is actually performed.

wage or piece rate for that State based on the wage rate findings submitted by an adjoining or proximate SWA for the same or similar agricultural activity. The applicability of one State's wage rate finding for a specific occupation to another State may vary from year to year, depending on which SWAs are able to produce wage rate findings for specific occupations for the reporting year.

OFLC used three main principles in establishing the prevailing wage rates for States that had no official wage rate findings,: (1) Where a State directly borders a State with a wage rate finding, that wage rate finding is assigned to the adjoining (bordering) State; (2) where a State borders more than one State with wage rate findings, the findings of the State that is more adjoining (i.e., more shared geographic characteristics, including a longer shared border) are applied to the State with no wage rate finding; and (3) where a State does not directly border a State with a wage rate finding but is within a U.S. Department of Agriculture (USDA) farm production region that includes another State either with its own wage rate finding or to which findings were applied consistent with one of the other principles, that wage rate finding is applied to the State with no wage rate finding. Using a prevailing wage rate finding, which is also deemed to be an AEWR under the circumstances described above, from an adjoining or proximate State, or from another State within the same USDA farm production region, enables the Department to comply with its obligation to certify that the employment of foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed.

Accordingly, the new AEWRs and prevailing wage rates for agricultural occupations covered by special procedures are set forth in the tables below. These wages are in effect as of the date of this Notice and will remain in effect until the issuance of the next annual publication of AEWRs and prevailing wage rates. For open range production of livestock, sheepherding, and goatherding occupations, which are characterized by other than a reasonably regular workday or workweek, the prevailing wage results, reflected as monthly or daily prevailing wage rates, are deemed to be the AEWRs for those occupations.

TABLE 1—PREVAILING WAGE RATES FOR THE OPEN RANGE PRODUCTION OF LIVESTOCK OCCUPATIONS

State	Prevailing wage rates for open range cattlehand/calver
Colorado	$875.00 Per Month Plus Room and Board.
Idaho	$1,500.00 Per Month Plus Housing.[2]
Montana	$1,500.00 Per Month Plus Housing.[2]
North Dakota	$1,500.00 Per Month Plus Housing.[2]
Oklahoma	$125.00 Per Day Plus Meals.[2]
South Dakota	$1,500.00 Per Month Plus Housing.[2]
Texas.	
Region 1	$125.00 Per Day Plus Meals.
Region 2	$125.00 Per Day Plus Meals.
Region 3	$90.00 Per Day.
Region 4	$90.00 Per Day.[2]
Utah	$875.00 Per Month Plus Room and Board.[2]
Wyoming	$1,500.00 Per Month Plus Housing.

This year, the methodology applied to establish prevailing wage rates for the open range production of livestock resulted in increased wages in Texas and Oklahoma, and decreased wages in South Dakota. These wage changes are due to a change in the availability of source wages, including wage information from adjoining or proximate States. For example, a change in the method of payment in Texas, from monthly and weekly wage rates to a daily rate, resulted in an increase of the prevailing wage rate not only in Texas but also in Oklahoma, an adjoining State. The Utah monthly wage rate was established using the wage finding from the adjoining state of Colorado instead of the other adjoining State, Wyoming, because Utah shares more geographic characteristics with Colorado, including a full border, than it does with Wyoming. Finally, the prevailing wage rate for Wyoming was applied to South Dakota, an adjoining State, and secondarily to North Dakota because South Dakota is part of the same USDA farm production (Northern Plains) region as North Dakota.

[2] In accordance with TEGL 15–06, a wage survey capable of producing a prevailing wage finding for the occupation in this State was determined insufficient due to an inadequate sample size (i.e., number of domestic workers and/or employers employing domestic workers in the occupation) or another valid reason. Therefore, the prevailing wage finding for this State is based on the prevailing wage findings submitted by an adjoining or proximate SWA for the same or similar agricultural activities to ensure that the wages of similarly employed workers are not adversely affected. This principle was extended to regions within specific States that have historically produced separate findings but did not do so during the current reporting period.

Where OFLC could not establish a prevailing wage rate based on a finding from an adjoining or proximate State, OFLC established the prevailing wage rate based on the wage finding applicable to one or more States within the same USDA farm production region. See: *http://webarchives.cdlib.org/sw1vh5dg3r/h http://www.ers.usda.gov/Briefing/ARMS/resourceregions/resourceregions.htm#older.*

The States used to establish the prevailing wage determinations for open range production of livestock occupations are:

Idaho—based on Wyoming
Montana—based on Wyoming
North Dakota—based on Wyoming
Oklahoma—based on Texas Region 1
South Dakota—based on Wyoming
Texas Region 4—based on Texas Region 3
Utah—based on Colorado

TABLE 2—PREVAILING WAGE RATES FOR SHEEPHERDING AND GOATHERDING OCCUPATIONS

State	Prevailing wage rates for sheep/goat herder
Arizona	$1,422.52 Per Month Plus Room and Board.[3]
California	$1,422.52 Per Month Plus Room and Board.
Colorado	$750.00 Per Month Plus Room and Board.
Idaho	$750.00 Per Month Plus Room and Board.[3]
Montana	$750.00 Per Month Plus Room and Board.[3]
Nevada	$1,422.52 Per Month Plus Room and Board.[3]
New Mexico	$750.00 Per Month Plus Room and Board.[3]
North Dakota	$750.00 Per Month Plus Room and Board.[3]
Oklahoma	$750.00 Per Month Plus Room and Board.[3]
Oregon	$1,422.52 Per Month Plus Room and Board.[3]
Texas	$750.00 Per Month Plus Room and Board.[3]
Utah	$750.00 Per Month Plus Room and Board.[3]
Washington	$1,422.52 Per Month Plus Room and Board.[3]
Wyoming	$750.00 Per Month Plus Room and Board.[3]

This year, the methodology applied to establish wages for sheepherding and goatherding resulted in increased wage rates for sheepherding job opportunities in Arizona, Nevada, Oregon, and Washington, and in decreased wage rates in New Mexico, Oklahoma, and Texas. The wage increases are due to a change in the availability of source wages, including wages from adjoining and proximate States or within the same USDA farm production region. For example, the monthly prevailing wage rate, deemed the AEWR for this occupation, increased for job opportunities in Arizona, Washington, Nevada, and Oregon.

TABLE 3—ITINERANT ANIMAL SHEARING OCCUPATIONS

State	Prevailing wage rates
Arizona	Sheep, Ewe—Shearer: $2.00 Per Head.[4] Sheep, Wool Packer: No Finding.[5] Sheep, Wool Gatherer: $8.00 Per Hour.[4] Sheep, Wool Grader: No Finding.[5]
California.[6]	Sheep, Ewe—Shearer: $2.00 Per Head. Sheep, Wool Packer: No Finding.[5] Sheep, Wool Gatherer: $8.00 Per Hour. Sheep, Wool Grader: No Finding.[5]
Colorado	Sheep, Ewe—Shearer: $2.00 Per Head.[4] Sheep, Feedlot Lamb—Shearer: $1.50 Per Head.[4] Sheep, Replacement Lamb—Shearer: $1.90 Per Head.[4] Sheep, Buck/Ram—Shearer: $4.00 Per Head.[4] Ewe—Wool Fleece Grader: $0.17 Per Head.[4] Buck/Ram—Wool Fleece Grader: $0.34 Per Head.[4]
Idaho	Sheep, Ewe—Shearer: $2.00 Per Head.[4] Sheep, Feedlot Lamb—Shearer: $1.50 Per Head.[4] Sheep, Replacement Lamb—Shearer: $1.90 Per Head.[4] Sheep, Buck/Ram—Shearer: $4.00 Per. Head.[4] Ewe—Wool Fleece Grader. $0.17 Per Head.[4] Buck/Ram—Wool Fleece Grader: $0.34 Per Head.[4]
Montana	Sheep, Ewe—Shearer: $2.00 Per Head.[4] Sheep, Feedlot Lamb—Shearer: $1.50 Per Head.[4] Sheep, Replacement Lamb—Shearer: $1.90 Per Head.[4] Sheep, Buck/Ram—Shearer: $4.00 Per Head.[4] Ewe—Wool Fleece Grader: $0.17 Per Head.[4] Buck/Ram—Wool Fleece Grader: $0.34 Per Head.[4]
Nevada	Sheep, Ewe—Shearer: $2.00 Per Head.[4] Sheep, Wool Packer: No Finding.[5] Sheep, Wool Gatherer: $8.00 Per Hour.[4] Sheep, Wool Grader: No Finding.[5]
New Mexico	Sheep, Ewe—Shearer: $2.00 Per Head.[4]

[3] In accordance with TEGL 32–10, a wage survey capable of producing a prevailing wage finding for the occupation in this State was determined insufficient due to an inadequate sample size (i.e., number of domestic workers and/or employers employing domestic workers in the occupation) or another valid reason. Therefore, the prevailing wage finding for this State is based on the prevailing wage findings submitted by an adjoining or proximate SWA for the same or similar agricultural activities to ensure that the wages of similarly employed workers are not adversely affected. Where OFLC could not establish a prevailing wage rate based on the findings from an adjoining or proximate State, OFLC established the prevailing wage rate based on the wage finding applicable to one or more States within the same USDA farm production region. See: *http://webarchives.cdlib.org/sw1vh5dg3r/http://www.ers.usda.gov/Briefing/ARMS/resourceregions/resourceregions.htm#older.*

The States used to establish the prevailing wage determinations for sheepherding and goatherding occupations are:

Arizona—based on California
Idaho—based on Colorado
Montana—based on Colorado
New Mexico—based on Colorado
Nevada—based on California
North Dakota—based on Colorado
Oklahoma—based on Colorado
Oregon—based on California
Texas—based on Colorado
Utah—based on Colorado
Washington—based on California
Wyoming—based on Colorado

TABLE 3—ITINERANT ANIMAL SHEARING OCCUPATIONS—Continued

State	Prevailing wage rates
North Dakota	Sheep, Feedlot Lamb—Shearer: $1.50 Per Head.[4] Sheep, Replacement Lamb—Shearer: $1.90 Per Head.[4] Sheep, Buck/Ram—Shearer: $4.00 Per Head.[4] Ewe—Wool Fleece Grader: $0.17 Per Head.[4] Buck/Ram—Wool Fleece Grader: $0.34 Per Head.[4] Sheep, Ewe—Shearer: $2.00 Per Head.[4] Sheep, Feedlot Lamb—Shearer: $1.50 Per Head.[4] Sheep, Replacement Lamb—Shearer: $1.90 Per Head.[4] Sheep, Buck/Ram—Shearer: $4.00 Per Head.[4] Ewe—Wool Fleece Grader: $0.17 Per Head.[4] Buck/Ram—Wool Fleece Grader: $0.34 Per Head.[4]
Oklahoma	Sheep, Ewe—Shearer: $2.00 Per Head.[4] Sheep, Feedlot Lamb—Shearer: $1.50 Per Head.[4] Sheep, Replacement Lamb—Shearer: $1.90 Per Head.[4] Sheep, Buck/Ram—Shearer: $4.00 Per Head.[4] Ewe—Wool Fleece Grader: $0.17 Per Head.[4] Buck/Ram—Wool Fleece Grader: $0.34 Per Head.[4]
Oregon	Sheep, Ewe—Shearer: $2.00 Per Head.[4] Sheep, Wool Packer: No Finding.[5] Sheep, Wool Gatherer: $8.00 Per Hour.[4] Sheep, Wool Grader: No Finding.[5]
South Dakota	Sheep, Ewe—Shearer: $2.00 Per Head.[4] Sheep, Feedlot Lamb—Shearer: $1.50 Per Head.[4] Sheep, Replacement Lamb—Shearer: $1.90 Per Head.[4] Sheep, Buck/Ram—Shearer: $4.00 Per Head.[4] Ewe—Wool Fleece Grader: $0.17 Per Head.[4] Buck/Ram—Wool Fleece Grader: $0.34 Per Head.[4]
Texas	Sheep, Ewe—Shearer: $2.00 Per Head.[4] Sheep, Feedlot Lamb—Shearer: $1.50 Per Head.[4] Sheep, Replacement Lamb—Shearer: $1.90 Per Head.[4] Sheep, Buck/Ram—Shearer: $4.00 Per Head.[4] Ewe—Wool Fleece Grader: $0.17 Per Head.[4] Buck/Ram—Wool Fleece Grader: $0.34 Per Head.[4]
Utah	Sheep, Ewe—Shearer: $2.00 Per Head.[4] Sheep, Feedlot Lamb—Shearer: $1.50 Per Head.[4] Sheep, Replacement Lamb—Shearer: $1.90 Per Head.[4] Sheep, Buck/Ram—Shearer: $4.00 Per Head.[4] Ewe—Wool Fleece Grader: $0.17 Per Head.[4] Buck/Ram—Wool Fleece Grader: $0.34 Per Head.[4]
Washington	Sheep, Ewe—Shearer: $2.00 Per Head.[4] Sheep, Wool Packer: No Finding.[5] Sheep, Wool Gatherer: $8.00 Per Hour.[4] Sheep, Wool Grader: No Finding.[5]
Wyoming	Sheep, Ewe—Shearer: $2.00 Per Head. Sheep, Feedlot Lamb—Shearer: $1.50 Per Head. Sheep, Replacement Lamb—Shearer: $1.90 Per Head. Sheep, Buck/Ram—Shearer: $4.00 Per Head. Ewe—Wool Fleece Grader: $0.17 Per Head. Buck/Ram—Wool Fleece Grader: $0.34 Per Head.

[4] In accordance with TEGL 17–06, a wage survey capable of producing a prevailing wage finding for the occupation in this State was determined insufficient due to an inadequate sample size (i.e., number of domestic workers and/or employers employing domestic workers in the occupation) or another valid reason. Therefore, the prevailing wage finding for this State is based on the prevailing wage findings submitted by an adjoining or proximate SWA for the same or similar agricultural activities to ensure that the wages of similarly employed workers are not adversely affected. This principle was extended to regions within specific States that have historically produced separate findings but did not do so during the current reporting period.

Where OFLC could not establish a prevailing wage rate based on the findings from an adjoining or proximate State, OFLC established the prevailing wage rate based on the wage finding applicable to one or more States within the same USDA farm production region. See: *http://webarchives.cdlib.org/sw1vh5dg3r/http://www.ers.usda.gov/Briefing/ARMS/resourceregions/resourceregions.htm#older.*

In all instances where a prevailing wage or piece rate for an occupation involved in itinerant animal shearing could not be established, an employer must offer, advertise in its recruitment and pay the highest of the AEWR, the agreed-upon collective wage, or the Federal or State minimum wage in effect at the time the work is performed and for each State listed in an approved itinerary.

The States used to establish the prevailing wage determinations for itinerant animal shearing are:

Arizona—based on California
Colorado—based on Wyoming
Idaho—based on Wyoming
Montana—based on Wyoming
New Mexico—based on Wyoming
Nevada—based on California
North Dakota—based on Wyoming
Oklahoma—based on Wyoming
Oregon—based on California
South Dakota—based on Wyoming
Texas—based on Wyoming
Utah—based on Wyoming
Washington—based on California

[5] With respect to each H–2A job order and application for itinerant animal shearing processed under special procedures, where a prevailing wage determination results in a "No Finding" for the occupation or agricultural activity, the employer must offer, advertise in the course of its recruitment, and pay a wage that is the highest of the AEWR, the agreed-upon collective bargaining wage, or the Federal or State minimum wage, in effect at the time animal shearing work is performed and for each State listed in an approved itinerary.

TABLE 4—CUSTOM COMBINE OCCUPATIONS

State	Prevailing wage rates
Arizona	Wheat Harvest, Custom Combine Operator: $8.50 Per Hour.
	Wheat Harvest, Grain Truck Driver: No Finding. [7]
California	Wheat Harvest, Custom Combine Operator: $9.20 Per Hour.
	Wheat Harvest, Grain Truck Driver: No Finding. [7]
Colorado	Wheat Harvest, Custom Combine Operator: No Finding. [7]
	Wheat Harvest, Grain Truck Driver: No Finding. [7]
Kansas	Wheat Harvest, Custom Combine Operator: No Finding. [7]
	Wheat Harvest, Grain Truck Driver: No Finding. [47]
Minnesota	Wheat Harvest, Custom Combine Operator: No Finding. [7]
	Wheat Harvest, Grain Truck Driver: No Finding. [7]
Montana	Wheat Harvest, Custom Combine Operator: $2,000 Per Month Plus Room and Board.
	Wheat Harvest, Grain Truck Driver: $2,000 Per Month Plus Room and Board.
Nebraska	Wheat Harvest, Custom Combine Operator: $1,800 Per Month.
	Wheat Harvest, Grain Truck Driver: $1,800 Per Month.
	Wheat Harvest, Grain Cart Driver: $15.00 Per Hour.
New Mexico	Wheat Harvest, Custom Combine Operator: No Finding. [7]
	Wheat Harvest, Grain Truck Driver: No Finding. [7]
North Dakota	Wheat Harvest, Custom Combine Operator: $3,000 Per Month Plus Room and Board.
	Wheat Harvest, Grain Truck Driver: $2,500 Per Month.
Oklahoma	Wheat Harvest, Custom Combine Operator: $8.50 Per Hour.
	Wheat Harvest, Grain Truck Driver: $7.50 Per Hour.
South Dakota	Wheat Harvest, Custom Combine Operator: $2,200 Per Month Plus Room and Board.
	Wheat Harvest, Grain Truck Driver: $2,200 Per Month Plus Room and Board.
Texas	Wheat Harvest, Custom Combine Operator: $2,100 Per Month.
	Wheat Harvest, Grain Truck Driver: $11.00 Per Hour.
Wisconsin	Wheat Harvest, Custom Combine Operator: No Finding. [7]
	Wheat Harvest, Grain Truck Driver: No Finding. [7]
Wyoming	Wheat Harvest, Custom Combine Operator: No Finding. [7]
	Wheat Harvest, Grain Truck Driver: No Finding. [7]

These prevailing wage rates will be in effect for all work that is performed on or after the effective date of this Notice and until the issuance of the next annual publication of new prevailing wage rates for these occupations.

Signed in Washington this 28th day of December, 2012.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2013–00115 Filed 1–7–13, 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,646]

CalAmp Wireless Networks Corporation, Waseca, MN; Notice of Negative Determination Regarding Application for Reconsideration

By application dated September 26, 2012, the State of Minnesota requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA).

Following the filing of the request for reconsideration, the Department issued a certification that includes workers of the subject firm (TA–W–80,399A; CalAmp Wireless Networks Corporation, Waseca, Minnesota; expires on December 2, 2013).

Conclusion

Due to the eligibility of workers and former workers of CalAmp Wireless Networks Corporation, Waseca, Minnesota to apply for TAA, the Department determines that an investigation would serve no purpose. Accordingly, the application is denied.

Signed at Washington, DC, this 16th day of November, 2012

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–00101 Filed 1–7–13; 8:45 am]

BILLING CODE 4510–FN–P

[6] California prevailing wage rates were established based on surveys conducted in the Sacramento Valley, San Joaquin Valley, and Desert Area.

[7] With respect to each H–2A job order and application for custom combine operations processed under special procedures, where OFLC was unable to establish a prevailing wage as indicated by a "No Finding" notation for the occupation or agricultural activity, the employer must offer, advertise in the course of its recruitment, and pay a wage that is the highest of the AEWR, the agreed-upon collective bargaining wage, or the Federal or State minimum wage, in effect at the time custom combine work is performed and for each State listed in an approved itinerary.

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,317]

Dana Holding Corporation; Power Technologies Group Division; Including On-Site Leased Workers From Manpower Milwaukee, WI; Notice of Revised Determination on Reconsideration

On August 8, 2012, the Department of Labor issued a Notice of Affirmative Determination Regarding Application for Reconsideration applicable to workers and former workers of Dana Holding Company, Power Technologies Group Division, Milwaukee, Wisconsin (subject firm). The worker group includes on-site leased workers from Manpower. The subject worker group includes workers engaged in activities related to the production of gaskets. The reconsideration investigation revealed that the subject workers do not produce exhausts.

Section 222(a)(1) has been met because a significant number or proportion of the workers in the subject firm have become totally or partially separated, or are threatened with such separation.

Based on information provided during the reconsideration investigation, the Department determines that worker separations at the subject firm are related to a shift in a portion of the production of gaskets (or like or directly competitive articles) to a foreign country and that the shift in the production of these articles contributed importantly to worker separations at the subject firm.

Conclusion

After careful review of the additional facts obtained during the reconsideration investigation, I determine that workers of Dana Holding Company, Power Technologies Group Division, Milwaukee, Wisconsin, who were engaged in employment related to the production of gaskets, meet the worker group certification criteria under Section 222(a) of the Act, 19 U.S.C. 2272(a). In accordance with Section 223 of the Act, 19 U.S.C. 2273, I make the following certification:

All workers of Dana Holding Company, Power Technologies Group Division, including on-site leased workers from Manpower, Milwaukee, Wisconsin who became totally or partially separated from employment on or after February 8, 2011, through two years from the date of certification, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 20th day of November, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–00097 Filed 1–7–13; 8:45 am]

BILLING CODE 4510–FN–P

MARINE MAMMAL COMMISSION

Sunshine Act; Notice of Meeting

TIME AND DATE: The Marine Mammal Commission will meet in open session on Friday, 25 January 2013, in St. Petersburg, Florida, from 9:00 a.m. to 5:00 p.m., and on Tuesday, 29 January 2013, in La Jolla, California, from 9:00 a.m. to 5:00 p.m.

PLACE: The meeting on Friday, 25 January 2013, will be held in the Dolphin Conference Room at the National Marine Fisheries Service's Southeast Regional Office, 263 13th Avenue South, St. Petersburg, Florida, 33701, telephone (727) 824–5312. The meeting on Tuesday, 29 January 2013, will be held in Room 370 at the National Marine Fisheries Service's Southwest Fisheries Science Center, 3333 North Torrey Pines Court, La Jolla, California, 92037, telephone (858) 546–7000.

STATUS: The Commission expects that all portions of these meetings will be open to the public. It will allow public participation as time permits and as determined to be desirable by the Chairman. Should it be determined that it is appropriate to close a portion of either meeting to the public, any such closure will be carried out in accordance with applicable regulations (50 CFR 560.5 and 560.6).

Seating for members of the public at these meetings may be limited. The Commission therefore asks that those intending to attend either meeting advise it in advance by sending an email to the Commission at *mmc@mmc.gov* or by calling (301) 504–0087. Members of the public will need to present valid, government-issued photo identification to enter the buildings where the meetings will be held. For those attending the St. Petersburg meeting, parking is expected to be available in the gated parking lot at the Southeast Regional Office—entry gates are located at the main driveway entrance on 3rd Street South (this gate is entry only) and along 14th Avenue South (both entry and exit). For those attending the La Jolla meeting, parking is expected to be available in the front lot at the Southwest Fisheries Science Center. Visitors will need to check in with the receptionist to obtain a guest parking pass.

MATTERS TO BE CONSIDERED: The Commission plans to meet with regional management and scientific officials in each of the National Marine Fisheries Service's six regions to identify the most pressing marine mammal research and management needs. The Commission will use these meetings to develop a set of national priorities for guiding federal conservation efforts for marine mammals. Members of the public are invited to attend these meetings and to provide comments concerning priority issues. Those unable to attend any of the meetings may submit comments in writing. Written comments should be sent to Timothy J. Ragen, Executive Director, Marine Mammal Commission, 4340 East-West Highway, Room 700, Bethesda, Maryland 20814.

The Commission already has met with officials in the National Marine Fisheries Service's Northeast and Alaska Regions. The third and fourth meetings will be held in the National Marine Fisheries Service's Southeast and Southwest Regions. Notices of other meetings will be published in the **Federal Register** and posted on the Commission's Web site (*http://www.mmc.gov*) when the dates and locations are confirmed.

CONTACT PERSON FOR MORE INFORMATION: Timothy J. Ragen, Executive Director, Marine Mammal Commission, 4340 East-West Highway, Room 700, Bethesda, MD 20814; (301) 504–0087; email: *tragen@mmc.gov*.

Dated: January 4, 2013.

Michael L. Gosliner,

General Counsel.

[FR Doc. 2013–00252 Filed 1–4–13; 4:15 pm]

BILLING CODE 6820–31–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 13–001]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Friday, January 25, 2013, 10:00 a.m. to 11:00 a.m. local time

ADDRESSES: Kennedy Space Center, Headquarters Building, Room 3372.

FOR FURTHER INFORMATION CONTACT: Ms. Harmony Myers, Aerospace Safety Advisory Panel Executive Director, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–1857.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel (ASAP) will hold its First Quarterly Meeting for 2013. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The agenda will include:

- Updates on Exploration Systems Development
- Updates on the Commercial Crew Program
- Updated on the International Space Station

The meeting will be open to the public up to the seating capacity of the room. Seating will be on a first-come basis. Attendees will be required to sign a visitor's register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. All U.S. citizens desiring to attend the Aerospace Safety Advisory Panel meeting at the Kennedy Space Center must provide their full name, company affiliation (if applicable), driver's license number and state, citizenship, place of birth, and date of birth to the Kennedy Space Center Protective Services Office no later than close of business on January 18, 2013. All non-U.S. citizens must submit their name; current address; driver's license number and state (if applicable); citizenship; company affiliation (if applicable) to include address, telephone number, and title; place of birth; date of birth; U.S. visa information to include type, number, and expiration date; U.S. Social Security Number (if applicable); Permanent Resident card number and expiration date (if applicable); place and date of entry into the U.S.; and Passport information to include Country of issue, number, and expiration date to the Kennedy Space Center Security Office no later than close of business on January 10, 2013. If the above information is not received by the noted dates, attendees should expect a minimum delay of two (2) hours. All visitors to this meeting will be required to process in through the KSC Badging Office, Building M6–0224, located just outside of KSC Gate 3, on SR 405, Kennedy Space Center, Florida. Please provide the appropriate data, via fax at 321–867–7206, noting at the top of the page "Public Admission to the ASAP Meeting at KSC." For security questions, please call Tina Hosch at 321–867–3183. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Susan M. Burch,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2013–00064 Filed 1–7–13; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, January 10, 2013.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Board Briefing on the Interagency Final Rule, "Higher-Priced Mortgage" Loans.

2. NCUA Annual Performance Plan 2013.

3. Final Rule—Parts 702, 741 and 791 of NCUA's Rules and Regulations and Interpretive Ruling and Policy Statement 13–1, Regulatory Relief for Small Credit Unions.

4. Final Rule—Section 701.34 of NCUA's Rules and Regulations, Low-Income Designation, Acceptance Deadline.

5. Final Rule—Section 701.37 of NCUA's Rules and Regulations, Technical Amendments—Treasury Tax and Loan Depositaries; Depositaries and Financial Agents of the Government.

6. Final Rule—Section 701.14 of NCUA's Rules and Regulations, "Troubled Condition" Definition.

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304

Mary Rupp,

Board Secretary.

[FR Doc. 2013–00205 Filed 1–4–13; 11:15 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Extend a Current Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewal of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for three years.

DATES: Written comments on this notice must be received by March 11, 2013 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Time, Monday through Friday. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

SUPPLEMENTARY INFORMATION:

Title of Collection: Higher Education Research and Development Survey.

OMB Control Number: 3145–0100.

Expiration Date of Current Approval: October 31, 2013.

Proposed Renewal Project: The Higher Education Research and Development Survey (formerly known as the Survey of Research and Development Expenditures at Universities and Colleges) originated in fiscal year (FY) 1954 and has been conducted annually since FY 1972. The survey is the academic research and development component of the NSF statistical program that seeks to provide a "central clearinghouse for the collection, interpretation, and analysis of data on the availability of, and the current and projected need for, scientific and technical resources in the United States, and to provide a source of information for policy formulation by other agencies of the federal government," as mandated by the America COMPETES Reauthorization Act of 2010 § 505, codified in the National Science Foundation Act of 1950, as amended. In recent years, NSF redesigned and expanded the survey to better reflect the current state of academic R&D. The redesigned survey was renamed the Higher Education R&D Survey and pilot tested with a random sample of 40 institutions during the FY 2009 survey cycle. The revised survey began for all institutions with the FY 2010 cycle.

Use of the Information: The proposed project will continue the annual survey cycle for three years. The FY 2013 Higher Education R&D Survey will be administered to an expected minimum of 660 institutions. In addition, a shorter version of the survey asking for R&D expenditures by source of funding and broad field will be sent to approximately 325 institutions spending under $1 million on R&D in their previous fiscal year. Finally, a survey requesting R&D expenditures by source of funds, cost categories (salaries, indirect costs, equipment, etc.), and character of work (basic research, applied research, or development) will be administered to the 39 Federally Funded Research and Development Centers.

The Higher Education R&D Survey will provide continuity of statistics on R&D expenditures by source of funding and field of research, with separate data requested on current fund expenditures for research equipment by field. Further breakdowns are collected on funds passed through to subrecipients and funds received as a subrecipient, and on R&D expenditures by field from specific federal agency sources. As of FY 2010, the survey also requests total R&D expenditures funded from foreign sources, R&D within an institution's medical school, clinical trial expenditures, R&D by type of funding mechanism (contracts vs. grants). R&D funded by the American Recovery and Reinvestment Act of 2009, and R&D by cost category (salaries, equipment, software, etc.). The survey also requests headcounts of principal investigators and other personnel paid from R&D funds, as well as a separate count of postdocs working on R&D.

Data are published in NSF's annual publication series *Higher Education Research and Development* and are available electronically on the World Wide Web.

The survey is a fully automated Web data collection effort and is handled primarily by administrators in university sponsored programs and accounting offices. To minimize burden, institutions are provided with an abundance of guidance and resources on the Web, and are able to respond via a downloadable excel spreadsheet if desired. Each institution's record is pre-loaded with the 2 previous years of comparable data that facilitate editing and trend checking. Response to this voluntary survey has exceeded 95 percent each year.

The average burden report for the FY 2011 survey was 50 hours for institutions reporting over $1 million in R&D expenditures and 14 hours for those reporting less than $1 million. The burden estimate for the FFRDC survey is 6 hours.

Dated: January 3, 2013.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2013–00188 Filed 1–7–13; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0321]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

Background

Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from December 13, 2012 to December 26, 2012. The last biweekly notice was published on December 11, 2012 (77 FR 73684).

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and is publicly available, by searching on *http://www.regulations.gov* under Docket ID NRC–2012–0321. You may submit comments by the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0321. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see "Accessing Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0321 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0321.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public

Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. Documents may be viewed in ADAMS by performing a search on the document date and docket number.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2012–0321 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS, and the NRC does not edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information in their comment submissions that they do not want to be publicly disclosed. Your request should state that the NRC will not edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. NRC regulations are accessible electronically from the NRC Library on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final

determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov*, or by telephone at 301–415–1677, to (1) request a digital ideutification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by email to *MSHD.Resource@nrc.gov*, or by a toll-free call to 1–866 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitnte a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a

determination by the presiding officer that the filing demonstrates good cause by satisfying the following three factors in 10 CFR 2.309(c)(1): (i) The information upon which the filing is based was not previously available; (ii) the information upon which the filing is based is materially different from information previously available; and (iii) the filing has been submitted in a timely fashion based on the availability of the subsequent information.

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: November 14, 2012.

Description of amendment request: The proposed amendment would relocate the Technical Specification (TS) requirements for motor-operated valve thermal overload protection from the TSs to the Technical Requirements Manual (TRM). The TRM is a licensee-controlled document.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes relocate the motor operated valve (MOV) thermal overload (TOL) protection operability and surveillance requirements from the Limerick Generating Station (LGS) Technical Specifications (TS) to a licensee-controlled document under the control of 10 CFR 50.59.

The proposed changes do not alter the physical design of any plant structure, system, or component; therefore, the proposed changes have no adverse effect on plant operation, or the availability or operation of any accident mitigation equipment. The plant response to the design basis accidents does not change. Operation or failure of the MOV TOL protection bypass capability is not assumed to be an initiator of any analyzed event in the Updated Final Safety Analysis Report (UFSAR) and cannot cause an accident. Whether the requirements for the MOV TOL protection bypass capability are located in TS or another licensee-controlled document has no effect on the probability or consequences of any accident previously evaluated.

The proposed changes conform to NRC regulatory requirements regarding the content of plant TS as identified in 10 CFR 50.36, and also the guidance as approved by the NRC in NUREG–1433, "Standard Technical Specifications—General Electric BWR/4 Plants."

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes relocate the MOV TOL protection operability and surveillance requirements from the LGS TS to a licensee-controlled document under the control of 10 CFR 50.59.

The proposed changes do not alter the plant configuration (no new or different type of equipment is being installed) or require any new or unusual operator actions. The proposed changes do not alter the safety limits or safety analysis assumptions associated with the operation of the plant. The proposed changes do not introduce any new failure modes that could result in a new accident. The proposed changes do not reduce or adversely affect the capabilities of any plant structure, system, or component in the performance of their safety function.

Also, the response of the plant and the operators following the design basis accidents is unaffected by the proposed changes.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed changes have no adverse effect on plant operation, or the availability or operation of any accident mitigation equipment. The plant response to the design basis accidents does not change. The proposed changes do not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analyses. There is no change being made to safety analysis assumptions, safety limits or limiting safety system settings that would adversely affect plant safety as a result of the proposed changes.

In addition, the relocated requirements do not meet any of the 10 CFR 50.36c(2)(ii) criteria on items for which TS must be established. Operability and surveillance requirements will be established in a licensee-controlled document to ensure the reliability of MOV TOL protection bypass capability. Changes to these requirements will be subject to the controls of 10 CFR 50.59, providing the appropriate level of regulatory control.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Esquire, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Meena K. Khanna.

FirstEnergy Nuclear Operating Company (FENOC), et al., Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1 (PNPP), Lake County, Ohio

Date of amendment request: September 5, 2012.

Description of amendment request: The proposed amendment would modify PNPP's Technical Specifications (TS) Table 3.3.5.1, "Emergency Core Cooling System (ECCS) Instrumentation," footnote (a) to require ECCS instrumentation to be operable only when the associated ECCS subsystems are required to be operable. This proposed change is consistent with Nuclear Regulatory Commission (NRC)-approved TS Task Force (TSTF) Change Traveler TSTF–275–A, Revision 0.

Additionally, the proposed amendment would add exceptions to the diesel generator (DG) surveillance requirements (SRs) for TS 3.8.2, "AC Sources—Shutdown," to eliminate the requirement that the DG be capable of responding to ECCS initiation signals while the ECCS subsystems are not required to be operable. This proposed change is consistent with NRC-approved TSTF–300–A, Revision 0.

Basis for proposed no significant hazards consideration determination: As required by Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This proposed amendment involves changes to Technical Specification Table

3.3.5.1–1, "Emergency Core Cooling System [ECCS] Instrumentation," and Surveillance Requirement 3.8.2.1 for alternating current sources during shutdown.

The proposed changes to Table 3.3.5.1–1 ensures that ECCS instrumentation is only required to be operable when the ECCS subsystems and annulus exhaust gas treatments subsystems are required to be operable. These changes ensure ECCS instrumentation that actuates ECCS subsystems and annulus exhaust gas treatment subsystems are required to be operable to perform their function as described in the safety analysis, and do not involve physical changes to plant systems, structures or components. The proposed changes to Table 3.3.5.1–1 do not affect plant operations or design functions, and do not increase the likelihood of a malfunction.

The surveillance requirement change eliminates the requirement that the diesel generator be capable of responding to ECCS initiation signals when the ECCS injection/spray subsystems are not required to be operable. The modified surveillance requirements do not involve physical changes to plant systems, structures or components, and would not cause the plant to be operated in a new or different manner. No new failure mechanisms, malfunctions, or accident initiators would be introduced by the proposed changes. The required equipment continues to be tested in a manner and at a frequency necessary to provide confidence that the equipment can perform its intended safety function. If the ECCS subsystems are not required to be operable, there is no benefit to maintaining diesel generator capability to respond to ECCS initiation signals. The proposed surveillance requirement change does not affect plant operations or design functions, and does not increase the likelihood of a malfunction.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed Technical Specification changes would correctly identify the applicable modes or other specified conditions for which ECCS instrumentation is required to be operable and revises requirements for when certain surveillances are to be performed. These changes would not result in revisions of plant design, physical alteration of a plant structure, system, or component, or installation of new different types equipment. No new failure mechanisms, malfunctions, or accident initiators would be introduced by the proposed changes. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes have no effect on design basis, safety limits, or safety analysis assumptions or methods of performing safety analyses. The changes do not adversely affect system operability or design requirements and the equipment continues to be tested in a manner and at a frequency necessary to provide confidence that the equipment can perform its intended safety function.

Therefore, the proposed amendment does not result in any reduction in a margin of safety.

Based on the above, FirstEnergy Nuclear Operating Company concludes that the proposed amendment does not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of "no significant hazards consideration" is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendment involves no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Attorney, FirstEnergy Corporation, Mail Stop.

A–GO–15, 76 South Main Street, Akron, OH 44308.

NRC Branch Chief: Michael I. Dudek.

NRC Branch Chief: Michael I. Dudek.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Units 3 and 4, Miami-Dade County, Florida

Date of amendment request: September 14, 2012.

Description of amendment request: The proposed amendments would revise the licenses and the Technical Specifications (TSs) to (1) close and remove license conditions that have been fully satisfied as of the end of the Unit 3 Cycle 26 refueling outage, (2) revise TS 5.5.1 to remove related license conditions, (3) correct several inadvertent errors in the TS, and (4) update the reference to the Physical Security Plan to the latest approved revision in the related license conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendments do not change or modify the fuel, fuel handling processes, fuel storage racks, number of fuel assemblies that may be stored in the spent fuel pool (SFP), decay heat generation rate, or the spent fuel pool cooling and cleanup system. The proposed amendments only limit crediting of burnable absorbers in the spent fuel pool to Integrated Fuel Burnable Absorber (IFBA) rods that were specifically addressed in the currently approved criticality analysis [WCAP–17094–P, Revision 3, "Turkey Point, Units 3 and 4 New Fuel Storage Rack and Spent Fuel Pool Criticality Analysis," February 2011]. The removal of the phrase "or an equivalent amount of another burnable absorber" eliminates the possibility of crediting a burnable absorber other than IFBA for storage of spent fuel assemblies in the spent fuel pool without prior NRC [U.S. Nuclear Regulatory Commission] approval. The deletion of the license condition associated with the Boraflex Remedy is editorial as it is no longer applicable. The proposed amendments do not affect the ability of the BAST [boric acid storage tank] to perform its function or the ability of the CREVS [control room emergency ventilation system] to perform its function. These latter proposed TS changes correct inadvertent errors and are consistent with the stated intent of original license submittals or delete license conditions that have been fully satisfied.

The proposed amendments do not cause any physical change to the existing spent fuel storage configuration or fuel makeup. The proposed amendments do not affect any precursors to any accident previously evaluated or do not affect any known mitigation equipment or strategies.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendments do not change or modify the fuel, fuel handling processes, fuel racks, number of fuel assemblies that may be stored in the pool, decay heat generation rate, or the spent fuel pool cooling and cleanup system. The proposed amendments do not result in any changes to spent fuel or to fuel storage configurations. The removal of the phrase "or an equivalent amount of another burnable absorber" eliminates the possibility of crediting a burnable absorber other than IFBA for storage of spent fuel assemblies in the spent fuel pool without prior NRC approval. The proposed amendments do not affect the ability of the BAST to perform its function or the ability of the CREVS to perform its function. These latter proposed TS changes correct inadvertent errors and are consistent with the stated intent of the original license submittals, delete license conditions that are no longer applicable or have been fully satisfied.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

The proposed amendments do not change or modify the fuel, fuel handling processes,

fuel racks, number of fuel assemblies that may be stored in the pool, decay heat generation rate, or the spent fuel pool cooling and cleanup system. Therefore, the proposed amendments have no impact to the existing margin of safety for subcriticality required by 10 CFR 50.68 (b)(4). The other proposed TS changes correct inadvertent errors and are consistent with the stated intent of the original license submittals or delete license conditions that are no longer applicable or have been fully satisfied.

Therefore, the proposed amendments do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: James Petro, Managing Attorney—Nuclear, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Acting Branch Chief: Jessie F. Quichocho.

Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr.resource@nrc.gov*.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, Maricopa County, Arizona

Date of application for amendment: August 10, 2012, as supplemented by letters dated September 4, October 11, and November 16, 2012.

Brief description of amendment: The amendments revised the basis and description for Milestones 6 and 7 of the licensee's Cyber Security Plan implementation schedule. In addition, the amendments revised paragraph 2.E of the facility operating licenses.

Date of issuance: December 13, 2012.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: Unit 1—190; Unit 2—190; Unit 3—190.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the Operating Licenses.

Date of initial notice in **Federal Register:** October 9, 2012 (77 FR 61436). The supplemental letters dated October 11 and November 16, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 13, 2012.

No significant hazards consideration comments received: No.

Carolina Power and Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit 3 Nuclear Generating Plant Citrus County, Florida

Date of application for amendments: September 12, 2012.

Brief Description of amendments: These amendments revised the Cyber Security Plan Implementation Schedule as approved in the license amendments issued on July 29, 2011 (ADAMS Accession No. ML11193A028).

Date of issuance: December 18, 2012.

Effective date: These license amendments are effective as of the date of their issuance and shall be implemented by December 31, 2012.

Amendment Nos.: Brunswick 1: 261, Brunswick 2: 289, Robinson 2: 230, Shearon Harris 1: 140, and Crystal River 3: 242.

Renewed Facility Operating License Nos. DPR–71, DPR–62, DPR–23, and NPF–63; and Facility Operating License No. DPR–72.

Amendments revised the facility operating licenses.

Date of initial notice in **Federal Register:** October 16, 2012 (77 FR 63347).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated December 18, 2012.

No significant hazards consideration comments received: No.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: January 10, 2012, supplemented by letter dated July 6, 2012.

Brief description of amendment: The amendment revises Surveillance Requirement (SR) 3.4.3.2, in TS 3.4.3, "Safety Relief Valves (SRVs)", SR 3.5.1.13, in TS 3.5.1, "ECCS-Operating," and SR 3.6.1.6.1, in TS 3.6.1.6, "Low-Low Set (LLS) Valves." The amendment replaces the current requirement in these TS SRs to verify the SRV opens

when manually actuated with an alternate requirement that verifies the SRV is capable of being opened.

Date of issuance: December 21, 2012.

Effective date: As of the date of issuance and shall be implemented prior to startup from Refueling Outage 16.

Amendment No.: 190.

Facility Operating License No. NPF–43: Amendment revised the Technical Specifications and License.

Date of initial notice in **Federal Register:** May 1, 2012 (77 FR 25756).

The supplemental letter dated July 6, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the U.S. Nuclear Regulatory Commission staff's original proposed no significant hazards consideration determination as published in the **Federal Register** on May 1, 2012 (77 FR 25756). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 21, 2012.

No significant hazards consideration comments received: No.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: January 10, 2012.

Brief description of amendment: The amendment revised Technical Specification (TS) 3.6.2.3, "RHR [Residual Heat Removal] Suppression Pool Cooling," to specify a new minimum developed RHR pump flow rate in Surveillance Requirement (SR) 3.6.2.3.2. This change brings the flow required in the plant design basis in alignment with the TS SR. The change would increase the operating margin of the RHR Suppression Pool Cooling system to the SR. Also, this change would clarify that SR 3.6.2.3.2 applies to only the RHR pumps required to meet Limiting Condition of Operation (LCO) 3.6.2.3.

Date of issuance: December 21, 2012.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 191.

Facility Operating License No. NPF–43: Amendment revised the Technical Specifications and License.

Date of initial notice in **Federal Register:** May 1, 2012 (77 FR 25755).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 21, 2012.

No significant hazards consideration comments received: No.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: December 22, 2011, as supplemented by letter dated October 3, 2012.

Description of amendment request: The amendment revised the Operating License Condition 3.S to allow Boiling Water Reactor Vessel and Internals Project (BWRVIP)–139–A, "BWR Vessel and Internals Project Steam Dryer Inspection and Flaw Evaluation Guidelines," to be the basis for future steam dryer monitoring and inspections on an inspection interval of at least every third refueling outage.

Date of Issuance: December 19, 2012.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 252.

Facility Operating License No. DPR–28: Amendment revised the Operating License.

Date of initial notice in **Federal Register:** April 3, 2012 (77 FR 20073).

The supplemental letter dated October 3, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated December 19, 2012.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: November 11, 2011, as supplemented by letter dated November 26, 2012.

Brief description of amendment: The amendment relocated the following Technical Specifications (TS) to the Waterford Steam Electric Station, Unit 3, Technical Requirements Manual: (a) TS 3.4.6, "Chemistry," (b) TS 3.7.5, "Flood Protection," (c) TS 3.7.9, "Sealed Source Contamination," and (d) TS 3.9.5, "Communications."

Date of issuance: December 20, 2012.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 238.

Facility Operating License No. NPF–38: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in **Federal Register:** April 17, 2012 (77 FR 22814). The supplemental letter dated November 26, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register** on April 17, 2012 (77 FR 22814).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 20, 2012.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: June 28, 2012.

Brief description of amendment: The amendment revised the scope of Cyber Security Plan (CSP) Implementation Schedule Milestone #6 and paragraph 2.E of the facility operating license. The amendment modified the scope of Milestone #6 to apply to the technical cyber security controls only. The operational and management controls, as described in Nuclear Energy Institute (NEI) 08–09, Revision 6, would be implemented concurrent with the full implementation of the cyber security program (Milestone #8). Thus, all CSP activities would be fully implemented by the completion date, currently identified in Milestone #8 of the licensee's CSP implementation schedule.

Date of issuance: December 20, 2012.

Effective date: As of the date of issuance and shall be implemented by December 31, 2012.

Amendment No.: 239.

Facility Operating License No. NPF–38: The amendment revised the Facility Operating License.

Date of initial notice in **Federal Register:** October 9, 2012 (77 FR 61437).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 20, 2012.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: June 21, 2012.

Brief description of amendments: Amendments modify paragraph 3.F, "Physical Protection," of the licenses of

both units. The changes revise the scope of Cyber Security Plan Implementation Schedule Milestone No. 6.

Date of Issuance: December 17, 2012.

Effective Date: These license amendments are effective as of the date of their issuance and shall be implemented by December 31, 2012.

Amendment Nos.: Unit 1—214 and Unit 2—164.

Renewed Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the license.

Date of initial notice in **Federal Register**: October 9, 2012 (77 FR 61438). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 17, 2012.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Miami-Dade County, Florida

Date of application for amendments: June 13, 2012.

Brief description of amendments: Amendments modify paragraph 3.E, "Physical Protection," of the licenses of both units. The changes revise the scope of Cyber Security Plan Implementation Schedule Milestone No. 6.

Date of Issuance: December 17, 2012.

Effective Date: These license amendments are effective as of the date of their issuance and shall be implemented by December 31, 2012.

Amendment Nos.: Unit 3—256 and Unit 4—252.

Renewed Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the license.

Date of initial notice in **Federal Register:** September 11, 2012 (77 FR 55872). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 17, 2012.

No significant hazards consideration comments received: No.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit 1, Berrien County, Michigan

Date of application for amendments: September 11, 2012.

Brief description of amendments: The amendments approve changes to the Cyber Security Plan Implementation Schedule for Milestone 6 at the Donald C. Cook Nuclear Power Plant, Units 1 and 2.

Date of issuance: December 13, 2012.

Effective date: As of the date of issuance and shall be implemented by December 31, 2012.

Amendment Nos.: 319, 303.

Facility Operating License No. DPR–58 and DPR–74: Amendments revise the Renewed Facility Operating License.

Date of initial notice in **Federal Register**: October 9, 2012 (77 FR 61438).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 13, 2012.

No significant hazards consideration comments received: No.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 27, 2012.

Brief description of amendment: The amendment revised the scope of Cyber Security Plan (CSP) Implementation Schedule Milestone #6 and paragraph 2.C.(3) of the renewed facility operating license. The amendment modified the scope of Milestone #6 to apply to the technical cyber security controls only. The operational and management controls, as described in Nuclear Energy Institute (NEI) 08–09, Revision 6, would be implemented concurrent with the full implementation of the cyber security program (Milestone #8). Thus, all CSP activities would be fully implemented by the completion date, currently identified in Milestone #8 of the licensee's CSP implementation schedule.

Date of issuance: December 13, 2012.

Effective date: As of the date of issuance and shall be implemented by December 31, 2012.

Amendment No.: 244.

Renewed Facility Operating License No. DPR–46: Amendment revised the Facility Operating License.

Date of initial notice in **Federal Register:** October 9, 2012 (77 FR 61439).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 13, 2012.

No significant hazards consideration comments received: No.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: August 30, 2012.

Brief description of amendment: The amendment includes a deviation to the scope of the Cyber Security Plan Implementation Schedule Milestone 6 and a revision to the Facility Operating License Condition 2.E to include the deviation.

Date of issuance: December 21, 2012.

Effective date: This license amendment is effective as of the date of its issuance.

Amendment No.: 193.

Renewed Facility Operating License No. NPF–12: Amendment revises the License.

Date of initial notice in **Federal Register**: October 9, 2012 (77 FR 61440).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 21, 2012.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: May 2, 2012, as supplemented by letter dated October 15, 2012.

Brief description of amendment: The amendment revised Technical Specification (TS) 3.6.6, "Containment Spray and Cooling Systems," to replace the current 10-year surveillance frequency for testing the containment spray nozzles, as specified in TS Surveillance Requirement 3.6.6.8, with an event-based frequency.

Date of issuance: December 21, 2012.

Effective date: As of its date of issuance and shall be implemented within 90 days of issuance.

Amendment No.: 203.

Renewed Facility Operating License No. NPF–42: The amendment revised the Operating License and Technical Specifications.

Date of initial notice in **Federal Register**: September 4, 2012 (77 FR 53931). The supplemental letter dated October 15, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 21, 2012. No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 27th day of December 2012.

For The Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–31710 Filed 1–7–13; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Computer Matching Program

AGENCY: Office of Personnel Management.

ACTION: Notice—computer matching between the Office of Personnel Management and the Social Security Administration (Computer Matching Agreement 1071).

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (*54 FR 25818* published June 19, 1989), and OMB Circular No. A–130, revised November 28, 2000, "Management of Federal Information Resources," the Office of Personnel Management (OPM) is publishing notice of its new computer matching program with the Social Security Administration (SSA).

DATES: OPM will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will begin 30 days after the **Federal Register** notice has been published or 40 days after the date of OPM's submissions of the letters to Congress and OMB, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended an additional 12 months thereafter. Subsequent matches will run until one of the parties advises the other in writing of its intention to reevaluate, modify, and/or terminate the agreement.

ADDRESSES: Send comments to Deon Mason, Chief, Business Services, Office of Personnel Management, Room 4316, 1900 E. Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Bernard A. Wells III on 202–606–2730.

SUPPLEMENTARY INFORMATION:

A. General

The Privacy Act (5 U.S.C. 552a), as amended, establishes the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. Among other things, it requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency for agencies participating in the matching programs;

(2) Obtain the approval of the match agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching;

(5) Verify match findings before reducing, suspending, termination, or denying an individual's benefits or payments.

B. OPM Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of OPM's computer matching programs comply with the requirements of the Privacy Act, as amended.

Notice of Computer Matching Program, Office of Personnel Management (OPM) With the Social Security Administration (SSA)

A. Participating Agencies

OPM and SSA.

B. Purpose of the Matching Program

The purpose of this agreement is to establish the conditions under which SSA will disclose Social Security benefit data to OPM via direct computer link. OPM will use the Social Security benefit data for the administration of certain programs by OPM's Retirement Services. OPM is legally required to offset specific benefits by a percentage of benefits payable to disability annuitants, children survivor annuitants, and spousal survivor annuitants, under title II of the Social Security Act. This matching activity will enable OPM to compute benefits at the correct rate and determine eligibility for those benefits. Appendices A, B, and C of this agreement contain specific information on the matching programs that OPM will conduct.

C. Authority for Conducting the Matching Program

Chapters 83 and 84 of title 5 of the United States Code provide the basis for computing annuities under CSRS and FERS, respectively, and require release of information by SSA to OPM in order to administer data exchanges involving military service performed by an individual after December 31, 1956. The CSRS requirement is codified at section 8332(j) of title 5 of the United States Code; the FERS requirement is codified at section 8422(e)(4) of title 5 of the United States Code. The responsibilities of SSA and OPM with respect to information obtained pursuant to this agreement are also in accordance with the following: the Privacy Act (5 U.S.C. 552a), as amended; section 307 of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253), codified at section 8332 Note of title 5 of the United States Code; section 1306(a) of title 42 of the United States Code; and section 6103(1)(11) of title 26 of the United States Code.

D. Categories of Records and Individuals Covered by the Match

SSA will disclose data from its MBR file (60–0090, Master Beneficiary Record, SSA/OEEAS) and MEF file (60–0059, Earnings Recording and Self-Employment Income System, SSA/OEEAS) and manually-extracted military wage information from SSA's "1086" microfilm file when required (71 FR 1796, January 11, 2006). OPM will provide SSA with an electronic finder file from the OPM system of records published as OPM/Central-1 (Civil Service Retirement and Insurance Records) on October 8, 1999 (64 FR 54930), as amended on May 3, 2000 (65 FR 25775). The system of records involved have routine uses permitting the disclosures needed to conduct this match.

E. Privacy Safeguards and Security

The Privacy Act (5 U.S.C. 552a(o)(1)(G)) requires that each matching agreement specify procedures for ensuring the administrative, technical and physical security of the records matched and the results of such programs.

All Federal agencies are subject to: the Federal Information Security Management Act of 2002 (FISMA) (44 U.S.C. 3541 *et seq.*); related OMB circulars and memorandum (e.g., OMB Circular A–130 and OMB M–06–16); National Institute of Science and Technology (NIST) directives; and the Federal Acquisition Regulations (FAR). These laws, circulars, memoranda

directives and regulations include requirements for safeguarding Federal information systems and personally identifiable information used in Federal agency business processes, as well as related reporting requirements. OPM and SSA recognize that all laws, circulars, memoranda, directives and regulations relating to the subject of this agreement and published subsequent to the effective date of this agreement must also be implemented if mandated.

FISMA requirements apply to all Federal contractors and organizations or sources that possess or use Federal information, or that operate, use, or have access to Federal information systems on behalf of an agency. OPM will be responsible for oversight and compliance of their contractors and agents. Both OPM and SSA reserve the right to conduct onsite inspection to monitor compliance with FISMA regulations.

F. Inclusive Dates of the Match

The matching program shall become effective upon the signing of the agreement by both parties to the agreement and approval of the agreement by the Data Integrity Boards of the respective agencies, but no sooner than 40 days after notice of this matching program is sent to Congress and the Office of Management and Budget or 30 days after publication of this notice in the **Federal Register**, whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2013–90151 Filed 1–7–13; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket No. ACR2012; Order No. 1609]

FY 2012 Annual Compliance Report

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Postal Service has filed an Annual Compliance Report on the costs, revenues, rates, and quality of service associated with its products in fiscal year 2012. Within 90 days, the Commission must evaluate that information and issue its determination as to whether rates were in compliance with title 39, chapter 36 and whether service standards in effect were met. To assist in this, the Commission seeks public comments on the Postal Service's Annual Compliance Report.

DATES: *Comments are due:* February 1, 2013.

Reply Comments are due: February 15, 2013.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On December 28, 2012, the United States Postal Service (Postal Service) filed with the Commission, pursuant to 39 U.S.C. 3652, its Annual Compliance Report (ACR) for fiscal year (FY) 2012.[1] Section 3652 requires submission of data and information on the costs, revenues, rates, and quality of service associated with postal products within 90 days of the closing of each fiscal year. In conformance with other statutory provisions and Commission rules, the ACR includes the Postal Service's FY 2012 Comprehensive Statement, its FY 2012 annual report to the Secretary of the Treasury on the Competitive Products Fund, and certain related Competitive Products Fund material. *See respectively*, 39 U.S.C. 3652(g), 39 U.S.C. 2011(i), and 39 CFR 3060.20–23. In line with past practice, some of the material in the FY 2012 ACR appears in non-public annexes.

The filing begins a review process that results in an Annual Compliance Determination (ACD) issued by the Commission to determine whether Postal Service products offered during FY 2012 are in compliance with applicable title 39 requirements.

II. Overview of the Postal Service's FY 2012 ACR

Contents of the filing. The Postal Service's FY 2012 ACR consists of a 48-page narrative; extensive additional material appended as separate folders and identified in Attachment One; and an application for non-public treatment of certain materials, along with a supporting rationale filed as Attachment Two. The filing also includes the Comprehensive Statement, Report to the Secretary of the Treasury, and information on the Competitive Products Fund filed in response to Commission rules. This material has been filed electronically with the Commission, and some also has been filed in hard-copy form.

Scope of filing. The material appended to the narrative consists of: (1) Domestic product costing material filed on an annual basis summarized in the Cost and Revenue Analysis (CRA); (2) comparable international costing material summarized in the International Cost and Revenue Analysis (ICRA); (3) worksharing-related cost studies; and (4) billing determinant information for both domestic and international mail. FY 2012 ACR at 2–3. Inclusion of these four data sets is consistent with the Postal Service's past ACR practices. As with past ACRs, the Postal Service has split certain materials into public and non-public versions. *Id.* at 3.

"Roadmap" document. A roadmap to the FY 2012 ACR appears as Library Reference USPS–FY12–9. This document provides brief descriptions of the materials submitted, as well as the flow of inputs and outputs among them; a discussion of differences in methodology relative to Commission methodologies in last year's ACD; a list of special studies and a discussion of obsolescence, as required by Commission rule 3050.12. *Id.* at 3–4.

Methodology. The Postal Service states that it has adhered to the methodologies applied by the Commission in the FY 2011 ACD, except in instances where the Commission approved methodology changes subsequent to the FY 2011 ACD. Those changes are identified in the prefaces accompanying the appended folders. *Id.* at 4.

Proposals for which the Postal Service has filed to change analytical principles since the filing of the FY 2011 ACR are identified and summarized in a table. *Id.* at 4–5. Generally, with respect to proposed changes that were pending resolution as of the date of the filing, the Postal Service prepared two versions of the materials for its ACR. *Id.* at 5. The Postal Service states that it intends to file a petition to amend the rule governing proposals to change methodologies, and requests that the Commission file all of the models it has

[1] United States Postal Service FY 2012 Annual Compliance Report, December 28, 2012 (FY 2012 ACR). Public portions of the Postal Service's filing are available on the Commission's Web site at *http://www.prc.gov*.

applied in preparing the FY 2012 ACD so that the Postal Service can ascertain that it has the most up-to-date models when it prepares the FY 2013 ACR. *Id.* at 6.

Market dominant product-by-product costs, revennes, and volumes. Comprehensive cost, revenue, and volume data for all market dominant products of general applicability are shown directly in the FY 2012 CRA or ICRA. *Id.* at 7.

The FY 2012 ACR includes a discussion by class of each market dominant product, including costs, revenues, and volumes, workshare discounts and passthroughs responsive to 39 U.S.C. 3652(b), and FY 2012 incentive programs. *Id.* at 7–32. In addition, in response to Order No. 1427,[2] the Postal Service also provides a schedule of future price increases for Standard Mail Flats. *Id.* at 15–19.

Market dominant negotiated service agreements. The FY 2012 ACR presents information on market dominant negotiated service agreements (NSAs). *Id.* at 32. Although there were two market dominant NSAs in effect for FY 2012, Discover Financial Services and Valassis, 2012 mailings were only made under the Discover Financial Services NSA and no 2012 data are available for the Valassis NSA. Full information regarding the Discover Financial Services NSA appears in Library Reference USPS–FY12–30. *Id.*

Service performance. The Postal Service notes that the Commission issued rules on periodic reporting of service performance measurement and customer satisfaction in FY 2010. Responsive information appears in Library Reference USPS–FY12–29. *Id.* at 34. The Postal Service says it set aggressive on-time targets of 90 percent or above for all market dominant products and, overall, has been successful in continuously improving these scores. It asserts that its targets have already been met or exceeded for some products and in some districts, but says there are several instances where target scores have not yet been met at the national level. Specific reasons for these results are discussed in Library Reference USPS–FY12–29. *Id.* at 34.

Customer satisfaction. The FY 2012 ACR discusses the Postal Service's approach for measuring customer experience and satisfaction; describes the methodology; presents a table with survey results; and compares the results from FY 2011 to FY 2012. *Id.* at 35–36.

Competitive products. The FY 2012 ACR provides costs, revenues, and volumes for competitive products of general applicability in the FY 2012 CRA or ICRA. For competitive products not of general applicability, data are provided in non-public Library References USPS–FY12–NP2 and USPS–FY12–NP27. The FY 2012 ACR also addresses the competitive product pricing standards of 39 U.S.C. 3633. *Id.* at 38–43.

Market tests; nonpostal services. The Postal Service also addresses the four market dominant market tests conducted during FY 2012, the single competitive market test conducted during FY 2012, and nonpostal services. *Id.* at 44–46. With respect to the latter, it notes that on December 11, 2012, the Commission issued Order No. 1575 approving Mail Classification Schedule (MCS) descriptions and prices for nonpostal service products. The approved MCS includes 11 nonpostal service products, two of which are market dominant and nine of which are competitive. *Id.* at 45. It has provided revenue, cost, and volume data for the two market dominant nonpostal service products. *Id.* at 45–46.

III. Procedural Steps

Statutory requirements. Section 3653 of title 39 requires the Commission to provide interested persons with an opportunity to comment on the ACR and to appoint an officer of the Commission (Public Representative) to represent the interests of the general public. The Commission hereby solicits public comment on the Postal Service's FY 2012 ACR and on whether any rates or fees in effect during FY 2012 (for products individually or collectively) were not in compliance with applicable provisions of chapter 36 of title 39 (or regulations promulgated thereunder). Commenters addressing market dominant products are referred in particular to the applicable requirements (39 U.S.C. 3622(d) and (e) and 3626); objectives (39 U.S.C. 3622(b)); and factors (39 U.S.C. 3622(c)). Commenters addressing competitive products are referred to 39 U.S.C. 3633.

The Commission also invites public comment on the cost coverage matters the Postal Service addresses in its filing; service performance results; levels of customer satisfaction achieved; progress toward goals established in the annual Comprehensive Statement; and such other matters that may be relevant to the Commission's review. Comments on these topics will, *inter alia*, assist the Commission in developing appropriate recommendations to the Postal Service related to the protection or promotion of the public policy objectives of title 39.

Access to filing. The Commission has posted the publicly available portions of the FY 2012 ACR on its Web site at *http://www.prc.gov.*

Comment deadlines. Comments by interested persons are due on or before February 1, 2013. Reply comments are due on or before February 15, 2013. The Commission, upon completion of its review of the FY 2012 ACR, public comments, and other data and information submitted in this proceeding, will issue its ACD. Those needing assistance filing electronically may contact the Docket Section supervisor at 202–789–6846 or via email at *prc-dockets@prc.gov.* Inquiries about access to non-public materials should also be directed to the Docket Section.

Public Representative. Kenneth E. Richardson is designated to serve as the Public Representative to represent the interests of the general public in this proceeding. Neither the Public Representative nor any additional persons assigned to assist him shall participate in or advise as to any Commission decision in this proceeding other than in their designated capacity.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. ACR2012 to consider matters raised by the United States Postal Service's FY 2012 Annual Compliance Report.

2. Pursuant to 35 U.S.C. 505, the Commission appoints Kenneth E. Richardson as an officer of the Commission (Public Representative) in this proceeding to represent the interests of the general public.

3. Comments on the United States Postal Service's FY 2012 Annual Compliance Report to the Commission, including the Comprehensive Statement of Postal Operations and other reports, are due on or before February 1, 2013.

4. Reply comments are due on or before February 15, 2013.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2013–00094 Filed 1–7–13; 8:45 am]

BILLING CODE 7710–FW–P

[2] Docket No. ACR2010, Order No. 1427, Order on Remand, August 9, 2012

POSTAL SERVICE

International Product Change—Global Expedited Package Services—Non-Published Rates

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add Global Expedited Package Services—Non-Published Rates 4 (GEPS–NPR 4) to the Competitive Products List.

DATES: *Effective date:* January 8, 2013.

FOR FURTHER INFORMATION CONTACT: Patricia A. Fortin, 202–268–8785.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642, on December 21, 2012, it filed with the Postal Regulatory Commission a Request of the United States Postal Service to add Global Expedited Package Services—Non-Published Rates 4 (GEPS–NPR 4) to the Competitive Products List and Notice of Filing GEPS–NPR 4 Model Contract and Application for Non-public Treatment of Materials Filed Under Seal. Documents are available at *www.prc.gov*, Docket Nos. MC2013–27 and CP2013–35.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2013–00074 Filed 1–7–13; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68533; File No. SR–NYSE–2012–74]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Bond Trading License and the Bond Liquidity Provider Pilot Program

December 21, 2012.

Correction

In notice document 2012–31260, appearing on pages 77166–77167 in the issue of Monday, December 31, 2012, make the following correction:

On page 77166, in the second column, the Release No. and the File No., are corrected to read as set forth above.

[FR Doc. C1–2012–31260 Filed 1–7–13; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68555; File No. SR–FICC–2012–07]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change Relating to Enhancements That the Mortgage-Backed Securities Division Intends To Implement to its Services and Certain Other Clarifications and Corrections to Its Rules

January 2, 2013.

I. Introduction

On November 6, 2012, the Fixed Income Clearing Corporation ("FICC" or the "Corporation") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR–FICC–2012–07 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19ba–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on November 21, 2012.[3] No comments letters were received on the proposed rule change. This order approves the proposed rule change.

II. Description

The proposed rule change relates to certain enhancements that the Mortgage-Backed Securities Division ("MBSD") of FICC intends to implement to its services. In addition, FICC proposes to make certain corrections and clarifications to the MBSD Rules. As noted below, some of the proposed changes do not require revisions to the MBSD Rules.

1. Expansion of Pool Netting To Include Pool Instructs From the Previous Settlement Months

MBSD proposed to further extend pool netting benefits to its members by capturing Pool Instructs[4] submitted for allocations made after the traded pool's settlement month has passed. The proposed changes allow more activity into the pool net which results in fewer settlements.

Currently, MBSD's pool netting process only nets Pool Instructs for the current delivery date if their corresponding contractual settlement dates ("CSD") are also in the current month.[5] For example, with respect to a delivery date of August 14, 2012, MBSD's pool netting process would only net Pool Instructs having a CSD ranging from August 1, 2012 through August 14, 2012 and having a delivery date of August 14, 2012. As such, only Pool Instructs having a CSD in the current month will be included in pool netting.

The proposed new process will net Pool Instructs from previous settlement months that are submitted for delivery dates in the current month. For example, if we assume that today is August 13, 2012, and a member submits multiple Pool Instructs all having a CSD equal to July 12, 2012 and a delivery date equal to August 14, 2012, on the evening of August 13th, these Pool Instructs would be netted against each other to arrive at a single pool net settlement position for the July 12, 2012 CSD and August 14th delivery date.

The proposed changes do not require revisions to the text of the MBSD Rules.

2. Notification of Settlement for Specified Pool Trades

A Notification of Settlement ("NOS") is an instruction submitted to the Corporation by a purchasing or selling clearing member which reflects the settlement of a Settlement Balance Order Trade, Trade-for-Trade Transaction or Specified Pool Trade ("SPT").[6] MBSD is proposing to change the manner in which NOS processing occurs for SPTs so that it follows similar processing rules as those applied to NOS for Settlement Balance Order Trades and Trade-for-Trade Transactions.

Currently, MBSD Rule 10 Section 2 states that the trade details for a NOS submitted by both parties of a SPT must fully match in order for the clearance of the SPTs to be reflected on the member's Purchase and Sale Report[7] *or* both parties must submit a cancellation of the transaction in order for the transaction to be deleted from each party's respective Open Commitment Report.[8]

MBSD proposed to enhance the NOS for SPTs by no longer requiring the current face value submitted on each

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 68245 (November 15, 2012), 77 FR 69913 (November 21, 2012).

[4] A Pool Instruct is an input used by a member to submit pool details directly into the Real-Time Trade Matching ® ("RTTM®") system for bilateral matching and assignment to a corresponding open TBA position as a prerequisite to the pool netting process.

[5] *See* MBSD Rule 8 Section 3.

[6] *See* MBSD Rule 1, Definitions.

[7] "Purchase and Sale Report" is defined as the report furnished by the Corporation reflecting a member's Compared Trades in Eligible Securities." *See* MBSD Rule 1, Definitions.

[8] "Open Commitment Report" is defined as the report furnished by the Corporation to members reflecting such member's open commitments in the Clearing System. *See* MBSD Rule 1, Definitions.

member's NOS to exactly match the current face value of the SPT. Instead, members will have the ability to submit and match multiple NOS to reduce the SPT current face until it is fully settled. For example, if a SPT has a current face value of $125MM and the pool number of the trade has a factor of 0.975, FICC will accept either (a) one piece of NOS for $125,000,000 *or* (b) three pieces of NOS for $48,750,000, $48,750,000 and $27,500,000. The current face values equal an original face settlement value of $50,000,000, $50,000,000 and $28,205,128.

In addition to the above, MBSD will apply a tolerance of +/− $1 when matching buy and sell NOS for SPT trades to account for differences in rounding conventions used by members to convert original face to current face on their NOS.

The proposed changes will make NOS for SPTs similar to NOS for Settlement Balance Order Trades and Trade-for-Trade Transactions whereby matching is permitted within a tolerance and multiple NOS may be submitted and matched separately until the trade is fully settled.

The proposed changes require revisions to the text of the MBSD Rules.

3. Comparison of Dummy Pool Number to Valid Pool Number

FICC supports the submission of a defined generic or "dummy" pool number on NOS instead of a valid pool number. A dummy pool is a standard convention used by members when the actual pool number is not readily available to some members. Currently, the pool number is a matching criterion on NOS. Consequently, if one member submits a dummy pool number and the other enters a valid pool number the NOS will not compare even though all of the other matching criteria are the same. In an effort to address this, FICC is proposing to change its processing in order to allow matching of NOS when all mandatory terms compare and one member submits a dummy pool number and the other member submits a valid pool.

The proposed changes do not require revisions to the text of the MBSD Rules.

4. Automatically Marking Certain Open TBA Trades as Fully Settled

Mortgage-backed securities trades settle with an industry-accepted variance of 0.01% (i.e., $100 per $1MM). When FICC applies NOS to open trades, it does so using the upper limit of the variance to ensure that trades are not marked as fully settled until all NOS have been received and processed by FICC. However, because trades may settle using any value within the variance, FICC's processing may leave residual trade amounts open on its books for trades that have actually been fully settled. To address this, FICC is proposing to automatically generate internal NOS which will mark the residual trade as fully settled. The FICC generated NOS will occur on the last business day of each month, in every instance where a member has a To-Be-Announced ("TBA") trade with an open par that falls below an established threshold. The threshold is initially contemplated to be $1000 par, however, this may be modified following member feedback. All changes to the threshold will be provided in advance to members via Important Notice.

The proposed changes require revisions to the text of the MBSD Rules.

5. Corrections and Clarification to the MBSD Rules

The MBSD Rules define the term "Fully Compared" as "* * * trade input submitted by a Broker matches trade input submitted by each Dealer on whose behalf the Broker is acting the Net Position Match Mode."[9] The phrase "in accordance with" was inadvertently deleted from this definition when it was revised in connection with Amendment No. 1 to SR–FICC–2008–01.[10] FICC proposes to restore this phrase so that the definition states the following: "* * * trade input submitted by a Broker matches trade input submitted by each Dealer on whose behalf the Broker is acting in accordance with the Net Position Match Mode."

In the second to last paragraph of MBSD Rule 2A Section 1, there is a sentence which states that the Corporation will determine whether the applicants in "categories (g and i)" of the referenced Section will be designated as tier one or tier two members. FICC proposes to correct the typographical error in the cross-reference so that it instead references "categories (g) and (i)."

Implementation

FICC proposes to implement the proposed changes relating to the MBSD enhancements during the second quarter of 2013 pending rule filing approval from the Securities and Exchange Commission. The proposed changes relating to the clarifications and corrections of the referenced rules will be effective immediately upon receipt of rule filing approval.

[9] *See* MBSD Rule 1, Definitions.

[10] Securities Exchange Act Release No. 66550 (March 9, 2012); 77 FR 15155 (March 14, 2012).

III. Discussion

Section 19(b)(2)(C) of the Act[11] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act[12] requires, among other things, that the rules of the clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions.

The proposed changes to FICC's Rules are consistent with promoting the prompt and accurate clearance and settlement of securities transactions in the following ways: (1) The expansion of the pool netting system extends the netting benefits to clearing members by capturing allocations made after the traded pools current settlement month, (2) the change in NOS processing for SPTs creates efficiency through the standardization of NOS processing for TBA trades, (3) automatically marking certain TBA trades as fully settled improves the monitoring and reporting of trade settlement status and (4) allowing the comparison of dummy Pool number to valid pool number provides for timelier matching of NOS. Each of these enhancements creates a more efficient netting system which promotes the prompt and accurate clearance and settlement for securities transactions. Furthermore, the clarifications and corrections to the MBSD Rules ensure that the Rules are accurate. As a result, the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act.[13]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[14] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change, as amended, (File No. SR–FICC–2012–07) be, and hereby is, approved.[16]

[11] 15 U.S.C. 78s(b)(2)(C).

[12] 15 U.S.C. 78q–1(b)(3)(F).

[13] 15 U.S.C. 78q–1(b)(3)(F).

[14] 15 U.S.C. 78q–1.

[15] 15 U.S.C. 78s(b)(2).

[16] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00122 Filed 1–7–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68560; File No. SR–NYSE–2012–76]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of its Supplemental Liquidity Providers Pilot (Rule 107B) Until the Earlier of the Securities and Exchange Commission's Approval To Make Such Pilot Permanent or July 31, 2013

January 2, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 18, 2012, New York Stock Exchange LLC (the "Exchange" or "NYSE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the operation of its Supplemental Liquidity Providers Pilot ("SLP Pilot" or "Pilot") (See Rule 107B), currently scheduled to expire on January 31, 2013, until the earlier of the Securities and Exchange Commission's ("Commission") approval to make such Pilot permanent or July 31, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the operation of its SLP Pilot,[5] currently scheduled to expire on January 31, 2013, until the earlier of Commission approval to make such Pilot permanent or July 31, 2013.

Background[6]

In October 2008, the NYSE implemented significant changes to its market rules, execution technology and the rights and obligations of its market participants all of which were designed to improve execution quality on the Exchange. These changes are all elements of the Exchange's enhanced market model referred to as the "New Market Model" ("NMM Pilot").[7] The SLP Pilot was launched in coordination with the NMM Pilot (*see* Rule 107B).

As part of the NMM Pilot, NYSE eliminated the function of specialists on the Exchange creating a new category of market participant, the Designated Market Maker or DMM.[8] Separately, the NYSE established the SLP Pilot, which established SLPs as a new class of market participants to supplement the liquidity provided by DMMs.[9]

The SLP Pilot is scheduled to end operation on January 31, 2013 or such earlier time as the Commission may determine to make the rules permanent. The Exchange is currently preparing a rule filing seeking permission to make the SLP Pilot permanent, but does not expect that filing to be completed and approved by the Commission before January 31, 2013.[10]

Proposal To Extend the Operation of the SLP Pilot

The NYSE established the SLP Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers, including the DMMs, and add new competitive market participants. The Exchange believes that the SLP Pilot, in coordination with the NMM Pilot, allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to

[5] *See* Securities Exchange Act Release No. 58877 (October 29, 2008), 73 FR 65904 (November 5, 2008) (SR–NYSE–2008–108) (establishing the SLP Pilot). *See also* Securities Exchange Act Release Nos. 59869 (May 6, 2009), 74 FR 22796 (May 14, 2009) (SR–NYSE–2009–46) (extending the operation of the SLP Pilot to October 1, 2009); 60756 (October 1, 2009), 74 FR 51628 (October 7, 2009) (SR–NYSE–2009–100) (extending the operation of the NMM and the SLP Pilots to November 30, 2009); 61075 (November 30, 2009), 74 FR 64112 (December 7, 2009) (SR–NYSE–2009–119) (extending the operation of the SLP Pilot to March 30, 2010); 61840 (April 5, 2010), 75 FR 18563 (April 12, 2010) (SR–NYSE–2010–28) (extending the operation of the SLP Pilot to September 30, 2010); 62813 (September 1, 2010), 75 FR 54686 (September 8, 2010) (SR–NYSE–2010–62) (extending the operation of the SLP Pilot to January 31, 2011); 63616 (December 29, 2010), 76 FR 612 (January 5, 2011) (SR–NYSE–2010–86) (extending the operation of the SLP Pilot to August 1, 2011); 64762 (June 28, 2011), 76 FR 39145 (July 5, 2011) (SR–NYSE–2011–30) (extending the operation of the SLP Pilot to January 31, 2012); 66045 (December 23, 2011), 76 FR 82342 (December 30, 2011) (SR–NYSE–2011–66) (extending the operation of the SLP Pilot to July 31, 2012); and 67493 (July 25, 2012), 77 FR 45388 (July 31, 2012) (SR–NYSE–2012–27) (extending the operation of the SLP Pilot to January 31, 2013).

[6] The information contained herein is a summary of the NMM Pilot and the SLP Pilot. *See supra* note 5 for a fuller description of those pilots.

[7] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46).

[8] *See* NYSE Rule 103.

[9] *See* NYSE Rule 107B. The Exchange amended the monthly volume requirements to an ADV that is a specified percentage of NYSE CADV. *See* Securities Exchange Act Release No. 67759 (August 20, 2012), 77 FR 54939 (September 6, 2012) (SR–NYSEMKT–2012–38).

[10] The NMM Pilot was scheduled to expire on January 31, 2013. On December 18, 2012 the Exchange filed to extend the NMM Pilot until July 31, 2013. *See* (SR–NYSE–2012–75). *See also* Securities Exchange Act Release Nos. 67494 (July 25, 2012), 77 FR 45408 (July 31, 2012) (SR–NYSE–2012–26) (extending the operation of the NMM Pilot to January 31, 2013); 66046 (December 23, 2011), 76 FR 82340 (December 30, 2011) (SR–NYSE–2011–65) (extending the operation of the NMM Pilot to July 31, 2012); 64761 (June 28, 2011) 76 FR 39147 (July 5, 2011) (SR–NYSE–2011–29) (extending the operation of the NMM Pilot to January 31, 2012); 63618 (December 29, 2010) 76 FR 617 (January 5, 2011) (SR–NYSE–2010–85) (extending the operation of the NMM Pilot to August 1, 2011); 62819 (September 1, 2010), 75 FR 54937 (September 9, 2010) (SR–NYSE–2010–61) (extending the operation of the NMM Pilot to January 31, 2011); 61724 (March 17, 2010), 75 FR 14221 (SR–NYSE–2010–25) (extending the operation of the NMM Pilot to September 30, 2010); and 61031 (November 19, 2009), 74 FR 62368 (SR–NYSE–2009–113) (extending the operation of the NMM Pilot to March 30, 2010).

reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the SLP Pilot (Rule 107B) should be made permanent. Through this filing the Exchange seeks to extend the current operation of the SLP Pilot until July 31, 2013, in order to allow the Exchange to formally submit a filing to the Commission to convert the Pilot rule to a permanent rule.[11]

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act") for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the instant filing is consistent with these principles because the SLP Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity and operates to reward aggressive liquidity providers. Moreover, the instant filing requesting an extension of the SLP Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the SLP Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2012–76 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2012–76. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2012–76 and should be submitted on or before January 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00081 Filed 1–7–13; 8:45 am]

BILLING CODE 8011–01–P

[11] The NYSE MKT SLP Pilot (NYSE MKT Rule 107B—Equities) is also being extended until July 31, 2013 or until the Commission approves it as permanent (*See* SR–NYSEMKT–2012–85).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68563; File No. SR–ICEEU–2012–11]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to Enhanced Margin Methodology

January 2, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 28, 2012, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe proposes to implement an enhanced margin methodology ("Decomp Model") that addresses the risk of both index and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

single-name credit default swaps ("CDS") cleared by ICE Clear Europe and permits appropriate portfolio margining between related index and single-name CDS positions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.[4]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A fundamental aspect of the Decomp Model is the recognition that index CDS instruments cleared by ICE Clear Europe are essentially a composition of specific single-name CDS. The Decomp Model includes the following enhancements to the ICE Clear Europe margin methodology for index CDS instruments (which are already in place for single-name CDS): Replacing standard deviation with mean absolute deviation (MAD) as a measure of credit spread variability, use of an auto regressive process to obtain multi-horizon risk measures, an increased number of spread response scenarios, introduction of liquidity requirements and introduction of enhanced concentration charge computations to reflect net notional amounts in addition to the currently used 5-Year ("5Y") equivalent notional amount. These enhancements and the enhancements referenced below have been reviewed and/or recommended by the ICE Clear Europe risk management personnel, risk and model review working groups and committees, the ICE Clear Europe Risk Committee and an independent third-party risk expert (Finance Concepts). Implementation of these enhancements to the ICE Clear Europe risk methodology will result specifically in a better measurement of the risk associated with clearing index CDS.

As a result of the decomposition of the index CDS, ICE Clear Europe will also be able to (1) incorporate jump-to-default risk as a component of the risk margin associated with index CDS (which is already in place for single-name CDS) and (2) provide appropriate portfolio margin treatment between index CDS and offsetting single-name CDS positions. Incorporating jump-to-default risk as a component of the Decomp Model will result in a better measurement of the risk associated with clearing index CDS (as is already the case for single-name CDS). Recognizing the highly correlated relationship between long-short positions in index CDS and the underlying single-name CDS constituents of an index CDS will provide for fundamental and appropriate portfolio margin treatment.

Upon approval of the Decomp Model, ICE Clear Europe would initially make appropriate portfolio margining available with respect to its Clearing Members' proprietary positions. ICE Clear Europe does not currently clear CDS positions of customers of its Clearing Members, but it plans to introduce customer clearing for CDS upon receipt of applicable regulatory approvals.[4] The Commission has granted an exemptive order permitting ICE Clear Europe to commingle customer positions in index CDS and single-name CDS carried through FCM/BD Clearing Members in a single account;[5] in addition, ICE Clear Europe has petitioned the Commodity Futures Trading Commission to permit such commingling.[6] Following the commencement of customer clearing for CDS, and receipt of all necessary regulatory approvals, ICE Clear Europe would make appropriate portfolio margining available to commingled customer positions in index and single-name CDS using the Decomp Model. Accordingly, the Decomp Model is an important component of ICE Clear Europe's planned customer clearing offering.

ICE Clear Europe does not believe that the expected phased implementation of the portfolio margining element of the proposed Decomp Model (commencing with proprietary positions) raises an issue of unfair discrimination. Importantly, the portfolio margining aspect of the Decomp Model does not unfairly discriminate with respect to similarly situated participants because it is available to any participant for whom ICE Clear Europe is currently able to provide portfolio margin treatment. ICE Clear Europe does not currently offer customer clearing in CDS. Once it does so, and upon receipt of all necessary regulatory approvals, ICE Clear Europe will offer portfolio margining with respect to customer positions. The proposed rule amendments are thus not designed to permit unfair discrimination among participants in the use of ICE Clear Europe's clearing services.

In addition, as part of the implementation of the proposed Decomp Model, ICE Clear Europe proposes to (1) reduce the current level of risk mutualization among ICE Clear Europe's CDS Clearing Members through the default resources held in the mutualized CDS Guaranty Fund and significantly increase the level of resources held as initial margin for CDS Contracts ("Guaranty Fund/IM Modification"), (2) modify the initial margin risk model approach in a manner that will make it easier for market participants to measure their risks, by removing the conditional recovery rate stress scenarios and adding a new recovery rate sensitivity component ("IM Recovery Rate Modification"), (3) introduce the 5Y equivalent notional amount ("5Y ENA") per single-name/index with the worst of concentration charge based on 5Y ENA or net notional amount ("NNA") being applied ("IM Concentration Charge Modification"), (4) add a new basis risk component from single-name CDS positions that are offset by index-derived single-name CDS positions ("IM Basis Risk Modification") and (5) combine a single guaranty fund calculation for index CDS and single-name CDS positions ("Guaranty Fund Modification").

Currently, ICE Clear Europe maintains a high percentage of its default resources for CDS Contracts in the CDS Guaranty Fund, as compared to initial margin for CDS Contracts. This reflects the fact that the current CDS Guaranty Fund model is designed to cover the uncollateralized losses that would result from the three single names that would cause the greatest losses when entering a state of default. The Guaranty Fund/IM Modification incorporates into the initial margin risk model the single name that causes the greatest loss when entering a state of default (*i.e.*, the single name that results in the greatest amount of loss when stress-tested to undergo a credit event). This change effectively collateralizes the loss that would occur from this single name upon default. Consequently, the amount of

[4] The Commission has modified the text of the summaries prepared by ICE Clear Europe.

[4] ICE Clear Europe has filed separately with the Commission proposed rule changes relating to customer clearing for CDS. *See* Securities Exchange Act Release No. 34–68152 (November 5, 2012), 77 FR 67427 (November 9, 2012).

[5] *See* Securities Exchange Act Release No. 34–68433 (December 14, 2012), 77 FR 75211 (December 19, 2012).

[6] *See* letter from Paul Swann, President & Chief Operating Officer, ICE Clear Europe to Mr. David Stawick, Secretary, Commodity Futures Trading Commission, dated May 31, 2012.

uncollateralized loss that would result from the three single names causing the greatest losses when entering a state of default is reduced, thereby reducing the amount of required contributions to the CDS Guaranty Fund.

It is important to note that the decrease in the CDS Guaranty Fund and the increase in initial margin requirements are not equivalent in terms of magnitudes. Instead, based on current portfolios, it is expected that for every $1 decrease in the CDS Guaranty Fund requirement there will be a corresponding increase of approximately $5 in initial margin requirements.

The IM Recovery Rate Modification modifies the initial margin risk model by removing the conditional recovery rate stress scenarios and adding a new recovery rate sensitivity component that is computed by considering changes in the recovery rate assumptions and their impact on the net asset value of the CDS portfolio. This modification will make it easier for market participants to replicate their initial margin requirements.

The IM Concentration Charge Modification defines concentration charge thresholds in terms of NNA as well as 5Y ENA and takes the more conservative concentration requirement based on either notional amount. This modification captures the risk of large directional CDS positions that may not be captured by the calculation based on NNA. For example, a set of large NNA positions, whose maturity date is close to the current date, may not be subject to concentration charges based on 5Y ENA if the estimated 5Y ENA is below the established threshold. The alternative NNA-based concentration charge computations may yield significant additional initial margin requirements as the NNA exceeds the established threshold.

As index-derived single-name positions and outright single-name positions are offset, an additional basis risk requirement is introduced to account for the fact that the index instruments are more actively traded than single-name instruments and thus are the preferred instruments to express changing views about the credit market as a whole, or even about specific single-name components of the indices. The IM Basis Risk Modification captures the risk associated with differences between outright single-name CDS positions and index-derived single-name CDS positions. In other words, a "perfectly hedged" portfolio consisting of an index CDS position and opposite index replicating single-name CDS positions will still attract an initial margin requirement due to the basis risk that exists.

Currently, ICE Clear Europe estimates separate guaranty fund sizes for index CDS positions and single-name positions. The Guaranty Fund Modification takes into account the portfolio benefits between index and single-name positions, and incorporates the worst 2-member uncollateralized losses coming from the jump-to-default, spread response, basis and interest rate stress scenario considerations.

Section 17A(b)(3)(F) of the Act[7] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. ICE Clear Europe believes that the changes will facilitate the prompt and accurate settlement and risk management of security-based swaps and contribute to the safeguarding of securities and funds associated with security-based swap transactions. As discussed above, ICE Clear Europe does not believe that the portfolio margining-related proposed changes raise an issue of unfair discrimination in the use of ICE Clear Europe's clearing services by similarly situated participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed changes to its margin methodology would have any impact, or impose any burden, on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe. As noted above, ICE Clear Europe has consulted extensively with CDS Clearing Members and others in developing the Decomp Model.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ICEEU–2012–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2012–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/publicdocs/regulatory_filings/ICEU_SEC_122812.pdf*.

All comments received will be posted without change; the Commission does

[7] 15 U.S.C. 78q–1(b)(3)(F).

not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2012–11 and should be submitted on or before January 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00084 Filed 1–7–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68458; File No. SR–NYSEArca–2012–139]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade First Trust Preferred Securities and Income ETF Under NYSE Arca Equities Rule 8.600

December 18, 2012.

Correction

In notice document 2012–30888 appearing on pages 76148–76155 in the issue of December 26, 2012, make the following correction:

On page 76155, in the first column, in the 14th line, "January 14, 2013" should read "January 16, 2013".

[FR Doc. C1–2012–30888 Filed 1–7–13; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68557; File No. SR–NYSEMKT–2012–85]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its Supplemental Liquidity Providers Pilot (Rule 107B—Equities) Until the Earlier of the Securities and Exchange Commission's Approval To Make Such Pilot Permanent or July 31, 2013

January 2, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 18, 2012, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the operation of its Supplemental Liquidity Providers Pilot ("SLP Pilot" or "Pilot") (See Rule 107B—Equities), currently scheduled to expire on January 31, 2013, until the earlier of the Securities and Exchange Commission's ("Commission") approval to make such Pilot permanent or July 31, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the operation of its SLP Pilot,[5] currently scheduled to expire on January 31, 2013, until the earlier of Commission approval to make such Pilot permanent or July 31, 2013.

Background[6]

In October 2008, the New York Stock Exchange LLC ("NYSE") implemented significant changes to its market rules, execution technology and the rights and obligations of its market participants all of which were designed to improve execution quality on the NYSE. These changes were all elements of the NYSE's and the Exchange's enhanced market model referred to as the "New Market Model" ("NMM Pilot").[7] The NYSE SLP Pilot was launched in coordination with the NMM Pilot (*see* NYSE Rule 107B).

As part of the NMM Pilot, NYSE eliminated the function of specialists on the Exchange creating a new category of market participant, the Designated Market Maker or "DMM."[8] Separately, the NYSE established the SLP Pilot, which established SLPs as a new class of market participants to supplement the liquidity provided by DMMs.[9]

The NYSE adopted NYSE Rule 107B governing SLPs as a six-month pilot program commencing in November 2008. This NYSE pilot has been extended several times, most recently to January 31, 2013.[10] The NYSE is in the

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 61308 (January 7, 2010), 75 FR 2573 (January 15, 2010) (SR–NYSEAmex–2009–98) (establishing the NYSE Amex Equities SLP Pilot). *See also* Securities Exchange Act Release Nos. 61841 (April 5, 2010), 75 FR 18560 (April 12, 2010) (SR–NYSEAmex–2010–33) (extending the operation of the SLP Pilot to September 30, 2010); 62814 (September 1, 2010), 75 FR 54671 (September 8, 2010) (SR–NYSEAmex–2010–88) (extending the operation of the SLP Pilot to January 31, 2011); 63615 (December 29, 2010), 76 FR 611 (January 5, 2011) (SR–NYSEAmex–2010–123) (extending the operation of the SLP Pilot to August 1, 2011); 64772 (June 29, 2011), 76 FR 39455 (July 6, 2011) (SR–NYSEAmex–2011–44) (extending the operation of the SLP Pilot to January 31, 2012); 66041 (December 23, 2011), 76 FR 82328 (December 30, 2011) (SR–NYSEAmex–2011–103) (extending the operation of the SLP Pilot to July 31, 2012); and 67496 (July 25, 2012), 77 FR 45390 (July 31, 2012) (SR–NYSEMKT–2012–22) (extending the operation of the SLP Pilot to January 31, 2013).

[6] The information contained herein is a summary of the NMM Pilot and the SLP Pilot. *See supra* note 5 and *Infra* note 7 for a fuller description of those pilots.

[7] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46).

[8] *See* NYSE Rule 103.

[9] *See* NYSE Rule 107B and NYSE MKT Rule 107B—Equities. NYSE amended the monthly volume requirements to an ADV that is a specified percentage of NYSE CADV. *See* Securities Exchange Act Release No. 67759 (August 20, 2012), 77 FR 54939 (September 6, 2012) (SR–NYSEMKT–2012–38).

[10] *See* Securities Exchange Act Release Nos. 58877 (October 29, 2008), 73 FR 65904 (November 5, 2008) (SR–NYSE–2008–108) (adopting SLP Pilot program); 59869 (May 6, 2009), 74 FR 22796 (May 14, 2009) (SR–NYSE–2009–46) (extending SLP Pilot program until October 1, 2009); 60756 (October 1, 2009), 74 FR 51628 (October 7, 2009) (SR–NYSE–2009–100) (extending SLP Pilot program until November 30, 2009); 61075 (November 30, 2009), 74 FR 64112 (December 7, 2009) (SR–NYSE–2009–119) (extending SLP Pilot program until March 30, 2010); 61840 (April 5, 2010), 75 FR 18563 (April 12, 2010) (SR–NYSE–2010–28) (extending the SLP Pilot until September 30, 2010); 62813 (September 1, 2010), 75 FR 54686 (September 8, 2010) (SR–NYSE–2010–62) (extending the SLP Pilot until January 31,

process of requesting an extension of their SLP Pilot until July 31, 2013 or until the Commission approves the pilot as permanent.[11] The extension of the NYSE SLP Pilot until July 31, 2013 runs parallel with the extension of the NMM pilot until July 31, 2013, or until the Commission approves the NMM Pilot as permanent.

Proposal To Extend the Operation of the NYSE MKT SLP Pilot

The Exchange established the SLP Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers, including the DMMs, and add new competitive market participants. NYSE MKT Rule 107B—Equities is based on NYSE Rule 107B. NYSE MKT Rule 107B—Equities was filed with the Commission on December 30, 2009, as a "me too" filing for immediate effectiveness as a pilot program.[12] The Exchange's SLP Pilot is scheduled to end operation on January 31, 2013 or such earlier time as the Commission may determine to make the rules permanent.

The Exchange believes that the SLP Pilot, in coordination with the NMM Pilot and the NYSE SLP Pilot, allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the SLP Pilot (NYSE MKT Rule 107B—Equities) should be made permanent.

Through this filing the Exchange seeks to extend the current operation of the SLP Pilot until July 31, 2013, in order to allow the Exchange to formally submit a filing to the Commission to convert the SLP Pilot rule to a permanent rule. The Exchange is currently preparing a rule filing seeking permission to make the Exchange's SLP Pilot permanent, but does not expect that filing to be completed and approved by the Commission before January 31, 2013.[13]

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act") for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the instant filing is consistent with these principles because the SLP Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity and operates to reward aggressive liquidity providers. Moreover, the instant filing requesting an extension of the SLP Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the SLP Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule does not (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2012–85 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2012–85. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official

2011); 63616 (December 29, 2010), 76 FR 612 (January 5, 2011) (SR–NYSE–2010–86) (extending the operation of the SLP Pilot to August 1, 2011); 64762 (June 28, 2011), 76 FR 39145 (July 5, 2011) (SR–NYSE–2011–30) (extending the operation of the SLP Pilot to January 31, 2012); 66045 (December 23, 2011), 76 FR 82342 (December 30, 2011) (SR–NYSE–2011–66) (extending the operation of the SLP Pilot to July 31, 2012); and 67493 (July 25, 2012), 77 FR 45388 (July 31, 2012) (SR–NYSE–2012–27) (extending the operation of the SLP Pilot to January 31, 2013).

[11] *See* SR–NYSE–2012–76

[12] *See* Securities Exchange Act Release No. 61308 (January 7, 2010), 75 FR 2573 (January 15, 2010) (SR–NYSEAmex–2009–98).

[13] The NMM Pilot was scheduled to expire on January 31, 2013 as well. On December 18, 2012, the Exchange filed to extend the NMM Pilot until July 31, 2013 (*See* SR–NYSEMKT–2012–84).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2012–85 and should be submitted on or before January 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00078 Filed 1–7–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68559; File No. SR–NYSEMKT–2012–84]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its New Market Model Pilot Until the Earlier of Securities and Exchange Commission Approval To Make Such Pilot Permanent or July 31, 2013

January 2, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 18, 2012, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(h)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the operation of its New Market Model Pilot, currently scheduled to expire on January 31, 2013, until the earlier of Securities and Exchange Commission ("Commission") approval to make such pilot permanent or July 31, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the operation of its New Market Model Pilot ("NMM Pilot") that was adopted pursuant to its merger with the New York Stock Exchange LLC ("NYSE").[5] The NMM Pilot was approved to operate until October 1, 2009. The Exchange filed to extend the operation of the Pilot to November 30, 2009, March 30, 2010, September 30, 2010, January 31, 2011, August 1, 2011, January 31, 2012, July 31, 2012, and January 31, 2013, respectively.[6] The Exchange now seeks to extend the operation of the NMM Pilot, currently scheduled to expire on January 31, 2013, until the earlier of Commission approval to make such pilot permanent or July 31, 2013.

The Exchange notes that parallel changes are proposed to be made to the rules of NYSE.[7]

Background[8]

In December 2008, the Exchange implemented significant changes to its equities market rules, execution technology and the rights and obligations of its equities market participants all of which were designed to improve execution quality on the Exchange. These changes are all elements of the Exchange's enhanced market model that it implemented through the NMM Pilot.

As part of the NMM Pilot, the Exchange eliminated the function of equity specialists on the Exchange creating a new category of market participant, the Designated Market Maker or DMM.[9] The DMMs, like specialists, have affirmative obligations to make an orderly market, including continuous quoting requirements and obligations to re-enter the market when reaching across to execute against trading interest. Unlike specialists, DMMs have a minimum quoting requirement[10] in their assigned securities and no longer have a negative obligation. DMMs are also no longer agents for public customer orders.[11]

In addition, the Exchange implemented a system change that allowed DMMs to create a schedule of additional non-displayed liquidity at various price points where the DMM is willing to interact with interest and provide price improvement to orders in the Exchange's system. This schedule is

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] NYSE Euronext acquired The Amex Membership Corporation ("AMC") pursuant to an Agreement and Plan of Merger, dated January 17, 2008 (the "Merger"). In connection with the Merger, the Exchange's predecessor, the American Stock Exchange LLC ("Amex"), a subsidiary of AMC, became a subsidiary of NYSE Euronext called NYSE Alternext US LLC. *See* Securities Exchange Act Release No. 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (SR–NYSE–2008–60 and SR–Amex–2008–62) (approving the Merger). Subsequently, NYSE Alternext US LLC was renamed NYSE Amex LLC, which was then renamed NYSE MKT LLC and continues to operate as a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the "Act"). *See* Securities Exchange Act Release Nos. 59575 (March 13, 2009), 74 FR 11803 (March 19, 2009) (SR–NYSEALTR–2009–24) and 67037 (May 21, 2012), 77 FR 31415 (May 25, 2012) (SR–NYSEAmex–2012–32).

[6] *See* Securities Exchange Act Release No. 60758 (October 1, 2009), 74 FR 51639 (October 7, 2009) (SR–NYSEAmex–2009–65). *See also* Securities Exchange Act Release Nos. 61030 (November 19, 2009), 74 FR 62365 (November 27, 2009) (SR–NYSEAmex–2009–83) (extending Pilot to March 30, 2010); 61725 (March 17, 2010), 75 FR 14223 (March 24, 2010) (SR–NYSEAmex–2010–28) (extending Pilot to September 1, 2010); 62820 (September 1, 2010), 75 FR 54935 (September 9, 2010) (SR–NYSEAmex–2010–86) (extending Pilot to January 31, 2011); 63615 (December 29, 2010), 76 FR 611 (January 5, 2011) (SR–NYSEAmex–2010–123) (extending Pilot to August 1, 2011); 64773 (June 29, 2011), 76 FR 39453 (July 6, 2011) (SR–NYSEAmex–2011–43) (extending Pilot to January 31, 2012); 66042 (December 23, 2011), 76 FR 82326 (December 30, 2011) (SR–NYSEAmex–2011–102) (extending Pilot to July 31, 2012); and 67495 (July 25, 2012), 77 FR 45406 (July 31, 2012) (SR–NYSEMKT–2012–21) (extending the Pilot to January 31, 2013).

[7] *See* SR–NYSE–2012–75.

[8] The information contained herein is a summary of the NMM Pilot. *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46) for a fuller description.

[9] *See* NYSE MKT Rule 103—Equities.

[10] *See* NYSE MKT Rule 104—Equities.

[11] *See* NYSE MKT Rule 60—Equities; *see also* NYSE MKT Rules 104—Equities and 1000—Equities.

known as the DMM Capital Commitment Schedule ("CCS").[12] CCS provides the Display Book® [13] with the amount of shares that the DMM is willing to trade at price points outside, at and inside the Exchange Best Bid or Best Offer ("BBO"). CCS interest is separate and distinct from other DMM interest in that it serves as the interest of last resort.

The NMM Pilot further modified the logic for allocating executed shares among market participants having trading interest at a price point upon execution of incoming orders. The modified logic rewards displayed orders that establish the Exchange's BBO. During the operation of the NMM Pilot, orders or portions thereof that establish priority [14] retain that priority until the portion of the order that established priority is exhausted. Where no one order has established priority, shares are distributed among all market participants on parity.

The NMM Pilot was originally scheduled to end operation on October 1, 2009, or such earlier time as the Commission may determine to make the rules permanent. The Exchange filed to extend the operation of the Pilot on several occasions [15] in order to prepare a rule filing seeking permission to make the above described changes permanent. The Exchange is currently still preparing such formal submission but does not expect that filing to be completed and approved by the Commission before January 31, 2013.

Proposal To Extend the Operation of the NMM Pilot

The Exchange established the NMM Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers and to add a new competitive market participant. The Exchange believes that the NMM Pilot allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the NMM Pilot should be made permanent. Through this filing the Exchange seeks to extend the current operation of the NMM Pilot until July 31, 2013, in order to allow the Exchange time to formally submit a filing to the Commission to convert the pilot rules to permanent rules.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act") for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that this filing is consistent with these principles because the NMM Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. Moreover, requesting an extension of the NMM Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the NMM Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule does not (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2012–84 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2012–84. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

[12] *See* NYSE MKT Rule 1000—Equities.

[13] The Display Book system is an order management and execution facility. The Display Book system receives and displays orders to the DMMs, contains the order information, and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

[14] *See* NYSE MKT Rule 72(a)(ii)—Equities.

[15] *See supra* note 6.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2012–84 and should be submitted on or before January 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00080 Filed 1–7–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68558; File No. SR–NYSE–2012–75]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its New Market Model Pilot Until the Earlier of Securities and Exchange Commission Approval To Make Such Pilot Permanent or July 31, 2013

January 2, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 18, 2012, New York Stock Exchange LLC (the "Exchange" or "NYSE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the operation of its New Market Model Pilot, currently scheduled to expire on January 31, 2013, until the earlier of Securities and Exchange Commission ("Commission") approval to make such pilot permanent or July 31, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the operation of its New Market Model Pilot ("NMM Pilot"),[5] currently scheduled to expire on January 31, 2013, until the earlier of Commission approval to make such pilot permanent or July 31, 2013.

The Exchange notes that parallel changes are proposed to be made to the rules of NYSE MKT LLC.[6]

[5] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46). *See also* Securities Exchange Act Release Nos. 60756 (October 1, 2009), 74 FR 51628 (October 7, 2009) (SR–NYSE–2009–100) (extending Pilot to November 30, 2009); 61031 (November 19, 2009), 74 FR 62368 (November 27, 2009) (SR–NYSE–2009–113) (extending Pilot to March 30, 2010); 61724 (March 17, 2010), 75 FR 14221 (March 24, 2010) (SR–NYSE–2010–25) (extending Pilot to September 30, 2010); 62819 (September 1, 2010), 75 FR 54937 (September 9, 2010) (SR–NYSE–2010–61) (extending Pilot to January 31, 2011); 63616 (December 29, 2010), 76 FR 612 (January 5, 2011) (SR–NYSE–2010–86) (extending Pilot to August 1, 2011); 64761 (June 28, 2011), 76 FR 39147 (July 5, 2011) (SR–NYSE–2011–29) (extending Pilot to January 31, 2012); 66046 (December 23, 2011), 76 FR 82340 (December 30, 2011) (SR–NYSE–2011–65) (extending Pilot to July 31, 2012); and 67494 (July 25, 2012), 77 FR 45408 (July 31, 2012) (SR–NYSE–2012–26) (extending Pilot to January 31, 2013).

[6] *See* SR–NYSEMKT–2012–84.

Background[7]

In October 2008, the NYSE implemented significant changes to its market rules, execution technology and the rights and obligations of its market participants all of which were designed to improve execution quality on the Exchange. These changes are all elements of the Exchange's enhanced market model. Certain of the enhanced market model changes were implemented through a pilot program.

As part of the NMM Pilot, NYSE eliminated the function of specialists on the Exchange creating a new category of market participant, the Designated Market Maker or DMM.[8] The DMMs, like specialists, have affirmative obligations to make an orderly market, including continuous quoting requirements and obligations to re-enter the market when reaching across to execute against trading interest. Unlike specialists, DMMs have a minimum quoting requirement[9] in their assigned securities and no longer have a negative obligation. DMMs are also no longer agents for public customer orders.[10]

In addition, the Exchange implemented a system change that allowed DMMs to create a schedule of additional non-displayed liquidity at various price points where the DMM is willing to interact with interest and provide price improvement to orders in the Exchange's system. This schedule is known as the DMM Capital Commitment Schedule ("CCS").[11] CCS provides the Display Book® [12] with the amount of shares that the DMM is willing to trade at price points outside, at and inside the Exchange Best Bid or Best Offer ("BBO"). CCS interest is separate and distinct from other DMM interest in that it serves as the interest of last resort.

The NMM Pilot further modified the logic for allocating executed shares among market participants having trading interest at a price point upon execution of incoming orders. The

[7] The information contained herein is a summary of the NMM Pilot. *See supra* note 5 for a fuller description.

[8] *See* NYSE Rule 103.

[9] *See* NYSE Rule 104.

[10] *See* NYSE Rule 60; *see also* NYSE Rules 104 and 1000.

[11] *See* NYSE Rule 1000.

[12] The Display Book system is an order management and execution facility. The Display Book system receives and displays orders to the DMMs, contains the order information, and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

modified logic rewards displayed orders that establish the Exchange's BBO. During the operation of the NMM Pilot, orders or portions thereof that establish priority [13] retain that priority until the portion of the order that established priority is exhausted. Where no one order has established priority, shares are distributed among all market participants on parity.

The NMM Pilot was originally scheduled to end operation on October 1, 2009, or such earlier time as the Commission may determine to make the rules permanent. The Exchange filed to extend the operation of the Pilot on several occasions in order to prepare a rule filing seeking permission to make the above described changes permanent.[14] The Exchange is currently still preparing such formal submission but does not expect that filing to be completed and approved by the Commission before January 31, 2013.

Proposal To Extend the Operation of the NMM Pilot

The NYSE established the NMM Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers and to add a new competitive market participant. The Exchange believes that the NMM Pilot allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the NMM Pilot should be made permanent. Through this filing the Exchange seeks to extend the current operation of the NMM Pilot until July 31, 2013, in order to allow the Exchange time to formally submit a filing to the Commission to convert the pilot rules to permanent rules.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act") for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that this filing is consistent with these principles because the NMM Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. Moreover, requesting an extension of the NMM Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the NMM Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2012–75 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2012–75. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2012–75 and should be submitted on or before January 29, 2013.

[17] 17 CFR 200.30–3(a)(12).

[13] *See* NYSE Rule 72(a)(ii).

[14] *See supra* note 5.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00079 Filed 1–7–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68455; File No. SR–CHX–2012–14]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Telemarketing Rules

December 18, 2012.

Correction

In notice document 2012–30886 appearing on pages 76141–76145 in the issue of December 26, 2012, make the following correction:

On page 76145, in the third column, in the 12th line, "January 14, 2013" should read "January 16, 2013".

[FR Doc. C1–2012–30886 Filed 1–7–13; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68561; File No. SR–NYSEMKT–2012–86]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE MKT Rule 500—Equities To Extend the Operation of the Pilot Program That Allows Nasdaq Stock Market ("Nasdaq") Securities To Be Traded on the Exchange Pursuant to a Grant of Unlisted Trading Privileges

January 2, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 18, 2012, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE MKT Rule 500—Equities to Extend the Operation of the Pilot Program that Allows Nasdaq Stock Market ("Nasdaq") Securities to be Traded on the Exchange Pursuant to a Grant of Unlisted Trading Privileges. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE MKT Rules 500–525—Equities, as a pilot program, govern the trading of any Nasdaq-listed security on the Exchange pursuant to unlisted trading privileges ("UTP Pilot Program").[5] The Exchange hereby seeks to extend the operation of the UTP Pilot Program, currently scheduled to expire on January 31, 2013, until the earlier of Commission approval to make such pilot permanent or July 31, 2013.

The UTP Pilot Program includes any security listed on Nasdaq that (i) is designated as an "eligible security" under the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis, as amended ("UTP Plan"),[6] and (ii) has been admitted to dealings on the Exchange pursuant to a grant of unlisted trading privileges in accordance with Section 12(f) of the Securities Exchange Act of 1934, as amended (the "Act"),[7] (collectively, "Nasdaq Securities").[8]

The Exchange notes that its New Market Model Pilot ("NMM Pilot"), which, among other things, eliminated the function of specialists on the Exchange and created a new category of market participant, the Designated Market Maker ("DMM"),[9] is also scheduled to end on January 31, 2013.[10] The timing of the operation of the UTP Pilot Program was designed to correspond to that of the NMM Pilot. In approving the UTP Pilot Program, the Commission acknowledged that the rules relating to DMM benefits and duties in trading Nasdaq Securities on the Exchange pursuant to the UTP Pilot

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 62479 (July 9, 2010), 75 FR 41264 (July 15, 2010) (SR–NYSEAmex–2010–31). *See also* Securities Exchange Act Release Nos. 62857 (September 7, 2010), 75 FR 55837 (September 14, 2010) (SR–NYSEAmex–2010–89); 63601 (December 22, 2010), 75 FR 82117 (December 29, 2010) (SR–NYSEAmex–2010–124); 64746 (June 24, 2011), 76 FR 38446 (June 30, 2011) (SR–NYSEAmex–2011–45); 66040 (December 23, 2011), 76 FR 82324 (December 30, 2011) (SR–NYSEAmex–2011–104); and 67497 (July 25, 2012), 77 FR 45404 (July 31, 2012) (SR–NYSEMKT–2012–25).

[6] *See* Securities Exchange Act Release No. 58863 (October 27, 2008), 73 FR 65417 (November 3, 2008) (File No. S7–24–89). The Exchange's predecessor, the American Stock Exchange LLC, joined the UTP Plan in 2001. *See* Securities Exchange Act Release No. 55647 (April 19, 2007), 72 FR 20891 (April 26, 2007) (File No. S7–24–89). In March 2009, the Exchange changed its name to NYSE Amex LLC, and, in May 2012, the Exchange subsequently changed its name to NYSE MKT LLC. *See* Securities Exchange Act Release Nos. 59575 (March 13, 2009), 74 FR 11803 (March 19, 2009) (SR–NYSEALTR–2009–24) and 67037 (May 21, 2012), 77 FR 31415 (May 25, 2012) (SR–NYSEAmex–2012–32).

[7] 15 U.S.C. 78l.

[8] "Nasdaq Securities" is included within the definition of "security" as that term is used in the NYSE MKT Equities Rules. *See* NYSE MKT Rule 3—Equities. In accordance with this definition, Nasdaq Securities are admitted to dealings on the Exchange on an "issued," "when issued," or "when distributed" basis. *See* NYSE MKT Rule 501—Equities.

[9] *See* NYSE MKT Rule 103—Equities.

[10] *See* Securities Exchange Act Release No. 60758 (October 1, 2009), 74 FR 51639 (October 7, 2009) (SR–NYSEAmex–2009–65). *See also* Securities Exchange Act Release Nos. 61030 (November 19, 2009), 74 FR 62365 (November 27, 2009) (SR–NYSEAmex–2009–83); 61725 (March 17, 2010), 75 FR 14223 (March 24, 2010) (SR–NYSEAmex–2010–28); 62820 (September 1, 2010), 75 FR 54935 (September 9, 2010) (SR–NYSEAmex–2010–86); 63615 (December 29, 2010), 76 FR 611 (January 5, 2011) (SR–NYSEAmex–2010–123); 64773 (June 29, 2011), 76 FR 39453 (July 6, 2011) (SR–NYSEAmex–2011–43); 66042 (December 23, 2011), 76 FR 82326 (December 30, 2011) (SR–NYSEAmex–2011–102); and 67495 (July 25, 2012), 77 FR 45406 (July 31, 2012) (SR–NYSEMKT–2012–21).

Program are consistent with the Act [11] and noted the similarity to the NMM Pilot, particularly with respect to DMM obligations and benefits.[12] Furthermore, the UTP Pilot Program rules pertaining to the assignment of securities to DMMs are substantially similar to the rules implemented through the NMM Pilot.[13] The Exchange has similarly filed to extend the operation of the NMM Pilot until the earlier of Commission approval to make the NMM Pilot permanent or July 31, 2013.[14]

Extension of the UTP Pilot Program in tandem with the NMM Pilot, both from January 31, 2013 until the earlier of Commission approval to make such pilots permanent or July 31, 2013, will provide for the uninterrupted trading of Nasdaq Securities on the Exchange on a UTP basis and thus continue to encourage the additional utilization of, and interaction with, the Exchange, and provide market participants with improved price discovery, increased liquidity, more competitive quotes and greater price improvement for Nasdaq Securities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Exchange believes that its proposal to extend the UTP Pilot Program is consistent with (i) Section 6(h) of the Act,[15] in general, and furthers the objectives of Section 6(b)(5) of the Act,[16] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; (ii) Section 11A(a)(1) of the Act,[17] in that it seeks to ensure the economically efficient execution of securities transactions and fair competition among brokers and dealers and among exchange markets; and (iii) Section 12(f) of the Act,[18] which governs the trading of securities pursuant to UTP consistent with the maintenance of fair and orderly markets, the protection of investors and the public interest, and the impact of extending the existing markets for such securities.

Specifically, the Exchange believes that extending the UTP Pilot Program would provide for the uninterrupted trading of Nasdaq Securities on the Exchange on a UTP basis and thus continue to encourage the additional utilization of, and interaction with, the Exchange, thereby providing market participants with additional price discovery, increased liquidity, more competitive quotes and potentially greater price improvement for Nasdaq Securities. Additionally, under the UTP Pilot Program, Nasdaq Securities trade on the Exchange pursuant to rules governing the trading of Exchange-Listed securities that previously have been approved by the Commission. Accordingly, this proposed rule change would permit the Exchange to extend the effectiveness of the UTP Pilot Program in tandem with the NMM Pilot, which the Exchange has similarly proposed to extend until the earlier of Commission approval to make such pilot permanent or July 31, 2013.[19]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and Rule 19b–4(f)(6) thereunder.[21]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2012–86 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2012–86. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments

[11] 15 U.S.C. 78.

[12] *See* SR–NYSEAmex–2010–31, *supra* note 5, at 41271.

[13] *Id.*

[14] *See* SR–NYSEMKT–2012–84.

[15] 15 U.S.C. 78f(h).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78k–1(a)(1).

[18] 15 U.S.C. 78l(f).

[19] *See supra* note 14.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6).

received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2012–86 and should be submitted on or before January 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00082 Filed 1–7–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68562; File No. SR–NSCC–2012–11]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Revise Its Fee Structure as It Relates to Certain Insurance and Retirement Processing Services and To Remove Reference to and the Fees Related to FundSPEED, a Discontinued Service

January 2, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder[2] notice is hereby given that on December 21, 2012, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii)[3] of the Act and Rule 19b–4(f)(2)[4] thereunder, so that the proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change is to revise Addendum A (Fee Structure) of NSCC's Rules & Procedures ("Rules") as it relates to certain Insurance and Retirement Services ("I&RS") fees and remove reference to FundSPEED, a discontinued service.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[5]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Proposal Overview

The purpose of the proposed rule change is to revise NSCC's fee schedule (as listed in Addendum A of the Rules), as it relates to certain I&RS, to replace the current fee structure with a tiered fee structure. This change is being made in order to simplify the fee schedule with respect to these services. In connection with this change, certain I&RS fees have been changed in order to align those fees with the costs of delivering the related services, with the expectation that the fee changes, in the aggregate, will be revenue neutral to NSCC.

The Addendum A I&RS fee schedule changes are:

- Eliminating the Business Attachment subpart and associated fees;
- Eliminating the Licensing and Appointments subpart and associated fees;
- Eliminating the Request for Replacement subpart and associated fees;
- Eliminating the Request for Replacement Status (including incremental statuses) subpart and associated fees;
- Eliminating the Inforce Transaction Fees section and associated fees; and
- Adding an Other Services Fees section, comprised of the following five tiers and associated fees and services:

1. TIER 1—$0.05—All Attachments (per attachment, per side);

2. TIER 2—$0.15—Licensing and Appointments (L&A) Periodic Reconciliation (per item);

3. TIER 3—$0.35—Licensing and Appointments (L&A) Transaction (per item), Registered Representative Change Confirm (per transaction, per side), Brokerage Identification Number Change Request (per transaction, per side), Brokerage Identification Number Change Confirm (per transaction, per side), Values Inquiry (per inquiry, includes response, per side);

4. TIER 4—$0.65—Customer Account Transfer Output (per transaction, charged to Insurance Carrier/Retirement Services Member only), Customer Account Transfer Confirm (per transaction, per side), Settlement Processing (per transaction, per side), Request for Replacement Status (a/k/a Pending Case Status)—Receiving Carrier (per Request for Replacement Status), Request for Replacement Status (a/k/a Pending Case Status)—Deliverer (per Request for Replacement Status), Registered Representative Change Request (per transaction, per side), Time Expired Transaction (per transaction, per side); and

5. TIER 5—$1.25—Fund Transfer (per request, per side), Withdrawals (per request, per side), Arrangements (per request, per side), Request for Replacement—Delivering Carrier (per request), Request for Replacement—Receiving Carrier (per reqnest). NSCC is also removing reference to the I&RS "Beneficiary Update Request" and "Beneficiary Confirm" in Addendum A of the Rules. These functions do not require a line item in the fee schedule because there is no charge for these services.

In addition, NSCC is making a technical change to remove from Addendum A of the Rules reference to and the fees related to FundSPEED, as this service was discontinued.

The above changes took effect on January 1, 2013.

(b) Statutory Basis

NSCC believes the proposed rule is consistent with the requirements of the Act, specifically Section 17A(b)(3)(F),[6] and the rules and regulations thereunder applicable to NSCC because it updates NSCC's fee schedule to align fees with the costs of delivering services. As such, it provides for the equitable allocation of fees among NSCC's Members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2)

[5] The Commission has modified the text of the summaries prepared by NSCC.

[6] 15 U.S.C. 78q–1(b)(3)(F).

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The forgoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [7] and Rule 19b–4(f)(2) [8] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–NSCC–2012–11 on the subject line.

Paper Comments

- Send in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC, 20549–1090.

All submissions should refer to File Number SR–NSCC–2012–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2012/nscc/SRO-NSCC-2012-11.pdf*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2012–11 and should be submitted on or before January 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00083 Filed 1–7–13; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68556; File No. SR–BX–2012–074]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Non-Penny Pilot Options Fees

January 2, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1], and Rule 19b–4 thereunder,[2] notice is hereby given that on December 18, 2012, NASDAQ OMX BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BX Options Rules, Chapter XV, Section 2 entitled "BX Options Market—Fees and Rebates" to adopt fees and rebates for Non-Penny Pilot Options.[3]

While the changes proposed herein are effective upon filing, the Exchange has designated these changes to be operative on January 2, 2013.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

BX proposes to amend Chapter XV, Section 2(1) to adopt fees and rebates for Customers, BX Options Market Makers [4] and Non-Customers [5] trading in Non-Penny Pilot Options on its options market. The Exchange believes the addition of Non-Penny Pilot Options fees and rebates will allow the Exchange to compete more effectively with other exchanges that have similarly adopted such pricing. The Exchange plans to list Non-Penny Pilot Options on January 2, 2013.

The Exchange proposes to adopt a Fee to Add Liquidity, a Rebate to Remove Liquidity and a Fee to Remove Liquidity in Non-Penny Pilot Options. Specifically, the Exchange proposes to

[3] Non-Penny Pilot refers to options classes not in the Penny Pilot.

[4] A BX Options Market Maker must be registered as such pursuant to Chapter VII, Section 2 of the BX Options Rules, and must also remain in good standing pursuant to Chapter VII, Section 4.

[5] A Non-Customer includes a Professional, Firm, Broker-Dealer and Non-BX Options Market Maker

assess the following Fees to Add Liquidity in Non-Penny Pilot Options: Customers a $0.25 per contract, BX Options Market Maker $0.50 per contract and Non-Customer $0.88 per contract. The Exchange proposes to assess a higher Fee to Add Liquidity in Non-Penny Pilot Options of $0.85 per contract to Customers and BX Options Market Makers when the Customer or BX Options Market Maker is contra to a Customer. Therefore, depending on the contra-party to the transaction, a Customer would be assessed either a $0.25 or $0.85 per contract Fee to Add Liquidity in Non-Penny Pilot Options and a BX Options Market Maker would be assessed either a $0.50 or $0.85 per contract Fee to Add Liquidity in Non-Penny Pilot Options. The Exchange proposes to add a note 4 to Section 2 of Chapter XV to indicate that the higher Fee to Add Liquidity would be assessed to a Customer or BX Options Market Maker when these market participants are contra to a Customer.

The Exchange proposes to pay a Customer a $0.70 per contract Rebate to Remove Liquidity in Non-Penny Pilot Options. The Exchange would not pay a rebate to a BX Options Market Maker or Non-Customer. Finally, the Exchange proposes to assess a Fee to Remove Liquidity in Non-Penny Pilot Options of $0.88 per contract to a BX Options Market Maker and a Non-Customer. A Customer would not be assessed a Fee to Remove Liquidity in Non-Penny Pilot Options.

The Exchange is not proposing any other changes to Section 2 of Chapter XV.2.

2. Statutory Basis

BX believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,[6] in general, and with Section 6(b)(4) of the Act,[7] in particular, in that they provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which BX operates or controls.

The Exchange believes that its proposal to assess fees and pay rebates in Non-Penny Pilot Options, which pricing differs from Penny Pilot Options,[8] is consistent with pricing at other options markets that also assess different fees and pay different rebates for Penny Pilot Options as compared to Non-Penny Pilot Options.[9] The Exchange today assesses fees and pay rebates in Penny Pilot Options. The Exchange plans to list Non-Penny Pilot Options on January 2, 2013. The Exchange believes that establishing different pricing for Penny Pilot and Non-Penny Pilot Options is reasonable, equitable and not unfairly discriminatory because Penny Pilot Options are more liquid options as compared to Non-Penny Pilot Options. Additionally, other options exchanges differentiate pricing by security today.[10]

The Exchange believes that the proposed Customer Rebate to Remove Liquidity in Non-Penny Pilot Options is reasonable because this rebate will attract Customer order flow to the Exchange to the benefit of all market participants through increased liquidity. Today, the Exchange pays a Customer Rebate to Remove Liquidity in Penny Pilot Options. Further, the Exchange also believes it is equitable and not unfairly discriminatory to only offer the Rebate to Remove Liquidity to Customers and not offer the rebate to other market participants because the Exchange is offering the rebate to incentivize NOM [sic] Participants to send Customer order flow to the Exchange. It is an important Exchange function to provide an opportunity to all market participants to trade against Customer orders. Customer order flow benefits all market participants by improving liquidity, the quality of order interaction and executions at the Exchange.

With respect to the Fee to Add Liquidity, the Exchange believes that assessing Customers and BX Options Market Makers a lower Fee to Add Liquidity in Non-Penny Pilot Options, when they are not contra to a Customer, as compared to Non-Customers is reasonable because the Exchange seeks to incentivize these critical market participants to add liquidity. Increased liquidity benefits all market participants. The Exchange also believes that the lower Fees to Add Liquidity in Non-Penny Pilot Options for Customers and BX Options Market Makers as compared to Non-Customers are equitable and not unfairly discriminatory because Customer order flow benefits all market participants by improving liquidity, the quality of order interaction and executions at the Exchange. Also, BX Options Market Makers have obligations to the market and regulatory requirements,[11] which normally do not apply to other market participants. A BX Options Market Maker has the obligation to make continuous markets, engage in course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with course of dealings. The proposed differentiation as between Customers and BX Options Market Makers and Non-Customers recognizes the differing contributions made to the liquidity and trading environment on the Exchange by Customers and BX Options Market Makers, as well as the differing mix of orders entered.

With respect to the Fee to Add Liquidity, the Exchange believes that assessing Customers and BX Options Market Makers a higher Fee to Add Liquidity in Non-Penny Pilot Options, when they are contra to a Customer is reasonable because the Customer is being paid a Rebate to Remove Liquidity of $0.70 per contract pursuant to this proposal and the Exchange believes that the increased fee allows the Exchange to offer that incentive to Customers to attract liquidity to the market. The Exchange also believes that the increased Customer and BX Options Market Maker Fees to Add Liquidity in Non-Penny Pilot Options are equitable and not unfairly discriminatory because the fees for Customers and BX Options Market Makers when contra to a Customer order are lower as compared to Non-Customers ($0.85 as compared to $0.88 per contract). For the reasons previously mentioned, the Exchange believes the fees are equitable and not unfairly discriminatory because these critical market participants add liquidity and have obligations to the

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

[8] The Penny Pilot on BX Options was established in June 2012. *See* Securities Exchange Act Release No. 67256 (June 26, 2012), 77 FR 39277 (July 2, 2012) (SR–BX–2012–030) (order approving BX Options rules and establishing Penny Pilot). The Exchange filed to extend the Penny Pilot through December 31, 2012. *See* Securities Exchange Act Release No. 67342 (July 3, 2012), 77 FR 40666 (July 10, 2012) (SR–BX–2012–046).

[9] NASDAQ OMX PHLX LLC ("Phlx") assesses fees and pays rebates in Non-Penny Pilot Options. *See* Phlx's Pricing Schedule. The Chicago Board Options Exchange Incorporated ("CBOE") assess fees and pays rebates in Non-Penny Pilot Options. *See* CBOE's Fees Schedule. The NASDAQ Options Market LLC ("NOM") assesses fees and pays rebates in Non-Penny Pilot Options. *See* NOM's Rules at Chapter XV, Section 2. The International Securities Exchange LLC ("ISE") assesses fees and pays rebates in Non-Penny Pilot Symbols. *See* ISE's Fee Schedule.

[10] *See* supra note 8 [sic].

[11] Pursuant to Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a Market Maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on BX for all purposes under the Act or rules thereunder. *See* Chapter VII, Section 5.

market which differentiates them from Non-Customers.

The Exchange believes that not assessing a Fee to Remove Liquidity in Non-Penny Pilot Options to Customers is reasonable because the Exchange seeks to incentivize NOM [sic] Participants to send Customer order flow to the Exchange. In addition, the Exchange does not assess a Customer Fee to Remove Liquidity in Penny Pilot Options. The Exchange believes that not assessing a Fee to Remove Liquidity in Non-Penny Pilot Options to Customers is equitable and not unfairly discriminatory because Customer order flow brings liquidity to the market which benefits all market participants.

The Exchange believes that assessing a Fee to Remove Liquidity in Non-Penny Pilot Options of $0.88 per contract to BX Options Market Makers and Non-Customers is reasonable because the fee allows the Exchange to reward Customers that remove liquidity with a rebate. The advantage of increased Customer order flow benefits all market participants. In addition, the proposed Fees to Remove Liquidity in Non-Penny Pilot Options are in the range of fees assessed by other options exchanges.[12] The Exchange believes that assessing a Fee to Remove Liquidity in Non-Penny Pilot Options of $0.88 per contract to BX Options Market Makers and Non-Customers is equitable and not unfairly discriminatory because all market participants, BX Options Market Makers, Professionals, Firms, Broker-Dealers and Non-BX Options Market Makers, excluding Customers, would be assessed the same Fee to Remove Liquidity in Non-Penny Pilot Options on every transaction.

In the current U.S. options market, many of the contracts are quoted in pennies. Under this pricing structure, the minimum penny tick increment equates to a $1.00 economic value difference per contract, given that a single standardized U.S. option contract covers 100 shares of the underlying stock. Where contracts are quoted in $0.05 increments (non-pennies), the value per tick is $5.00 in proceeds to the investor transacting in these contracts. Liquidity rebate and access fee structures on the make-take exchanges for securities quoted in penny increments are commonly in the $0.30 to $0.45 per contract range. A $0.30 per contract rebate in a penny quoted security is a rebate equivalent to 30% of the value of the minimum tick. A $0.45 per contract fee in a penny quoted security is a charge equivalent to 45% of the value of that minimum tick. In other words, in penny quoted securities, where the price is improved by one tick with an access fee of $0.45 per contract, an investor paying to access that quote is still $0.55 better off than trading at the wider spread, even without the access fee ($1.00 of price improvement − $0.45 access fee = $0.55 better economics). This computation is equally true for securities quoted in wider increments. By comparison, rebates and access fees near the $0.88 per contract level equate to only 17.6% of the value of the minimum tick in Non-Penny Pilot Options, less than the experience today in Penny Pilot Options. Accordingly, the Exchange believes that the proposed Fees to Add Liquidity and Fees to Remove Liquidity in Non-Penny Pilot Options are reasonable, equitable and not unfairly discriminatory.

The Exchange operates in a highly competitive market comprised of eleven U.S. options exchanges in which sophisticated and knowledgeable market participants can and do send order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive. The Exchange believes that the proposed fee and rebate scheme for Non-Penny Pilot Options is competitive and similar to other fees and rebates in place on other exchanges. The Exchange believes that this competitive marketplace materially impacts the fees and rebates present on the Exchange today and substantially influences the proposal set forth above.

B. Self-Regulatory Organization's Statement on Burden on Competition

BX does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, BX has designed its fees and rebates to compete effectively for the execution and routing of options contracts. The Exchange believes that the proposed fee/rebate pricing structure for Non-Penny Pilot Options would attract liquidity to and benefit order interaction at the Exchange to the benefit of all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[13] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2012–074 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2012–074. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

[12] NOM assesses Professionals, Firms, non-NOM Market Makers and NOM Market Makers Non-Penny Pilot Options Fees to Remove Liquidity of $0.89 per contract. *See* NOM Chapter XV, Section 2. The BATS Exchange, Inc. ("BATS") assesses Professional, Firms and Market Makers $0.84 per contract to remove liquidity in Non-Penny Pilot Options. *See also* BATS BZX Exchange Fee Schedule. NYSE Arca, Inc. ("NYSE Arca") assesses Firms and Broker Dealers an $0.85 per contract Take Liquidity Fee and NYSE Arca Market Makers are assessed an $0.80 take liquidity fee. *See* NYSE Arca Options Fee Schedule.

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at BX's principal office. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2012–074, and should be submitted on or before January 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00077 Filed 1–7–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68457; File No. SR–CBOE–2012–120]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 2, To Allow the Listing and Trading of a P.M.-Settled S&P 500 Index Option Product

December 18, 2012.

Correction

In notice document 2012–30887 appearing on pages 76135–76139 in the issue of December 26, 2012, make the following correction:

On page 76139, in the first column, in the last full paragraph, in the last line, "January 14, 2013" should read "January 16, 2013".

[FR Doc. C1–2012–30887 Filed 1–7–13; 8:45 am]

BILLING CODE 1505–01–D

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions to OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA)

Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than March 11, 2013. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Supplemental Statement Regarding Farming Activities of Person Living Outside the U.S.A.—0960–0103. When a beneficiary or claimant reports farm work from outside the United States, SSA documents this work on Form SSA–7163A–F4. Specifically, SSA uses the form to determine if we should apply foreign work deductions to the recipient's title II benefits. We collect the information either annually or every other year, depending on the respondent's country of residence. Respondents are Social Security recipients engaged in farming activities outside the United States.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–7163A–F4	1,000	1	60	1,000

2. International Direct Deposit—31 CFR 210—0960–0686. SSA's International Direct Deposit (IDD) Program allows beneficiaries living abroad to receive their payments via direct deposit to an account at a financial institution outside the United States. SSA uses Form SSA–1199-(Country) to enroll title II beneficiaries residing abroad in IDD, and to obtain the direct deposit information for foreign accounts. Routing account number information varies slightly for each foreign country, so we use a variation of the Treasury Department's Form SF–1199A per country. The respondents are Social Security beneficiaries residing abroad who want SSA to deposit their benefits' payments directly to a foreign financial institution.

Type of Request: Revision of an OMB-approved information collection.

[14] 17 CFR 200.30–3(a)(12).

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1199-(Country)	5,000	1	5	417

3. Certificate of Incapacity—5 CFR 890.302(d)—0960–0739. Rules governing the Federal Employee Health Benefits (FEHB) plan require a physician to verify the disability of Federal employees' children ages 26 and over for such children to retain health benefits under their employed parents' plans. The physician must verify that the adult child's disability: (1) Pre-dates the child's 26th birthday; (2) is very serious; and (3) will continue for at least one year. Physicians use Form SSA–604, Certificate of Incapacity, to document this information. The respondents are physicians of SSA employees' children ages 26 or over who are seeking to retain health benefits under their parent's FEHB plan coverage.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–604	50	1	45	38

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than February 7, 2013. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. Child Relationship Statement—20 CFR 404.355 & 404.731—0960–0116. To help determine a child's entitlement to Social Security benefits, SSA uses criteria under section 216(h)(3) of the Social Security Act (Act), deemed child provision. SSA may deem a child to an insured individual if: (1) The insured individual presents SSA with satisfactory evidence of parenthood and was living with or contributing to the child's support at certain specified times; or (2) the insured individual (a) acknowledged the child in writing; (b) was court decreed as the child's parent; or (c) was court ordered to support the child. To obtain this information, SSA uses Form SSA–2519, Child Relationship Statement. Respondents are people with knowledge of the relationship between certain individuals filing for Social Security benefits and their alleged biological children.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–2519	50,000	1	15	12,500

2. Pain Report Child—20 CFR 404.1512 and 416.912—0960–0540. Before SSA can make a disability determination for a child, we require evidence from Supplemental Security Income (SSI) applicants or claimants to prove their disability. Form SSA–3371–BK provides disability interviewers, and SSI applicants or claimants in self-help situations, with a convenient way to record information on claimants' pain or other symptoms. The State disability determination services adjudicators and administrative law judges then use the information from Form SSA–3371–BK to assess the effects of symptoms on function for purposes of determining disability under the Act. The respondents are applicants for, or claimants of, SSI payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3371	250,000	1	15	62,500

3. Internet Request for Replacement of Forms SSA–1099/SSA—1042S—20 CFR 401.—0960–0583. Title II beneficiaries use Forms SSA–1099 and SSA–1042S, Social Security Benefit Statement, to determine if their Social Security benefits are taxable, and the amount they need to report to the Internal Revenue Service. In cases where the original forms are unavailable (e.g., lost, stolen, mutilated), an individual may use SSA's Internet request form or automated telephone application to request a replacement SSA–1099 and SSA–1042S. SSA uses the information from the Internet and automated telephone requests to verify the identity of the requestor and to provide

replacement copies of the forms. The Internet and automated telephone options reduce requests to the National 800 Number Network (N8NN) and visits to local Social Security field offices (FO). The respondents are title II beneficiaries who wish to request a replacement SSA–1099 or SSA–1042S via the Internet or telephone.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Internet Requestors	145,390	1	10	24,232
Automated Telephone Requestors	190,413	1	2	6,347
Live calls to the N8NN	566,667	1	3	28,333
Live calls to local FOs	783,333	1	3	39,167
Other (program service centers)	90,000	1	3	4,500
Totals	1,775,803			102,579

4. Important Information About Your Appeal, Waiver Rights, and Repayment Options—20 CFR 404.502–521—0960–0779. When SSA accidentally overpays beneficiaries, the agency informs them of the following rights: (1) The right to reconsideration of the overpayment determination; (2) the right to request a waiver of recovery and the automatic scheduling of a personal conference if SSA cannot approve a request for waiver; and (3) the availability of a different rate of withholding when SSA proposes the full withholding rate. SSA uses Form SSA–3105, Important Information About Your Appeal, Waiver Rights, and Repayment Options, to explain these rights to overpaid individuals and allow them to notify SSA of their decision(s) regarding these rights. The respondents are overpaid claimants requesting a waiver of recovery for the overpayment, reconsideration of the fact of the overpayment, or a lesser rate of withholding of the overpayment.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3105	80,000	1	15	20,000

Dated: January 3, 2013.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2013–00162 Filed 1–7–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8142]

Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

Summary: The Advisory Committee on Historical Diplomatic Documentation will meet on February 25–26, June 3–4, September 9–10, and December 9–10, 2013, at the Department of State, 2201 "C" Street NW., Washington, DC. The Committee's sessions in the afternoon of Monday, February 25, 2013; in the morning of Tuesday, February 26, 2013; in the afternoon of Monday, June 3, 2013; in the morning of Tuesday, June 4, 2013; in the afternoon of Monday, September 9, 2013; in the morning of Tuesday, September 10, 2013; in the afternoon of Monday, December 9, 2013; and in the morning of Tuesday, December 10, 2013, will be closed in accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463). The agenda calls for discussions of agency declassification decisions concerning the *Foreign Relations* series and other declassification issues. These are matters properly classified and not subject to public disclosure under 5 U.S.C. 552b(c)(1) and the public interest requires that such activities be withheld from disclosure.

The Committee will meet in open session from 11:00 a.m. until 12:00 noon in Conference Room 1205 of the Department of State, 2201 "C" Street NW., Washington, DC, on the following dates: Monday, February 25, 2013; Monday, June 3, 2013; Monday, September 9, 2013; and Monday, December 9, 2013, to discuss unclassified matters concerning declassification and transfer of Department of State records to the National Archives and Records Administration and the status of the *Foreign Relations* series.

Prior notification and a valid government-issued photo ID (such as driver's license, passport, U.S. government or military ID) are required for entrance into the building. Members of the public planning to attend meetings on the following dates, please RSVP as follows: for February 25, please notify Colby Prevost, Office of the Historian (202–663–1147) no later than February 21, 2013; for June 3, please notify Colby Prevost, Office of the Historian (202–663–1147) no later than May 30, 2013; for September 9, please notify Colby Prevost, Office of the Historian (202–663–1147) no later than September 5, 2013and for December 9, please notify Colby Prevost, Office of the Historian (202–663–1147) no later than December 5, 2013. When responding, please provide date of birth, valid government-issued photo identification number and type (such as driver's license number/state, passport number/country, or U.S. government ID number/agency or military ID number/branch), and relevant telephone numbers. If you cannot provide one of the specified forms of ID, please consult with Colby Prevost for acceptable alternative forms of picture identification.

In addition, any requests for reasonable accommodation should be made no later than the following dates: February 19 for the February 25–26 meeting; May 28 for the June 3–4

meeting; September 3 for the September 9–10 meeting; and December 3 for the December 9–10 meeting. Requests for reasonable accommodation received after those dates will be considered, but might be impossible to fulfill.

Personal data is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State-36) at *http://www.state.gov/documents/organization/103419.pdf, for additional information.*

Questions concerning the meeting should be directed to Dr. Stephen P. Randolph, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20520, telephone (202) 663–1123, (email *history@state.gov*).

Dated: December 10, 2012.

Stephen P. Randolph,

Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State.

[FR Doc. 2013–00165 Filed 1–7–13; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 8143]

In the Matter of the Designation of Mohamed Makawi Ibrahim Mohamed, Also Known as Mohamed Makawi, Also Known as Mohamed Makkawi Ibrahim Mohamed, Also Known as Muhammad Makkawi Ibrahim; as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Mohamed Makawi Ibrahim Mohamed, also known as Mohamed Makawi, also known as Mohamed Makkawi Ibrahim Mohamed, also known as Muhammad Makkawi Ibrahim, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in Section 10 of Executive Order 13224 that "prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously," I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register.**

Dated: December 18, 2012.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2013–00166 Filed 1–7–13; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 8144]

In the Matter of the Designation of Abdelbasit Alhaj Alhassan Haj Hamad, Also Known as Abd Al-Basit, Also Known as Abdelbaset Alhaj Alhassan, Also Known as Abdel Basit Hag El-Hassan Hag Mohamed, Also Known as Abd-al-Basit Al-Hadj Hasan, Also Known as Abdel Basit al-Hajj Hassan, as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Abdelbasit Alhaj Alhassan Haj Hamad, also known as Abd Al-Basit, also known as Abdelbaset Alhaj Alhassan, also known as Abdel Basit Hag El-Hassan Hag Mohamed, also known as Abd-al-Basit Al-Hadj Hasan, and also known as Abdel Basit al-Hajj Hassan committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in Section 10 of Executive Order 13224 that "prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously," I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register.**

Dated: December 18, 2012.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2013–00164 Filed 1–7–13; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 8145]

Waiver and Certification of Statutory Provisions of Section 1003 of Public Law 100–204 Regarding the Palestine Liberation Organization Office

(U) Pursuant to the authority vested in me as Deputy Secretary of State, including by section 7086(b)(1) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012 (Pub. L. 112–74, Div. I), as carried forward by the Continuing Appropriations Act, 2013, the Delegation of Authority in the President's Memorandum of July 21, 2010, and Department of State Delegation of Authority No. 245–1, I hereby determine and certify that the Palestinians have not, since the date of enactment of that Act, obtained in the UN or any specialized agency thereof the same standing as member states or full membership as a state outside an agreement negotiated between Israel and the Palestinians, and waive the provisions of section 1003 of the Anti-Terrorism Act of 1987, Public Law 100–204, Title X.

(U) This waiver shall be effective for a period of six months.

(U) This determination shall be reported to the Congress promptly and published in the **Federal Register**.

Dated: October 8, 2012.

William J. Burns,

Deputy Secretary of State.

[FR Doc. 2013–00168 Filed 1–7–13; 8:45 am]

BILLING CODE 4710–31–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Request for Public Comments on the Possible Withdrawal, Suspension, or Limitation of GSP Benefits With Respect to Bangladesh

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and solicitation of public comment.

SUMMARY: As part of an ongoing country practice review, the GSP Subcommittee of the Trade Policy Staff Committee (TPSC) is considering whether to recommend that duty-free treatment accorded to imports from Bangladesh under the GSP program be withdrawn, suspended, or limited on the grounds that Bangladesh is not taking steps to afford to workers in Bangladesh internationally recognized worker rights, specifically the right of association and the right to organize and bargain collectively. The GSP Subcommittee is seeking public comments on the effect of a withdrawal, suspension, or limitation of GSP benefits on products imported into the United States from Bangladesh.

FOR FURTHER INFORMATION CONTACT: Contact Marin Weaver, Director for GSP, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508. The telephone number is (202) 395–9618 and the email address is *Marin_Weaver@ustr.eop.gov*.

DATES: Final date for comments is January 31, 2013.

SUPPLEMENTARY INFORMATION: The GSP program is authorized pursuant to Title V of the Trade Act of 1974, as amended (19 U.S.C. 2461 *et seq.*). The GSP program grants duty-free treatment to designated eligible articles that are imported from designated beneficiary developing countries. Once granted, GSP benefits may be withdrawn, suspended, or limited by the President with respect to any article or with respect to any country (19 U.S.C. 2462(d)(1)). In making this determination, the President must consider several factors, one of which is whether a beneficiary country "has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights" (19 U.S.C. 2462(c)(7)). Bangladesh is a designated beneficiary developing country under the GSP program, as well as a least-developed beneficiary developing country.

Possible Withdrawal, Suspension, or Limitation of GSP Benefits for Bangladesh

In 2007, the GSP Subcommittee accepted for review a GSP country practice petition submitted by the AFL–CIO seeking the removal of GSP benefits for Bangladesh based on the country's non-compliance with the GSP statutory eligibility criteria related to worker rights. The GSP Subcommittee held public hearings on the petition in October 2007, April 2009, and January 2012, and also invited public comments on the petition on several occasions. The original petition and other information related to the review of Bangladesh are available for public viewing on *www.regulations.gov* in docket USTR–2012–0036.

Based on the most recent available information, including updated reports from the AFL–CIO, the GSP Subcommittee believes that the lack of progress by the government of Bangladesh in addressing worker rights issues in the country warrants consideration of possible withdrawal, suspension, or limitation of Bangladesh's trade benefits under GSP. By statute, any change in Bangladesh's trade benefits under GSP would require the President to make a determination.

In 2011, U.S. imports from Bangladesh under GSP totaled $26.3 million. Among the leading GSP imports from Bangladesh were tobacco products, sports equipment, china kitchenware, and plastic articles. A full list of U.S. imports from Bangladesh under GSP may be found in the *www.regulations.gov* docket cited above.

Opportunity for Public Comment; Requirements for Submissions

This notice invites public comments on the effect of a possible withdrawal, suspension, or limitation of GSP benefits on products imported into the United States from Bangladesh. The GSP Subcommittee may also convene a public hearing to receive testimony on this topic. If so, the date of that hearing and related instructions will be announced in the **Federal Register**.

Requirements for Submissions

All submissions in response to this notice must conform to the GSP regulations set forth at 15 CFR part 2007, except as modified below. These regulations are available on the USTR Web site at *http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp/gsp-program-inf*.

All submissions in response to this notice must be submitted electronically via *http://www.regulations.gov*, using docket number USTR–2012–0036. Hand-delivered submissions will not be accepted. Submissions must be submitted in English to the Chairman of the GSP Subcommittee of the TPSC by the applicable deadlines set forth in this notice. To make a submission using *http://www.regulations.gov*, enter docket number USTR–2012–0036 in the "Search for" field on the home page and click "Search." The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting "Notice" under "Document Type" in the "Filter Results by" section on the left side of the screen and click on the link entitled "Comment Now." The *http://www.regulations.gov* Web site offers the option of providing comments by filling in a "Type Comment" field or by attaching a document using the "Upload file(s)" field. The Subcommittee prefers that submissions be provided in an attached document. At the beginning of the submission, or on the first page (if an attachment), please note that the submission is in response to this **Federal Register** notice and provides comments on the possible withdrawal, suspension, or limitation of GSP benefits for Bangladesh. Submissions should not exceed 30 single-spaced, standard letter-size pages in 12-point type, including attachments. Any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Each submitter will receive a submission tracking number upon completion of the submissions procedure at *http://www.regulations.gov*. The tracking number will be the submitter's confirmation that the submission was received into *http://www.regulations.gov*. The confirmation should be kept for the submitter's records. USTR is not able to provide technical assistance for the Web site. Documents not submitted in accordance with these instructions may not be considered in this review. If an interested party is unable to provide submissions as requested, please contact the GSP Program at USTR to arrange for an alternative method of transmission.

Business Confidential Submissions

An interested party requesting that information contained in a submission be treated as business confidential information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must

be clearly designated as such. The submission must be marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page, and the submission should indicate, via brackets, the specific information that is confidential. Additionally, "Business Confidential" must be included in the "Type Comment" field. For any submission containing business confidential information, a non-confidential version must be submitted separately (*i.e.*, not as part of the same submission with the confidential version), indicating where confidential information has been redacted. The non-confidential version will be placed in the docket and open to public inspection.

William D. Jackson,

Deputy Assistant U.S. Trade Representative for the Generalized System of Preferences, Office of the U.S. Trade Representative.

[FR Doc. 2013–00067 Filed 1–7–13; 8:45 am]

BILLING CODE 3290–F3–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year 2012 Public Transportation on Indian Reservations Program Project Selections

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Tribal transit program announcement of project selections.

SUMMARY: The US. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the selection of projects with Fiscal Year (FY) 2012 appropriations for the Tribal Transit Program. A March 9, 2012 **Federal Register** Notice (77 FR 14465) announced the availability of the funding for the program. The Surface and Air Transportation Programs Extension Act of 2011 authorizes approximately $15 million for federally recognized Indian Tribes or Alaska Native villages, groups, or communities as identified by the Bureau of Indian Affairs (BIA) in the U.S. Department of the Interior for public transportation. An additional $500,000 is available from prior years, bringing the total available to just over $15.5 million. The Tribal Transit Program supports capital projects, operating costs and planning activities that are eligible under the Formula Grants for Rural Areas Program (Section 5311).

This is the final discretionary allocation for the Tribal Transit Program, which was first authorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). The new authorizing legislation, Moving Ahead for Progress in the 21st Century Act (MAP–21), was signed into law by President Obama on July 6, 2012, and became effective on October 1, 2012. MAP–21 continues the Tribal Transit Program and authorizes $25 million for a formula allocation and $5 million for a discretionary allocation in each of fiscal years 2013 and 2014. On November 9, 2012, FTA published a **Federal Register** Notice (77FR 67439) regarding the Fiscal Year 2013 Public Transportation on Indian Reservations Program, which: (1) Introduces FTA's consultation process and schedule for implementing changes due to MAP–21; (2) describes and seeks comment on the methodology for the formula allocation and the assumptions made to determine who is eligible for the formula program; (3) seeks comment on the terms and conditions for the formula and discretionary components of the program; (4) seeks comment on how the discretionary program should be allocated; and (5) announces two public meetings sponsored by FFA to consult with tribal governments regarding the Tribal Transit Program.

FOR FURTHER INFORMATION CONTACT: Successful applicants should contact the appropriate FTA Regional office (Appendix) for information regarding applying for the funds or program-specific information. A list of Regional offices can be found at *www.fta.dot.gov*. Unsuccessful applicants may contact Lorna Wilson, Office of Program Management at (202) 366–0893, email: *Lorna.Wilson@dot.gov*, to arrange a proposal debriefing within 30 days of this announcement. In the event the contact information provided by your tribe in the application has changed, please contact your regional tribal liaison with the current information in order to expedite the grant award process. For general Tribal Transit Discretionary Program information, contact Elan Flippin, Office of Transit Programs, at (202) 366–3800, email: *Elan.Flippin@dot.gov*. A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION: A total of $15,514,495 million is available for the FY 2012 Tribal Transit program. A total of 107 applicants requested $53 million, indicating significant demand for funds for new transit services, enhancement or expansion of existing transit services, and planning studies including operational planning. Project proposals were evaluated based on each applicant's responsiveness to the program evaluation criteria outlined in FTA's March 9, 2012 Notice of Funding Availability. FTA also took into consideration the current status of previously funded applicants. A total of 72 applications have been selected for funding. The projects selected as shown in Table 1 will provide funding for transit planning studies/and or operational planning, start-up projects for new transit service, and for the operational expenses of existing transit services. Grantees selected for competitive discretionary funding should work with their FTA regional office to finalize the grant application in FTA's Transportation Electronic Awards Management System (TEAM) for the projects identified in the attached table and so that funds can be obligated expeditiously. FTA funds may only be used for eligible purposes defined under 49 U.S.C 5311 and described in FTA Circular 9040.1F. In cases where the allocation amount is less than the proposer's requested amount, grantees should work with the regional office to reduce scope or scale the project such that a completed phase or project is accomplished. A discretionary project identification number has been assigned to each project for tracking purposes and must be used in the TEAM application. The post award reporting requirements include submission of the Federal Financial Report (FFR), Milestone Report in TEAM, and National Transit Database reporting as appropriate (see FTA Circular 9040.1F).

The grantee must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal requirements in carrying out the project supported by the FTA grant. Funds allocated in this announcement must be obligated in a grant by September 30, 2015.

Issued in Washington, DC, this 28th day of December, 2012.

Peter M. Rogoff,

Administrator.

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TABLE I
FY2012 TRIBAL TRANSIT PROGRAM PROJECT SELECTIONS

State	Project ID	Applicant Legal Name	Project Purpose	Award Amount
AK	D2011-TRTR-068 ($31,207); D2012-TRTR-002 ($166,793)	Chickaloon Native Village	Operating	$198,000
AK	D2012-TRTR-003	Native Village of Manley Hot Springs	Operating	$188,656
AK	D2012-TRTR-004	Sitka Tribe of Alaska	Operating	$150,000
AK	D2012-TRTR-005	Tetlin Village Council	Operating	$241,520
AZ	D2012-TRTR-006	Ak-Chin Indian Community	Operating and Capital (Start-	$190,000
AZ	D2012-TRTR-007	Cocopah Indian Tribe	Operating	$300,000
AZ	D2012-TRTR-008	Colorado River Indian Tribes	Planning	$25,000
AZ	D2012-TRTR-009	Navajo Nation Transit System	Operating	$166,000
AZ	D2012-TRTR-010	Pascua Yaqui Tribe	Operating	$190,000
AZ	D2012-TRTR-011	Quechan Indian Tribe	Operating	$200,000
CA	D2012-TRTR-012	Bishop Paiute Tribe	Operating and Planning	$195,316
CA	D2012-TRTR-013	Blue Lake Rancheria, California	Operating and Capital	$181,966
CA	D2012-TRTR-014	Morongo Band of Mission Indians	Operating and Capital (Start-up)	$158,999
CA	D2012-TRTR-015	North Fork Rancheria of Mono Indians of California	Capital, Operating and Planning (Start-up)	$305,026
CA	D2012-TRTR-016	Reservation Transportation Authority	Operating	$425,153
CA	D2012-TRTR-017	Susanville Indian Rancheria	Operating and Capital	$123,925
CA	D2012-TRTR-018	Tule River Tribe	Operating and Capital (Start-up)	$450,000

TABLE I
FY2012 TRIBAL TRANSIT PROGRAM PROJECT SELECTIONS

CA	D2012-TRTR-019	Yurok Tribe	Operating and Capital	$265,000
CO	D2012-TRTR-020	Southern Ute Indian Tribe	Operating	$236,000
CT	D2012-TRTR-021	Mashantucket Pequot Tribal Nation	Planning	$25,000
ID	D2012-TRTR-022	Nez Perce Tribe	Operating	$300,000
ID	D2012-TRTR-023	Shoshone-Bannock Tribes	Operating	$200,000
KS	D2012-TRTR-024	Prairie Band Potawatomi Nation	Operating	$200,000
MN	D2012-TRTR-025	Bois Forte Band of Chippewa	Operating	$348,950
MN	D2012-TRTR-026	Fond du Lac Band of Lake Superior Chippewa	Operating	$295,000
MN	D2012-TRTR-027	Leech Lake Band of Ojibwe	Operating	$330,101
MN	D2012-TRTR-028	Red Lake Band of Chippewa Indians	Operating	$350,000
MN	D2012-TRTR-029	White Earth Band of Chippewa	Operating	$95,000
MT	D2012-TRTR-030	Chippewa Cree Tribe	Operating	$236,000
MT	D2012-TRTR-031	Crow Tribe of Indians	Operating	$300,000
MT	D2012-TRTR-032	Fort Belknap Indian Community	Operating	$158,002
ND	D2012-TRTR-033	Sitting Bull College	Operating	$200,860
ND	D2012-TRTR-034	Three Affiliated Tribes	Planning	$25,000
NE	D2012-TRTR-035	Ponca Tribe of Nebraska	Operating	$200,000
NE	D2012-TRTR-036	Santee Sioux Nation	Operating	$190,000
NM	D2012-TRTR-037	Ohkay Owingeh Tribal Council	Operating	$317,993
NM	D2012-TRTR-038	Pueblo of Santa Ana	Operating	$199,134
NM	D2012-TRTR-039	Pueblo of Santa Clara, New Mexico	Operating	$140,000
OK	D2012-TRTR-040	Absentee Shawnee Tribe Of Indians of Oklahoma	Planning	$25,000

TABLE I
FY2012 TRIBAL TRANSIT PROGRAM PROJECT SELECTIONS

OK	D2012-TRTR-041	Cherokee Nation	Operating	$350,000
OK	D2012-TRTR-042	Choctaw Nation of Oklahoma	Operating	$350,000
OK	D2012-TRTR-043	Citizen Potawatomi Nation	Operating	$350,000
OK	D2012-TRTR-044	Kiowa Tribe of Oklahoma	Operating	$207,160
OK	D2012-TRTR-045	Miami Tribe of Oklahoma	Operating	$350,000
OK	D2012-TRTR-046	Muscogee (Creek) Nation	Operating	$350,000
OK	D2012-TRTR-047	Pawnee Nation	Planning	$25,000
OK	D2012-TRTR-048	Ponca Tribe of Oklahoma	Operating	$277,203
OK	D2012-TRTR-049	Seminole Nation of Oklahoma	Operating	$277,000
OK	D2012-TRTR-050	The Chickasaw Nation	Operating	$300,000
OK	D2012-TRTR-051	United Keetoowah Band of Cherokee Indians in Oklahoma	Operating	$216,000
OR	D2012-TRTR-052	Confederated Tribes of Grand Ronde	Operating	$248,000
OR	D2012-TRTR-053	Confederated Tribes of Siletz Indians	Operating	$186,516
OR	D2012-TRTR-054	Confederated Tribes of the Umatilla Indian Reservation	Operating	$275,000
SC	D2012-TRTR-055	Catawba Indian Nation	Operating	$350,000
SD	D2012-TRTR-056	Cheyenne River Sioux Tribe	Operating	$350,000
SD	D2012-TRTR-057	Lower Brule Sioux Tribe	Operating	$350,000
SD	D2012-TRTR-058	Oglala Sioux Tribe	Operating	$300,000
SD	D2012-TRTR-059	Rosebud Sioux Tribe	Operating	$120,000
SD	D2012-TRTR-060	Yankton Sioux Tribe	Operating	$209,456
WA	D2012-TRTR-061	Confederated Tribes and Bands of the Yakama Nation	Operating	$150,000
WA	D2012-TRTR-062	Cowlitz Indian Tribe	Operating	$175,000
WA	D2012-TRTR-063	Jamestown S'Klallam Tribe	Operating	$84,357

TABLE I
FY2012 TRIBAL TRANSIT PROGRAM PROJECT SELECTIONS

WA	D2012-TRTR-064	Kalispel Tribe of Indians	Operating	$171,876
WA	D2012-TRTR-065	Lummi Nation	Capital and Operating	$315,000
WA	D2012-TRTR-066	Quinault Indian Nation	Operating	$200,000
WA	D2012-TRTR-067	Skokomish Indian Tribe	Operating	$88,788
WA	D2012-TRTR-068	Snoqualmie Tribe	Operating	$160,000
WA	D2012-TRTR-069	Spokane Tribe of Indians	Operating	$75,000
WA	D2012-TRTR-070	Stillaguamish Tribe of Indians	Operating	$101,538
WA	D2012-TRTR-071	The Tulalip Tribes of Washington	Operating	$175,000
WI	D2012-TRTR-072	Bad River Band of Lake Superior Tribe of Chippewa Indians	Planning	$25,000
WI	D2012-TRTR-073	Ho-Chunk Nation	Planning	$25,000
			Total	**$15,514,495**

[FR Doc. 2013-00167 Filed 1-7-13; 8:45 am]
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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, "Leasing." The OCC is also giving notice that it has sent the collection to OMB for review.

DATES: Comments must be received by February 7, 2013.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mail Stop 6W–11, Attention: 1557–0206, Washington, DC 20219. In addition, comments may be sent by fax to (202) 649–5709 or by electronic mail to *regs.comments@occ.treas.gov*. You can inspect and photocopy the comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0206, by mail to U.S. Office of Management and Budget, 725, 17th Street NW., #10235, Washington, DC 20503, or by electronic mail to *oira submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Johnny Vilela or Mary H. Gottlieb, OCC Clearance Officers, (202) 8649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

The OCC is proposing to extend OMB approval of the following information collection:

Title: Leasing (12 CFR Part 23).

OMB Number: 1557–0206.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB extend the expiration date.

Information Collection Requirements Found in 12 CFR Part 23

12 CFR 23.4(c)

Under 12 CFR 23.4(c), national banks must liquidate or re-lease personal property that is no longer subject to lease (off-lease property) within five years from the date of the lease expiration. If a bank wishes to extend the five-year holding period for up to an additional five years, it must obtain OCC approval. Permitting a bank to extend the holding period may result in cost savings to national banks. It also provides flexibility for a bank that experiences unusual or unforeseen conditions which would make it imprudent to dispose of the off-lease property. Section 23.4(c) requires a bank seeking an extension to provide a clearly convincing demonstration as to why an additional holding period is necessary. In addition, a bank must value off-lease property at the lower of current fair market value or book value promptly after the property comes off-

lease. These requirements enable the OCC to ensure that a bank is not holding the property for speculative reasons and that the value of the property is recorded in accordance with generally accepted accounting principles (GAAP).

Section 23.5

Under 12 CFR 23.5, leases are subject to the lending limits prescribed by 12 U.S.C. 84, as implemented by 12 CFR part 32, or, if the lessee is an affiliate of the bank, to the restrictions on transactions with affiliates prescribed by 12 U.S.C. 371c and 371c–1. See 12 CFR 23.6. Twelve U.S.C. 24 contains two separate provisions authorizing a national bank to acquire personal property for purposes of lease financing. Twelve U.S.C. 24(Seventh) authorizes leases of personal property (Section 24(Seventh) (Leases) if the lease serves as the functional equivalent of a loan. See 12 CFR 23.20. A national bank may also acquire personal property for purposes of lease financing under the authority of 12 U.S.C. 24(Tenth) (CEBA Leases). Section 23.5 requires that if a bank enters into both types of leases, its records must distinguish between the two types of leases. This information is required to prove that the national bank is complying with the limitations and requirements applicable to the two types of leases.

National banks use the information to ensure their compliance with applicable Federal banking law and regulations and accounting principles. The OCC uses the information in conducting bank examinations and as an auditing tool to verify bank compliance with laws and regulations. In addition, the OCC uses national bank requests for permission to extend the holding period for off-lease property to ensure national bank compliance with relevant laws and regulations and to ensure bank safety and soundness.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 370.

Estimated Total Annual Responses: 370.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 685.

The OCC published this collection for 60 days of comment on October 5, 2012 (77 FR 61050). No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 2, 2013.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 2013–00091 Filed 1–7–13; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2013–0001]

Transition Period Under Section 716 of the Dodd-Frank Wall Street Reform and Consumer Protection Act

AGENCY: Office of the Comptroller of the Currency, Department of the Treasury.

ACTION: Notice of guidance.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is notifying insured Federal depository institutions [1] that are or may become swap dealers that the OCC is prepared to consider favorably requests for a transition period pursuant to section 716(f) of the Dodd-Frank Act, provided that such requests conform to the procedures and conditions established in this notice.

DATES: This guidance is effective immediately. Written requests for transition periods should be submitted to the OCC by January 31, 2013.

FOR FURTHER INFORMATION CONTACT: Roman Goldstein, Senior Attorney, Ted Dowd, Assistant Director, or Ellen Broadman, Director, Securities and Corporate Practices Division, (202) 649–5510, 400 7th St. SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

[1] *Insured Federal depository institution* means an entity that is a Federal depository institution and an insured depository institution under the Federal Deposit Insurance Act. *See* 12 U.S.C. 1813(c)(2) and (4). National banks, Federal savings associations and insured Federal Branches are insured Federal depository institutions.

A. Background

Section 716 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) prohibits providing Federal assistance to swaps entities, a term that includes Federal depository institutions [2] that are swap dealers.[3] The prohibition does not apply to insured depository institutions that limit their swap activities to those activities specified in section 716(d) (conforming swap activities). The OCC, Board of Governors of the Federal Reserve System (Board), and Federal Deposit Insurance Corporation (FDIC) jointly issued guidance that section 716's effective date is July 16, 2013.[4]

Section 716(f) provides that the appropriate Federal banking agency *shall permit* a transition period, as appropriate, for insured depository institution swap entities to divest or cease nonconforming swap activities.[5] The prohibition on Federal assistance does not apply during this transition period. The transition period, which begins on the effective date, initially may be up to 24 months, as determined by the insured depository institution's appropriate Federal banking agency [6] in consultation with the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC). The appropriate Federal banking agency, after consulting with the CFTC and SEC, may extend the transition period for up to one additional year.

In establishing the length of a transition period for an insured depository institution, the appropriate Federal banking agency must take into account and make written findings regarding the potential impact of the divestiture or cessation of nonconforming swap activities on the institution's (1) mortgage lending, (2) small business lending, (3) job creation, and (4) capital formation versus the potential negative impact on insured depositors and the FDIC's Deposit Insurance Fund (DIF). The appropriate Federal banking agency may consider such other factors as it deems appropriate.

[2] 12 U.S.C. 1813(c)(4).

[3] Except as otherwise specified, this notice refers to both *swaps* and *security-based swaps* as *swaps*, and both *swap dealers* and *security-based swap dealers* as *swap dealers*.

[4] Guidance on the Effective Date of Section 716, 77 FR 27465 (May 10, 2012).

[5] *See* Dodd-Frank Act section 716(f), 15 U.S.C. 8305(f).

[6] The OCC is the appropriate Federal banking agency of Federal depository institutions. 12 U.S.C. 1813(q)(1).

B. Transition Period

For the following reasons, the OCC has concluded that transition periods should be provided to insured Federal depository institutions to provide sufficient opportunity for institutions to conform their swaps activities in an orderly manner. First, section 716 assumes a regulatory framework that is not yet complete. Further development of the Title VII regulatory framework is necessary for insured Federal depository institutions to make well-informed determinations concerning business restructurings that may be necessary for section 716 conformance.[7] Second, the provision of transition periods while the Title VII regulatory framework continues to develop will provide regulatory certainty for insured Federal depository institutions in the near term and will mitigate potential disruptions to client services.[8] Third, transition periods will mitigate operational and credit risks for insured Federal depository institutions.[9]

Section 716 anticipates that transition periods will be provided to avoid unwanted adverse consequences from premature implementation of section 716. For the reasons discussed above, the OCC believes that implementation of section 716 without transition periods would cause unwanted adverse consequences and that transition periods therefore are appropriate. Accordingly, an insured Federal depository institution that is or will be a swaps entity and that seeks a transition period for its nonconforming swaps activities should formally request a transition period from the OCC.[10] The OCC is prepared to consider such requests favorably, provided that the requests conform to the guidance provided below.

Each request must be written and specify the transition period appropriate to the institution, up to a two-year transition period commencing from July 16, 2013. The request must also discuss:

1. The institution's plan for conforming its swap activities;

2. How the requested transition period would mitigate adverse effects on mortgage lending, small business lending, job creation, and capital formation;

3. The extent to which the requested transition period could have a negative impact on the institution's insured depositors and the DIF;

4. Operational risks and other safety and soundness concerns that a transition period would mitigate;

5. Other facts that the institution believes the OCC should consider.

An insured Federal depository institution that is unsure if or when it will be or become a swaps entity may request a transition period. The request must contain the elements described above and additionally explain why the institution believes it might be or become a swaps entity under the CFTC's definition of *swap dealer* or the SEC's definition of *security-based swap dealer*.[11] The OCC may require a requesting insured Federal depository institution to provide additional information before establishing a transition period. The OCC may impose such conditions on a transition period as it deems necessary and appropriate.[12]

Authority: 15 U.S.C. 8305.

Dated: December 31, 2012.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2013-00093 Filed 1-7-13; 8:45 am]

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[7] Furthermore, mandatory clearing rules are not in place for many standardized credit default swaps (CDS) and the market has not moved to cleared CDS for a variety of products. Section 716(d)(3) provides that an insured depository institution may act as a swaps entity for CDS if they are cleared.

[8] The Commodity Futures Trading Commission recently exempted certain swap dealers from certain requirements imposed by title VII of the Dodd-Frank Act in order to ensure an orderly transition to the new regulatory regime and to provide greater legal certainty to market participants. Final Exemptive Order Regarding Compliance with Certain Swap Regulation, at 58 (Dec. 21, 2012), *available at http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/federalregister122112.pdf*.

[9] Transition periods will provide appropriate time for institutions to negotiate and document new master swap agreements individually with each of their clients, customers, and counterparties as necessary for section 716 conformance. Additionally, a transition period will provide more time for the transfer of non-conforming swaps activities to affiliates, including in some cases the establishment of new affiliates entailing requisite regulatory approvals from the SEC, CFTC, and state authorities, and in all cases the transfer of back-office functions and the making of necessary arrangements for the custody of customer margin collateral.

[10] An insured depository institution whose swap activities are presently limited to conforming swap activities is not eligible for a transition period because it would not be subject to the prohibition on Federal assistance. *See* Dodd-Frank Act section 716(f), 15 U.S.C. 8305(f).

[11] *See* Further Definition of *Swap Dealer*, 77 FR 30595 (May 23, 2012).

[12] *See* Dodd-Frank Act section 716(f), 15 U.S.C. 8305(f).

DEPARTMENT OF THE TREASURY

United States Mint

Privacy Act of 1974; Systems of Records

AGENCY: United States Mint, Treasury.

ACTION: Notice of systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the United States Mint, Treasury, is publishing its inventory of Privacy Act systems of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB), Circular No. A–130, the United States Mint has completed a review of its Privacy Act systems of records notices to identify changes that will more accurately describe these records. The systems of records were last published in their entirety on July 22, 2008, at 73 FR 42662–42670.

The changes throughout the document are editorial in nature and reflect non-substantive updates to the United States Mint's management and retention of records.

Systems Covered by This Notice

This notice covers all systems of records maintained by the United States Mint as of January 8, 2013. The system notices are reprinted in their entirety following the Table of Contents.

Veronica Marco,

Acting Deputy Assistant Secretary for Privacy, Transparency, and Records.

Table of Contents

TREASURY/UNITED STATES MINT .001

SYSTEM NAME:

Cash Receivable Accounting Information System—Treasury/United States Mint.

SYSTEM LOCATIONS:

(1) United States Mint, 801 9th Street NW., Washington, DC 20220;

(2) United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) United States Mint, West Point, NY 10996; and

(6) United States Bullion Depository, Fort Knox, KY 40121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the United States Mint. Members of the public and United States Mint employees who have purchased numismatic items from the United States Mint.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Receivables due from United States Mint employees, former employees, and the general public for lost Government property, salary overpayments, and sales of numismatic items; and

(2) Receivables due from United States Mint employees and former employees who have outstanding travel advances, salary advances, or leave advances (cash equivalents).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 55; 31 U.S.C. 5111(a)(3).

PURPOSES:

The purpose of this system is to permit the United States Mint to track and record the creation and payment of the financial obligations to the United States Mint reflected in the system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to disclose information to:

(1) Accounting officers, managers, supervisors, and government officials with an official interest in cash receivables and debts owed the Government;

(2) Appropriate federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(3) A federal, state, or local agency that has requested information relevant or necessary to the requesting agency's or the bureau's hiring or retention of an employee or issuance of a security clearance, license, contract, grant, or other benefit;

(4) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(5) Foreign governments in accordance with international agreements;

(6) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(7) The news media, at the Department of Justice's direction or approval, in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings;

(8) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114;

(9) Third parties during the course of an authorized criminal or administrative investigation to the extent necessary to obtain information pertinent to the investigation;

(10) To appropriate agencies, entities, and persons when (a) the United States Mint suspects or has confirmed that the security, confidentiality, or availability of information in the system of records has been compromised; (b) the United States Mint has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the United States Mint or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the United States Mint's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and electronic records.

RETRIEVABILITY:

Name or numeric identifier.

SAFEGUARDS:

Paper records are stored in secured filing cabinets with access only by authorized accounting personnel. Electronic records are stored in secured systems subject to access controls in accordance with Department of the Treasury and United States Mint policies and procedures. Access to electronic records is restricted to authorized personnel, and is subject to multiple controls including an access approval process, unique user identifier, user authentication and account management, and password management.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Government Accountability Office guidance, National Archives and Records Administration (NARA) regulations, and NARA-approved records retention schedules.

SYSTEM MANAGERS AND ADDRESSES:

(1) Chief Financial Officer, United States Mint, 801 9th Street NW., Washington, DC 20220;

(2) Plant Manager, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) Plant Manager, United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) Plant Manager, United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) Plant Manager, United States Mint, West Point, NY 10996; and

(6) Officer-in-Charge, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Requests from individuals wishing to be notified if they are currently named in this system of records, or seeking access to any record contained in the system of records, or seeking to contest its content, should be addressed to the head of the organizational unit having immediate custody of the records (See "System Managers and Addresses" above). Requests may be made in accordance with instructions appearing at 31 CFR Part 1, subpart C, appendix H. Requests for information or specific guidance on where to send records requests should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street NW., Washington, DC 20220.

The individual must submit a written request containing identification, to

include at least one of the following: (a) United States Federal employee identification; (b) driver's license; (c) officially notarized statement attesting or affirming to the individual's identity; or (d) other means of identification, such as Social Security number and date of birth.

RECORD ACCESS PROCEDURES:

See "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION PROCEDURE" above.

RECORD SOURCE CATEGORIES:

United States Mint employees and appropriate agency officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

TREASURY/UNITED STATES MINT .003

SYSTEM NAME:

Employee and Former Employee Travel and Training Accounting Information System—Treasury/United States Mint.

SYSTEM LOCATIONS:

(1) United States Mint, 801 9th Street NW., Washington, DC 20220;

(2) United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) United States Mint, West Point, NY 10996; and

(6) United States Bullion Depository, Fort Knox, KY 40121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the United States Mint who have engaged in travel and training.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Schedule of Payments generated from the Electronic Certification System (ECS) with supporting documents such as Travel Voucher and Application and Account for Advance of Funds; (2) Travel Authority; and (3) Request, Authorization, Agreement and Certification of Training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapters 41 and 57.

PURPOSES:

The purpose of this system is to permit the United States Mint to track and record the creation and payment of travel and training advances owed to the United States Mint.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to disclose information to:

(1) Accounting officers, managers, supervisors, and government officials with an official interest in cash receivables and debts owed the Government;

(2) Appropriate federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(3) A federal, state, or local agency that has requested information relevant or necessary to the requesting agency's or the bureau's hiring or retention of an employee or issuance of a security clearance, license, contract, grant, or other benefit;

(4) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(5) Foreign governments in accordance with international agreements;

(6) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(7) The news media, at the Department of Justice's direction or approval, in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings;

(8) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114;

(9) Third parties during the course of an authorized criminal or administrative investigation;

(10) To appropriate agencies, entities, and persons when (a) the United States Mint suspects or has confirmed that the security, confidentiality, or availability of information in the system of records has been compromised; (b) the United States Mint has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the United States Mint or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the United States Mint's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and electronic records.

RETRIEVABILITY:

Name or numeric identifier.

SAFEGUARDS:

Paper records are stored in secured filing cabinets with access only by authorized personnel. Electronic records are stored in secured systems subject to access controls in accordance with Department of the Treasury and United States Mint policies and procedures. Access to electronic records is restricted to authorized personnel, and is subject to multiple controls including an access approval process, unique user identifier, user authentication and account management, and password management.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with National Archives and Records Administration (NARA) regulations, and NARA-approved records retention schedules.

SYSTEM MANAGERS AND ADDRESSES:

(1) Chief Financial Officer, United States Mint, 801 9th Street NW., Washington, DC 20220;

(2) Plant Manager, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) Plant Manager, United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) Plant Manager, United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) Plant Manager, United States Mint, West Point, NY 10996; and

(6) Officer-in-Charge, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Requests from individuals wishing to be notified if they are currently named in this system of records, or seeking access to any record contained in the system of records, or seeking to contest its content, should be addressed to the head of the organizational unit having immediate custody of the records (See "System Managers and Addresses" above). Requests may be made in accordance with instructions appearing

at 31 CFR Part 1, subpart C, appendix H. Requests for information or specific guidance on where to send records requests should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street NW., Washington, DC 20220.

The individual must submit a written request containing identification, to include at least one of the following: (a) United States Federal employee identification; (b) driver's license; (c) officially notarized statement attesting to or affirming to the individual's identity; or (d) other means of identification, such as Social Security number and date of birth.

RECORD ACCESS PROCEDURES:

See "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

United States Mint employees and appropriate agency officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

TREASURY/UNITED STATES MINT .004

SYSTEM NAME:

Occupational Safety and Health Accident and Injury Records; Claims for Injuries or Damage Compensation Records—Treasury/United States Mint.

SYSTEM LOCATIONS:

(1) United States Mint, 801 9th Street NW., Washington, DC 20220;

(2) United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) United States Mint, West Point, NY 10996; and

(6) United States Bullion Depository, Fort Knox, KY 40121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Mint employees, former employees, and members of the public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Accident/Injury/Illness Records; Motor Vehicle Accident Data; Claims Against the Government; and Operators Training/Licensing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3701 and 3721; 5 U.S.C. chapter 81; 29 U.S.C. 668; 28 U.S.C. 2680 *et seq.;* 29 CFR Part 1960; 31 CFR Parts 3 and 4; E.O. 12196; E.O. 9397, as amended by E.O.13478.

PURPOSES:

The purpose of this system is to permit the United States Mint to more effectively and efficiently process and manage claims and to provide statistics that allow us to prepare mandatory reports and focus our resources to continually improve the safety of our workforce, work environment, and equipment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to disclose information to:

(1) Appropriate federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(2) A federal, state, or local agency that has requested information relevant or necessary to the requesting agency's or the bureau's hiring or retention of an employee or issuance of a security clearance, license, contract, grant, or other benefit;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(4) Foreign governments in accordance with international agreements;

(5) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) The news media, at the Department of Justice's direction or approval, in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings;

(7) Third parties during the course of an authorized criminal or administrative investigation;

(8) Physicians providing medical services or advice to United States Mint management and employees, or to private physicians of United States Mint employees, for the purpose of assisting in making medical diagnoses or treatment;

(9) To appropriate agencies, entities, and persons when (a) the United States Mint suspects or has confirmed that the security, confidentiality, or availability of information in the system of records has been compromised; (b) the United States Mint has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the United States Mint or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the United States Mint's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and electronic records.

RETRIEVABILITY:

By name, Social Security number, date, or location.

SAFEGUARDS:

Paper records are stored in secured filing cabinets with access only by authorized personnel. Electronic records are stored in secured systems subject to access controls in accordance with Department of the Treasury and United States Mint policies and procedures. Access to electronic records is restricted to authorized personnel, and is subject to multiple controls including an access approval process, unique user identifier, user authentication and account management, and password management.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with National Archives and Records Administration (NARA) regulations, and NARA-approved General Records Control, DOL, OSHA, EPA, and United States Mint records retention schedules.

SYSTEM MANAGERS AND ADDRESSES:

(1) Chief, Human Resources Division, Chief, United States Mint Police, and Safety Officer, United States Mint, 801 9th Street NW., Washington, DC 20220;

(2) Plant Manager, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) Plant Manager, United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) Plant Manager, United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) Plant Manager, United States Mint, West Point, NY 10996; and

(6) Officer-in-Charge, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Requests from individuals wishing to be notified if they are currently named in this system of records, or seeking access to any record contained in the system of records, or seeking to contest its content, should be addressed to the head of the organizational unit having immediate custody of the records (See "System Managers and Addresses" above). Requests may be made in accordance with instructions appearing at 31 CFR Part 1, subpart C, appendix H. Requests for information or specific guidance on where to send records requests should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street, NW., Washington, DC 20220.

The individual must submit a written request containing identification, to include at least one of the following: (a) United States Federal employee identification; (b) driver's license; (c) officially notarized statement attesting or affirming to the individual's identity; or (d) other means of identification, including Social Security number and date of birth.

RECORD ACCESS PROCEDURES:

See "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

Employees, supervisors, medical staff, general public, and visitors to the facilities of the United States Mint.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

TREASURY/UNITED STATES MINT .005

SYSTEM NAME:

Employee-Supervisor Performance Evaluation, Counseling, and Time and Attendance Records—Treasury/United States Mint.

SYSTEM LOCATIONS:

(1) United States Mint, 801 9th Street NW., Washington, DC 20220;

(2) United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) United States Mint, West Point, NY; and

(6) United States Bullion Depository, Fort Knox, KY 40121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Mint employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information necessary for managers and supervisors to effectively carry out supervisory responsibilities. Included are records such as copies of personnel actions, performance appraisals, quarterly reviews, disciplinary actions, overtime reports, tardiness reports, work assignments, alternative work schedule request forms, telecommute agreements, training reports, training requests, applications for employment, home addresses, phone numbers, leave reports, leave requests, and employee awards. (Supervisors maintain varying combinations of the above records. Some supervisors may maintain all or none of the above records depending upon the nature and size of the operation or organization and the number of individuals supervised.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSES:

The purpose of this system is to permit the United States Mint to: maintain performance records used to support awards, promotions, performance-based actions, training, and other personnel actions; to track and evaluate performance based upon the accomplishments of each employee; and to accurately calculate employee leave accruals, track usage, compensate separating employees with lump sum entitlements, and bill employees who owe payment for leave taken in excess of their leave balance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to disclose information to:

(1) Appropriate federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(2) A federal, state, or local agency that has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(4) Foreign governments in accordance with international agreements;

(5) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) The news media, at the Department of Justice's direction or approval, in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings;

(7) Third parties during the course of an authorized criminal or administrative investigation;

(8) To appropriate agencies, entities, and persons when (a) the United States Mint suspects or has confirmed that the security, confidentiality, or availability of information in the system of records has been compromised; (b) the United States Mint has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the United States Mint or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the United States Mint's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and electronic records.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Paper records are stored in secured filing cabinets with access only by authorized personnel. Electronic records are stored in secured systems subject to access controls in accordance with Department of the Treasury and United States Mint policies and procedures. Access to electronic records is restricted to authorized personnel, and is subject to multiple controls including an access approval process, unique user identifier, user authentication and account management, and password management.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with National Archives and Records Administration (NARA)

regulations, and NARA-approved records retention schedules.

SYSTEM MANAGERS AND ADDRESSES:

(1) Chief, Human Resources Division, United States Mint, 801 9th Street NW., Washington, DC 20220;

(2) Plant Manager, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) Plant Manager, United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) Plant Manager, United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) Plant Manager, United States Mint, West Point, NY 10996; and

(6) Officer-in-Charge, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Requests from individuals wishing to be notified if they are currently named in this system of records, or seeking access to any record contained in the system of records, or seeking to contest its content, should be addressed to the head of the organizational unit having immediate custody of the records (See "System Managers and Addresses" above). Requests may be made in accordance with instructions appearing at 31 CFR Part 1, subpart C, appendix H. Requests for information or specific guidance on where to send records requests should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street NW., Washington, DC 20220.

The individual must submit a written request containing identification, to include at least one of the following: (a) United States Federal employee identification; (b) driver's license; (c) officially notarized statement attesting or affirming to the individual's identity; or (d) other means of identification, including Social Security number and date of birth.

RECORD ACCESS PROCEDURES:

See "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

Employees, former employers, and appropriate agency officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

TREASURY/UNITED STATES MINT .007

SYSTEM NAME:

General Correspondence—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, 801 9th Street NW., Washington, DC 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the public, Members of Congress, United States Mint officials, and officials from other federal agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incoming correspondence, public comments and replies pertaining to the mission, function, and operation of the United States Mint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 5131 and 5132; OMB Memorandum M–10–06.

PURPOSES:

The purpose of this system is to permit the United States Mint to respond effectively and in a timely manner to the correspondence and comments that it receives on many issues from its various stakeholders, including Members of Congress and the general public.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to disclose information to:

(1) Appropriate federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(2) A federal, state, or local agency that has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(4) Foreign governments in accordance with international agreements;

(5) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) The news media, at the Department of Justice's direction or approval, in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings;

(7) Third parties during the course of an authorized criminal or administrative investigation;

(8) To appropriate agencies, entities, and persons when (a) the United States Mint suspects or has confirmed that the security, confidentiality, or availability of information in the system of records has been compromised; (b) the United States Mint has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the United States Mint or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the United States Mint's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and electronic records.

RETRIEVABILITY:

By name (limited retrievability by subject or control number).

SAFEGUARDS:

Paper records are stored in secured filing cabinets with access only by authorized personnel. Electronic records are stored in secured systems subject to access controls in accordance with Department of the Treasury and United States Mint policies and procedures. Access to electronic records is restricted to authorized personnel, and is subject to multiple controls including an access approval process, unique user identifier, user authentication and account management, and password management.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with National Archives and Records Administration (NARA) regulations, and NARA-approved records retention schedules.

SYSTEM MANAGER AND ADDRESS:

Executive Secretariat, United States Mint, 801 9th Street NW., Washington, DC 20220.

NOTIFICATION PROCEDURE:

Requests from individuals wishing to be notified if they are currently named in this system of records, or seeking

access to any record contained in the system of records, or seeking to contest its content, should be addressed to the Executive Secretariat (See "System Manager and Address" above). Requests may be made in accordance with instructions appearing at 31 CFR Part 1, subpart C, appendix H. Requests for information or specific guidance on where to send records requests should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street NW., Washington, DC 20220. The individual must submit a written request containing his or her name.

RECORD ACCESS PROCEDURES:

See "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

The general public, Members of Congress, and other federal officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

TREASURY/UNITED STATES MINT .008

SYSTEM NAME:

Employee Background Investigations Files—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, 801 9th Street NW., Washington, DC 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former United States Mint employees, applicants for employment, and current contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of individual, location of United States Mint facility, and reports by United States Mint Police and federal government security personnel performing investigative services for the United States Mint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C.; 40 U.S.C. 1315; 31 U.S.C. 321, 31 U.S.C. 5141 (note); 5 U.S.C. 3301, 3302; 5 CFR Parts 731 and 736; E.O. 10450, as amended; Treasury Order 101–33 (March 30, 2010).

PURPOSES:

The purpose of this system is to permit the United States Mint to collect and maintain background investigation records on applicants and current United States Mint employees and contractors for issuance of security clearances, access to United States Mint facilities, or other administrative reasons.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to disclose information to:

(1) Appropriate federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(2) A federal, state, or local agency that has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(4) Foreign governments in accordance with international agreements;

(5) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) The news media at the Department of Justice's direction or approval, in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings;

(7) Third parties during the course of an authorized criminal or administrative investigation;

(8) To appropriate agencies, entities, and persons when (a) the United States Mint suspects or has confirmed that the security, confidentiality, or availability of information in the system of records has been compromised; (b) the United States Mint has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the United States Mint or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the United States Mint's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and electronic records.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Paper records are stored in secured filing cabinets with access only by authorized personnel. Electronic records are stored in secured systems subject to access controls in accordance with Department of the Treasury and United States Mint policies and procedures. Access to electronic records is restricted to authorized personnel, and is subject to multiple controls including an access approval process, unique user identifier, user authentication and account management, and password management.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with National Archives and Records Administration (NARA) regulations, and NARA-approved records retention schedules.

SYSTEM MANAGERS AND ADDRESS:

Chief, United States Mint Police, and Chief, Human Resources Division, United States Mint, 801 9th Street NW., Washington, DC 20220.

NOTIFICATION PROCEDURE:

Requests from individuals wishing to be notified if they are currently named in this system of records, seeking access to any record contained in the system of records, or seeking to contest its content should be addressed to the System Manager named above. Requests may be made in accordance with instructions appearing at 31 CFR Part 1, subpart C, appendix H. Requests for information or specific guidance on where to send records requests should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street NW., Washington, DC 20220.

The individual must submit a written request containing identification, to include at least one of the following: (a) United States Federal employee identification; (b) driver's license; (c) officially notarized statement attesting or affirming to the individual's identity; or (d) other means of identification, including Social Security number and date of birth.

RECORD ACCESS PROCEDURES:

See "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

United States Mint and other law enforcement officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

As authorized by 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions: subsections (c)(3); (d); (e)(1); (e)(4)(G), (H) & (I); and (f) of 5 U.S.C. 552a.

TREASURY/UNITED STATES MINT .009

SYSTEM NAME:

Retail Sales System (RSS); Customer Mailing List; Order Processing Records for Coin Sets, Medals, and Numismatic Items; Records of Undelivered Orders; and Product Descriptions, Availability, and Inventory—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, 801 9th Street NW., Washington, DC 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the public and United States Mint employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, phone numbers, email addresses, and order history of customers purchasing numismatic items, of individuals who wish to receive notification of numismatic offerings by the United States Mint, and of individuals requesting information and promotional materials (and their intended use of requested materials and information).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 5111, 5112, 5132, 5136, and 31 CFR Part 92.

PURPOSES:

The purpose of this system is to permit the United States Mint to: maintain a mailing list of customers and interested parties to provide continuous communication and promotional materials about existing and upcoming numismatic product offerings, circulating coins, and

activities; record and maintain records of customers' and interested parties' order information and requests for promotional materials; capture and process orders through each stage of the order life cycle; maintain integrity and security of orders, customer information and the system; research and resolve orders that were not successfully delivered to customers and interested parties; and maintain a list of its products and monitor and maintain product and promotional material inventory levels to meet customer and interested party demand while remaining within mandated mintage levels, as applicable.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to disclose information to:

(1) Accounting officers, managers, supervisors, and government officials with an official interest in cash receivables and debts owed the Government;

(2) Appropriate federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(3) A federal, state, or local agency that has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit;

(4) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(5) Foreign governments in accordance with international agreements;

(6) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(7) The news media, at the Department of Justice's direction or approval, in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings;

(8) Third parties during the course of an authorized criminal or administrative investigation;

(9) Contractors performing work under a contract or agreement for the federal government, when necessary to accomplish an agency function related to this system of records, in compliance with the Privacy Act of 1974, as amended;

(10) To appropriate agencies, entities, and persons when (a) the United States Mint suspects or has confirmed that the security, confidentiality, or availability of information in the system of records has been compromised; (b) the United States Mint has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the United States Mint or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the United States Mint's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and electronic records.

RETRIEVABILITY:

Name, address, phone number, customer number or order number, order date, whether or not the account is 'flagged' (such as due to an unusual quantity or an order requiring verification for processing and completion), shipment tracking number, and any internal identification number that may be assigned to the request.

SAFEGUARDS:

Paper records are stored in secured filing cabinets with access only by authorized personnel. Electronic records are stored in secured systems subject to access controls in accordance with Department of the Treasury and United States Mint policies and procedures. Access to electronic records is restricted to authorized personnel, and is subject to multiple controls including an access approval process, unique user identifier, user authentication and account management, and password management. Only those individuals requiring the information to accommodate handling of transactions with the customers can access information pertaining to an individual.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Government Accountability Office guidance, National Archives and Records Administration (NARA) regulations, and NARA-approved records retention schedules.

SYSTEM MANAGER AND ADDRESS:

Associate Director for Sales and Marketing, United States Mint, 801 9th Street, NW., Washington, DC 20220.

NOTIFICATION PROCEDURE:

Requests from individuals wishing to be notified if they are currently named in this system of records, or seeking access to any record contained in the

system of records, or seeking to contest its content, should be addressed to the "System Manager and Address" described above. Requests may be made in accordance with instructions appearing at 31 CFR Part 1, subpart C, appendix H. Requests for information or specific guidance on where to send records requests should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street, NW., Washington, DC 20220.

Individuals who have previously registered on the bureau's Web site for a customer account or electronic product notifications may access their system records online by authenticating with their valid username and password. Individuals making requests and inquiries concerning their system records must provide identification to include their name, address, telephone number, customer identification number and order number (or a combination of identifying information including order information depending on the request) which must be successfully validated in the system.

Requests by individuals to modify open orders cannot be made online or by telephone, but must be made in writing by a manually signed document accompanied by valid photo identification. Such requests must also include the individual's name, address, telephone number, customer identification number, and order number (or a combination of identifying information concerning the request including order information), which must be successfully validated in the system.

RECORD ACCESS PROCEDURES:

See "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

Members of the public and government employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/United States Mint .012

SYSTEM NAME:

Union and Agency Negotiated Grievances; Adverse Personnel Actions; Discrimination Complaints; Complaints and Actions before Arbitrators, Administrative Tribunals, and Courts (Third Parties)—Treasury/United States Mint.

SYSTEM LOCATION:

These records are located in the United States Mint's Workforce Solutions Department, its Office of Chief Counsel, and any other office within the United States Mint where an action arose. Locations at which the system is maintained are:

(1) United States Mint, 801 9th Street NW., Washington, DC 20220;

(2) United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) United States Mint, West Point, NY 10996; and

(6) United States Bullion Depository, Fort Knox, KY 40121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include employees and former employees of the United States Mint, and applicants for employment; adjudicators and legal counsel or other representatives; and other members of the public who are witnesses or complainants.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information and documents relating to grievances, including Union and Agency grievances filed pursuant to negotiated collective bargaining agreements and nonbargaining unit employee grievances. System records also contain information and documents relating to adverse personnel actions (including performance-based actions and other personnel matters) and discrimination complaints, such as witness statements, interview reports, and correspondence. The system also includes information and documents concerning actions before Third Parties where applicable, such as pleadings, findings, decisions, and exhibits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 5 U.S.C. 7701 and 7702; 5 U.S.C. Ch. 75; and 5 U.S.C. Ch. 71. E.O.'s. 11491, 11616, 11636, 11838, 11901, 12027, and 12107; 29 CFR 1614; and negotiated agreements between the United States Mint and exclusively recognized labor unions.

PURPOSES:

The purpose of this system is to permit the United States Mint to (1) support actions that fall under Title 5 or Title 42 of the United States Code; (2) track, manage and maintain grievances, adverse personnel actions and discrimination complaints; (3) maintain accurate statistical data for mandated reports; (4) enforce decisions and judgments; and (5) maintain historical reference information to ensure consistency of its personnel actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to disclose information to:

(1) Appropriate federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(2) A federal, state, or local agency that has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee or issuance of a security clearance, license, contract, grant, or other benefit;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(4) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(5) The news media, at the Department of Justice's direction or approval, in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings;

(6) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114;

(7) Third parties during the course of an authorized criminal or administrative investigation;

(8) To appropriate agencies, entities, and persons when (a) the United States Mint suspects or has confirmed that the security, confidentiality, or availability of information in the system of records has been compromised; (b) the United States Mint has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the United States Mint or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the United States Mint's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and electronic records.

RETRIEVABILITY:

Records may be retrieved by the names of the individuals on whom they are maintained, by case number, or by the subject or date of the action.

SAFEGUARDS:

Paper records are stored in secured filing cabinets with access only by authorized personnel. Electronic records are stored in secured systems subject to access controls in accordance with Department of the Treasury and United States Mint policies and procedures. Access to electronic records is restricted to authorized personnel, and is subject to multiple controls including an access approval process, unique user identifier, user authentication and account management, and password management.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with National Archives and Records Administration (NARA) regulations, and NARA-approved records retention schedules.

SYSTEM MANAGERS AND ADDRESSES:

(1) Chief, Human Resources Division, United States Mint, 801 9th Street NW., Washington, DC 20220;

(2) Plant Manager, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) Plant Manager, United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) Plant Manager, United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) Plant Manager, United States Mint, West Point, NY 10996; and

(6) Officer-in-Charge, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Individuals who have filed a grievance, appeal, or complaint about a United States Mint decision or determination or about conditions existing in the United States Mint already have been provided a copy of the record. The contest, amendment, or correction of a record is permitted during the prosecution of the action to whom the record pertains. After a case has been closed, however, requests from individuals wishing to be notified if they are named in this system of records, seeking access to any record contained in the system of records, or seeking to contest its content should be addressed to the head of the organizational unit having immediate custody of the records (See "System Managers and Addresses" above). Requests may be made in accordance with instructions appearing at 31 CFR Part 1, subpart C, appendix H. Requests for information or specific guidance on where to send records requests should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street, NW., Washington, DC 20220.

The individual must submit a written request with information sufficient to verify the identity of the requester such as full name, date of birth, a brief description of the grievance, and the approximate date of submission.

RECORD ACCESS PROCEDURES:

See "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

The sources of these records are as follows: (a) individuals to whom the record pertains; (b) Agency officials; (c) affidavits or statements from employees and third parties; (d) testimony of witnesses; (e) official documents and correspondence relating to the grievance.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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Part II

Regulatory Information Service Center

Introduction to the Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

REGULATORY INFORMATION SERVICE CENTER

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Regulatory Information Service Center.

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

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

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

Editions of the Unified Agenda prior to fall 2007 were printed in their entirety in the **Federal Register**. Beginning with the fall 2007 edition, the Internet became the basic means for conveying regulatory agenda information to the maximum extent legally permissible. The complete 2012 Unified Agenda, which contains the regulatory agendas for 60 Federal agencies, is available to the public at *http://reginfo.gov*.

The 2012 Unified Agenda publication appearing in the **Federal Register** consists of agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

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

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

To provide comment on or to obtain further information about this publication, contact: John C. Thomas, Executive Director, Regulatory Information Service Center (MVC), General Services Administration, One Constitution Square, 1275 First Street NE., 630, Washington, DC 20417, (202) 482–7340. You may also send comments to us by email at: *RISC@gsa.gov*.

SUPPLEMENTARY INFORMATION:

Introduction To The Unified Agenda Of Federal Regulatory And Deregulatory Actions

I. What Is the Unified Agenda?

The Unified Agenda provides information about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** each year since 1983 and has been available online since 1995. To further the objective of using modern technology to deliver better service to the American people for lower cost, beginning with the fall 2007 edition, the Internet became the basic means for conveying regulatory agenda information to the maximum extent legally permissible. The complete Unified Agenda is available to the public at *http://reginfo.gov*. The online Unified Agenda offers flexible search tools and access to the historic Unified Agenda database to 1995.

The 2012 Unified Agenda publication appearing in the **Federal Register** consists of agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act. Printed entries display only the fields required by the Regulatory Flexibility Act. Complete agenda information for those entries appears, in a uniform format, in the online Unified Agenda at *http://reginfo.gov*.

These publication formats meet the publication mandates of the Regulatory Flexibility Act and Executive Order 12866, as well as move the Agenda process toward the goal of online availability, at a substantially reduced printing cost. The current online format does not reduce the amount of information available to the public. The complete online edition of the Unified Agenda includes regulatory agendas from 60 Federal agencies. Agencies of the United States Congress are not included.

The following agencies have no entries identified for inclusion in the printed regulatory flexibility agenda. An asterisk (*) indicates agencies that appear in *The Regulatory Plan*. The regulatory agendas of these agencies are available to the public at *http://reginfo.gov*.

Department of Housing and Urban Development *
Department of Justice *
Department of State *
Department of Veterans Affairs *
Agency for International Development
Committee for Purchase From People Who Are Blind or Severely Disabled
Corporation for National and Community Service
Court Services and Offender Supervision Agency for the District of Columbia
Equal Employment Opportunity Commission *
Export-Import Bank of the United States
Federal Mediation and Conciliation Service
Institute of Museum and Library Services
National Archives and Records Administration *
National Endowment for the Humanities
National Science Foundation
Office of Government Ethics
Office of Management and Budget
Office of Personnel Management *
Peace Corps
Pension Benefit Guaranty Corporation *
Railroad Retirement Board
Social Security Administration *
Commodity Futures Trading Commission
Consumer Product Safety Commission *
Farm Credit Administration
Federal Energy Regulatory Commission
Federal Housing Finance Agency
Federal Maritime Commission
Federal Trade Commission *
National Credit Union Administration
National Indian Gaming Commission *
National Labor Relations Board
Postal Regulatory Commission
Recovery Accountability and Transparency Board
Special Inspector General for Afghanistan Reconstruction
Surface Transportation Board

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

The activities included in the Agenda are, in general, those that will have a regulatory action within the next 12

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

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

II. Why is the Unified Agenda published?

The Unified Agenda helps agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes.

Regulatory Flexibility Act

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

Executive Order 12866

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

Executive Order 13132

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

Executive Order 13563

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

Unfunded Mandates Reform Act of 1995

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

Executive Order 13211

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

Small Business Regulatory Enforcement Fairness Act

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

III. How is the Unified Agenda organized?

Agency regulatory flexibility agendas are printed in a single daily edition of the **Federal Register**. A regulatory flexibility agenda is printed for each agency whose agenda includes entries for rules which are likely to have a significant economic impact on a substantial number of small entities or rules that have been selected for

periodic review under section 610 of the Regulatory Flexibility Act. Each printed agenda appears as a separate part. The parts are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority; and independent regulatory agencies. Agencies may in turn be divided into sub-agencies. Each agency's part of the Agenda contains a preamble providing information specific to that agency. Each printed agency agenda has a table of contents listing the agency's printed entries that follow.

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

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

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

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

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

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

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

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

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

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

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

IV. What information appears for each entry?

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

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

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

(1) Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The definition of an "economically significant" rule is similar but not identical to the definition of a "major" rule under 5 U.S.C. 801 (Pub. L. 104–121). (See below.)

(2) Other Significant

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

(3) Substantive, Nonsignificant

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

(4) Routine and Frequent

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

(5) Informational/Administrative/Other

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

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

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

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

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

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

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

Timetable—the dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date displayed in the form 12/00/12 means the agency is predicting the month and year the action will take place but not the day it will occur. In some instances, agencies may indicate what the next action will be, but the date of that action is "To Be Determined." "Next Action Undetermined" indicates the agency does not know what action it will take next.

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

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

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

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

Federalism—whether the action has "federalism implications" as defined in Executive Order 13132. This term refers to actions "that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Independent regulatory agencies are not required to supply this information.

Included in the Regulatory Plan—whether the rulemaking was included in the agency's current regulatory plan published in fall 2011.

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

Some agencies have provided the following optional information:

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

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

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

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

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

Energy Effects—an indication of whether the agency has prepared or plans to prepare a Statement of Energy Effects for the action, as required by Executive Order 13211 "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," signed May 18, 2001 (66 FR 28355).

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

Some agencies that participated in the 2012 edition of *The Regulatory Plan* have chosen to include the following information for those entries that appeared in the Plan:

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

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

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

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

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

V. Abbreviations

The following abbreviations appear throughout this publication:

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

CFR—The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the agencies of the Federal Government.

The Code is divided into 50 titles, each title covering a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

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

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

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

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

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

Public Law (or Pub. L.)—A public law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, Pub. L. 112–4 is the fourth public law of the 112th Congress.

RFA—A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

RIN—The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Unified Agenda, as directed by Executive Order 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register**, to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their development.

Seq. No.—The sequence number identifies the location of an entry in the printed edition of the Unified Agenda. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different sequence numbers if it appears in different printed editions of the Unified Agenda. Sequence numbers are not used in the online Unified Agenda

U.S.C.—The United States Code is a consolidation and codification of all general and permanent laws of the United States. The U.S.C. is divided into 50 titles, each title covering a broad area of Federal law.

VI. How can users get copies of the Agenda?

Copies of the **Federal Register** issue containing the printed edition of the Unified Agenda (agency regulatory flexibility agendas) are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954. Telephone: (202) 512–1800 or 1–866–512–1800 (toll-free).

Copies of individual agency materials may be available directly from the agency or may be found on the agency's Web site. Please contact the particular agency for further information.

All editions of *The Regulatory Plan* and the *Unified Agenda of Federal Regulatory and Deregulatory Actions* since fall 1995 are available in electronic form at *http://reginfo.gov*, along with flexible search tools.

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

Dated: December 21, 2012.

John C. Thomas,

Executive Director.

Introduction to the 2012 Regulatory Plan

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

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

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

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

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

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

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

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

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

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

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

- *Public participation.* Agencies are directed to promote public participation, in part by making supporting documents available on Regulations.gov in order to promote transparency and public comment. Executive Order 13563 also directs agencies, where feasible and appropriate, to engage the public, including affected stakeholders, before rulemaking is initiated.
- *Integration and innovation.* Agencies are directed to attempt to reduce "redundant, inconsistent, or overlapping" requirements, in part by working with one another to simplify and harmonize rules. This important provision is designed to reduce confusion, redundancy, and excessive cost. An important goal of simplification and harmonization is to promote rather than to hamper innovation, which is a foundation of both growth and job creation. Different offices within the same agency might work together to harmonize their rules; different agencies might work together to achieve the same objective. Such steps can also promote predictability and certainty.
- *Flexible approaches.* Agencies are directed to identify and consider flexible approaches to regulatory problems, including warnings, appropriate default rules, and disclosure requirements. Such approaches may "reduce burdens and maintain flexibility and freedom of choice for the public." In certain settings, they may be far preferable to mandates and bans, precisely because they maintain freedom of choice and reduce costs. The reference to "appropriate default rules" signals the possibility that important social goals can be obtained through simplification—as, for example, in the form of automatic enrollment, direct certification, or reduced paperwork burdens.
- *Science.* Agencies are directed to promote scientific integrity, and in a way that ensures a clear separation between judgments of science and judgments of policy.
- *Retrospective analysis of existing rules.* Agencies are directed to produce preliminary plans to engage in retrospective analysis of existing significant regulations to determine whether they should be modified, streamlined, expanded, or repealed. Executive Order 13610, *Identifying and Reducing Regulatory Burdens*, issued in 2012, institutionalizes the "look back" mechanism set out in Executive Order 13563, by requiring agencies to report to OMB and the public twice each year (January and July) on the status of their retrospective review efforts, to "describe progress, anticipated accomplishments, and proposed timelines for relevant actions." (See below for additional details on Executive Order 13610.)

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

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

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

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

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

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

- The Treasury Department, along with the Department of Homeland Security's Customs and Border Protection, issued a final rule in August 2012 eliminating the mailing of paper "courtesy" notices of liquidation, which provide informal, advanced notice of the liquidation date to the importers of record whose entry summaries are electronically filed. This effort to proceed only electronically streamlines the notification process and reduces printing and mailing costs.
- The Department of Transportation would allow combined drug and alcohol testing for operators conducting commercial air tours. This rulemaking would allow certificate holders to implement one drug and alcohol testing program for what had been considered to this point two separate employing entities. The intent is to decrease operating costs by eliminating duplicate programs while ensuring no loss in safety.
- The Federal Acquisition Regulation (FAR) will be amended to implement policy guidance provided by Office of Management and Budget (OMB) in Memorandum M–12–16, dated July 11, 2012, Providing Prompt Payment to Small Business Subcontractors, to address the acceleration of payments to small business subcontractors.

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

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

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

- The Department of Veterans Affairs (VA) is working to consolidate the application and renewal process for health benefits by eliminating the collection of financial information that is already collected by the Internal Revenue Service (IRS) and Social Security Administration (SSA). In addition to the re-use of data, the VA expects to improve the application by making it more adaptive to data provided by respondents and the information needed to make a determination for benefits. VA expects veterans to save thousands of hours and the Federal government to save millions of dollars from this improved process.
- The Federal Emergency Management Agency (FEMA) is progressing toward the implementation of an integrated agency-wide e-Grants online application that will be available to the public online. The system will simplify submission of grant program applications across FEMA by creating online forms. Fully integrating and automating these systems will improve efficiency and the effectiveness of FEMA operations to better serve the needs of internal and external stakeholders. Grantees are expected to save over 500,000 hours in paperwork burden per year.

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

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

DEPARTMENT OF AGRICULTURE

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

DEPARTMENT OF DEFENSE

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

DEPARTMENT OF EDUCATION

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

DEPARTMENT OF ENERGY

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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

DEPARTMENT OF HOMELAND SECURITY

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

DEPARTMENT OF JUSTICE

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

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

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

ENVIRONMENTAL PROTECTION AGENCY

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION—Continued

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

SMALL BUSINESS ADMINISTRATION

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

SOCIAL SECURITY ADMINISTRATION

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

NUCLEAR REGULATORY COMMISSION

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

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DEPARTMENT OF AGRICULTURE (USDA)

Statement of Regulatory Priorities

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

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

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

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

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

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

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

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

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

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

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

biobased businesses in securing additional sales.

Retrospective Review of Existing Regulations

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

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

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

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

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

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

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

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

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

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

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

Promoting International Regulatory Cooperation Under EO 13609

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

Major Regulatory Priorities

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

Food and Nutrition Service

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

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

- Increase Access to Nutritious Food. This objective represents FNS's efforts to improve nutrition by providing access to program benefits (food consumed at home, school meals, commodities) and distributing State administrative funds to support program operations. To advance this objective, FNS plans to publish a final rule from the 2008 Farm Bill addressing SNAP eligibility, certification, and employment and training issues. This rule also responds to the principles outlined in EO 13563 and responds to EO 13610 by eliminating the requirement for face-to-face interviews in the SNAP certification process, eliminating substantial burdens for SNAP clients and providing additional flexibility to State agencies that administer the program.
- Improve Program Integrity. FNS also plans to publish a number of rules to increase the efficiency and reduce the burden of program operations. Program integrity provisions will continue to be strengthened in the SNAP and Child Nutrition programs to ensure Federal taxpayer dollars are spent effectively.
- Promote Healthy Diet and Physical Activity Behaviors. This objective represents FNS's efforts to ensure that program benefits meet appropriate standards to effectively improve nutrition for program participants, to improve the diets of its clients through nutrition education, and to support the national effort to reduce obesity by promoting healthy eating and physical activity. In support of this objective, FNS plans to publish a proposed rule implementing Healthy, Hunger-Free Kids Act provisions setting nutrition standards for all foods sold in school, establishing professional standards for school food service and State child nutrition program directors, and establishing requirements for the SNAP Nutrition Education and Obesity Prevention Grant Program; and finalizing a rule updating food packages in WIC. FNS' goal is by 2015 to reduce child obesity from 16.9 percent to 15.5 percent, to double the proportion of adults consuming five or more servings of fruits and vegetables daily, and to increase breastfeeding rates.

Food Safety and Inspection Service

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

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

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

save money for businesses and taxpayers while improving food safety.

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

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

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

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

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

Animal and Plant Health Inspection Service

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

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

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

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

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

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

Agricultural Marketing Service

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

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

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

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

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

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

Farm Service Agency

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

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

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

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

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

Forest Service

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

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

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

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

Rural Development

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

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

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

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

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

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

Departmental Management

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

Priorities

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

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

Aggregate Costs and Benefits

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

USDA—AGRICULTURAL MARKETING SERVICE (AMS)

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

Proposed Rule Stage

Priority: Other Significant.
Legal Authority: 7 U.S.C. 6501
CFR Citation: 7 CFR part 205.
Legal Deadline: None.

Abstract: The current regulations provide two tracks for replacing dairy animals which are tied to how dairy farmers transition to organic production. Farmers who transition an entire distinct herd must thereafter replace dairy animals with livestock that has been under organic management from the last third of gestation. Farmers who do not transition an entire distinct herd may perpetually obtain replacement animals that have been managed organically for 12 months prior to marketing milk or milk products as organic. The proposed action would eliminate the two track system and require that upon transition, all existing and replacement dairy animals from which milk or milk products are intended to be sold, labeled or represented as organic, must be managed organically from the last third of gestation.

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

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

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

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

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

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

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

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

RIN: 0581–AD08

USDA—AMS

2. National Organic Program, Streamlining Enforcement Related Actions

Priority: Other Significant.

Legal Authority: 7 U.S.C. 6501

CFR Citation: 7 CFR part 205.

Legal Deadline: None.

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

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

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

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

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

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

RISKS: None have been identified.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

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

RIN: 0581–AD09

USDA—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)

Proposed Rule Stage

3. Plant Pest Regulations; Update of General Provisions

Priority: Other Significant.

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

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

Legal Deadline: None.

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

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

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

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

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

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

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

Anticipated Cost and Benefits: To be determined.

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: Local, State, Tribal.

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

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

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

RIN: 0579–AC98

USDA—APHIS

Final Rule Stage

4. Importation of Live Dogs

Priority: Other Significant.

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

CFR Citation: 9 CFR parts 1 and 2.

Legal Deadline: None.

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

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

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

Alternatives: To be identified.

Anticipated Cost and Benefits: To be determined.

Risks: Not applicable.

Timetable:

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

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

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

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

RIN: 0579–AD23

USDA—APHIS

5. Animal Disease Traceability

Priority: Other Significant.

Legal Authority: 7 U.S.C. 8305

CFR Citation: 9 CFR part 86.

Legal Deadline: None.

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

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

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

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

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

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

Other societal benefits include improved animal welfare during natural disasters.

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: State, Tribal.

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

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

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

RIN: 0579–AD24

USDA—APHIS

6. Animal Welfare; Retail Pet Stores

Priority: Other Significant.

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

CFR Citation: 9 CFR parts 1 and 2.

Legal Deadline: None.

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

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

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

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

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

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

Risks: Not applicable.

Timetable:

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

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

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

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

RIN: 0579–AD57

USDA—FOOD AND NUTRITION SERVICE (FNS)

Proposed Rule Stage

7. Child Nutrition Program Integrity

Priority: Other Significant.

Unfunded Mandates: Undetermined.

Legal Authority: Pub. L. 111–296

CFR Citation: Not Yet Determined.

Legal Deadline: None.

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

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

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

Alternatives: None identified; this rule implements statutory requirements.

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

Risks: None identified.
Timetable:

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

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

USDA—FNS

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

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

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

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

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

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

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

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

Alternatives: None.

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

Expected Benefits of the Proposed Action

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

Risks: None known.
Timetable:

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

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

USDA—FNS

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

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

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

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

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

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

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

Risks: None identified.

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Local, State.

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

RIN: 0584–AE19

USDA—FNS

10. SNAP: Immediate Payment Suspension for Fraudulent Retailer Activity

Priority: Other Significant.

Unfunded Mandates: Undetermined.

Legal Authority: Pub. L. 111–246

CFR Citation: Not Yet Determined.

Legal Deadline: None.

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

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

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

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

RIN: 0584–AE22

USDA—FNS

Final Rule Stage

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

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

Legal Authority: 42 U.S.C. 1786

CFR Citation: 7 CFR part 246.

Legal Deadline: None.

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

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

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

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Governmental Jurisdictions.

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

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

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

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

RIN: 0584–AD77

USDA—FNS

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

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

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

CFR Citation: 7 CFR part 273.

Legal Deadline: None.

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

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

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

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Local, State.

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

RIN: 0584–AD87

USDA—FNS

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

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

Legal Authority: Pub. L. 111–296

CFR Citation: 7 CFR part 272.

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

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

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

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

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

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

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

Alternatives: None.

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

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

Risks: None known.

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State.

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

RIN: 0584–AE07

USDA—FOOD SAFETY AND INSPECTION SERVICE (FSIS)

Proposed Rule Stage

14. Egg Products Inspection Regulations

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

Unfunded Mandates: Undetermined.

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

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

Legal Deadline: None.

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

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

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

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

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

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

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

agencies and local governments are not likely to be affected.

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

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

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

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

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

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

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

Timetable:

Action	Date	FR Cite
NPRM	09/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

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

RIN: 0583–AC58

USDA—FSIS

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

Priority: Other Significant.

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

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

Legal Deadline: None.

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

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

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

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

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

Risks: None.

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

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

RIN: 0583–AD30

USDA—FSIS

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

Priority: Other Significant.

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

CFR Citation: 9 CFR 317.8; 9 CFR 381.129.

Legal Deadline: None.

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

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

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

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

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

Anticipated Cost and Benefits: Benefits:

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

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

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

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

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RIN: 0583–AD45

USDA—FSIS

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

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

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

CFR Citation: 9 CFR part 320.

Legal Deadline: None.

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

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

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

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

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

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

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

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

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

Annual benefits from this rule come from:

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

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

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

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

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

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

Timetable:

Action	Date	FR Cite
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

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RIN: 0583–AD46

USDA—FSIS

Final Rule Stage

18. Prior Labeling Approval System: Generic Label Approval

Priority: Other Significant.

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

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

Legal Deadline: None.

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

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

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

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

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

Risks: None.

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

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RIN: 0583–AC59

USDA—FSIS

19. Modernization of Poultry Slaughter Inspection

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

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

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

Legal Deadline: None.

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

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

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

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

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

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

(1) No action.

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

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

RIN: 0583–AD32

USDA—FSIS

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

Priority: Other Significant.

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

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

Legal Deadline: None.

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

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

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

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

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

Risks: None.

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

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

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

RIN: 0583–AD41

BILLING CODE 3410–90–P

DEPARTMENT OF COMMERCE (DOC)

Statement of Regulatory and Deregulatory Priorities

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

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

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

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

strengthening minority businesses and small manufacturers;

• Maintain U.S. economic competitiveness in the global marketplace by promoting exports, ensuring a level playing field for U.S. businesses, and ensuring that technology transfer is consistent with our nation's economic and security interests;

• Provide effective management and stewardship of our nation's resources and assets to ensure sustainable economic opportunities; and

• Make informed policy decisions and enable better understanding of the economy by providing accurate economic and demographic data.

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

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

Responding to the Administration's Regulatory Philosophy and Principles

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

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

National Oceanic and Atmospheric Administration

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

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

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

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

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

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

Magnuson-Stevens Fishery Conservation and Management Act

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

developed directly by NOAA, not by FMCs.

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

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

Marine Mammal Protection Act

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

Endangered Species Act

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

NOAA's Regulatory Plan Actions

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

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

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

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

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

Bureau of Industry and Security

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

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

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

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

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

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

Major Programs and Activities

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

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

BIS' Regulatory Plan Actions

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

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

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

Promoting International Regulatory Cooperation

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

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

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

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

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

Retrospective Review of Existing Regulations

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

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

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

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DEPARTMENT OF DEFENSE

Statement of Regulatory Priorities

Background

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

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

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

Overall Priorities

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

International Regulatory Cooperation

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

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

Retrospective Review of Existing Regulations

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

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

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

Administration Priorities

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

The Department plans to—

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

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

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

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

The Department plans to—

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

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

The Department plans to—

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

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

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

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

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

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

Specific DoD Priorities

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

1. Defense Procurement and Acquisition Policy

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

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

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

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

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

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

2. Logistics and Material Readiness, Department of Defense

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

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

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

3. Installations and Environment, Department of Defense

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

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

4. Military Community and Family Policy, Department of Defense

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

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

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

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

5. Health Affairs, Department of Defense

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

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

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

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

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

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

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

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

7. Personnel and Readiness, Department of Defense

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

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

8. Chief Information Officer, Department of Defense

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

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

DOD—OFFICE OF THE SECRETARY (OS)

Final Rule Stage

21. Service Academies

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

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

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

DOD—OS

22. Sexual Assault Prevention and Response Program Procedures

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

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

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

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

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

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

The anticipated benefits associated with this rule include:

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

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

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

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

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

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: DoD Instruction 6495.02.

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

RIN: 0790–AI36

DOD—OS

23. Operational Contract Support

Priority: Other Significant.

Legal Authority: Pub. L. 110–181

CFR Citation: 32 CFR part 158.

Legal Deadline: None.

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

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

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

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal.

Additional Information: DoD Instruction 3020.41.

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

RIN: 0790–AI48

DOD—OS

24. Voluntary Education Programs

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

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

CFR Citation: 32 CFR part 68.

Legal Deadline: None.

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

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

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

Alternatives: None.

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

Risks: None.

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: DoD Instruction 1322.25.

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

RIN: 0790–AI50

DOD—OS

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

Priority: Other Significant.

Legal Authority: EO 12829

CFR Citation: Not Yet Determined.

Legal Deadline: None.

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

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

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

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

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

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

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

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

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

information about DoD-approved certificates.

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: DoD Instruction 5205.ff.

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

RIN: 0790–AI60

DOD—OS

26. Mission Compatibility Evaluation Process

Priority: Other Significant.

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

CFR Citation: 32 CFR part 211.

Legal Deadline: None.

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

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

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

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

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

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

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

RIN: 0790–AI69

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

Final Rule Stage

27. TRICARE; Reimbursement of Sole Community Hospitals

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

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

CFR Citation: 32 CFR part 199.

Legal Deadline: None.

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

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

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: None.

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

RIN: 0720–AB41

DOD—DODOASHA

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

Priority: Other Significant.

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

CFR Citation: 32 CFR part 199.

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

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

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

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

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

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

Alternatives: None.

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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

RIN: 0720–AB48

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Statement of Regulatory Priorities

I. Introduction

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

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

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

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

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

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

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

II. Regulatory Priorities

A. Race to the Top Fund

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

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

will produce excellence and ensure equity for all students.

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

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

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

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

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

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

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

D. Changes to the FFEL and Direct Loan Programs

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

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

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

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

E. Individuals With Disabilities Education Act

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

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

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

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

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

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

F. Other Potential Regulatory Activities

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

III. Retrospective Review of Existing Regulations

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

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

IV. Principles for Regulating

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

In deciding when to regulate, we consider the following:

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

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

- Regulate no more than necessary.

• Minimize burden to the extent possible, and promote multiple approaches to meeting statutory requirements if possible.
• Encourage coordination of federally funded activities with State and local reform activities.
• Ensure that the benefits justify the costs of regulating.
• To the extent possible, establish performance objectives rather than specify compliance behavior.
• Encourage flexibility, to the extent possible and as needed to enable institutional forces to achieve desired results.

ED—OFFICE OF POSTSECONDARY EDUCATION (OPE)

Proposed Rule Stage

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

Priority: Economically Significant. Major under 5 U.S.C. 801.
Legal Authority: 20 U.S.C. 1070a; 20 U.S.C. 1071 to 1087–4; 20 U.S.C. 1087a to 1087j; 20 U.S.C. 1098e; Pub. L. 111–152
CFR Citation: 34 CFR ch VI.
Legal Deadline: None.
Abstract: The Secretary proposes amendments to the title IV, HEA student assistance regulations to (a) reflect that, as of July 1, 2010, under the SAFRA Act, no new FFEL Program loans will be made, (b) allow a borrower to get out of default on his or her loans if the borrower makes 9 reasonable and affordable payments over a 10-month period, and (c) make other improvements to the DL, FFEL, and Perkins Loan programs.
Statement of Need: The proposed regulations are needed amend the FFEL and Direct Loan program regulations to reflect changes made to the Higher Education Act of 1965, as amended (HEA), by the SAFRA Act included in the Health Care and Education Reconciliation Act of 2010; incorporate other recent statutory changes in the Direct Loan Program regulations; update, strengthen, and clarify various areas of the Student Assistance General Provisions, Perkins Loan, FFEL, and Direct Loan program regulations; and provide for greater consistency in the regulations governing the title IV, HEA student loan programs.
Anticipated Cost and Benefits: We will provide a comprehensive discussion of the anticipated costs and benefits in the NPRM.
Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Undetermined..
Government Levels Affected: None.
Additional Information: Includes Retrospective Review under E.O. 13563.
URL For Public Comments: *www.regulations.gov.*
Agency Contact: David Bergeron, Department of Education, Office of Postsecondary Education, Room 8022, 1990 K Street NW., Washington, DC 20006, *Phone:* 202 502–7815, *Email:* *david.bergeron@ed.gov.*
RIN: 1840–AD12

BILLING CODE 4001–01–P

Fall 2012

DEPARTMENT OF ENERGY (DOE)

Statement of Regulatory and Deregulatory Priorities

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

• Promote dependable, affordable and environmentally sound production and distribution of energy;
• Advance energy efficiency and conservation;
• Provide responsible stewardship of the Nation's nuclear weapons;
• Provide a responsible resolution to the environmental legacy of nuclear weapons production; and
• Strengthen U.S. scientific discovery, economic competitiveness, and improving quality of life through innovations in science and technology.

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

Retrospective Review of Existing Regulations

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

Rulemakings Subject to Retrospective Analysis

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

Energy Efficiency Program for Consumer Products and Commercial Equipment

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

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

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

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

Estimate of Combined Aggregate Costs and Benefits

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

DOE—ENERGY EFFICIENCY AND RENEWABLE ENERGY (EE)

Proposed Rule Stage

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

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

Unfunded Mandates: Undetermined.

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

CFR Citation: 10 CFR part 431.

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

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

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Local, State.

Federalism: Undetermined.

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

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

URL For Public Comments: www.regulations.gov.

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

Related RIN: Related to 1904–AB85

RIN: 1904–AB86

DOE—EE

Final Rule Stage

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

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

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

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

CFR Citation: 10 CFR part 430.

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

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

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

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

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Local, State.

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

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

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

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

Related RIN: Related to 1904–AB75.

RIN: 1904–AB57

DOE—EE

32. Energy Efficiency Standards for Distribution Transformers

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

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

CFR Citation: 10 CFR part 431.

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

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

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

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

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

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

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

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

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Undetermined.

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

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

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

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Related RIN: Merged with 1904–AC62.

RIN: 1904–AC04

BILLING CODE 6450–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Statement of Regulatory Priorities for Fiscal Year 2013

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

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

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

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

Streamlining Regulations To Reduce Regulatory Burdens

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

- The Centers for Medicare & Medicaid Services (CMS) has an ambitious effort underway to reduce burdens on hospitals and other health care providers and save providers money and time so that they can focus their resources on caring for patients. In May 2012, CMS finalized two rules—addressing the Medicare conditions of participation for hospitals and critical access hospitals (CAH) (0938–AQ89) and regulatory requirements for a broader range of health care providers and suppliers regulated under Medicare and Medicaid (0938–AQ96)—that will save approximately $1.1 billion across the health care system in just the first year while reducing unnecessary burdens on hospitals and other health care providers. For the second phase of this effort, CMS will issue regulations that will eliminate or streamline Medicare rules and requirements that are unnecessary, obsolete, or excessively burdensome to health care professionals and patients.[1] This effort will allow health care professionals to devote more time and effort to improving patient care.
- The Food and Drug Administration (FDA) will finalize amendments to its medical device reporting regulations to require manufacturers and importers to submit electronic reports of individual medical device adverse events to the agency.[2] This will help move the medical device industry from paper to electronic reporting, which will reduce paperwork burden on industry and increase the speed at which FDA processes critical information.
- In a major undertaking, the Department and White House Office of Science and Technology Policy are reviewing and considering making revisions to the ethical rules governing research on human subjects, often referred to as the Common Rule.[3] The Common Rule governs institutions and researchers supported by HHS, and researchers throughout much of the Federal Government, in the conduct of research on humans. The proposed revisions will aim to better protect human subjects who are involved in research while facilitating research and reducing burden, delay, and ambiguity for investigators.
- The Administration for Children and Families (ACF) will propose reforms to its child support regulations that will simplify program operations, clarify technical provisions in the existing rules, and allow States and tribes to take advantage of advances in technology and move toward electronic communication with ACF and with other States and tribes.[4] These reforms will create more efficient child support systems that better serve families in need of this crucial financial support.

Strengthening Medicare and Expanding Coverage in the Private Health Care Market

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

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

- The Department will finalize a rule that outlines standards for the state-run and federally-facilitated Affordable Insurance Exchanges, which will provide competitive marketplaces for individuals and small employers to directly compare available private health insurance options on the basis of price and quality. These standards will ensure, for example, that individual and small group plans provide certain levels of coverage. This means that consumers can rest assured that plans inside and outside of the Exchanges will cover certain essential health benefits.[8]
- The Department will also implement provisions of the Affordable Care Act that set the rules for risk adjustment, reinsurance, risk corridors, advanced premium tax credits, and cost-sharing reductions.[9]
- Another final rule would outline many of the consumer protections at the heart of the Affordable Care Act.[10] These new health insurance market standards will promote access to, and the affordability of, health insurance coverage by extending new guaranteed availability rights to individuals and employers, continuing current guaranteed renewability protections,

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

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

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

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

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

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

[7] *http://www.healthcare.gov/news/factsheets/2011/08/womenspreventionb08012011a.html.*

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

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

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

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

- Another rule would implement provisions of the Affordable Care Act that expand access to health insurance through Medicaid, the establishment of the Affordable Insurance Exchanges, and coordination between Medicaid, the Children's Health Insurance Program (CHIP), and the Exchanges. This proposed rule would continue CMS's efforts to assist States in implementing changes to the eligibility, appeals, and enrollment under Medicaid and other State health subsidy programs.[11]
- In addition, CMS will update several Medicare provider payment rules in ways that strengthen Medicare, better reflect the state of practice, and are responsive to feedback from providers.[12] These rules, which are published annually, provide predictability for health care providers so they can manage their finances appropriately.
- Finally, CMS will implement the Affordable Care Act provision that establishes a new prospective payment system for Federally Qualified Health Centers (FQHCs), which are facilities that provide primary care services to underserved urban and rural communities.[13] This rule will bring the FQHC payment system in line with the payment procedure for the majority of Medicare providers and will allow FQHCs to anticipate future reimbursements for providing services to Medicare beneficiaries.

Advancing Innovation To Improve Consumer Health and Safety

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

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

Implementing a 21st Century Food Safety System

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

- FDA will propose regulations establishing preventive controls in the manufacture and distribution of human foods[16] and of animal feeds.[17] These regulations constitute the heart of the food safety program by instituting uniform practices for the manufacture and distribution of food products to ensure that those products are safe for consumption and will not cause or spread disease.
- FDA will continue its work on a rule to ensure that produce sold in the United States meets rigorous safety standards.[18] The regulation will set enforceable, science-based standards for the safe production and harvesting of fresh produce at the farm and the packing house to minimize the risk of serious adverse health consequences.
- In another proposed rule, FDA will require food importers to establish a verification program to improve the safety of food that is imported into the United States.[19] Specifically, the FDA will outline proposed standards that foreign food suppliers must meet to ensure that imported food is produced in a manner that is as safe as food produced in the United States.
- FDA will also establish a program to accredit third-party auditors to conduct audits of foreign food suppliers.[20] This program will allow importers to contract with an accredited auditor to meet the audit requirements instead of having to establish such programs themselves

Promoting Children's Health and Well-Being

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

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

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

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

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

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

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

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

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

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

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

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

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

Empowering Americans To Make Healthy Choices in the Marketplace

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

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

- One final rule will require restaurants and similar retail food establishments with 20 or more locations to list calorie content information for standard menu items on restaurant menus and menu boards, including drive-through menu boards.[26] Other nutrient information—total calories, fat, saturated fat, cholesterol, sodium, total carbohydrates, sugars, fiber and total protein—would have to be made available in writing upon request.
- A second final rule will require vending machine operators who own or operate 20 or more vending machines to disclose calorie content for some items.[27] The Department anticipates that such information will ensure that patrons of chain restaurants and vending machines have nutritional information about the food they are consuming.
- A third proposed rule would revise the nutrition and supplement facts labels on packaged food, which has not been updated since 1993 when mandatory nutrition labeling of food was first required. The aim of the proposed revision is to provide updated and easier to read nutrition information on the label to help consumers maintain healthy dietary practices.[28]

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

Promoting International Regulatory Cooperation With Our Global Partners

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

- In one proposed rule, FDA will use international standards and promotes harmonization by allowing medical devices companies to use certain kinds of international symbols in device labeling.[30]
- As a result of collaboration under the U.S.-Canada Regulatory Cooperation Council (RCC), FDA will propose a rule to add the common cold indication to certain over-the-counter (OTC) antihistamine active ingredients.[31] The objectives of the RCC monograph alignment working group are to conduct a pilot program to develop aligned monograph elements for a selected over-the-counter (OTC) drug category (e.g. aligned directions, warnings, indications and conditions of use) and subsequently, develop recommendations to determine the feasibility of an ongoing mechanism for alignment in review and adoption of these OTC drug monograph elements.

Retrospective Review of Existing Regulations

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

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

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

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

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

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

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

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

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

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

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

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

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

HHS—FOOD AND DRUG ADMINISTRATION (FDA)

Proposed Rule Stage

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

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

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

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

CFR Citation: 21 CFR part 507.

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

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

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

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

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

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

Alternatives: The Food Safety Modernization Act requires this rulemaking.

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

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

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

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

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

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

RIN: 0910–AG10

HHS—FDA

34. Produce Safety Regulation

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

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

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

CFR Citation: Not Yet Determined.

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

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

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

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

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

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

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

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Federalism: Undetermined.

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

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

RIN: 0910–AG35

HHS—FDA

35. Hazard Analysis and Risk-Based Preventive Controls

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

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

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

CFR Citation: 21 CFR part 110.

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

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

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

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

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

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

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

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

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

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Federalism: Undetermined.

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

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

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RIN: 0910–AG36

HHS—FDA

36. Foreign Supplier Verification Program

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

Unfunded Mandates: Undetermined.

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

CFR Citation: Not Yet Determined.

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

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

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

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

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

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

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

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

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

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

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

RIN: 0910–AG64

HHS—FDA

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

Priority: Other Significant.

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

CFR Citation: Not Yet Determined.

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

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

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

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

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

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

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

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

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

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Undetermined.

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

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RIN: 0910–AG66

HHS—FDA

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

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

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

CFR Citation: 21 CFR 314.81; 21 CFR 314.91.

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

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

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

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

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

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

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

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Undetermined.
Government Levels Affected: None.
Agency Contact: Valerie Jensen, Department of Health and Human Services, Food and Drug Administration, White Oak, Building 22, Room 6202, New Hampshire Avenue, Silver Spring, MD 20903, *Phone:* 301 796–0737.
RIN: 0910–AG88

HHS—FDA

Final Rule Stage

39. Unique Device Identification

Priority: Economically Significant. Major under 5 U.S.C. 801.
Unfunded Mandates: This action may affect the private sector under Pub. L. 104–4.
Legal Authority: 21 U.S.C. 351; 21 U.S.C. 352; 21 U.S.C. 360; 21 U.S.C. 360h; 21 U.S.C. 360i; 21 U.S.C. 360j; 21 U.S.C. 360l; 21 U.S.C. 371
CFR Citation: 21 CFR part 16; 21 CFR part 801; 21 CFR part 803; 21 CFR part 806; 21 CFR part 810; 21 CFR part 814; 21 CFR part 820; 21 CFR part 821; 21 CFR part 822.
Legal Deadline: Final, Statutory, May 7, 2013, Must be finalized no later than 6 months after end of comment period (November 7, 2012).
Deadlines added by section 614 of FDASIA, Pub. L. 112–144.
Abstract: FDA is issuing a final rule establishing a unique device identification system for medical devices. A unique device identification system would allow health care professionals and others to rapidly and precisely identify a device and obtain important information concerning the device and would reduce medical errors.
Statement of Need: A unique device identification system will help reduce medical errors; will allow FDA, the healthcare community, and industry to more rapidly review and organize adverse event reports; identify problems relating to a particular device (even down to a particular lot or batch, range of serial numbers, or range of manufacturing or expiration dates); and thereby allow for more rapid, effective, corrective actions that focus sharply on the specific devices that are of concern.
Summary of Legal Basis: Section 519(f) of the FD&C Act (added by sec. 226 of the Food and Drug Administration Amendments Act of 2007) directs the Secretary to promulgate regulations establishing a unique device identification (UDI) system for medical devices, requiring the label of devices to bear a unique identifier that will adequately identify the device through its distribution and use.
Alternatives: FDA considered several alternatives that would allow certain requirements of the proposed rule to vary, such as the required elements of a UDI and the scope of affected devices.
Anticipated Cost and Benefits: FDA estimates that the affected industry would incur one-time and recurring costs, including administrative costs, to change and print labels that include the required elements of a UDI, costs to purchase equipment to print and verify the UDI, and costs to purchase software and integrate and validate the UDI into existing IT systems. FDA anticipates that implementation of a UDI system would help improve the efficiency and accuracy of medical device recalls and medical device adverse event reporting. The proposed rule would also standardize how medical devices are identified and contribute to future potential public health benefits of initiatives aimed at optimizing the use of automated systems in healthcare. Most of these benefits, however, require complementary developments and innovations in the private and public sectors.
Risks: This rule is intended to substantially eliminate existing obstacles to the consistent identification of medical devices used in the United States. UDI will allow FDA to more rapidly and effectively identify and aggregate adverse event reports and is central to improvement in FDA's medical device postmarket surveillance plan. By providing the means to rapidly and accurately identify a device and key attributes that affect its safe and effective use, the rule would reduce medical errors that result from misidentification of a device or confusion concerning its appropriate use.
Timetable:

Action	Date	FR Cite
NPRM	07/10/12	77 FR 40735
NPRM Comment Period End.	11/07/12	
Final Action	05/00/13	

Regulatory Flexibility Analysis Required: Yes.
Small Entities Affected: Businesses.
Government Levels Affected: None.
URL for More Information: *www.fda.gov/medicaldevices/deviceregulationandguidance/uniquedeviceidentification/default.htm.*
URL for Public Comments: *www.regulations.gov.*
Agency Contact: John J. Crowley, Senior Advisor for Patient Safety, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, WO 66, Room 2315, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 980–1936, *Email:* *jay.crowley@fda.hhs.gov.*
RIN: 0910–AG31

HHS—FDA

40. Food Labeling: Nutrition Labeling for Food Sold in Vending Machines

Priority: Economically Significant. Major under 5 U.S.C. 801.
Legal Authority: 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371
CFR Citation: Not Yet Determined.
Legal Deadline: None.
Abstract: The Food and Drug Administration (FDA) published a proposed rule in the **Federal Register** of April 6, 2011 (72 FR 19238) to establish requirements for nutrition labeling of certain food items sold in certain vending machines. FDA also proposed the terms and conditions for vending machine operators registering to voluntarily be subject to the requirements. FDA took this action to carry out section 4205 of the Patient Protection and Affordable Care Act (Affordable Care Act or ACA), which was signed into law on March 23, 2010.
Statement of Need: This rulemaking was mandated by section 4205 of the Patient Protection and Affordable Care Act (Affordable Care Act).
Summary of Legal Basis: On March 23, 2010, the Affordable Care Act (Pub. L. 111–148) was signed into law. Section 4205 amended 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) by, among other things, creating new clause (H) to require that vending machine operators, who own or operate 20 or more machines, disclose calories for certain food items. FDA has the authority to issue this rule under sections 403(q)(5)(H) and 701(a) of the FD&C Act (21 U.S.C. 343(q)(5)(H), and 371(a)). Section 701(a) of the FD&C Act vests the Secretary of Health and Human Services, and, by delegation, the Food and Drug Administration (FDA) with the authority to issue regulations for the efficient enforcement of the FD&C Act.
Alternatives: Section 4205 of the Affordable Care Act requires the

Secretary (and by delegation, the FDA) to establish by regulation requirements for calorie labeling of articles of food sold from covered vending machines. Therefore, there are no alternatives to rulemaking. FDA has analyzed alternatives that may reduce the burden of the rulemaking, including analyzing the benefits and costs of: Restricting the flexibility of the format for calorie disclosure, lengthening the compliance time, and extending the coverage of the rule to bulk vending machines without selection buttons.

Anticipated Cost and Benefits: Any vending machine operator operating fewer than 20 machines may voluntarily choose to be covered by the national standard. It is anticipated that vending machine operators that own or operate 20 or more vending machines will bear costs associated with adding calorie information to vending machines. FDA estimates that the total cost of complying with section 4205 of the Affordable Care Act and this rulemaking will be approximately $25.8 million initially, with a recurring cost of approximately $24 million.

Because comprehensive national data for the effects of vending machine labeling do not exist, FDA has not quantified the benefits associated with section 4205 of the Affordable Care Act and this rulemaking. Some studies have shown that some consumers consume fewer calories when calorie content information is displayed at the point of purchase. Consumers will benefit from having this important nutrition information to assist them in making healthier choices when consuming food away from home. Given the very high costs associated with obesity and its associated health risks, FDA estimates that if 0.02 percent of the adult obese population reduces energy intake by at least 100 calories per week, then the benefits of section 4205 of the Affordable Care Act and this rulemaking will be at least as large as the costs.

Risks: Americans now consume an estimated one-third of their total calories from foods prepared outside the home and spend almost half of their food dollars on such foods. This rule will provide consumers with information about the nutritional content of food to enable them to make healthier food choices, and may help mitigate the trend of increasing obesity in America.

Timetable:

Action	Date	FR Cite
NPRM	04/06/11	76 FR 19238
NPRM Comment Period End.	07/05/11	
Final Action	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Federal, Local, State.

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

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RIN: 0910–AG56

HHS—FDA

41. Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments

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

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

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: The Food and Drug Administration (FDA) published a proposed rule in the **Federal Register** of April 6, 2011 (72 FR 19192), to establish requirements for nutrition labeling of standard menu items in chain restaurants and similar retail food establishments. FDA also proposed the terms and conditions for restaurants and similar retail food establishments registering to voluntarily be subject to the Federal requirements. FDA took this action to carry out section 4205 of the Patient Protection and Affordable Care Act (Affordable Care Act or ACA), which was signed into law on March 23, 2010.

Statement of Need: This rulemaking was mandated by section 4205 of the Patient Protection and Affordable Care Act (Affordable Care Act).

Summary of Legal Basis: On March 23, 2010, the Affordable Care Act (Pub. L. 111–148) was signed into law. Section 4205 of the Affordable Care Act amended 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) by, among other things, creating new clause (H) to require that certain chain restaurants and similar retail food establishments with 20 or more locations disclose certain nutrient information for standard menu items. FDA has the authority to issue this rule under sections 403(a)(1), 403(q)(5)(H), and 701(a) of the FD&C Act (21 U.S.C. 343(a)(1), 343(q)(5)(H), and 371(a)). Section 701(a) of the FD&C Act vests the Secretary of Health and Human Services, and, by delegation, the Food and Drug Administration (FDA) with the authority to issue regulations for the efficient enforcement of the FD&C Act.

Alternatives: Section 4205 of the Affordable Care Act requires the Secretary, and by delegation the FDA, to establish by regulation requirements for nutrition labeling of standard menu items for covered restaurants and similar retail food establishments. Therefore, there are no alternatives to rulemaking. FDA has analyzed alternatives that may reduce the burden of this rulemaking, including analyzing the benefits and costs of expanding and contracting the set of establishments covered by this rule and shortening or lengthening the compliance time relative to the rulemaking.

Anticipated Cost and Benefits: Chain restaurants and similar retail food establishments covered by the Federal law operating in local jurisdictions that impose different nutrition labeling requirements will benefit from having a uniform national standard. Any restaurant or similar retail food establishment with fewer than 20 locations may voluntarily choose to be covered by the national standard. It is anticipated that chain restaurants with 20 or more locations will bear costs for adding nutrition information to menus and menu boards. FDA estimates that the total cost of section 4205 and this rulemaking will be approximately $80 million, annualized over 10 years, with a low annualized estimate of approximately $33 million and a high annualized estimate of approximately $125 million over 10 years. These costs include an initial cost of approximately $320 million with an annually recurring cost of $45 million.

Because comprehensive national data for the effects of menu labeling do not exist, FDA has not quantified the benefits associated with section 4205 of the Affordable Care Act and this rulemaking. Some studies have shown that some consumers consume fewer calories when menus have information about calorie content displayed. Consumers will benefit from having important nutrition information for the approximately 30 percent of calories consumed away from home. Given the very high costs associated with obesity and its associated health risks, FDA

estimates that if 0.6 percent of the adult obese population reduces energy intake by at least 100 calories per week, then the benefits of section 4205 of the Affordable Care Act and this rule will be at least as large as the costs.

Risks: Americans now consume an estimated one-third of their total calories on foods prepared outside the home and spend almost half of their food dollars on such foods. Unlike packaged foods that are labeled with nutrition information, foods in restaurants, for the most part, do not have nutrition information that is readily available when ordered. Dietary intake data have shown that obese Americans consume over 100 calories per meal more when eating food away from home rather than food at home. This rule will provide consumers information about the nutritional content of food to enable them to make healthier food choices and may help mitigate the trend of increasing obesity in America.

Timetable:

Action	Date	FR Cite
NPRM	04/06/11	76 FR 19192
NPRM Comment Period End.	07/05/11	
Finat Action	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Federal, Local, State.

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

Agency Contact: Geraldine A. June, Supervisor, Product Evaluation and Labeling Team, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, (HFS–820), 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–1802, *Fax:* 301 436–2636, *Email:* *geraldine.june@fda.hhs.gov.*

RIN: 0910–AG57.

HHS—CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS)

Proposed Rule Stage

42. Patient Protection and Affordable Care Act; Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation (CMS–9980–F)

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

Legal Authority: Pub. L. 111–148, title I

CFR Citation: 45 CFR part 156; 45 CFR part 155; 45 CFR part 147.

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

Abstract: This final rule details standards for health insurance consistent with title I of the Affordable Care Act. Specifically, this rule outlines Exchange and issuer standards related to coverage of essential health benefits (EHB) and actuarial value (AV). This rule also proposes a timeline for qualified health plans to be accredited in Federally-facilitated Exchanges and an amendment that provides an application process for the recognition of additional accrediting entities for purposes of certification of qualified health plans.

Statement of Need: This rule sets forth standards related to EHB and AV consistent with the Affordable Care Act. HHS believes that the provisions that are included in this rule are necessary to fulfill the Secretary's obligations under sections 1302 and 1311 of the Affordable Care Act. Establishing specific approaches for defining EHB and calculating AV will bring needed clarity for States, issuers, and other stakeholders. Absent the provisions outlined in this rule, States, issuers, and consumers would face significant uncertainty about how coverage of EHB should be defined and evaluated. Similarly, failing to specify a method for calculating AV could result in significant inconsistency across States and issuers. Finally, establishing a clear timeline for potential qualified health plans to become accredited is essential to successful issuer participation in Federally-facilitated Exchanges.

Summary of Legal Basis: The provisions that are included in this rule are necessary to implement the requirements of title I of the Affordable Care Act.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: HHS anticipates that the provisions of this rule will assure consumers that they will have health insurance coverage for essential health benefits, and significantly increase consumers' ability to compare health plans, make an informed selection by promoting consistency across covered benefits and levels of coverage, and more efficiently purchase coverage. This rule ensures that consumers can shop on the basis of issues that are important to them such as price, network physicians, and quality, and be confident that the plan they choose does not include unexpected coverage gaps, like hidden benefit exclusions. It also allows for some flexibility for plans to promote innovation in benefit design. HHS anticipates that the provisions of this proposed regulation will likely result in increased costs related to increased utilization of health care services by people receiving coverage for previously uncovered benefits.

Risks: If this regulation is not published, the Exchanges will not become operational by January 1, 2014, thereby violating the statute.

Timetable:

Action	Date	FR Cite
Notice	09/14/11	76 FR 56767
Comment Period End.	10/31/11	
NPRM	11/26/12	77 FR 70644
NPRM Comment Period End.	12/26/12	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

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

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

Agency Contact: Leigha Basini, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 301 492–4307, *Email:* *leigha.basini@cms.hhs.gov.*

RIN: 0938–AR03

HHS—CMS

43. PART II—Regulatory Provisions To Promote Program Efficiency, Transparency, and Burden Reduction (CMS–3267–P)

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

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

CFR Citation: 42 CFR part 482; 42 CFR part 485; 42 CFR part 491; 42 CFR part 483; 42 CFR part 416; 42 CFR part 486; 42 CFR part 488; 42 CFR part 493.

Legal Deadline: None.

Abstract: This proposed rule identifies and proposes reforms in Medicare regulations that CMS has identified as unnecessary, obsolete, or excessively burdensome on health care providers and beneficiaries. This proposed rule would increase the ability of health care professionals to devote resources to improving patient care, by

eliminating or reducing requirements that impede quality patient care or that divert resources away from providing high quality patient care. This is one of several rules that CMS is proposing to achieve regulatory reforms under Executive Order 13563 on Improving Regulation and Regulatory Review and the Department's Plan for Retrospective Review of Existing Rules.

Statement of Need: In Executive Order 13563, the President recognized the importance of a streamlined, effective, efficient regulatory framework designed to promote economic growth, innovation, job creation, and competitiveness. To achieve a more robust and effective regulatory framework, the President has directed each executive agency to establish a plan for ongoing retrospective review of existing significant regulations to identify those rules that can be eliminated as obsolete, unnecessary, burdensome, or counterproductive or that can be modified to be more effective, efficient, flexible, and streamlined. This rule continues our direct response to the President's instructions in Executive Order 13563 by reducing outmoded or unnecessarily burdensome rules, and thereby increasing the ability of health care entities to devote resources to providing high quality patient care.

Summary of Legal Basis: The provisions that are included in this rule are necessary to implement the requirements of Executive Order 13563, "Improving Regulations and Regulatory Review."

Alternatives: To date, nearly 90 specific reforms have been identified and scheduled for action. These reforms impact hospitals, physicians, home health agencies, ambulance providers, clinical labs, skilled nursing facilities, intermediate care facilities, managed care plans, Medicare Advantage organizations, and States. Many of these reforms will be included in rules that relate to particular categories of regulations or types of providers. Other reforms are being implemented without the need for regulations. This rule includes reforms that do not fit directly in other rules scheduled for publication.

Anticipated Cost and Benefits: This rule makes several changes that create measurable monetary savings for providers and suppliers, while others create less tangible savings of time and administrative burden. We anticipate that the provider industry and health professionals will welcome the changes and reductions in burden. We also expect that health professionals will experience increased efficiencies and resources to appropriately devote to improving patient care, increasing accessibility to care, and reducing associated health care costs.

Risks: If this regulation is not published, outdated and obsolete regulations would remain in place, thereby violating the Executive Order. Proposals to remove excessively burdensome requirements and increased efficiencies in patient care would not be achieved.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563 with small business burden reduction.

Agency Contact: Lauren Oviatt, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Office of Clinical Standards and Quality, Mailstop S3–23–27, 7500 Security Boulevard, Baltimore, MD 21244–1850, *Phone:* 410 786–4683, *Email: lauren.oviatt@cms.hhs.gov.*

RIN: 0938–AR49

HHS—CMS

44. • Notice of Benefit and Payment Parameters (CMS–9964–P)

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

Legal Authority: Pub. L. 111–148, secs 1341 to 1343

CFR Citation: 45 CFR part 153; 45 CFR part 155.

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

Abstract: Under the Affordable Care Act, this proposed rule would establish parameters of the risk adjustment, reinsurance, risk corridors, advanced premium tax credit, and cost-sharing reduction programs.

Statement of Need: This rule would provide additional guidance for several programs including risk adjustment, reinsurance, and risk corridors. The purpose of these programs is to protect health insurance issuers from the negative effects of adverse selection and to protect consumers from increases in premiums due to uncertainty for issuers. The rule would also provide new information on the cost-sharing reductions (CSRs) and advanced premium tax credits (APTCs) programs. These programs provide financial support for purchasing insurance and increase access to care for individuals through the Affordable Insurance Exchanges. They also provide assistance on user fees and administrative fees used to implement the Federally-facilitated Exchange and the risk adjustment and reinsurance programs.

Summary of Legal Basis: The provisions that are included in this rule are necessary to implement the requirements of sections 1341, 1342, 1343, 1401, 1402, 1411, and 1412 of the Affordable Care Act.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: Payments through reinsurance, risk adjustment, and risk corridors would reduce the increased risk of financial loss that health insurance issuers might otherwise expect to incur in 2014 due to market reforms such as guaranteed issue and the elimination of medical underwriting. These payments would reduce the risk to the issuer and the issuer could pass on a reduced risk premium to enrollees. Administrative costs would vary across States and health insurance issuers depending on the sophistication of technical infrastructure and prior experience with data collection and risk adjustment. States and issuers that already have systems in place for data collection and reporting would have reduced administrative costs.

Federal financial assistance for enrollees through the CSR and APTC programs would enable many low- and moderate-income individuals to purchase health insurance. The user fees and administrative fees would be charged on a per capita basis to issuers of certain plans. Those fees would be used to administer the Federally-facilitated Exchange and the HHS-operated risk adjustment and reinsurance programs.

Risks: If this regulation is not published, the Exchanges may be at risk for not becoming fully operational by January 1, 2014, thereby delaying the benefits of health insurance coverage to millions of Americans.

Timetable:

Action	Date	FR Cite
NPRM	12/07/12	77 FR 73118
NPRM Comment Period End.	12/31/12	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Federal, State.

Agency Contact: Sharon Arnold, Acting Director, Payment Policy and Financial Management Group,

Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 301 492–4415, *Email: sharon.arnold@cms.hhs.gov.*

RIN: 0938–AR51

HHS—CMS

45. • Changes to the Hospital Inpatient and Long-Term Care Prospective Payment System for FY 2014 (CMS–1599–P)

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

Unfunded Mandates: Undetermined.

Legal Authority: Sec 1886(d) of the Social Security Act

CFR Citation: Not Yet Determined.

Legal Deadline: NPRM, Statutory, April 1, 2013. Final, Statutory, August 1, 2013.

Abstract: This annual major proposed rule would revise the Medicare hospital inpatient and long-term care hospital prospective payment systems for operating and capital-related costs. This proposed rule would implement changes arising from our continuing experience with these systems.

Statement of Need: CMS annually revises the Medicare hospital inpatient prospective payment systems (IPPS) for operating and capital-related costs to implement changes arising from our continuing experience with these systems. In addition, we describe the proposed changes to the amounts and factors used to determine the rates for Medicare hospital inpatient services for operating costs and capital-related costs. Also, CMS annually updates the payment rates for the Medicare prospective payment system (PPS) for inpatient hospital services provided by long-term care hospitals (LTCHs). The rule solicits comments on the proposed IPPS and LTCH payment rates and new policies. CMS will issue a final rule containing the payment rates for the FY 2014 IPPS and LTCHs at least 60 days before October 1, 2013.

Summary of Legal Basis: The Social Security Act (the Act) sets forth a system of payment for the operating costs of acute care hospital inpatient stays under Medicare Part A (Hospital Insurance) based on prospectively set rates. The Act requires the Secretary to pay for the capital-related costs of hospital inpatient and Long Term Care stays under a PPS. Under these systems, Medicare payment for hospital inpatient and Long Term Care operating and capital-related costs is made at predetermined, specific rates for each hospital discharge. These changes would be applicable to services furnished on or after October 1, 2013.

Alternatives: None. This implements a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for FY 2014.

Risks: If this regulation is not published timely, inpatient hospital and LTCH services will not be paid appropriately beginning October 1, 2013.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

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

Agency Contact: Brian Slater, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C4–07–07, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–5229, *Email: brian.slater@cms.hhs.gov.*

RIN: 0938–AR53

HHS—CMS

46. • Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2014 (CMS–1601–P)

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

Unfunded Mandates: Undetermined.

Legal Authority: Sec 1833 of the Social Security Act

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Statutory, November 1, 2013.

Abstract: This proposed rule would revise the Medicare hospital outpatient prospective payment system to implement applicable statutory requirements and changes arising from our continuing experience with this system. The proposed rule also describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule proposes changes to the Ambulatory Surgical Center Payment System list of services and rates.

Statement of Need: Medicare pays over 4,000 hospitals for outpatient department services under the hospital outpatient prospective payment system (OPPS). The OPPS is based on groups of clinically similar services called ambulatory payment classification groups (APCs). CMS annually revises the APC payment amounts based on the most recent claims data, proposes new payment policies, and updates the payments for inflation using the hospital operating market basket. The rule solicits comments on the proposed OPPS payment rates and new policies. Medicare pays roughly 5,000 Ambulatory Surgical Centers (ASCs) under the ASC payment system. CMS annually revises the payment under the ASC payment system, proposes new policies, and updates payments for inflation. CMS will issue a final rule containing the payment rates for the 2014 OPPS and ASC payment system at least 60 days before January 1, 2014.

Summary of Legal Basis: Section 1833 of the Social Security Act establishes Medicare payment for hospital outpatient services and ASC services. The rule revises the Medicare hospital OPPS and ASC payment system to implement applicable statutory requirements. In addition, the rule describes changes to the outpatient APC system, relative payment weights, outlier adjustments, and other amounts and factors used to determine the payment rates for Medicare hospital outpatient services paid under the prospective payment system as well as changes to the rates and services paid under the ASC payment system. These changes would be applicable to services furnished on or after January 1, 2014.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for CY 2014.

Risks: If this regulation is not published timely, outpatient hospital and ASC services will not be paid appropriately beginning January 1, 2014.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Federalism: Undetermined.

Agency Contact: Marjorie Baldo, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare Management, 7500 Security Boulevard, C4–03–06, Baltimore, MD 21244, *Phone:* 410 786–

4617, *Email:* *marjorie.baldo@cms.hhs.gov.*
RIN: 0938–AR54

HHS—CMS

47. • Revisions to Payment Policies Under the Physician Fee Schedule and Medicare Part B for CY 2014 (CMS–1600–P)

Priority: Economically Significant. Major under 5 U.S.C. 801.
Unfunded Mandates: Undetermined.
Legal Authority: Social Security Act, secs 1102, 1871, 1848
CFR Citation: Not Yet Determined.
Legal Deadline: Final, Statutory, November 1, 2013.
Abstract: This proposed rule would revise payment polices under the Medicare physician fee schedule, and make other policy changes to payment under Medicare Part B. These changes would he applicahle to services furnished on or after January 1 annually.
Statement of Need: The statute requires that we establish each year, by regulation, payment amounts for all physicians' services furnished in all fee schedule areas. This rule would implement changes affecting Medicare Part B payment to physicians and other Part B suppliers. The final rule has a statutory publication date of November 1, 2013, and an implementation date of January 1, 2014.
Summary of Legal Basis: Section 1848 of the Social Security Act (the Act) establishes the payment for physician services provided under Medicare. Section 1848 of the Act imposes a deadline of no later than November 1 for publication of the final rule or final physician fee schedule.
Alternatives: None. This implements a statutory requirement.
Anticipated Cost and Benefits: Total expenditures will he adjusted for CY 2014.
Risks: If this regulation is not published timely, physician services will not be paid appropriately, beginning January 1, 2014.
Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexihility Analysis Required: Yes.
Small Entities Affected: Businesses.
Government Levels Affected: Undetermined.
Federalism: Undetermined.
Agency Contact: Christina Ritter, Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C4–03–06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–4636, *Email:* *christina.ritter@cms.hhs.gov.*
RIN: 0938–AR56

HHS—CMS

48. • Prospective Payment System for Federally Qualified Health Centers (FQHCS) (CMS–1443–P) (Section 610 Review)

Priority: Economically Significant. Major under 5 U.S.C. 801.
Unfunded Mandates: Undetermined.
Legal Authority: Pub. L. 111–148, sec 10501
CFR Citation: Not Yet Determined.
Legal Deadline: Final, Statutory, October 1, 2014.
Abstract: The Affordable Care Act amends the current Medicare FQHC payment policy by requiring the establishment of a new payment system, effective with cost reporting periods beginning on or after October 1, 2014. This rule proposes the establishment of the new prospective payment system.
Statement of Need: FQHCs include providers such as community health centers, public housing centers, outpatient health programs funded by the Indian Health Service, and programs serving migrants and the homeless. The main purpose of the FQHC program is to enhance the provision of primary care services in underserved urban and rural communities. CMS is required by statute to develop a prospective payment system for FQHCs effective October 1, 2014.
Summary of Legal Basis: Sections 5502 and 10501 of the Affordable Care Act.
Alternatives: None. This implements a statutory requirement.
Anticipated Cost and Benefits: Total expenditures will be adjusted for fiscal year 2015.
Risks: If this regulation is not published timely, FQHC services will not be paid appropriately beginning October 1, 2014.
Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Yes.
Small Entities Affected: Governmental Jurisdictions, Organizations.
Government Levels Affected: Federal, Local, State.
Federalism: Undetermined.
Agency Contact: Sarah Harding, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop C4–01–26, Windsor Mill, MD 21244, *Phone:* 410 786–4001, *Email:* *sarah.harding@cms.hhs.gov.*
RIN: 0938–AR62

HHS—ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF)

Proposed Rule Stage

49. Child Care and Development Fund Reforms To Support Child Development and Working Families

Priority: Other Significant.
Legal Authority: sec 658E and other provisions of the Child Care and Development Block Grant Act of 1990, as amended
CFR Citation: 45 CFR part 98.
Legal Deadline: None.
Abstract: This proposed rule would provide the first comprehensive update of Child Care and Development Fund (CCDF) regulations since 1998. It would make changes in four key areas: (1) Improving health and safety; (2) improving the quality of child care; (3) establishing family-friendly policies; and (4) strengthening program integrity. The rule seeks to retain much of the flexihility afforded to States, Territories, and Tribes consistent with the nature of a block grant. The changes would update the regulation to reflect: Current research and knowledge about the early care and education sector; state innovations in policies and practices over the past decade; and increased recognition that high quality child care hoth supports work for low-income parents and promotes children's learning and healthy development.
Statement of Need: The CCDF program has far-reaching implications for America's poorest children. It provides child care assistance to 1.7 million children from nearly 1 million low-income working families and families who are attending school or job training. Half of the children served are living at or below poverty level. In addition, children who receive CCDF are cared for alongside children who do not receive CCDF, by approximately 570,000 participating child care providers, some of whom lack basic assurances needed to ensure children are safe, healthy, and learning.
Since 1996, a body of research has demonstrated the importance of the early years on brain development and has shown that high quality, consistent child care can positively impact later success in school and life. This is especially true for low-income children

who face a school readiness and achievement gap and can benefit the most from high quality early learning environments. In light of this research, many States, Territories, and tribes, working collaboratively with the Federal Government, have taken important steps over the last 15 years to make the CCDF program more child-focused and family-friendly; however, implementation of these evidence-informed practices is uneven across the country and critical gaps remain.

This regulatory action is needed in order to increase accountability in the CCDF program by ensuring that all children receiving federally-funded child care assistance are in safe, quality programs that both support their parent's labor market participation, and help children develop the tools and skills they need to reach their full potential.

A major focus of this proposed rule is to raise the bar on quality by establishing a floor of health and safety standards for child care paid for with Federal funds. National surveys have demonstrated that most parents logically assume that their child care providers have had a background check, have had training in child health and safety, and are regularly monitored. However, State policies surrounding the training and oversight of child care providers vary widely. In some States, many children receiving CCDF subsidies are cared for by providers that have little to no oversight with respect to compliance with basic standards designed to safeguard children's well-being, such as first-aid and safe sleep practices. This can leave children in unsafe conditions, even as their care is being funded with public dollars.

In addition, the proposed rule empowers all parents who choose child care, regardless of whether they receive a Federal subsidy, with better information to make the best choices for their children. This includes providing parents with information about the quality of child care providers and making information about providers' compliance with health and safety regulations more transparent so that parents can be aware of the safety track record of providers when it's time to choose child care.

Summary of Legal Basis: This proposed regulation is being issued under the authority granted to the Secretary of Health and Human Services by the CCDBG Act (42 U.S.C. 9858, *et seq.*) and Section 418 of the Social Security Act (42 U.S.C. 618).

Alternatives: The Administration for Children and Families considered a range of approaches to improve early childhood care and education, including administrative and regulatory action. ACF has taken administrative actions to recommend that States adopt stronger health and safety requirements and provided technical assistance to States. Despite these efforts to assist States in making voluntary reforms, unacceptable health and safety lapses remain. An alternative to this rule would be to take no regulatory action or to limit the nature of the required standards and the degree to which those standards are prescriptive. ACF believes this rulemaking is the preferable alternative to ensure children's health and safety and promote their learning and development.

Anticipated Cost and Benefits: Changes in this proposed rule directly benefit children and parents who use CCDF assistance to pay for child care. The 1.7 million children who are in child care funded by CCDF would have stronger protections for their health and safety, which addresses every parent's paramount concern. All children in the care of a participating CCDF provider will be safer because that provider is more knowledgeable about health and safety issues. In addition, the families of the 12 million children who are served in child care will benefit from having clear, accessible information about the safety compliance records and quality indicators of providers available to them as they make critical choices about where their children will be cared for while they work. Provisions also will benefit child care providers by encouraging States to invest in high quality child care providers and professional development and to take into account quality when they determine child care payment rates.

A primary reason for revising the CCDF regulations is to better reflect current State and local practices to improve the quality of child care. Therefore, there are a significant number of States, Territories, and Tribes that have already implemented many of these policies. The cost of implementing the changes in this proposed rule will vary depending on a State's specific situation. ACF does not believe the costs of this proposed regulatory action would be economically significant and that the tremendous benefits to low-income children justify costs associated with this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	
NPRM Comment Period End.	02/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State, Tribal.

Agency Contact: Andrew Williams, Policy Division Director, Department of Health and Human Services, Administration for Children and Families, Office of Child Care, 370 L'Enfant Promenade SW., Washington, DC 20447, *Phone:* 202 401–4795, *Fax:* 202 690–5600, *Email:* *andrew.williams@acf.hhs.gov.*

RIN: 0970–AC53

BILLING CODE 4150–24–P

DEPARTMENT OF HOMELAND SECURITY (DHS)

Fall 2012 Statement of Regulatory Priorities

The Department of Homeland Security (DHS or Department) was created in 2003 pursuant to the Homeland Security Act of 2002, Public Law 107–296. DHS has a vital mission: To secure the Nation from the many threats we face. This requires the dedication of more than 225,000 employees in jobs that range from aviation and border security to emergency response, from cybersecurity analyst to chemical facility inspector. Our duties are wide-ranging, but our goal is clear—keeping America safe.

Our mission gives us six main areas of responsibility:

1. Prevent Terrorism and Enhance Security,
2. Secure and Manage Our Borders,
3. Enforce and Administer our Immigration Laws,
4. Safeguard and Secure Cyberspace,
5. Ensure Resilience to Disasters, and
6. Mature and Strengthen DHS.

In achieving these goals, we are continually strengthening our partnerships with communities, first responders, law enforcement, and government agencies—at the State, local, tribal, Federal, and international levels. We are accelerating the deployment of science, technology, and innovation in order to make America more secure, and we are becoming leaner, smarter, and more efficient, ensuring that every security resource is used as effectively as possible. For a further discussion of our main areas of responsibility, see the DHS Web site at *http://www.dhs.gov/our-mission.*

The regulations we have summarized below in the Department's fall 2012 regulatory plan and in the agenda support the Department's responsibility areas listed above. These regulations

will improve the Department's ability to accomplish its mission.

The regulations we have identified in this year's fall regulatory plan continue to address legislative initiatives including, but not limited to, the following acts: The Implementing Recommendations of the 9/11 Commission Act of 2008 (9/11 Act), Public Law 110–53 (Aug. 3, 2007); the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA), Public Law 109–295 (Oct. 4, 2006); the Consolidated Natural Resources Act of 2008 (CNRA), Public Law 110–220 (May 7, 2008); the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109–347 (Oct. 13, 2006); and the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Public Law 110–329 (Sep. 30, 2008).

DHS strives for organizational excellence and uses a centralized and unified approach in managing its regulatory resources. The Office of the General Counsel manages the Department's regulatory program, including the agenda and regulatory plan. In addition, DHS senior leadership reviews each significant regulatory project to ensure that the project fosters and supports the Department's mission.

The Department is committed to ensuring that all of its regulatory initiatives are aligned with its guiding principles to protect civil rights and civil liberties, integrate our actions, build coalitions and partnerships, develop human resources, innovate, and be accountable to the American public.

DHS is also committed to the principles described in Executive Orders 13563 and 12866 (as amended). Both Executive orders direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

Finally, the Department values public involvement in the development of its regulatory plan, agenda, and regulations, and takes particular concern with the impact its rules have on small businesses. DHS and each of its components continue to emphasize the use of plain language in our notices and rulemaking documents to promote a better understanding of regulations and increased public participation in the Department's rulemakings.

Retrospective Review of Existing Regulations

Pursuant to Executive Order 13563 "Improving Regulation and Regulatory Review" (Jan. 18, 2011), DHS identified the following regulatory actions as associated with retrospective review and analysis. Some of the regulatory actions on the below list may be completed actions, which do not appear in The Regulatory Plan. You can find more information about these completed rulemakings in past publications of the Unified Agenda (search the Completed Actions sections) on *www.reginfo.gov*. Some of the entries on this list, however, are active rulemakings. You can find entries for these rulemakings on *www.regulations.gov*.

RIN	Rule
1615–AB71	Electronic Communications; Registration Requirement for Petitioners Seeking to File H–1B Petitions.
1615–AB99	Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives.
1615–AB92	Employment Authorization for Certain H–4 Spouses.
1615–AB95	Immigration Benefits Business Transformation: Nonimmigrants; Student and Exchange Visitor Program.
1625–AA16	Implementation of the Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW) and Changes to Domestic Endorsements.
1625–AB38	Update to Maritime Security Regulations.
1625–AB80	Elimination of Transportation Worker Identification Credential (TWIC) for Certain Mariner Populations. (Implementation of Section 809 of the 2010 Coast Guard Authorization Act).
1651–AA96	Definition of Form I–94 to Include Electronic Format.
1651–AA93	Closing of the Port of Whitetail, Montana.
1651–AA94	Internet Publication of Administrative Seizure/Forfeiture Notices.
1652–AA43	Modification of the Aviation Security Infrastructure Fee (ASIF).
1652–AA61	Revisions to the Alien Flight Student Program (AFSP) Regulations.
1653–AA44	Amendment to Accommodate Process Changes with the Student and Exchange Visitor Information System (SEVIS) II.
1660–AA75	Increased Federal Cost Share and Reimbursement for Force Account Labor for Public for Public Assistance Debris Removal.
1660–XXXX	State Standard and Enhanced Mitigation Plan.

Promoting International Regulatory Cooperation

Pursuant to Sections 3 and 4(b) of Executive Order 13609 "Promoting International Regulatory Cooperation" (May 1, 2012), DHS has identified the following regulatory actions that have significant international impacts. Some of the regulatory actions on the below list may be completed actions. You can find more information about these completed rulemakings in past publications of the Unified Agenda (search the Completed Actions sections) on *www.reginfo.gov*. Some of the entries on this list, however, are active rulemakings. You can find entries for these rulemakings on *www.regulations.gov*.

RIN	Rule
1625–AB38	Updates to Maritime Security.
1651–AA70	Importer Security Filing and Additional Carrier Requirements.
1651–AA72	Changes to the Visa Waiver Program To Implement the Electronic System for Travel Authorization (ESTA) Program.
1651–AA98	Amendments to Importer Security Filing and Additional Carrier Requirements.
1651–AA96	Definition of Form I–94 to Include Electronic Format.

DHS participates in some international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations. For example, the Coast Guard is the primary U.S. representative to the International Maritime Organization (IMO) and plays a major leadership role in establishing international standards in the global maritime community. IMO's work to establish international standards for maritime safety, security, and environmental protection closely aligns with Coast Guard regulations. As an IMO member nation, the U.S. is obliged to incorporate IMO treaty provisions not already part of U.S. domestic policy into regulations for those vessels affected by the international standards. Consequently, the Coast Guard initiates rulemakings to harmonize with IMO international standards such as treaty provisions and the codes, conventions, resolutions, and circulars that supplement them.

Also, President Obama and Prime Minister Harper created the Canada-US Regulatory Cooperation Council (RCC) in February 2011. The RCC is an initiative between both federal governments aimed at pursuing greater alignment in regulation, increasing mutual recognition of regulatory practices and establishing smarter, more effective and less burdensome regulations in specific sectors. The Canada-US RCC initiative arose out of the recognition that high level, focused, and sustained effort would be required to reach a more substantive level of regulatory cooperation. Since its creation in early 2011, USCG has participated in stakeholder consultations with their Transport Canada counterparts and the public, drafted items for inclusion in the RCC Action Plan, and detailed work plans for each included Action Plan item.

The fall 2012 regulatory plan for DHS includes regulations from DHS components—including U.S. Citizenship and Immigration Services (USCIS), the U.S. Coast Guard (Coast Guard), U.S. Customs and Border Protection (CBP), the U.S. Immigration and Customs Enforcement (ICE), and the Transportation Security Administration (TSA), which have active regulatory programs. In addition, it includes regulations from the Department's major offices and directorates such as the National Protection and Programs Directorate (NPPD). Below is a discussion of the fall 2012 regulatory plan for DHS regulatory components, as well as for DHS offices and directorates.

United States Citizenship and Immigration Services

U.S. Citizenship and Immigration Services (USCIS) administers immigration benefits and services while protecting and securing our homeland. USCIS has a strong commitment to welcoming individuals who seek entry through the U.S. immigration system, providing clear and useful information regarding the immigration process, promoting the values of citizenship, and assisting those in need of humanitarian protection. Based on a comprehensive review of the planned USCIS regulatory agenda, USCIS will promulgate several rulemakings to directly support these commitments and goals.

Regulations To Facilitate Retention of High-Skilled Workers

Employment Authorization for Certain H–4 Dependent Spouses. USCIS will propose to amend its regulations to extend eligibility for employment authorization to H–4 dependent spouses of principal H–1B nonimmigrants who have begun the process of seeking lawful permanent resident status through employment and have extended their authorized period of admission or "stay" in the United States under section 104(c) or 106(a) of Public Law 106–313, also known as the American Competitiveness in the Twenty-First Century Act of 2000 (AC21). Allowing the eligible class of H–4 dependent spouses to work encourages professionals with high-demand skills to remain in the country and help spur innovation and growth of U.S. businesses.

Enhancing Opportunities for High-Skilled Workers. USCIS will propose to amend its regulations affecting high-skilled workers within the nonimmigrant classifications for specialty occupation professionals from Chile and Singapore (H–1B1) and from Australia (E–3), to include these classifications in the list of classes of aliens authorized for employment incident to status with a specific employer, to extend automatic employment authorization extensions with pending extension of stay requests, and to update filing procedures. USCIS will also propose amendments related to the immigration classification for employment-based first preference (EB–1) outstanding professors or researchers to allow the submission of comparable evidence. These changes will encourage and facilitate the employment and retention of these high-skilled workers.

Improvements to the Immigration System

Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives. USCIS will amend its regulations to allow certain immediate relatives of U.S. citizens, who are physically present in the United States and must seek immigrant visas through consular processing abroad, to apply for provisional unlawful presence waivers under section 212(a)(9)(B)(v) of the Immigration and Nationality Act of 1952; 8 U.S.C. 1182(a)(9)(B)(v) while in the United States. This regulatory change would significantly reduce the length of time U.S. citizens are separated from their immediate relatives who must use the consular process abroad. It also creates greater efficiencies for both the U.S. Government and applicants.

Regulations Related to Transformation. USCIS is currently engaged in a multi-year transformation effort to create a more efficient, effective, and customer-focused organization by improving our business processes and technology. In the coming years, USCIS will publish regulations to facilitate that effort, including regulations that would accomplish the following changes: Remove references to form numbers, form titles, expired regulatory provisions, and descriptions of internal procedure; mandate electronic filing in certain circumstances; and comprehensively reorganize 8 CFR part 214.

Requirements for Filing Motions and Administrative Appeals. USCIS will propose to revise the procedural regulations governing appeals and motions to reopen or reconsider before its Administrative Appeals Office, and to require that applicants and petitioners exhaust administrative remedies before seeking judicial review of an unfavorable decision. The changes proposed by the rule will streamline the procedures before the Administrative Appeals Office and improve the efficiency of the adjudication process.

Regulations Related to the Commonwealth of Northern Mariana Islands. In 2009, USCIS issued three regulations (two interim final rules and one notice of proposed rulemaking) to implement the extension of U.S. immigration law to the Commonwealth of Northern Mariana Islands (CNMI), as required under title VII of the Consolidated Natural Resources Act of 2008 (CNRA). During fiscal year 2011, USCIS issued two final rules finalizing the interim final rules from 2009 related to the extension of the U.S. immigration

law to the CNMI. In fiscal year 2013, USCIS plans to issue with the Department of Justice (DOJ) a joint final rule titled "Application of Immigration Regulations to the CNMI." This regulation would implement the applicable CNRA provisions to extend U.S. immigration law to the CNMI.

Regulatory Changes Involving Humanitarian Benefits

Asylum and Withholding Definitions. USCIS plans a regulatory proposal to amend the regulations that govern asylum eligibility and refugee status determinations. The amendments are expected to revise the portions of the existing regulations that deal with determinations of whether suffered or feared persecution is on account of a protected ground, the requirements for establishing that the government is unable or unwilling to protect the applicant, and the definition of membership in a particular social group. This proposal would provide greater clarity and consistency in this important area of the law.

Exception to the Persecution Bar for Asylum, Refugee, or Temporary Protected Status, and Withholding of Removal. In a joint rulemaking, DHS and DOJ will propose amendments to existing DHS and DOJ regulations to resolve ambiguity in the statutory language precluding eligibility for asylum, refugee resettlement, temporary protected status, and withholding or removal of an applicant who ordered, incited, assisted, or otherwise participated in the persecution of others. The proposed rule would provide a limited exception for persecutory actions taken by the applicant under duress and would clarify the required level of the applicant's knowledge of the persecution.

"T" and "U" Nonimmigrants. USCIS plans additional regulatory initiatives related to T nonimmigrants (victims of trafficking), U nonimmigrants (victims of criminal activity), and adjustment of status for T and U nonimmigrants to lawful permanent resident status. USCIS hopes to provide greater consistency in eligibility, application and procedural requirements for these vulnerable groups, their advocates, and the community through these regulatory initiatives. These rulemakings will contain provisions to adjust documentary requirements for this vulnerable population and provide greater clarity to the law enforcement community.

Application of the William Wilberforce Trafficking Victims Protection Act of 2008. In a joint rulemaking, DHS and DOJ will propose amendments to implement the William Wilberforce Trafficking Victims Protection Act of 2008 (TVPRA). This statute specified that USCIS has initial jurisdiction over an asylum application filed by an unaccompanied alien child in removal proceedings before an immigration judge. The agencies implemented this legislation with interim procedures that the TVPRA mandated within 90 days after enactment. The proposed rule would amend both agencies' regulations to finalize the procedures to determine when an alien child is unaccompanied and how jurisdiction would be transferred to USCIS for initial adjudication of the child's asylum application. In addition, this rule would address adjustment of status for special immigrant juveniles and voluntary departure for unaccompanied alien children in removal proceedings.

United States Coast Guard

The U.S. Coast Guard (Coast Guard) is a military, multi-mission, maritime service of the United States and the only military organization within DHS. It is the principal Federal agency responsible for maritime safety, security, and stewardship and delivers daily value to the Nation through multi-mission resources, authorities, and capabilities.

Effective governance in the maritime domain hinges upon an integrated approach to safety, security, and stewardship. The Coast Guard's policies and capabilities are integrated and interdependent, delivering results through a network of enduring partnerships. The Coast Guard's ability to field versatile capabilities and highly-trained personnel is one of the U.S. Government's most significant and important strengths in the maritime environment.

America is a maritime nation, and our security, resilience, and economic prosperity are intrinsically linked to the oceans. Safety, efficient waterways, and freedom of transit on the high seas are essential to our well-being. The Coast Guard is leaning forward, poised to meet the demands of the modern maritime environment. The Coast Guard creates value for the public through solid prevention and response efforts. Activities involving oversight and regulation, enforcement, maritime presence, and public and private partnership foster increased maritime safety, security, and stewardship.

The statutory responsibilities of the Coast Guard include ensuring marine safety and security, preserving maritime mobility, protecting the marine environment, enforcing U.S. laws and international treaties, and performing search and rescue. The Coast Guard supports the Department's overarching goals of mobilizing and organizing our Nation to secure the homeland from terrorist attacks, natural disasters, and other emergencies. The rulemaking projects identified for the Coast Guard in the Unified Agenda, and the rules appearing in the fall 2012 Regulatory Plan below, contribute to the fulfillment of those responsibilities and reflect our regulatory policies.

Transportation Worker Identification Credential (TWIC); Card Reader Requirements. The Coast Guard is proposing to establish electronic card reader requirements for maritime facilities and vessels to be used in combination with the Transportation Security Administration's (TSA) TWIC. Congress enacted several statutory requirements within the Security and Accountability For Every (SAFE) Port Act of 2006 pertaining to TWIC readers, including a requirement to evaluate TSA's final pilot program report as part of the TWIC reader rulemaking. During the rulemaking process, the Coast Guard is taking into account the final pilot data and the various conditions in which TWIC readers may be employed. For example, the Coast Guard is considering the types of vessels and facilities that will use TWIC readers, locations of secure and restricted areas, operational constraints, and need for accessibility. This rulemaking will also address recordkeeping requirements, amendments to security plans, and the requirement for data exchanges (i.e., Canceled Card List) between TSA and vessel or facility owners/operators.

Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978. The Coast Guard proposed to amend its regulations to implement changes to an interim rule published on June 26, 1997. These proposed amendments go beyond changes found in the interim rule and seek to more fully incorporate the requirements of the STCW in the requirements for the credentialing of U.S. merchant mariners. The proposed changes are primarily substantive and: (1) Are necessary to continue to give full and complete effect to the STCW Convention; (2) incorporate lessons learned from implementation of the STCW through the interim rule and through policy letters and Navigation and Vessel Inspection Circulars; and (3) attempt to clarify regulations that have generated confusion. This proposal published as a Supplemental Notice of Proposed Rulemaking (SNPRM) on

August 1, 2011. The Coast Guard has reviewed and analyzed comments received on that SNPRM, and intends to publish a final rule complying with the requirements of the newly amended STCW Convention. DHS included this rulemaking in the DHS Final Plan for the Retrospective Review of Existing Regulations, which DHS released on August 22, 2011.

Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System. The Coast Guard intends to expand the applicability of notice of arrival and departure (NOAD) and automatic identification system (AIS) requirements to include more commercial vessels. This rule, once final, would expand the applicability of notice of arrival (NOA) requirements to include additional vessels, establish a separate requirement for vessels to submit notices of departure (NOD) when departing for a foreign port or place, set forth a mandatory method for electronic submission of NOA and NOD, and modify related reporting content, timeframes, and procedures. This rule would also extend the applicability of AIS requirements beyond Vessel Traffic Service (VTS) areas to all U.S. navigable waters and require additional commercial vessels install and use AIS. These changes are intended to improve navigation safety, enhance our ability to identify and track vessels, and heighten the Coast Guard's overall maritime domain awareness, thus helping the Coast Guard address threats to maritime transportation safety and security and mitigate the possible harm from such threats.

Offshore Supply Vessels of 6000 or more GT ITC. The Coast Guard Authorization Act of 2010 (the Act) removed the size limit on offshore supply vessels (OSVs) and directed the Coast Guard to issue, as soon as practicable, an interim rule to implement section 617 of the Act. As required by the Act, this interim rule is intended to provide for the safe carriage of oil, hazardous substances, and individuals in addition to crew on OSVs of at least 6000 gross tonnage as measured under the International Convention on Tonnage Measurement of Ships (6,000 GT ITC). In developing the regulations the Coast Guard is taking into account the characteristics of offshore supply vessels, their methods of operation, and their service in support of exploration, exploitation, or production of offshore mineral or energy resources.

United States Customs and Border Protection

U.S. Customs and Border Protection (CBP) is the federal agency principally responsible for the security of our Nation's borders, both at and between the ports of entry and at official crossings into the United States. CBP must accomplish its border security and enforcement mission without stifling the flow of legitimate trade and travel. The primary mission of CBP is its homeland security mission, that is, to prevent terrorists and terrorist weapons from entering the United States. An important aspect of this priority mission involves improving security at our borders and ports of entry, but it also means extending our zone of security beyond our physical borders.

CBP is also responsible for administering laws concerning the importation into the United States of goods, and enforcing the laws concerning the entry of persons into the United States. This includes regulating and facilitating international trade; collecting import duties; enforcing U.S. trade, immigration and other laws of the United States at our borders; inspecting imports, overseeing the activities of persons and businesses engaged in importing; enforcing the laws concerning smuggling and trafficking in contraband; apprehending individuals attempting to enter the United States illegally; protecting our agriculture and economic interests from harmful pests and diseases; servicing all people, vehicles and cargo entering the United States; maintaining export controls; and protecting U.S. businesses from theft of their intellectual property.

In carrying out its priority mission, CBP's goal is to facilitate the processing of legitimate trade and people efficiently without compromising security. Consistent with its primary mission of homeland security, CBP intends to finalize several rules during the next fiscal year that are intended to improve security at our borders and ports of entry. These rules foster the DHS' Strategic Goals of awareness and prevention. We have highlighted some of these rules below.

Electronic System for Travel Authorization (ESTA). On June 9, 2008, CBP published an interim final rule amending DHS regulations to implement the Electronic System for Travel Authorization (ESTA) for aliens who wish to enter the United States under the Visa Waiver Program (VWP) at air or sea ports of entry. This rule is intended to fulfill the requirements of section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act). The rule establishes ESTA and delineates the data field DHS has determined will be collected by the system. The rule requires that each alien traveling to the United States under the VWP must obtain electronic travel authorization via the ESTA System in advance of such travel. VWP travelers may obtain the required ESTA authorization by electronically submitting to CBP biographic and other information that was previously submitted to CBP via the I–94W Nonimmigrant Alien Arrival/Departure Form (I–94W). ESTA became mandatory on January 12, 2009. Therefore, VWP travelers must either obtain travel authorization in advance of travel under ESTA or obtain a visa prior to traveling to the United States.

The shift from a paper to an electronic form and requiring the data in advance of travel enables CBP to determine before the alien departs for the U.S., the eligibility of nationals from VWP countries to travel to the United States and to determine whether such travel poses a law enforcement or security risk. By modernizing the VWP, the ESTA increases national security and provides for greater efficiencies in the screening of international travelers by allowing for vetting of subjects of potential interest well before boarding, thereby reducing traveler delays based on lengthy processes at ports of entry. On August 9, 2010, CBP also published an interim final rule amending the ESTA regulations to require ESTA applicants to pay a congressionally mandated fee which is the sum of two amounts, a $10 travel promotion fee for an approved ESTA and a $4.00 operational fee for the use of ESTA set by the Secretary of Homeland Security to at least ensure the recovery of the full costs of providing and administering the ESTA system. CBP intends to issue a final rule on ESTA and the ESTA fee during the next fiscal year.

Importer Security Filing and Additional Carrier Requirements. The Security and Accountability for Every Port Act of 2006 (SAFE Port Act), calls for CBP to promulgate regulations to require the electronic transmission of additional data elements for improved high-risk targeting. See Pub. L. No. 109–347, Section 203 (October 13, 2006). This includes appropriate security elements of entry data for cargo destined for the United States by vessel prior to loading of such cargo on vessels at foreign seaports. *Id.* The SAFE Port Act requires that the information collected reasonably improve CBP's ability to identify high-risk shipments to prevent smuggling and ensure cargo safety and security. *Id.*

On November 25, 2008, CBP published an interim final rule "Importer Security filing and Additional Carrier Requirements," amending CBP Regulations to require carriers and importers to provide to CBP, via a CBP approved electronic data interchange system, information necessary to enable CBP to identity high-risk shipments to prevent smuggling and ensure cargo safety and security. This rule, which became effective on January 26, 2009, improves CBP risk assessment and targeting capabilities, facilitates the prompt release of legitimate cargo following its arrival in the United States, and assists CBP in increasing the security of the global trading system. The comment period for the interim final rule concluded on June 1, 2009. CBP is analyzing comments and conducting a structured review of certain flexibility provided in the interim final rule. CBP intends to publish a final rule during the next fiscal year.

Implementation of the Guam-CNMI Visa Waiver Program. CBP published an interim final rule in November 2008 amending the DHS regulations to replace the current Guam Visa Waiver Program with a new Guan-CNMI Visa Waiver program. This rule implements portions of the National Resources Act of 2008 (CNRA), which extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and among others things, provides for a visa waiver program for travel to Guan and the CNMI. The amended regulations set forth the requirements for nonimmigrant visitors who seek admission for business or pleasure and solely for entry into and stay on Guam or the CNMI without a visa. The rule also establishes six ports of entry in the CNMI for purposes of administering and enforcing the Guam-CNMI Visa Waiver program. CBP intends to issue a final rule during the next fiscal year.

In the above paragraphs, DHS discusses the CBP regulations that foster DHS's mission. CBP also issues regulations related to the mission of the Department of the Treasury. Under section 403(1) of the Homeland Security Act of 2002, the former-U.S. Customs Service, including functions of the Secretary of the Treasury relating thereto, transferred to the Secretary of Homeland Security. As part of the initial organization of DHS, the Customs Service inspection and trade functions were combined with the immigration and agricultural inspection functions and the Border Patrol and transferred into CBP. It is noted that certain regulatory authority of the United States Customs Service relating to customs revenue function was retained by the Department of the Treasury (see the Department of the Treasury Regulatory Plan). In addition to its plans to continue issuing regulations to enhance border security, CBP, during fiscal year 2013, expects to continue to issue regulatory documents that will facilitate legitimate trade and implement trade benefit program. CBP regulations regarding the customs revenue function are discussed in the Regulatory Plan of the Department of the Treasury.

Federal Emergency Management Agency

The Federal Emergency Management Agency does not have any significant regulatory actions planned for fiscal year 2013.

Federal Law Enforcement Training Center

The Federal Law Enforcement Training Center (FLETC) does not have any significant regulatory actions planned for fiscal year 2013.

United States Immigration and Customs Enforcement

ICE is the principal criminal investigative arm of the Department of Homeland Security and one of the three Department components charged with the civil enforcement of the Nation's immigration laws. Its primary mission is to protect national security, public safety, and the integrity of our borders through the criminal and civil enforcement of Federal law governing border control, customs, trade, and immigration.

During fiscal year 2013, ICE will pursue rulemaking actions to make improvements in three critical subject areas: Setting national standards to prevent, detect, and respond to sexual abuse and assault in DHS confinement facilities; improving the detention of aliens who are subject to final orders of removal; and updating and enhancing policies and procedures governing the Student and Exchange Visitor Program (SEVP).

Setting National Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in DHS Confinement Facilities. In cooperation with Department and CBP, ICE will set national detention standards to prevent, detect, and respond to sexual abuse and assault in DHS confinement facilities. For purposes of this rulemaking, DHS confinement facilities are broken down into two distinct types: 1) immigration detention facilities and 2) holding facilities. The proposed standards will reflect existing ICE and other DHS detention policies and are in response to the President's Memorandum "Implementing the Prison Rape Elimination Act," issued on May 17, 2012, the same day the Department of Justice issued its final rule in response to the Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. 15601 *et seq.* President Obama's Memorandum affirmed the goals of PREA and directed Federal agencies with confinement facilities to propose rules or procedures necessary to satisfy the requirements of PREA within 120 days of the Memorandum. The DHS notice of proposed rulemaking (NPRM) will be issued during fiscal year 2012, with a final rule to follow addressing comments received through the notice-and-comment process.

Improving Continued Detention of Aliens Subject to Final Orders of Removal. ICE will improve the post order custody review process in a final rule related to the continued detention of aliens subject to final orders of removal in light of the U.S. Supreme Court's decisions in *Zadvydas v. Davis*, 533 U.S. 678 (2001) and *Clark v. Martinez*, 543 U.S. 371 (2005), as well as changes pursuant to the enactment of the Homeland Security Act of 2002. During fiscal year 2013, ICE will also issue a companion NPRM that will allow the public an opportunity to comment on new sections of the custody determination process not previously published for comment.

Updating and enhancing limitations on designated school official assignment and study by F–2 and M–2 nonimmigrants. ICE will revise the current regulation that limits the number of designated school officials (DSOs) that may be nominated for the oversight of each school's campus(es) where international students are enrolled, as well as modify the restrictions placed on the dependents of an F–1 or M–1 nonimmigrant student, in order to permit F–2 and M–2 nonimmigrants to enroll in less than a full course of study at an SEVP-certified school. Currently, schools are limited to ten DSOs per school or per campus in a multi-campus school. ICE has found that the current DSO limit of ten per campus is too constraining, especially in schools that have large numbers of F and M nonimmigrant students. ICE believes that, in many circumstances, elimination of a DSO limit may improve the capability of DSOs to meet their liaison, reporting and oversight responsibilities. In addition, ICE recognizes that there is increasing global competition to attract the best and brightest international students to study in our schools. Allowing a more flexible

approach by permitting F–2 and M–2 nonimmigrant spouses and children to engage in study in the United States at SEVP-certified schools, so long as that study does not amount to a full course of study, will provide greater incentive for international students to travel to the United States for their education.

National Protection and Programs Directorate

The goal of the National Protection and Programs Directorate (NPPD) is to advance the Department's risk-reduction mission. Reducing risk requires an integrated approach that encompasses both physical and virtual threats and their associated human elements.

Ammonium Nitrate Security Program. Section 563 of the Fiscal Year 2008 Department of Homeland Security Appropriations Act, Public Law 110–161, amended the Homeland Security Act of 2002 to provide DHS with the authority to "regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility * * * to prevent the misappropriation or use of ammonium nitrate in an act of terrorism." This authority is contained in a new Secure Handling of Ammonium Nitrate subtitle of the Homeland Security Act (Subtitle J, 6 U.S.C. 488–488i).

The Secure Handling of Ammonium Nitrate provisions of the Homeland Security Act direct DHS to promulgate regulations requiring potential buyers and sellers of ammonium nitrate to register with DHS. As part of the registration process, the statute directs DHS to screen registration applicants against the Federal Government's Terrorist Screening Database. The statute also requires sellers of ammonium nitrate to verify the identities of those seeking to purchase it; to record certain information about each sale or transfer of ammonium nitrate; and to report thefts and losses of ammonium nitrate with DHS.

The Ammonium Nitrate Security Program Notice of Proposed Rulemaking proposes requirements that would implement the Secure Handling of Ammonium Nitrate provisions of the Homeland Security Act. The rule would aid the Federal Government in its efforts to prevent the misappropriation of ammonium nitrate for use in acts of terrorism. By preventing such misappropriation, this rule aims to limit terrorists' abilities to threaten the public and to threaten the Nation's critical infrastructure and key resources. By securing the Nation's supply of ammonium nitrate, it will be more difficult for terrorists to obtain ammonium nitrate materials for use in terrorist acts.

On October 29, 2008, DHS published an Advance Notice of Proposed Rulemaking (ANPRM) for the Secure Handling of Ammonium Nitrate Program, and received a number of public comments on that ANPRM. DHS reviewed those comments and published a Notice of Proposed Rulemaking (NPRM) for the Ammonium Nitrate Security Program on August 3, 2011. NPPD accepted public comments until December 1, 2011, and is now reviewing the public comments and developing a Final Rule related to the Ammonium Nitrate Security Program.

Transportation Security Administration

The Transportation Security Administration (TSA) protects the Nation's transportation systems to ensure freedom of movement for people and commerce. TSA is committed to continuously setting the standard for excellence in transportation security through its people, processes, and technology as we work to meet the immediate and long-term needs of the transportation sector.

In fiscal year 2013, TSA will promote the DHS mission by emphasizing regulatory efforts that allow TSA to better identify, detect, and protect against threats against various modes of the transportation system, while facilitating the efficient movement of the traveling public, transportation workers, and cargo.

Passenger Screening Using Advanced Imaging Technology (AIT). TSA will propose to amend its civil aviation regulations to clarify that screening and inspection of an individual, conducted to control access to the sterile area of an airport or to an aircraft, may include the use of advanced imaging technology (AIT). This NPRM will be issued to comply with the decision rendered by the U.S. Court of Appeals for the District Columbia Circuit in Electronic Privacy Information Center (EPIC) v. U.S. Department of Homeland Security on July 15, 2011. 653 F.3d 1 (D.C. Cir. 2011). The Court directed TSA to conduct notice and comment rulemaking on the use of AIT in the primary screening of passengers.

Security Training for Surface Mode Employees. TSA will propose regulations to enhance the security of several non-aviation modes of transportation. In particular, TSA will propose regulations requiring freight railroad carriers, public transportation agencies (including rail mass transit and bus systems), passenger railroad carriers, and over-the-road bus operators to conduct security training for front line employees. This regulation would implement sections 1408 (Public Transportation), 1517 (Freight Railroads), and 1534(a) (Over the Road Buses) of the Implementing Recommendations of the 9/11 Commission Act of 2008 (9/11 Act), Public Law 110–53 (Aug. 3, 2007). In compliance with the definitions of frontline employees in the pertinent provisions of the 9/11 Act, the Notice of Proposed Rulemaking (NPRM) would define which employees are required to undergo training. The NPRM would also propose definitions for transportation security-sensitive materials, as required by section 1501 of the 9/11 Act.

Aircraft Repair Station Security. TSA will finalize a rule requiring repair stations that are certificated by the Federal Aviation Administration under 14 CFR part 145 to adopt and implement standard security programs and to comply with security directives issued by TSA. TSA issued a Notice of Proposed Rulemaking (NPRM) on November 18, 2009. The final rule will also codify the scope of TSA's existing inspection program and could require regulated parties to allow DHS officials to enter, inspect, and test property, facilities, and records relevant to repair stations. This rulemaking action will implement section 1616 of the 9/11 Act.

Standardized Vetting, Adjudication, and Redress Process and Fees. TSA is developing a proposed rule to revise and standardize the procedures, adjudication criteria, and fees for most of the security threat assessments (STA) of individuals that TSA conducts. DHS is considering a proposal that would include procedures for conducting STAs for transportation workers from almost all modes of transportation, including those covered under the 9/11 Act. In addition, TSA will propose equitable fees to cover the cost of the STAs and credentials for some personnel. TSA plans to identify new efficiencies in processing STAs and ways to streamline existing regulations by simplifying language and removing redundancies.

As part of this proposed rule, TSA will propose revisions to the Alien Flight Student Program (AFSP) regulations. TSA published an interim final rule for ASFP on September 20, 2004. TSA regulations require aliens seeking to train at Federal Aviation Administration-regulated flight schools to complete an application and undergo an STA prior to beginning flight training. There are four categories under which students currently fall; the nature of the STA depends on the student's category. TSA is considering changes to the AFSP that would improve equity among fee payers and enable the

implementation of new technologies to support vetting.

United States Secret Service

The United States Secret Service does not have any significant regulatory actions planned for fiscal year 2013.

DHS Regulatory Plan for Fiscal Year 2013

A more detailed description of the priority regulations that comprise DHS's fall 2012 regulatory plan follows.

DHS—U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS)

Proposed Rule Stage

50. Asylum and Withholding Definitions

Priority: Other Significant.

Legal Authority: 8 U.S.C. 1103; 8 U.S.C. 1158; 8 U.S.C. 1226; 8 U.S.C. 1252; 8 U.S.C. 1282

CFR Citation: 8 CFR part 2; 8 CFR part 208.

Legal Deadline: None.

Abstract: This rule proposes to amend Department of Homeland Security regulations that govern asylum eligibility. The amendments focus on portions of the regulations that deal with the definitions of membership in a particular social group, the requirements for failure of State protection, and determinations about whether persecution is inflicted on account of a protected ground. This rule codifies long-standing concepts of the definitions. It clarifies that gender can be a basis for membership in a particular social group. It also clarifies that a person who has suffered or fears domestic violence may under certain circumstances be eligible for asylum on that basis. After the Board of Immigration Appeals published a decision on this issue in 1999, Matter of R–A–, Int. Dec. 3403 (BIA 1999), it became clear that the governing regulatory standards required clarification. The Department of Justice began this regulatory initiative by publishing a proposed rule addressing these issues in 2000.

Statement of Need: This rule provides guidance on a number of key interpretive issues of the refugee definition used by adjudicators deciding asylum and withholding of removal (withholding) claims. The interpretive issues include whether persecution is inflicted on account of a protected ground, the requirements for establishing the failure of State protection, and the parameters for defining membership in a particular social group. This rule will aid in the adjudication of claims made by applicants whose claims fall outside of the rubric of the protected grounds of race, religion, nationality, or political opinion. One example of such claims which often fall within the particular social group ground concerns people who have suffered or fear domestic violence. This rule is expected to consolidate issues raised in a proposed rule in 2000 and to address issues that have developed since the publication of the proposed rule. This rule should provide greater stability and clarity in this important area of the law. This rule will also provide guidance to the following adjudicators: USCIS asylum officers, Department of Justice Executive Office for Immigration Review (EOIR) immigration judges, and members of the EOIR Board of Immigration Appeals (BIA).

Summary of Legal Basis: The purpose of this rule is to provide guidance on certain issues that have arisen in the context of asylum and withholding adjudications. The 1951 Geneva Convention relating to the Status of Refugees contains the internationally accepted definition of a refugee. United States immigration law incorporates an almost identical definition of a refugee as a person outside his or her country of origin "who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." Section 101(a)(42) of the Immigration and Nationality Act.

Alternatives: A sizable body of interpretive case law has developed around the meaning of the refugee definition. Historically, much of this case law has addressed more traditional asylum and withholding claims based on the protected grounds of race, religion, nationality, or political opinion. In recent years, however, the United States increasingly has encountered asylum and withholding applications with more varied bases, related, for example, to an applicant's gender or sexual orientation. Many of these new types of claims are based on the ground of "membership in a particular social group," which is the least well-defined of the five protected grounds within the refugee definition.

On December 7, 2000, DOJ published a proposed rule in the **Federal Register** providing guidance on the definitions of "persecution" and "membership in a particular social group." Prior to publishing a new proposed rule, the Department will be considering how the nexus between persecution and a protected ground might be further conceptualized; how membership in a particular social group might be defined and evaluated; and what constitutes a State's inability or unwillingness to protect the applicant where the persecution arises from a non-State actor. The alternative to publishing this rule would be to allow the standards governing this area of law to continue to develop piecemeal through administrative and judicial precedent. This approach has resulted in inconsistent and confusing standards, and the Department has therefore determined that promulgation of the new proposed rule is necessary.

Anticipated Cost and Benefits: By providing a clear framework for key asylum and withholding issues, we anticipate that adjudicators will have clear guidance, increasing administrative efficiency and consistency in adjudicating these cases. The rule will also promote a more consistent and predictable body of administrative and judicial precedent governing these types of cases. We anticipate that this will enable applicants to better assess their potential eligibility for asylum, and to present their claims more efficiently when they believe that they may qualify, thus reducing the resources spent on adjudicating claims that do not qualify. In addition, a more consistent and predictable body of law on these issues will likely result in fewer appeals, both administrative and judicial, and reduce associated litigation costs. The Department has no way of accurately predicting how this rule will impact the number of asylum applications filed in the United States. Based on anecdotal evidence and on the reported experience of other nations that have adopted standards under which the results are similar to those we anticipate for this rule, we do not believe this rule will cause a change in the number of asylum applications filed.

Risks: The failure to promulgate a final rule in this area presents significant risk of further inconsistency and confusion in the law. The Government's interests in fair, efficient, and consistent adjudications would be compromised.

Timetable:

Action	Date	FR Cite
NPRM	12/07/00	65 FR 76588
NPRM Comment Period End.	01/22/01	
NPRM	05/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: CIS No. 2092–00, Transferred from RIN 1115–AF92.

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RIN: 1615–AA41

DHS—USCIS

51. Exception to the Persecution Bar for Asylum, Refugee, and Temporary Protected Status, and Withholding of Removal

Priority: Other Significant.

Legal Authority: 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1158; 8 U.S.C. 1226; Pub. L. 107–26; Pub. L. 110–229

CFR Citation: 8 CFR part 1; 8 CFR part 208; 8 CFR part 244; 8 CFR part 1244.

Legal Deadline: None.

Abstract: This joint rule proposes amendments to Department of Homeland Security (DHS) and Department of Justice (DOJ) regulations to describe the circumstances under which an applicant will continue to be eligible for asylum, refugee, or temporary protected status, special rule cancellation of removal under the Nicaraguan Adjustment and Central American Relief Act, and withholding of removal, even if DHS or DOJ has determined that the applicant's actions contributed, in some way, to the persecution of others. The purpose of this rule is to resolve ambiguity in the statutory language precluding eligibility for asylum, refugee, and temporary protected status of an applicant who ordered, incited, assisted, or otherwise participated in the persecution of others. The proposed amendment would provide a limited exception for actions taken by the applicant under duress and clarify the required levels of the applicant's knowledge of the persecution.

Statement of Need: This rule resolves ambiguity in the statutory language precluding eligibility for asylum, refugee, and temporary protected status of an applicant who ordered, incited, assisted, or otherwise participated in the persecution of others. The proposed amendment would provide a limited exception for actions taken by the applicant under duress and clarify the required levels of the applicant's knowledge of the persecution.

Summary of Legal Basis: In Negusie v. Holder, 129 S. Ct. 1159 (2009), the Supreme Court addressed whether the persecutor bar should apply where an alien's actions were taken under duress. DHS believes that this is an appropriate subject for rulemaking and proposes to amend the applicable regulations to set out its interpretation of the statute. In developing this regulatory initiative, DHS has carefully considered the purpose and history behind enactment of the persecutor bar, including its international law origins and the criminal law concepts upon which they are based.

Alternatives: DHS did consider the alternative of not publishing a rulemaking on these issues. To leave this important area of the law without an administrative interpretation would confuse adjudicators and the public.

Anticipated Cost and Benefits: The programs affected by this rule exist so that the United States may respond effectively to global humanitarian situations and assist people who are in need. USCIS provides a number of humanitarian programs and protection to assist individuals in need of shelter or aid from disasters, oppression, emergency medical issues, and other urgent circumstances. This rule will advance the humanitarian goals of the asylum/refugee program, and other specialized programs. The main benefits of such goals tend to be intangible and difficult to quantify in economic and monetary terms. These forms of relief have not been available to certain persecutors. This rule will allow an exception to this bar from protection for applicants who can meet the appropriate evidentiary standard. Consequently, this rule may result in a small increase in the number of applicants for humanitarian programs. To the extent a small increase in applicants occurs, there could be additional fee costs incurred by these applicants.

Risks: If DHS were not to publish a regulation, the public would face a lengthy period of confusion on these issues. There could also be inconsistent interpretations of the statutory language, leading to significant litigation and delay for the affected public.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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RIN: 1615–AB89

DHS—USCIS

52. Employment Authorization for Certain H–4 Dependent Spouses

Priority: Other Significant.

Legal Authority: INA sec 214(a)(1) 8 U.S.C. 1184(a)(1); INA 274A(h)(3) 8 U.S.C. 1324a(h)(3); 8 CFR 274a.12(c); sec 104(c) of Pub. L. 106–313; sec 106(a) of Pub. L. 106–313; * * *

CFR Citation: 8 CFR 274a.12(c).

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) proposes to amend its regulations by extending the availability of employment authorization to H–4 dependent spouses of principal H–1B nonimmigrants who have begun the process of seeking lawful permanent resident status through employment and have extended their authorized period of admission or "stay" in the U.S. under section 104(c) or 106(a) of Public Law 106–313, also known as the American Competitiveness in the Twenty-First Century Act of 2000 (AC21). Allowing the eligible class of H–4 dependent spouses to work encourages professionals with high demand skills to remain in the country and help spur the innovation and growth of U.S. companies.

Statement of Need: Congress intended that the AC21 provisions allowing for extension of H–1B status past the 6th year for workers who are the beneficiaries of certain pending or approved employment-based immigrant petitions or labor certification applications would minimize the disruption to U.S. businesses employing H–1B workers that would result if such workers were required to leave the United States. DHS recognizes that the limitation on the period of stay is not the only event that could cause an H–1B worker to leave his or her employment and cause disruption to the employer's business, inclusive of the loss of significant time and money invested in the immigration process.

The rule, as proposed by this NPRM, is intended to mitigate some of the negative economic effects of limiting H–1B households to one income during lengthy waiting periods in the adjustment of status process. Also, this rule will encourage H–1B skilled workers to not abandon their adjustment application because their H–4 spouse is unable to work.

Summary of Legal Basis: Sections 103(a), and 274A(h)(3) of the Immigration and Nationality Act (INA) generally authorize the Secretary to provide for employment authorization for aliens in the United States. In addition, section 214(a)(1) of the INA authorizes the Secretary to prescribe regulations setting terms and conditions of admission of nonimmigrants.

Alternatives: An alternative considered by DHS was to permit employer authorization for all H–4 dependent spouses. In enacting AC21, Congress was especially concerned with avoiding the disruption to U.S. businesses caused by the required departure of H–1B workers (for whom the businesses intended to file employment-based immigrant visa petitions) upon the expiration of workers' maximum six-year period of authorized stay. Although the inability of an H–4 spouse to work may cause an H–1B worker to consider departing from the United States prior to his or her eligibility for an H–1B extension. This alternative was rejected in favor of the proposed process to limit employment authorization to the smaller sub-class of H–4 nonimmigrants who intend to remain in the United States permanently and who have been granted an extension of H status under the provisions of AC21.

Anticipated Cost and Benefits: The proposed changes would only impact spouses of H–1B workers who have been admitted or have extended their stay under the provisions of AC21. The costs of the rule would stem from filing fees and the opportunity costs of time associated with filing an Application for Employment Authorization for those eligible H–4 spouses who decide to seek employment while residing in the United States. Allowing certain H–4 spouses the opportunity to work would result in a negligible increase to the overall domestic labor force.

The benefits of this rule are retaining highly-skilled persons who intend to adjust to lawful permanent resident status. This is important when considering the contributions of these individuals to the U.S. economy, including advances in entrepreneurial and research and development endeavors, which are highly correlated with overall economic growth and job creation. In addition, the proposed amendments would bring U.S. immigration laws more in line with other countries that seek to attract skilled foreign workers.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Kevin J. Cummings, Chief, Business and Foreign Workers Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW., Washington, DC 20529–2140. *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email:* *kevin.j.cummings@uscis.dhs.gov.*

RIN: 1615–AB92

DHS—USCIS

53. Enhancing Opportunities for High-Skilled H–1B1 and E–3 Nonimmigrants and EB–1 Immigrants

Priority: Other Significant.

Legal Authority: 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1151; 8 U.S.C. 1153; 8 U.S.C. 1154; 8 U.S.C. 1182; 8 U.S.C. 1184; 8 U.S.C. 1186a; 8 U.S.C. 1255; 8 U.S.C. 1641; * * *

CFR Citation: 8 CFR part 204; 8 CFR part 214; 8 CFR part 248; 8 CFR part 274a.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) proposes to amend its regulations affecting high-skilled workers within the nonimmigrant classifications for specialty occupation professionals from Chile and Singapore (H–1B1) and from Australia (E–3), and the immigration classification for employment-based first preference (EB–1) outstanding professors or researchers. DHS proposes changes that would harmonize the regulations for E–3 and H–1B1 nonimmigrant classifications with existing regulations for other, similarly situated nonimmigrant classifications. DHS is proposing these changes to the regulations to encourage and facilitate the employment and retention of these high-skilled workers.

Statement of Need: DHS proposes to amend its regulations to improve the programs serving the E–3 and H–1B1 nonimmigrant classifications and the EB–1 immigrant classification for outstanding professors and researchers. The regulatory changes to these categories would significantly improve procedures to more effectively encourage and facilitate the retention of these high-skilled workers in the United States.

Anticipated Cost and Benefits: The portion of the proposed rule addressing E–3 and H–1B1 visas would extend the period of employment authorized while requests for an extension of these employment-based nonimmigrant visa classifications are being reviewed. We do not anticipate that this rule would impose any additional costs. The benefits of this portion of the proposed rule include easing the regulatory burden on employers of E–3 and H–1B1 nonimmigrants and avoiding potential gaps in employment for these nonimmigrant workers.

The portion of the proposed rule addressing the evidentiary requirements for the EB–1 outstanding professor and researcher employment-based immigrant classification would allow for the submission of comparable evidence (achievements not listed in the criteria such as important patents or prestigious, peer-reviewed funding grants) for that listed in 8 CFR 204.5(i)(3)(i)(A)–(F) to establish that the EB–1 professor or researcher is recognized internationally as outstanding in his or her academic field. We do not anticipate that this part of the proposed rule would impose additional costs.

The non-quantified benefits would include the harmonization of the evidentiary requirements for EB–1 outstanding professors and researchers with other comparable employment-based immigrant classifications and easing petitioners' recruitment of these highly skilled individuals by expanding the range of evidence that may be adduced to support their petitions.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: None.

Agency Contact: Kevin J. Cummings, Chief, Business and Foreign Workers

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RIN: 1615–AC00

DHS—USCIS

Final Rule Stage

54. New Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status

Priority: Other Significant.

Legal Authority: 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101 to 1104; 8 U.S.C. 1182; 8 U.S.C. 1184; 8 U.S.C. 1187; 8 U.S.C. 1201; 8 U.S.C. 1224 to 1227; 8 U.S.C. 1252 to 1252a; 22 U.S.C. 7101; 22 U.S.C. 7105

CFR Citation: 8 CFR part 103; 8 CFR part 212; 8 CFR part 214; 8 CFR part 274a; 8 CFR part 299.

Legal Deadline: None.

Abstract: T classification was created by 107(e) of the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Public Law 106–386. The T nonimmigrant classification was designed for eligible victims of severe forms of trafficking in persons who aid law enforcement with their investigation or prosecution of the traffickers, and who can establish that they would suffer extreme hardship involving unusual and severe harm if they were removed from the United States. The rule establishes application procedures and responsibilities for the Department of Homeland Security (DHS) and provides guidance to the public on how to meet certain requirements to obtain T nonimmigrant status. The Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110–457, made amendments to the T nonimmigrant status provisions of the Immigration and Naturalization Act.

Statement of Need: T nonimmigrant status is available to eligible victims of severe forms of trafficking in persons who have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking in persons, and who can demonstrate that they would suffer extreme hardship involving unusual and severe harm if removed from the United States. This rule addresses the essential elements that must be demonstrated for classification as a T nonimmigrant alien, the procedures to be followed by applicants to apply for T nonimmigrant status, and evidentiary guidance to assist in the application process.

Summary of Legal Basis: Section 107(e) of the Trafficking Victims Protection Act (TVPA), Public Law 106–386, as amended, established the T classification to create a safe haven for certain eligible victims of severe forms of trafficking in persons who assist law enforcement authorities in investigating and prosecuting the perpetrators of these crimes.

Alternatives: To develop a comprehensive Federal approach to identifying victims of severe forms of trafficking in persons, to provide them with benefits and services, and to enhance the Department of Justice's ability to prosecute traffickers and prevent trafficking in persons in the first place, a series of meetings with stakeholders were conducted with representatives from key Federal agencies; national, State, and local law enforcement associations; non-profit, community-based victim rights organizations; and other groups. DHS is considering and using suggestions from these stakeholders in developing this regulation.

Anticipated Cost and Benefits: Applicants for T nonimmigrant status do not pay application or biometric fees.

The anticipated benefits of these expenditures include: Assistance to trafficked victims and their families, prosecution of traffickers in persons, and the elimination of abuses caused by trafficking activities.

Benefits which may be attributed to the implementation of this rule are expected to be:

1. An increase in the number of cases brought forward for investigation and/or prosecution;

2. Heightened awareness by the law enforcement community of trafficking in persons;

3. Enhanced ability to develop and work cases in trafficking in persons cross-organizationally and multi-jurisdictionally, which may begin to influence changes in trafficking patterns.

Risks: There is a 5,000-person limit to the number of individuals who can be granted T–1 status per fiscal year. Eligible applicants who are not granted T–1 status due solely to the numerical limit will be placed on a waiting list maintained by U.S. Citizenship and Immigration Services (USCIS).

To protect T–1 applicants and their families, USCIS will use various means to prevent the removal of T–1 applicants on the waiting list, and their family members who are eligible for derivative T status, including its existing authority to grant deferred action, parole, and stays of removal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/02	67 FR 4784
Interim Final Rule Effective.	03/04/02	
Interim Final Rule Comment Period End.	04/01/02	
Interim Final Rule	09/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Additional Information: CIS No. 2132–01; AG Order No. 2554–2002. There is a related rulemaking, CIS No. 2170–01, the new U nonimmigrant status (RIN 1615–AA67). Transferred from RIN 1115–AG19.

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Related RIN: Related to 1615–AA67.

RIN: 1615–AA59

DHS—USCIS

55. Adjustment of Status to Lawful Permanent Resident for Aliens in T and U Nonimmigrant Status

Priority: Other Significant.

Legal Authority: 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101 to 1104; 8 U.S.C. 1182; 8 U.S.C. 1184; 8 U.S.C. 1187; 8 U.S.C. 1201; 8 U.S.C. 1224 to 1227; 8 U.S.C. 1252 to 1252a; 8 U.S.C. 1255; 22 U.S.C. 7101; 22 U.S.C. 7105

CFR Citation: 8 CFR part 204; 8 CFR part 214; 8 CFR part 245.

Legal Deadline: None.

Abstract: This rule sets forth measures by which certain victims of severe forms of trafficking who have been granted T nonimmigrant status and victims of certain criminal activity who have been granted U nonimmigrant status may apply for adjustment to permanent resident status in accordance with Public Law 106–386, Victims of Trafficking and Violence Protection Act of 2000; and Public Law 109–162, Violence Against Women and Department of Justice Reauthorization Act of 2005. The Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110–457, made amendments

to the T nonimmigrant status provisions of the Immigration and Naturalization Act. The Department of Homeland Security (DHS) will issue another interim final rule to make the changes required by recent legislation.

Statement of Need: This regulation is necessary to permit aliens in lawful T or U nonimmigrant status to apply for adjustment of status to that of lawful permanent residents. T nonimmigrant status is available to aliens who are victims of a severe form of trafficking in persons and who are assisting law enforcement in the investigation or prosecution of the acts of trafficking. U nonimmigrant status is available to aliens who are victims of certain crimes and are being helpful to the investigation or prosecution of those crimes.

Summary of Legal Basis: This rule implements the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Public Law 106–386, 114 Stat. 1464 (Oct. 28, 2000), as amended, to permit aliens in lawful T or U nonimmigrant status to apply for adjustment of status to that of lawful permanent residents.

Alternatives: DHS did not consider alternatives to managing T and U applications for adjustment of status. Ease of administration dictates that adjustment of status applications from T and U nonimmigrants would be best handled on a first in, first out basis, because that is the way applications for T and U status are currently handled.

Anticipated Cost and Benefits: DHS uses fees to fund the cost of processing applications and associated support benefits. In the 2008 interim final rule, DHS estimated the fee collection resulting from this rule at approximately $3 million in the first year, $1.9 million in the second year, and an average about $32 million in the third and subsequent years. To estimate the new fee collections to be generated by this rule, DHS estimated the fees to be collected for new applications for adjustment of status from T and U nonimmigrants and their eligible family members. After that, DHS estimated fees from associated applications that are required such as biometrics, and others that are likely to occur in direct connection with applications for adjustment, such as employment authorization or travel authorization. DHS is in the process of updating these cost estimates.

The anticipated benefits of these expenditures include: Continued assistance to trafficked victims and their families, increased investigation and prosecution of traffickers in persons, and the elimination of abuses caused by trafficking activities.

Benefits that may be attributed to the implementation of this rule are expected to be:

1. An increase in the number of cases brought forward for investigation and/or prosecution;

2. Heightened awareness of trafficking-in-persons issues by the law enforcement community; and

3. Enhanced ability to develop and work cases in trafficking in persons cross-organizationally and multi-jurisdictionally, which may begin to influence changes in trafficking patterns.

Risks: Congress created the U nonimmigrant status ("U visa") to provide immigration protection to crime victims who assist in the investigation and prosecution of those crimes. Although there are no specific data on alien crime victims, statistics maintained by the Department of Justice have shown that aliens, especially those aliens without legal status, are often reluctant to help in the investigation or prosecution of crimes. U visas are intended to help overcome this reluctance and aid law enforcement accordingly.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/12/08	73 FR 75540
Interim Final Rule Effective.	01/12/09	
Interim Final Rule Comment Period End.	02/10/09	
Interim Final Rule	09/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Additional Information: CIS No. 2134–01. Transferred from RIN 1115–AG21.

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RIN: 1615–AA60

DHS—USCIS

56. New Classification for Victims of Criminal Activity; Eligibility for the U Nonimmigrant Status

Priority: Other Significant.

Legal Authority: 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101; 8 U.S.C. 1101 note; 8 U.S.C. 1102

CFR Citation: 8 CFR part 103; 8 CFR part 204; 8 CFR part 212; 8 CFR part 214; 8 CFR part 299.

Legal Deadline: None.

Abstract: This rule sets forth application requirements for a new nonimmigrant status. The U classification is for non-U.S. Citizen/Lawful Permanent Resident victims of certain crimes who cooperate with an investigation or prosecution of those crimes. There is a limit of 10,000 principals per year.

This rule establishes the procedures to be followed in order to petition for the U nonimmigrant classifications. Specifically, the rule addresses the essential elements that must be demonstrated to receive the nonimmigrant classification, procedures that must be followed to make an application, and evidentiary guidance to assist in the petitioning process. Eligible victims will be allowed to remain in the United States. The Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110–457, made amendments to the U nonimmigrant status provisions of the Immigration and Nationality Act. The Department of Homeland Security will issue another interim final rule to make the changes required by the legislation.

Statement of Need: This rule provides requirements and procedures for aliens seeking U nonimmigrant status. U nonimmigrant classification is available to alien victims of certain criminal activity who assist government officials in the investigation or prosecution of that criminal activity. The purpose of the U nonimmigrant classification is to strengthen the ability of law enforcement agencies to investigate and prosecute such crimes as domestic violence, sexual assault, and trafficking in persons, while offering protection to alien crime victims in keeping with the humanitarian interests of the United States.

Summary of Legal Basis: Congress created the U nonimmigrant classification in the Battered Immigrant Women Protection Act of 2000 (BIWPA). Congress intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes, while offering protection to victims of such crimes. Congress also sought to encourage law enforcement officials to better serve immigrant crime victims.

Alternatives: DHS has identified four alternatives, the first being chosen for the rule:

1. USCIS would adjudicate petitions on a first in, first out basis. Petitions received after the limit has been reached would be reviewed to determine whether or not they are approvable, but for the numerical cap. Approvable petitions that are reviewed after the numerical cap has been reached would be placed on a waiting list and written notice sent to the petitioner. Priority on the waiting list would be based upon the date on which the petition is filed. USCIS would provide petitioners on the waiting list with interim relief until the start of the next fiscal year in the form of deferred action, parole, or a stay of removal.

2. USCIS would adjudicate petitions on a first in, first out basis, establishing a waiting list for petitions that are pending or received after the numerical cap has been reached. Priority on the waiting list would be based upon the date on which the petition was filed. USCIS would not provide interim relief to petitioners whose petitions are placed on the waiting list.

3. USCIS would adjudicate petitions on a first in, first out basis. However, new filings would be reviewed to identify particularly compelling cases for adjudication. New filings would be rejected once the numerical cap is reached. No official waiting list would be established; however, interim relief until the start of the next fiscal year would be provided for some compelling cases. If a case was not particularly compelling, the filing would be denied or rejected.

4. USCIS would adjudicate petitions on a first in, first out basis. However, new filings would be rejected once the numerical cap is reached. No waiting list would be established nor would interim relief be granted.

Anticipated Cost and Benefits: DHS estimated the total annual cost of this interim rule to petitioners to be $6.2 million in the IFR published in 2007. This cost included the biometric services fee, the opportunity cost of time needed to submit the required forms, the opportunity cost of time required for a visit to a USCIS Application Support Center, and the cost of traveling to an Application Support Center. DHS is currently in the process of updating our cost estimates since U nonimmigrant visa applicants are no longer required to pay the biometric service fee.

This rule will strengthen the ability of law enforcement agencies to investigate and prosecute such crimes as domestic violence, sexual assault, and trafficking in persons, while offering protection to alien crime victims in keeping with the humanitarian interests of the United States.

Risks: In the case of witness tampering, obstruction of justice, or perjury, the interpretive challenge for USCIS was to determine whom the BIWPA was meant to protect, given that these criminal activities are not targeted against a person. Accordingly it was determined that a victim of witness tampering, obstruction of justice, or perjury is an alien who has been directly and proximately harmed by the perpetrator of one of these three crimes, where there are reasonable grounds to conclude that the perpetrator principally committed the offense as a means: (1) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring him or her to justice for other criminal activity; or (2) to further his or her abuse or exploitation of, or undue control over, the alien through manipulation of the legal system.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/17/07	72 FR 53013
Interim Final Rule Effective.	10/17/07	
Interim Final Rule Comment Period End.	11/17/07	
Interim Final Rule	09/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Additional Information: Transferred from RIN 1115–AG39.

Agency Contact: Laura M. Dawkins, Chief, Regulatory Coordination Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Suite 1200, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email: laura.dawkins@uscis.dhs.gov.*

RIN: 1615–AA67

DHS—USCIS

57. Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1304; 8 U.S.C. 1182 and note; 8 U.S.C. 1184; 8 U.S.C. 1187; 8 U.S.C. 1223; 8 U.S.C. 1225; 8 U.S.C. 1226; 8 U.S.C. 1227; 8 U.S.C. 1255; 8 U.S.C. 1304; 8 U.S.C. 1356; 8 U.S.C. 1185 and note (section 7209 of Pub. L. 108–458); 31 U.S.C. 9701; Pub. L. 107–296, 116 Stat 2135 (6 U.S.C. 1 *et seq.*); EO 12356, 47 FR 14874, 47 FR 15557; 3 CFR 1982 Comp p 166; 8 CFR 2; sec 212.1(q) also issued under sec 702, Pub. L. 110–229, 122 Stat 754, 854

CFR Citation: 8 CFR part 103; 8 CFR part 212.

Legal Deadline: None.

Abstract: On April 2, 2012, the Department of Homeland Security (DHS) published a proposed rule at 77 FR 19902 to amend its regulations to allow certain immediate relatives of U.S. citizens who are physically present in the United States to request provisional unlawful presence waivers under section 212(a)(9)(B)(v) of the Immigration and Nationality Act of 1952 (INA); 8 U.S.C. 1182(a)(9)(B)(v) in anticipation of immigrant visa processing abroad. The final rule implements the provisional unlawful presence waiver process, and finalizes clarifying amendments to other provisions in part 212 of title 8 of the Code of Federal Regulations. Based on the final rule, individuals who are immediate relatives of U.S. citizens who are physically present in the United States and are seeking immigrant visas through consular processing abroad will be able to apply for provisional unlawful presence waivers while in the United States. These changes will significantly reduce the length of time U.S. citizens are separated from their immediate relatives who are consular processing abroad and reduce the degree of interchange between DOS and USCIS, creating greater efficiencies for both the U.S. Government and most applicants.

Statement of Need: Currently, certain spouses, children, and parents of U.S. citizens (immediate relatives) who are in the United States are not eligible to apply for lawful permanent resident (LPR) status while in the United States. These immediate relatives must travel abroad to obtain an immigrant visa from the Department of State (DOS) and, in many cases, also must request from DHS a waiver of the inadmissibility as a result of their unlawful presence in the United States. These immediate relatives cannot apply for the waiver until after their immigrant visa interviews and must remain outside of the United States, separated from their U.S. citizen spouses, parents, or children while their waiver applications are adjudicated by USCIS. In some cases, waiver application processing can take well over 1 year, prolonging the separation of these immediate relatives from their U.S. citizen spouses, parents, and children. In addition, the action

required for these immediate relatives to obtain LPR status in the United States—departure from the United States to apply for an immigrant visa at a DOS consulate abroad—is the very action that triggers the unlawful presence inadmissibility grounds under section 212(a)(9)(B)(i) of the INA; 8 U.S.C. 1182(a)(9)(B)(i). As a result, many immediate relatives who may qualify for an immigrant visa are reluctant to proceed abroad to seek an immigrant visa.

In addition, the action required for these immediate relatives to obtain LPR status in the United States (i.e., departure from the United States to apply for an immigrant visa at a DOS consulate abroad) is the very action that triggers the unlawful presence inadmissibility grounds under section 212(a)(9)(B)(i) of the INA; 8 U.S.C. 1182(a)(9)(B)(i).

Summary of Legal Basis: The Secretary of Homeland Security (Secretary)'s authority to promulgate this final rule is found in the Homeland Security Act of 2002, Public Law 107–296, section 102, 116 Stat. 2135, 6 U.S.C. 112, and section 103 of the INA, 8 U.S.C. 1103, which give the Secretary the authority to administer and enforce the immigration and nationality laws. The Secretary's discretionary authority to waive the ground of inadmissibility for unlawful presence can be found in INA section 212(a)(9)(B)(v), 8 U.S.C. 1182(a)(9)(B)(v). The regulation governing certain inadmissibility waivers is 8 CFR 212.7. The fee schedule for provisional unlawful presence waiver applications is found at 8 CFR 103.7(b)(1)(i)(AA).

Anticipated Cost and Benefits: This final rule is expected to result in a reduction in the time that U.S. citizens are separated from their alien immediate relatives, thus reducing the financial and emotional hardship for these families. In addition, the Federal Government should achieve increased efficiencies in processing immigrant visas for individuals subject to the unlawful presence inadmissibility bars under section 212(a)(9)(B) of the INA; 8 U.S.C. 1182(a)(9)(B).

Estimates of the preliminary costs of the rule were developed assuming that current demand is constrained because of concerns that families may endure lengthy separations under the current system. Due to uncertainties as to the degree of the current constraint of demand, DHS used a range of constraint levels with corresponding increases in demand to estimate the costs. In the proposed rule, 77 FR 19913, DHS estimated that the discounted total ten-year cost of this rule would range from approximately $100.6 million to approximately $303.8 million at a seven percent discount rate. Compared with the current waiver process, this rule requires that provisional waiver applicants submit biometric information. Included in the total cost estimate is the cost of collecting biometrics, which we estimated in the proposed rule to range from approximately $28 million to approximately $42.5 million discounted at seven percent over ten years. In addition, as this rule significantly streamlines the current process, DHS expects that additional applicants will apply for the provisional waiver as compared to the current waiver process. To the extent that this rule induces new demand for immediate relative visas, additional immigration benefit forms, such as the Petition for Alien Relative, Form I–130, will be filed compared to the pre-rule baseline. These additional forms will involve fees being paid by applicants to the Federal Government for form processing and additional opportunity costs of time being incurred by applicants to provide the information required by the forms. The cost estimate in the proposed rule also includes the impact of this induced demand, which we estimate will range from approximately $72.6 million to approximately $261.3 million discounted at seven percent over ten years. DHS is currently drafting the final rule in response to comments, and preparing final cost estimates.

Timetable:

Action	Date	FR Cite
NPRM	04/02/12	77 FR 19902
NPRM Comment Period End.	06/01/12	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under EO 13563.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Mark Phillips, Chief, Residence and Naturalization Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW., Suite 1100, Washington, DC 20529, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email:* *mark.phillips@uscis.dhs.gov.*

Related RIN: Related to 1615–ZB10.

RIN: 1615–AB99

DHS—U.S. COAST GUARD (USCG)

Proposed Rule Stage

58. Transportation Worker Identification Credential (TWIC); Card Reader Requirements

Priority: Other Significant.

Legal Authority: 33 U.S.C. 1226; 33 U.S.C. 1231; 46 U.S.C. ch 701; 50 U.S.C. 191 and 192; EO 12656

CFR Citation: 33 CFR, subchapter H.

Legal Deadline: Final, Statutory, August 20, 2010, SAFE Port Act, codified at 46 U.S.C. 70105(k).

The final rule is required 2 years after the commencement of the pilot program.

Abstract: The Coast Guard is establishing electronic card reader requirements for maritime facilities and vessels to be used in combination with TSA's Transportation Worker Identification Credential. Congress enacted several statutory requirements within the Security and Accountability For Every (SAFE) Port Act of 2006 to guide regulations pertaining to TWIC readers, including the need to evaluate TSA's final pilot program report as part of the TWIC reader rulemaking. During the rulemaking process, we will take into account the final pilot data and the various conditions in which TWIC readers may be employed. For example, we will consider the types of vessels and facilities that will use TWIC readers, locations of secure and restricted areas, operational constraints, and need for accessibility. Recordkeeping requirements, amendments to security plans, and the requirement for data exchanges (i.e., Canceled Card List) between TSA and vessel or facility owners/operators will also be addressed in this rulemaking.

Statement of Need: The Maritime Transportation Security Act (MTSA) of 2002 explicitly required the issuance of a biometric transportation security card to all U.S. merchant mariners and to workers requiring unescorted access to secure areas of MTSA-regulated facilities and vessels. On May 22, 2006, the Transportation Security Administration (TSA) and the Coast Guard published a notice of proposed rulemaking (NPRM) to carry out this statute, proposing a Transportation Worker Identification Credential (TWIC) Program where TSA conducts security threat assessments and issues identification credentials, while the Coast Guard requires integration of the TWIC into the access control systems of vessels, facilities, and Outer Continental Shelf facilities. Based on comments received during the public comment period, TSA and the Coast Guard split

the TWIC rule. The final TWIC rule, published in January of 2007, addressed the issuance of the TWIC and use of the TWIC as a visual identification credential at access control points. The ANPRM, published in March of 2009, proposed a risk-based approach to TWIC reader requirements and included proposals to classify MTSA-regulated vessels and facilities into one of three risk groups, based on specific factors related to TSI consequence, and apply TWIC reader requirements for vessels and facilities in conjunction with their relative risk-gronp placement.

This rulemaking is necessary to comply with the SAFE Port Act and to complete the implementation of the TWIC Program in our ports. By requiring electronic card readers at vessels and facilities, the Coast Guard will further enhance port security and improve access control measures.

Summary of Legal Basis: The statutory authorities for the Coast Guard to prescribe, change, revise, or amend these regulations are provided under 33 U.S.C. 1226, 1231; 46 U.S.C. chapter 701; 50 U.S.C. 191, 192; Executive Order 12656, 3 CFR 1988 Comp., p. 585; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

Alternatives: The implementation of TWIC reader requirements is mandated by the SAFE Port Act. The Coast Guard is currently considering several regulatory alternatives regarding how to implement the TWIC reader requirements. These alternatives will be further explored in the NPRM.

Anticipated Cost and Benefits: The main cost drivers of this proposal are the acquisition and installation of TWIC readers and the maintenance of the affected entity's TWIC reader system. Costs, which we would distribute over a phased-in implementation period, consist predominantly of the costs to purchase, install, and integrate approved TWIC readers to their current physical access control system. Recurring annual costs will be driven by costs associated with canceled card list updates, opportunity cost associated with delays and replacement of TWICs that cannot be read, and maintenance of the affected entity's TWIC reader system. At this time, we are still developing our estimates for the impacts of this proposed rule.

The benefits of the rulemaking include the enhancement of the security of vessel ports and other facilities by ensuring that only individuals who hold valid TWICs are granted unescorted access to secure areas at those locations. It will also implement the 2002 MTSA transportation security card requirements, thereby ensuring compliance with those statutes.

Risks: USCG used risk-based decision-making to develop this proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	03/27/09	74 FR 13360
Notice of Public Meeting.	04/15/09	74 FR 17444
ANPRM Comment Period End.	05/26/09	
Notice of Public Meeting Comment Period End.	05/26/09	
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

Additional Information: The docket number for this rulemaking is USCG–2007–28915. The docket can be found at *www.regulations.gov.*

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: LCDR Loan O'Brien, Project Manager, Department of Homeland Security, U.S. Coast Guard, Commandant, (CG–FAC–2), 2100 Second Street SW., STOP 7581, Washington, DC 20593–7581, *Phone:* 202 372–1133, *Email:* *loan.t.o'brien@uscg.mil.*

Related RIN: Related to 1625–AB02.

RIN: 1625–AB21

DHS—USCG

Final Rule Stage

59. Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978

Priority: Other Significant.

Legal Authority: 46 U.S.C. 2103; 46 U.S.C. chs. 71 and 73; DHS Delegation No. 0170.1

CFR Citation: 46 CFR part 10; 46 CFR part 11; 46 CFR part 12; 46 CFR part 15.

Legal Deadline: None.

Abstract: The International Maritime Organization (IMO) comprehensively amended the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978, in 1995 and 2010. The 1995 amendments came into force on February 1, 1997. This project implements those amendments by revising current rules to ensure that the United States complies with their requirements on: The training of merchant mariners, the documenting of their qualifications, and watch-standing and other arrangements aboard seagoing merchant ships of the United States. In addition, the Coast Guard has identified the need for additional changes to the interim rule issued in 1997. This project supports the Coast Guard's broad role and responsibility of maritime safety. It also supports the roles and responsibilities of the Coast Guard of reducing deaths and injuries of crew members on domestic merchant vessels and eliminating substandard vessels from the navigable waters of the United States.

The Coast Guard published an NPRM on November 17, 2009, and Supplemental NPRM (SNPRM) on March 23, 2010.

At a June 2010 diplomatic conference, the IMO adopted additional amendments to the STCW convention which change the minimum training requirements for seafarers. In response to feedback and to the adoption of those amendments, the Coast Guard developed a second Supplemental NPRM to incorporate the 2010 Amendments into the 1990 interim rule.

Statement of Need: The Coast Guard proposed to amend its regulations to implement changes to its interim rule published on June 26, 1997. These proposed amendments go beyond changes found in the interim rule and seek to more fully incorporate the requirements of the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, as amended (STCW), in the requirements for the credentialing of United States merchant mariners. The new changes are primarily substantive and: (1) Are necessary to continue to give full and complete effect to the STCW Convention; (2) Incorporate lessons learned from implementation of the STCW through the interim rule and through policy letters and NVICs; and (3) Attempt to clarify regulations that have generated confusion.

Summary of Legal Basis: The authority for the Coast Guard to prescribe, change, revise, or amend these regulations is provided under 46 U.S.C. 2103 and 46 U.S.C. chapters 71 and 73; and Department of Homeland Security Delegation No. 0170.1.

Alternatives: For each proposed change, the Coast Guard has considered various alternatives. We considered using policy statements, but they are not enforceable. We also considered taking no action, but this does not support the Coast Guard's fundamental safety and security mission. Additionally, we considered comments made during our 1997 rulemaking to formulate our

alternatives. When we analyzed issues, such as license progression and tonnage equivalency, the alternatives chosen were those that most closely met the requirements of STCW.

Anticipated Cost and Benefits: In the SNPRM, we estimated the annualized cost of this rule over a 10-year period to be $32.8 million per year at a 7 percent discount rate. We estimate the total 10-year cost of this rulemaking to be $230.7 million at a 7 percent discount rate.

The changes in anticipated costs since the publication of 2009 NPRM are due to the 2010 amendments to the STCW Convention: Medical examinations and endorsements, leadership and management skills, engine room management training, tankerman endorsements, safety refresher training, and able seafarer deck and engine certification requirements. However, there would be potential savings from the costs of training requirements as the Coast Guard would accept various methods for demonstrating competence, including the on-the-job training and preservation of the "hawsepipe" programs.

We anticipate the primary benefit of this rulemaking is to ensure that the U.S. meets its obligations under the STCW Convention. Another benefit is an increase in vessel safety and a resulting decrease in the risk of shipping casualties.

Risks: No risks.

Timetable:

Action	Date	FR Cite
Notice of Meeting	08/02/95	60 FR 39306
Supplemental NPRM Comment Period End.	09/29/95	
Notice of Inquiry ..	11/13/95	60 FR 56970
Comment Period End.	01/12/96	
NPRM	03/26/96	61 FR 13284
Notice of Public Meetings.	04/08/96	61 FR 15438
NPRM Comment Period End.	07/24/96	
Notice of Intent	02/04/97	62 FR 5197
Interim Final Rule	06/26/97	62 FR 34505
Interim Final Rule Effective.	07/28/97	
NPRM	11/17/09	74 FR 59353
NPRM Comment Period End.	02/16/10	
Supplemental NPRM.	03/23/10	75 FR 13715
Supplemental NPRM.	08/01/11	76 FR 45908
Public Meeting Notice.	08/02/11	76 FR 46217
Supplemental NPRM Comment Period End.	09/30/11	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: The docket number for this rulemaking is USCG–2004–17914. The docket is located at *www.regulations.gov*. The old docket number is CGD 95–062. Includes Retrospective Review under E.O. 13563.

URL for More Information: *www.regulations.gov*.

URL for Public Comments: *www.regulations.gov*.

Agency Contact: Mark Gould, Project Manager, CG–5221, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593–7126, *Phone:* 202 372–1409.

RIN: 1625–AA16

DHS—USCG

60. Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System

Priority: Other Significant.

Legal Authority: 33 U.S.C. 1223; 33 U.S.C. 1225; 33 U.S.C. 1231; 46 U.S.C. 3716; 46 U.S.C. 8502 and ch 701; sec 102 of Pub. L. 107–295; EO 12234

CFR Citation: 33 CFR part 62; 33 CFR part 66; 33 CFR part 160; 33 CFR part 161; 33 CFR part 164; 33 CFR part 165.

Legal Deadline: None.

Abstract: This rulemaking would expand the applicability for Notice of Arrival and Departure (NOAD) and Automatic Identification System (AIS) requirements. These expanded requirements would better enable the Coast Guard to correlate vessel AIS data with NOAD data, enhance our ability to identify and track vessels, detect anomalies, improve navigation safety, and heighten our overall maritime domain awareness.

The NOAD portion of this rulemaking could expand the applicability of the NOAD regulations by changing the minimum size of vessels covered below the current 300 gross tons, require a notice of departure when a vessel is departing for a foreign port or place, and mandate electronic submission of NOAD notices to the National Vessel Movement Center. The AIS portion of this rulemaking would expand current AIS carriage requirements for the population identified in the Safety of Life at Sea (SOLAS) Convention and the Marine Transportation Marine Transportation Security Act (MTSA) of 2002.

Statement of Need: There is no central mechanism in place to capture vessel, crew, passenger, or specific cargo information on vessels less than or equal to 300 gross tons (GT) intending to arrive at or depart from U.S. ports unless they are arriving with certain dangerous cargo (CDC) or at a port in the 7th Coast Guard District; nor is there a requirement for vessels to submit notification of departure information. The lack of NOAD information of this large and diverse population of vessels represents a substantial gap in our maritime domain awareness (MDA). We can minimize this gap and enhance MDA by expanding NOAD applicability to vessels greater than 300 GT, all foreign commercial vessels and all U.S. commercial vessels coming from a foreign port, and further enhance (and corroborate) MDA by tracking those vessels (and others) with AIS. This information is necessary in order to expand our MDA and provide Nation maritime safety and security.

Summary of Legal Basis: This rulemaking is based on congressional authority provided in the Ports and Waterways Safety Act (see 33 U.S.C. 1223(a)(5), 1225, 1226, and 1231) and section 102 of the Maritime Transportation Security Act of 2002 (codified at 46 U.S.C. 70114).

Alternatives: Our goal is to extend our MDA and to identify anomalies by correlating vessel NOAD data with AIS data. NOAD and AIS information from a greater number of vessels, as proposed in this rulemaking, would expand our MDA. We considered expanding NOAD and AIS to even more vessels, but we determined that we needed additional legislative authority to expand AIS beyond what we propose in this rulemaking, and that it was best to combine additional NOAD expansion with future AIS expansion. Although not in conjunction with a proposed rule, the Coast Guard sought comment regarding expansion of AIS carriage to other waters and other vessels not subject to the current requirements (68 FR 39369, Jul. 1, 2003; USCG 2003–14878; see also 68 FR 39355). Those comments were reviewed and considered in drafting this rule and are available in this docket. To fulfill our statutory obligations, the Coast Guard needs to receive AIS reports and NOADs from vessels identified in this rulemaking that currently are not required to provide this information. Policy or other nonbinding statements by the Coast Guard addressed to the owners of these vessels would not

produce the information required to sufficiently enhance our MDA to produce the information required to fulfill our Agency obligations.

Anticipated Cost and Benefits: This rulemaking will enhance the Coast Guard's regulatory program by making it more effective in achieving the regulatory objectives, which, in this case, is improved MDA. We provide flexibility in the type of AIS system that can be used, allowing for reduced cost burden. This rule is also streamlined to correspond with Customs and Border Protection's APIS requirements, thereby reducing unjustified burdens. We are further developing estimates of cost and benefit that were published in 2008. In the 2008 NPRM, we estimated that both segments of the proposed rule would affect approximately 42,607 vessels. The total number of domestic vessels affected is approximately 17,323 and the total number of foreign vessels affected is approximately 25,284. We estimated that the 10-year total present discounted value or cost of the proposed rule to U.S. vessel owners is between $132.2 and $163.7 million (7 and 3 percent discount rates, respectively, 2006 dollars) over the period of analysis.

The Coast Guard believes that this rule, through a combination of NOAD and AIS, would strengthen and enhance maritime security. The combination of NOAD and AIS would create a synergistic effect between the two requirements. Ancillary or secondary benefits exist in the form of avoided injuries, fatalities, and barrels of oil not spilled into the marine environment. In the 2008 NPRM, we estimated that the total discounted benefit (injuries and fatalities) derived from 68 marine casualty cases analyzed over an 8-year data period from 1996 to 2003 for the AIS portion of the proposed rule is between $24.7 and $30.6 million using $6.3 million for the value of statistical life (VSL) at 7 percent and 3 percent discount rates, respectively. Just based on barrels of oil not spilled, we expect the AIS portion of the proposed rule to prevent 22 barrels of oil from being spilled annually.

The Coast Guard may revise costs and benefits for the final rule to reflect changes resulting from public comments.

Risks: Considering the economic utility of U.S. ports, waterways, and coastal approaches, it is clear that a terrorist incident against our U.S. Maritime Transportation System (MTS) would have a direct impact on U.S. users and consumers and could potentially have a disastrous impact on global shipping, international trade, and the world economy. By improving the ability of the Coast Guard both to identify potential terrorists coming to the United States while the terrorists are far from our shores and to coordinate appropriate responses and intercepts before the vessel reaches a U.S. port, this rulemaking would contribute significantly to the expansion of MDA, and consequently is instrumental in addressing the threat posed by terrorist actions against the MTS.

Timetable:

Action	Date	FR Cite
NPRM	12/16/08	73 FR 76295
Notice of Public - Meeting.	01/21/09	74 FR 3534
Notice of Second Public Meeting.	03/02/09	74 FR 9071
NPRM Comment Period End.	04/15/09	
Notice of Second Public Meeting Comment Period End.	04/15/09	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: We have indicated in past notices and rulemaking documents, and it remains the case, that we have worked to coordinate implementation of AIS MTSA requirements with the development of our ability to take advantage of AIS data (68 FR 39355 and 39370, Jul. 1, 2003).

The docket number for this rulemaking is USCG–2005–21869. The docket can be found at *www.regulations.gov.*

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: LCDR Michael D. Lendvay, Program Manager, Office of Commercial Vessel, Foreign and Offshore Vessel Activities Div. (CG–CVC–2), Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7581, Washington, DC 20593–7581, *Phone:* 202 372–1234, *Email: michael.d.lendvay@uscg.mil.*

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Related RIN: Related to 1625–AA93, Related to 1625–AB28.

RIN: 1625–AA99

DHS—USCG

61. Offshore Supply Vessels of at Least 6000 GT ITC

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: Pub. L. 111–281, sec 617

CFR Citation: Not Yet Determined.

Legal Deadline: Other, Statutory, January 1, 2012, Coast Guard Authorization Act of 2010.

Abstract: The Coast Guard Authorization Act of 2010 removed the size limit on offshore supply vessels (OSVs). The Act also directed the Coast Guard to issue, as soon as is practicable, a regulation to implement section 617 of the Act and to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on vessels of at least 6,000 gross tonnage as measured under the International Convention on Tonnage Measurement of Ships (6,000 GT ITC). Accordingly, the Coast Guard's rule will address design, manning, carriage of personnel, and related topics for OSVs of at least 6,000 GT ITC. This rulemaking will meet the requirements of the Act and will support the Coast Guard's mission of marine safety, security, and stewardship.

Statement of Need: In section 617 of Public Law 111–281, Congress removed OSV tonnage limits and instructed the Coast Guard to promulgate regulations to implement the amendments and authorities of section 617. Additionally, Congress directed the Coast Guard to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on OSVs of at least 6,000 GT ITC.

Summary of Legal Basis: The statutory authority to promulgate these regulations is found in section 617(f) of Public Law 111–281.

Alternatives: The Coast Guard Authorization Act removed OSV tonnage limits and the Coast Guard will examine alternatives during the development of the regulatory analysis.

Anticipated Cost and Benefits: The Coast Guard is currently developing a regulatory impact analysis of regulations that ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on OSVs of at least 6,000 GT ITC. A potential benefit of this rulemaking is the ability of industry to expand and take advantage of new commercial opportunities in the building of larger OSVs.

Risks: No risks.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Thomas L. Neyhart, Program Manager (CG–ENG–1), Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593–7126, *Phone:* 202 372–1360, *Email:* *thomas.l.neyhart@uscg.mil.*

RIN: 1625–AB62

DHS—U.S. CUSTOMS AND BORDER PROTECTION (USCBP)

Final Rule Stage

62. Changes to the Visa Waiver Program To Implement the Electronic System for Travel Authorization (ESTA) Program

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 8 U.S.C. 1103; 8 U.S.C. 1187

CFR Citation: 8 CFR 217.5.

Legal Deadline: None.

Abstract: CBP issued an interim final rule, which implemented the Electronic System for Travel Authorization (ESTA) for aliens who travel to the United States under the Visa Waiver Program (VWP) at air or sea ports of entry. Under the rule, VWP travelers must provide certain biographical information to CBP electronically before departing for the United States. This advance information allows CBP to determine before their departure whether these travelers are eligible to travel to the United States under the VWP and whether such travel poses a security risk. The interim final rule also fulfilled the requirements of section 711 of the Implementing recommendations of the 9/11 Commission Act of 2007 (9/11 Act). In addition to fulfilling a statutory mandate, the rule serves the twin goals of promoting border security and legitimate travel to the United States. By modernizing the VWP, the ESTA increases national security and to provide for greater efficiencies in the screening of international travelers by allowing for vetting of subjects of potential interest well before boarding, thereby reducing traveler delays at the ports of entry. CBP requested comments on all aspects of the interim final rule and plans to issue a final rule after completion of the comment analysis.

Statement of Need: Section 711 of the 9/11 Act requires the Secretary of Homeland Security, in consultation with the Secretary of State, to develop and implement a fully automated electronic travel authorization system to collect biographical and other information in advance of travel to determine the eligibility of the alien to travel to the United States, and to determine whether such travel poses a law enforcement or security risk. CBP issued the ESTA interim final rule to fulfill these statutory requirements.

Under the interim final rule, VWP travelers are now required to provide certain information to CBP electronically before departing for the United States. VWP travelers who receive travel authorization under ESTA are not required to complete the paper Form I–94W when arriving on a carrier that is capable of receiving and validating messages pertaining to the traveler's ESTA status as part of the traveler's boarding status. By automating the I–94W process and establishing a system to provide VWP traveler data in advance of travel, CBP is able to determine the eligibility of citizens and eligible nationals from VWP countries to travel to the United States and to determine whether such travel poses a law enforcement or security risk, before such individuals begin travel to the United States. ESTA provides for greater efficiencies in the screening of international travelers by allowing CBP to identify subjects of potential interest before they depart for the United States, thereby increasing security and reducing traveler delays upon arrival at U.S. ports of entry.

Summary of Legal Basis: The ESTA program is based on congressional authority provided under section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007 and section 217 of the Immigration and Nationality Act (INA).

Alternatives: When developing the interim final rule, CBP considered three alternatives to this rule:

1. The ESTA requirements in the rule, but with a $1.50 fee per each travel authorization (more costly).

2. The ESTA requirements in the rule, but with only the name of the passenger and the admissibility questions on the I–94W form (less burdensome).

3. The ESTA requirements in the rule, but only for the countries entering the VWP after 2009 (no new requirements for VWP, reduced burden for newly entering countries).

CBP determined that the rule provides the greatest level of enhanced security and efficiency at an acceptable cost to traveling public and potentially affected air carriers.

Anticipated Cost and Benefits: The purpose of ESTA is to allow DHS and CBP to establish the eligibility of certain foreign travelers to travel to the United States under the VWP, and whether the alien's proposed travel to the United States poses a law enforcement or security risk. Upon review of such information, DHS will determine whether the alien is eligible to travel to the United States under the VWP.

Costs to Air & Sea Carriers

CBP estimated that eight U.S.-based air carriers and eleven sea carriers will be affected by the rule. An additional 35 foreign-based air carriers and five sea carriers will be affected. CBP concluded that costs to air and sea carriers to support the requirements of the ESTA program could cost $137 million to $1.1 billion over the next 10 years depending on the level of effort required to integrate their systems with ESTA, how many passengers they need to assist in applying for travel authorizations, and the discount rate applied to annual costs.

Costs to Travelers

ESTA will present new costs and burdens to travelers in VWP countries who were not previously required to submit any information to the U.S. Government in advance of travel to the United States. Travelers from Roadmap countries who become VWP countries will also incur costs and burdens, though these are much less than obtaining a nonimmigrant visa (category B1/B2), which is currently required for short-term pleasure or business to travel to the United States. CBP estimated that the total quantified costs to travelers will range from $1.1 billion to $3.5 billion depending on the number of travelers, the value of time, and the discount rate. Annualized costs are estimated to range from $133 million to $366 million.

Benefits

As set forth in section 711 of the 9/11 Act, it was the intent of Congress to modernize and strengthen the security of the Visa Waiver Program under section 217 of the Immigration and Nationality Act (INA, 8 U.S.C. 1187) by simultaneously enhancing program security requirements and extending visa-free travel privileges to citizens and eligible nationals of eligible foreign countries that are partners in the war on terrorism.

By requiring passenger data in advance of travel, CBP may be able to

determine, before the alien departs for the United States, the eligibility of citizens and eligible nationals from VWP countries to travel to the United States under the VWP, and whether such travel poses a law enforcement or security risk. In addition to fulfilling a statutory mandate, the rule serves the twin goals of promoting border security and legitimate travel to the United States. By modernizing the VWP, ESTA is intended to both increase national security and provide for greater efficiencies in the screening of international travelers by allowing for the screening of subjects of potential interest well before boarding, thereby reducing traveler delays based on potentially lengthy processes at U.S. ports of entry.

CBP concluded that the total benefits to travelers could total $1.1 billion to $3.3 billion over the period of analysis. Annualized benefits could range from $134 million to $345 million.

In addition to these benefits to travelers, CBP and the carriers should also experience the benefit of not having to administer the I–94W except in limited situations. While CBP has not conducted an analysis of the potential savings, it should accrue benefits from not having to produce, ship, and store blank forms. CBP should also be able to accrue savings related to data entry and archiving. Carriers should realize some savings as well, though carriers will still have to administer the I–94 for those passengers not traveling under the VWP and the Customs Declaration forms for all passengers aboard the aircraft and vessel.

Timetable:

Action	Date	FR Cite
Interim Final Action.	06/09/08	73 FR 32440
Interim Final Rule Effective.	08/08/08	
Interim Final Rule Comment Period End.	08/08/08	
Notice—Announcing Date Rule Becomes Mandatory.	11/13/08	73 FR 67354
Final Action	08/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: http://www.cbp.gov/xp/cgov/travel/id_visa/esta/.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

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Related RIN: Related to 1651–AA83.

RIN: 1651–AA72

DHS—TRANSPORTATION SECURITY ADMINISTRATION (TSA)

Proposed Rule Stage

63. Security Training for Surface Mode Employees

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 49 U.S.C. 114; Pub. L. 110–53, secs 1408, 1517, and 1534

CFR Citation: 49 CFR part 1520; 49 CFR part 1570; 49 CFR part 1580; 49 CFR part 1582 (New); 49 CFR part 1584 (New).

Legal Deadline: Final, Statutory, November 1, 2007, Interim Rule for public transportation agencies is due 90 days after date of enactment.

Final, Statutory, February 3, 2008, Rule for railroads and over-the-road buses are due 6 months after date of enactment.

Final, Statutory, August 3, 2008, Rule for public transportation agencies is due 1 year after date of enactment.

According to sec. 1408 of Public Law 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266), interim final regulations for public transportation agencies are due 90 days after the date of enactment (Nov. 1, 2007), and final regulations are due 1 year after the date of enactment of this Act. According to sec. 1517 of the same Act, final regulations for railroads and over-the-road buses are due no later than 6 months after the date of enactment.

Abstract: The Transportation Security Administration (TSA) intends to propose a new regulation to improve the security of freight railroads, public transportation, passenger railroads, and over-the-road buses in accordance with the Implementing Recommendations of the 9/11 Commission Act of 2007. This rulemaking will propose general requirements for the owner/operators of a freight railroad, public transportation system, passenger railroad, and an over-the-road bus operation determined by TSA to be high-risk to develop and implement a security training program to prepare security-sensitive employees, including frontline employees identified in sections 1402 and 1501 of the Act, for potential security threats and conditions. The rulemaking will also propose extending the security coordinator and reporting security incident requirements applicable to rail operators under current 49 CFR part 1580 to the non-rail transportation components of covered public transportation agencies. In addition, the rulemaking will also propose requiring the affected over-the-road bus owner/operators to identify security coordinators and report security incidents, similar to the requirements for rail in current 49 CFR 1580. The regulation will take into consideration any current security training requirements or best practices.

Statement of Need: A security training program for freight railroads, public transportation agencies and passenger railroads, and over-the-road bus operations is proposed to prepare freight railroad security-sensitive employees, public transportation, passenger railroad security-sensitive employees, and over-the-road bus security-sensitive employees for potential security threats and conditions.

Summary of Legal Basis: 49 U.S.C. 114; sections 1408, 1517, and 1534 of Public Law 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266).

Alternatives: TSA is required by statute to publish regulations requiring security training programs for these owner/operators. As part of its notice of proposed rulemaking, TSA will seek public comment on the alternative ways in which the final rule could carry out the requirements of the statute.

Anticipated Cost and Benefits: TSA will estimate the costs that the freight railroad systems, public transportation agencies, passenger railroads, and over-the-road bus (OTRB) entities covered by this proposed rule would incur following its implementation. These costs will include estimates for the following elements: (1) Creating or modifying a security training program and submitting it to TSA; (2) Training (initial and recurrent) all security-sensitive employees; (3) Maintaining records of employee training; (4) Being available for inspections; (5) As applicable, providing information on security coordinators and alternates; and (6) As applicable, reporting security concerns. TSA will also estimate the costs TSA itself would expect to incur with the implementation of this rule.

TSA has not quantified benefits. TSA, however, expects that the primary benefit of the Security Training NPRM will be the enhancement of the United States surface transportation security by reducing the vulnerability of freight railroad systems, public transportation agencies, passenger railroads, and over-the-road bus entities to terrorist activity through the training of security-sensitive employees. TSA uses a break-even analysis to assess the trade-off between the beneficial effects of the Security Training NPRM and the costs of implementing the rulemaking. This break-even analysis uses scenarios extracted from the TSA Transportation Sector Security Risk Assessment (TSSRA) to determine the degree to which the Security Training NPRM must reduce the overall risk of a terrorist attack in order for the expected benefits of the NPRM to justify the estimated costs. For its analyses, TSA uses scenarios with varying levels of risk, but only details the consequence estimates. To maintain consistency, TSA developed the analyses with a method similar to that used for the break-even analyses conducted in earlier DHS rules.

After estimating the total consequence of each scenario by monetizing lives lost, injuries incurred, and capital replacement and clean-up, TSA will use this figure and the annualized cost of the NPRM for freight rail, public transportation, passenger rail, and OTRB owner/operators to calculate a breakeven annual likelihood of attack.

Risks: The Department of Homeland Security aims to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to terrorism. By providing for security training for personnel, TSA intends in this rulemaking to reduce the risk of a terrorist attack on this transportation sector.

Timetable:

Action	Date	FR Cite
NPRM	07/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Local.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

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Related RIN: Related to 1652–AA56, Merged with 1652–AA57, Merged with 1652–AA59.

RIN: 1652–AA55

DHS—TSA

64. Standardized Vetting, Adjudication, and Redress Services

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 49 U.S.C. 114; Pub. L. 110–53, secs 1411, 1414, 1520, 1522, 1602; 6 U.S.C. 469

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: The Transportation Security Administration (TSA) intends to propose new regulations to revise and standardize the procedures, adjudication criteria, and fees for most of the security threat assessments (STA) of individuals for which TSA is responsible. In accordance with the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), the scope of the rulemaking will include transportation workers from all modes of transportation who are required to undergo an STA in other regulatory programs, including certain aviation workers and frontline employees for public transportation agencies and railroads.

In addition, TSA will propose fees to cover the cost of the STAs and credentials for some personnel. TSA plans to improve efficiencies in processing STAs and streamline existing regulations by simplifying language and removing redundancies.

As part of this proposed rule, TSA will propose revisions to the Alien Flight Student Program (AFSP) regulations. TSA published an interim final rule for ASFP on September 20, 2004. TSA regulations require aliens seeking to train at Federal Aviation Administration-regulated flight schools to complete an application and undergo an STA prior to beginning flight training. There are four categories under which students currently fall; the nature of the STA depends on the student's category. TSA is considering changes to the AFSP that would improve the equity among fee payers and enable the implementation of new technologies to support vetting.

Statement of Need: Through this rulemaking, TSA proposes to carry out statutory mandates to perform security threat assessments (STA) of certain transportation workers pursuant to the 9/11 Act. Also, TSA proposes to fully satisfy 6 U.S.C. 469, which requires TSA to fund security threat assessment and credentialing activities through user fees. The proposed rulemaking would increase transportation security by enhancing identification and immigration verification standards, providing for more thorough vetting, improving the reliability and consistency of the vetting process, and increasing fairness to vetted individuals by providing more robust redress and reducing redundant STA requirements.

Summary of Legal Basis: 49 U.S.C. 114(f): Under the Aviation and Transportation Security Act (ATSA) (Pub. L. 170–71, Nov. 19, 2001, 115 Stat. 597), TSA assumed responsibility to oversee the vetting of certain aviation workers. See 49 U.S.C. 44936.

Under the Maritime Transportation Security Act (MTSA), (Pub. L. 107–295, sec. 102, Nov. 25, 2002, 116 Stat. 2064), codified at 46 U.S.C. 70105, TSA vets certain merchant mariners and individuals who require unescorted

access to secure areas of vessels and maritime facilities.

Under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) (Pub. L. 107–56, Oct. 25, 2001, 115 Stat. 272), TSA vets individuals seeking hazardous materials endorsements (HME) to commercial driver's licenses (CDL) issued by the States.

In the Implementing Recommendation of the 9/11 Commission Act of 2007 (Pub. L. 110–53, Aug. 3, 2007, 121 Stat. 266), Congress directed TSA to vet additional populations of transportation workers, including certain public transportation and railroad workers.

In 6 U.S.C. 469, Congress directed TSA to fund vetting and credentialing programs through user fees.

Alternatives: TSA considered a number of viable alternatives to lessen the impact of the proposed regulations on entities deemed "small" by the Small Business Administration (SBA) standards. This included: (1) Extending phone pre-enrollment to populations eligible to enroll via the Web; and (2) changing the current delivery and activation process and instituting centralized activation of biometric credentials that allow applicants to receive their credentials through the mail rather than returning to the enrollment center to pick up the credential. These alternatives are discussed in detail in the rule and regulatory evaluation.

Anticipated Cost and Benefits: TSA conducted a regulatory evaluation to estimate the costs regulated entities, individuals, and TSA would incur to comply with the requirements of the NPRM. The NPRM would impose new requirements for some individuals, codify existing requirements not included in the Code of Federal Regulations (CFR), and modify current STA requirements for many transportation workers. The primary benefit of the NPRM would be that it will improve TSA's vetting product, process, and structure by improving STAs, increasing equity, decreasing reliance on appropriated funds, and improving reusability of STAs and mitigating redundant STAs.

TSA has not quantified benefits. TSA uses a break-even analysis to assess the trade-off between the beneficial effects of the NPRM and the costs of implementing the rulemaking. This break-even analysis uses scenarios from the TSA Transportation Sector Security Risk Assessment (TSSRA) to determine the degree to which the NPRM must reduce the overall risk of a terrorist attack in order for the expected benefits of the NPRM to justify the estimated costs. For its analyses, TSA uses scenarios with varying levels of risk, but only details the consequence estimates. To maintain consistency, TSA developed the analyses with a method similar to that used for the break-even analyses conducted in earlier DHS rules. After estimating the total consequences of each scenario by monetizing lives lost, injuries incurred, capital replacement, and clean-up, TSA will use this figure and the annualized cost of the NPRM to calculate the frequency of attacks averted in order for the NPRM to break even.

TSA estimates that the total savings to the alien flight students, over a 5-year period, will be $18,107 at a 7 percent discount rate.

Timetable:

Action	Date	FR Cite
NPRM	07/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Additional Information: Includes Retrospective Review under E.O. 13563.

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Related RIN: Related to 1652–AA35.

RIN: 1652–AA61

DHS—TSA

65. • Passenger Screening Using Advanced Imaging Technology

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 49 U.S.C. 44925

CFR Citation: 49 CFR 1540.107.

Legal Deadline: NPRM, Judicial, March 31, 2013, TSA issue an NPRM by the end of March 2013. In the July 15, 2011, decision described below, the U.S. Court of Appeals for the District Columbia Circuit directed TSA promptly to proceed to conduct notice and comment rulemaking.

Abstract: This Notice of Proposed Rulemaking (NPRM) is being issued to comply with the decision rendered by the U.S. Court of Appeals for the District Columbia Circuit in Electronic Privacy Information Center (EPIC) v. U.S. Department of Homeland Security (DHS) on July 15, 2011, 653 F.3d 1 (D.C. Cir. 2011). The Court directed TSA to conduct notice and comment rulemaking on the use of advanced imaging technology (AIT) in the primary screening of passengers. As a result, the Transportation Security Administration (TSA) proposes to amend its civil aviation regulations to clarify that screening and inspection of an individual conducted to control access to the sterile area of an airport or to an aircraft may include the use of AIT.

Statement of Need: TSA is proposing regulations to respond to the decision of the U.S. Court of Appeals for the District of Columbia Circuit in EPIC v. DHS 653 F.3d 1 (D.C. Cir. 2011).

Summary of Legal Basis: In its decision in EPIC v. DHS 653 F.3d 1 (DC Cir. 2011), the Court of Appeals for the District of Columbia Circuit found that TSA failed to justify its failure to conduct notice and comment rulemaking and remanded to TSA for further proceedings.

Alternatives: In the NPRM, TSA requests comment on several alternatives to AIR screening.

Anticipated Cost and Benefits: TSA is currently evaluating the costs and benefits of this proposed rule.

Risks: DHS aims to prevent terrorist attacks and to reduce the vulnerability of the United States to terrorism. By screening passengers with AIT, TSA will reduce the risk that a terrorist will smuggle a non-metallic threat on board an aircraft.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

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RIN: 1652–AA67

DHS—TSA

Final Rule Stage

66. Aircraft Repair Station Security

Priority: Other Significant. Major under 5 U.S.C. 801.

Legal Authority: 49 U.S.C. 114; 49 U.S.C. 44924

CFR Citation: 49 CFR part 1554.

Legal Deadline: Final, Statutory, August 8, 2004, Rule within 240 days of the date of enactment of Vision 100.

Final, Statutory, August 3, 2008, Rule within 1 year after the date of enactment of 9/11 Commission Act. Section 611(b)(1) of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108–176; Dec. 12, 2003; 117 Stat. 2490), codified at 49 U.S.C. 44924, requires that TSA issue "final regulations to ensure the security of foreign and domestic aircraft repair stations." Section 1616 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–531; Aug. 3, 2007; 21 Stat. 266) requires TSA issue a final rule on foreign repair station security.

Abstract: The Transportation Security Administration (TSA) proposed to add a new regulation to improve the security of domestic and foreign aircraft repair stations, as required by the section 611 of Vision 100—Century of Aviation Reauthorization Act and section 1616 of the 9/11 Commission Act of 2007. The regulation proposed general requirements for security programs to be adopted and implemented by certain repair stations certificated by the Federal Aviation Administration (FAA). A notice of proposed rulemaking (NPRM) was published in the **Federal Register** on November 18, 2009, requesting public comments to be submitted by January 19, 2010. The comment period was extended to February 19, 2010, at the request of the stakeholders to allow the aviation industry and other interested entities and individuals additional time to complete their comments.

TSA has coordinated its efforts with the FAA throughout the rulemaking process to ensure that the final rule does not interfere with FAA's ability or authority to regulate part 145 repair station safety matters.

Statement of Need: The Transportation Security Administration (TSA) is proposing regulations to improve the security of domestic and foreign aircraft repair stations. The NPRM proposed to require certain repair stations that are certificated by the Federal Aviation Administration to adopt and carry out a security program. The proposal will codify the scope of TSA's existing inspection program. The proposal also provides procedures for repair stations to seek review of any TSA determination that security measures are deficient.

Summary of Legal Basis: Section 611(b)(1) of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108–176; Dec. 12, 2003; 117 Stat. 2490), codified at 49 U.S.C. 44924, requires the TSA to issue "final regulations to ensure the security of foreign and domestic aircraft repair stations" within 240 days from date of enactment of Vision 100. Section 1616 of Public Law 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266) requires that the FAA may not certify any foreign repair stations if the regulations are not issued within 1 year after the date of enactment of the 9/11 Commission Act unless the repair station was previously certificated or is in the process of certification.

Alternatives: TSA is required by statute to publish regulations requiring security programs for aircraft repair stations. As part of its notice of proposed rulemaking, TSA sought public comment on the numerous alternative ways in which the final rule could carry out the requirements of the statute.

Anticipated Cost and Benefits: TSA anticipates costs to aircraft repair stations mainly related to the establishment of security programs, which may include adding such measures as access controls, a personnel identification system, security awareness training, the designation of a security coordinator, employee background verification, and contingency plan.

The NPRM estimated the total 10-year undiscounted cost of the program at $403 million. The cost of the program, discounted at 7 percent, is $285 million. Security coordinator and training costs represent the largest portions of the program.

TSA has not quantified benefits. However, a major line of defense against an aviation-related terrorist act is the prevention of explosives, weapons, and/or incendiary devices from getting on board a plane. To date, efforts have been primarily related to inspection of baggage, passengers, and cargo, and security measures at airports that serve air carriers. With this rule, attention is given to aircraft that are located at repair stations and to aircraft parts that are at repair stations to reduce the likelihood of an attack against aviation and the country. Since repair station personnel have direct access to all parts of an aircraft, the potential exists for a terrorist to seek to commandeer or compromise an aircraft when the aircraft is at one of these facilities. Moreover, as TSA tightens security in other areas of aviation, repair stations increasingly may become attractive targets for terrorist organizations attempting to evade aviation security protections currently in place.

TSA uses a break-even analysis to assess the trade-off between the beneficial effects of the final rule and the costs of implementing the rulemaking. This break-even analysis uses three attack scenarios to determine the degree to which the final rule must reduce the overall risk of a terrorist attack in order for the expected benefits of the final rule to justify the estimated costs. For its analyses, TSA uses scenarios with varying levels of risk, but only details the consequence estimates. To maintain consistency, TSA developed the analyses with a method similar to that used for the break-even analyses conducted in earlier DHS rules. After estimating the total consequences of each scenario by monetizing lives lost, injuries incurred, and capital replacement, TSA will use this figure and the annualized cost of the final rule to calculate the frequency of attacks averted in order for the final rule to break even.

Risks: The Department of Homeland Security aims to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to terrorism. By requiring security programs for certain aircraft repair stations, TSA will focus on preventing unauthorized access to repair work and to aircraft to prevent sabotage or hijacking.

Timetable:

Action	Date	FR Cite
Notice—Public Meeting; Request for Comments.	02/24/04	69 FR 8357
Report to Congress.	08/24/04	
NPRM	11/18/09	74 FR 59873
NPRM Comment Period End.	01/19/10	
NPRM Comment Period Extended.	12/29/09	74 FR 68774
NPRM Extended Comment Period End.	02/19/10	
Final Rule	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

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RIN: 1652–AA38

DHS—U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (USICE)

Proposed Rule Stage

67. Adjustments to Limitations on Designated School Official Assignment and Study by F–2 and M–2 Nonimmigrants

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 8 U.S.C. 1101 to 1103; 8 U.S.C. 1182; 8 U.S.C. 1184

CFR Citation: 8 CFR 214.2(f)(15); 8 CFR 214.3(a); 8 CFR part 214.

Legal Deadline: None.

Abstract: The proposed rule would revise 8 CFR parts 214.2 and 214.3. First, it would provide additional flexibility to schools in determining the number of designated school officials (DSOs) to nominate for the oversight of the school's campuses where international students are enrolled. Current regulation limits the number of DSOs to 10 per school, or 10 per campus in a multi-campus school. Second, the proposed rule would permit F–2 and M–2 spouses and children accompanying academic and vocational nonimmigrant students with F–1 or M–1 nonimmigrant status to enroll in study at an SEVP-certified school so long as any study remains less than a full course of study.

Statement of Need: The Department of Homeland Security proposes to amend its regulations under the Student and Exchange Visitor Program to improve management of international student programs and increase opportunities for study by spouses and children of nonimmigrant students. The proposed rule would grant school officials more flexibility in determining the number of designated school officials (DSOs) to nominate for the oversight of campuses. The rule also would provide greater incentive for international students to study in the United States by permitting accompanying spouses and children of academic and vocational nonimmigrant students with F–1 or M–1 nonimmigrant status to enroll in less than a full course of study at an SEVP-certified school.

Anticipated Cost and Benefits: The anticipated costs of the NPRM derive from the existing requirements for the training and reporting to DHS of additional DSOs. The primary benefits of the NPRM are providing flexibility to schools in the number of DSOs allowed and providing greater incentive for international students to study in the United States by permitting accompanying spouses and children of academic and vocational nonimmigrant students in F–1 or M–1 status to enroll in study at a SEVP-certified school so long as they are not engaged in a full course of study.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Katherine H. Westerlund, Acting Unit Chief, SEVP Policy, Student and Exchange Visitor Program, Department of Homeland Security, U.S. Immigration and Customs Enforcement, Potomac Center North, 500 12th Street SW., STOP 5600, Washington, DC 20536–5600, *Phone:* 703 603–3414, *Email: katherine.h.westerlund@ice.dhs.gov.*

Related RIN: Previously reported as 1615–AA19.

RIN: 1653–AA63

DHS—USICE

68. • Standards To Prevent, Detect and Respond to Sexual Abuse and Assault in Confinement Facilities (Section 610 Review)

Priority: Other Significant.

Legal Authority: 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1103; 8 U.S.C. 1182; * * *

CFR Citation: 6 CFR part 115.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) proposes to issue regulations setting detention standards to prevent, detect, and respond to sexual abuse and assault in DHS confinement facilities.

Statement of Need: The purpose of this rulemaking is to propose regulations setting standards to prevent, detect, and respond to sexual abuse in Department of Homeland Security (DHS) confinement facilities. The proposed standards build on current U.S. Immigration and Customs Enforcement (ICE) Performance Based National Detention Standards (PBNDS) and other DHS detention policies, and respond to the President's May 17, 2012 Memorandum, "Implementing the Prison Rape Elimination Act," which directs all agencies with Federal confinement facilities to work with the Attorney General to propose rules or procedures setting standards to prevent, detect, and respond to sexual abuse in confinement facilities.

Anticipated Cost and Benefits: The NPRM would impose standards to prevent, detect, and respond to sexual abuse and assault in DHS confinement

facilities. These facilities consist of immigration detention facilities and holding facilities. The proposed standards would impose new requirements for some facilities and codify current requirements for other facilities. Such standards will require Federal, State, and local agencies, as well as private entities that operate confinement facilities, to incur costs in implementing and complying with those standards. The primary benefit of the NPRM would be improvements to the prevention, detection, and response to sexual abuse and assault. DHS will follow DOJ methodology for monetizing the value of preventing sexual abuse incidents, which includes consideration for costs of medical and mental health care treatment as well as pain, suffering, and diminished quality of life, among other factors. DHS will use a break-even analysis to assess the trade-off between the beneficial effects of the NPRM and the costs of implementing the rulemaking. The break-even analysis uses the monetized estimates of incidents avoided to determine the degree to which the NPRM must reduce the annual incidence of sexual abuse for the costs of compliance to break even with the monetized benefits of the standards. This does not include non-monetizable benefits of sexual abuse avoidance. The NPRM will include a Regulatory Impact Assessment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	
NPRM Comment Period End.	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: Federal, Local, State.

Agency Contact: Alexander Hartman, Regulatory Coordinator, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW., Washington, DC 20536, *Phone:* 202 732–6202, *Email: alexander.hartman@ice.dhs.gov.*

RIN: 1653–AA65

BILLING CODE 9110–9B–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Statement of Regulatory Priorities

The Regulatory Plan for the Department of Housing and Urban Development (HUD) for Fiscal Year (FY) 2013 highlights the most significant regulatory initiatives that HUD seeks to complete during the upcoming fiscal year. As the federal agency that serves as the nation's housing agency, committed to addressing the housing needs of Americans, promoting economic and community development, and enforcing the nation's fair housing laws, HUD plays a significant role in the lives of families and communities throughout America. Through its programs, HUD works to strengthen the housing market and protect consumers; meet the need for quality affordable rental homes; utilize housing as a platform for improving quality of life; and build inclusive and sustainable communities free from discrimination.

It is HUD's mission to promote non-discrimination and ensure fair and equal housing opportunities for all. In its Annual Performance Plan for Fiscal Years 2012–2013, HUD committed to creating places throughout the nation that effectively connect people to jobs, transportation, quality public schools, and other amenities—"geographies of opportunity." In this regard, HUD's Regulatory Plan for FY2013 focuses on strengthening, through regulation, a statutory requirement that will help HUD achieve this goal—affirmatively furthering fair housing.

Priority: Providing Communities of Opportunity for All

America's fundamental ideal that hard work and determination will open the doors to opportunity has been unevenly realized because access to opportunity has been affected by factors that are not tied to the choices or actions of an individual or family. Despite genuine progress and a landscape of communities transformed in the more than 40 years since the Fair Housing Act was enacted, the ZIP code children grow up in too often remains a strong predictor of their life course. From its inception, the Fair Housing Act (and subsequent laws reaffirming its principles) not only outlawed discrimination but also set out steps that needed to be taken proactively to overcome the legacy of segregation. The ongoing promise of equal opportunity remains as critical now as it ever has been, especially as diversity increasingly becomes a part of the lives of all Americans. HUD is committed to helping build a stronger and more secure economy that works for the middle class and those aspiring to join the middle class, through access, opportunity and fairness, and HUD can do this by strengthening the statutory mandate to affirmatively further fair housing.

HUD proposes to bring the obligation to affirmatively further fair housing into the 21st century by emphasizing access and opportunity in addition to helping eliminate discrimination and segregation. Even further, HUD's proposal embraces new tools that are now available and lessons learned from extensive local experience to help guide communities in fulfilling the original promise of the Fair Housing Act.

Regulatory Action: Affirmatively Furthering Fair Housing—A New Approach

To better fulfill the statutory obligation to affirmatively further fair housing, HUD proposes to replace the existing requirement to undertake an analysis of impediments with a fair housing assessment and planning process that will aid HUD program participants in improving access to opportunity and advancing the ability for all families to make true housing choices. To facilitate this new approach, HUD will provide states, local governments, insular areas, and public housing agencies (PHAs), as well as the communities they serve with data on patterns of integration and segregation; racially and ethnically concentrated areas of poverty; access to neighborhood opportunity through categories such as education, employment, low-poverty, transportation, and environmental health, among others; disproportionate housing needs based on the classes protected under the Fair Housing Act; data on individuals with disabilities and families with children; and discrimination. From these data, program participants will evaluate their present environment to assess fair housing issues, identify the primary determinants that account for those issues, and set forth fair housing priorities and goals. The benefit of this approach is that these priorities and goals will then better inform program participant's strategies and actions by improving the integration of the assessment of fair housing through enhanced coordination with current planning exercises. This proposed rule further commits HUD to greater engagement and better guidance for program participants in fulfilling their obligation to affirmatively further fair housing.

Aggregate Costs and Benefits

Executive Order 12866, as amended, requires the agency to provide its best estimate of the combined aggregate costs and benefits of all regulations included in the agency's Regulatory Plan that will be made effective in calendar year 2011. HUD expects that the neither the total

economic costs nor the total efficiency gains will exceed $100 million.

Priority Regulations in HUD's FY 2013 Regulatory Plan

HUD—OFFICE OF THE SECRETARY

Proposed Rule Stage

Communities of Opportunity for All Through Affirmatively Furthering Fair Housing

Priority: Significant.

Legal Authority: 42 U.S.C. 3600–3620; 42 U.S.C. 3535(d)

CFR Citation: 24 CFR part 5.

Legal Deadline: None.

Abstract: Through this rule, HUD proposes to provide HUD program participants with more effective means to affirmatively further the purposes and policies of the Fair Housing Act, which is Title VIII of the Civil Rights Act of 1968. The Fair Housing Act not only prohibits discrimination but, in conjunction with other statutes, directs HUD's program participants to take steps proactively to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities of opportunity for all. To promote more effective fair housing planning and assist every program participant meet requirements related to affirmatively furthering fair housing, HUD proposes in this rule to address directly concerns about the current fair housing planning process by making a number of key changes. These include: (1) A new fair housing assessment and planning tool, referred to as an assessment of fair housing, which will replace the current analysis of impediments, (2) the provision of nationally uniform data that will be the predicate for and help frame program participants' assessment activities, (3) meaningful and focused direction regarding the purpose of the assessment of fair housing and the standards by which it will be evaluated, (4) a more direct link between the assessment of fair housing and subsequent program participant planning products—the consolidated plan and the Public Housing Agency (PHA) Plan—that ties fair housing planning into the priority setting, commitment of resources, and specification of activities to be undertaken, and (5) a new HUD review procedure based on clear standards that facilitates the provision of technical assistance and reinforces the value and importance of fair housing planning activities.

Statement of Need: As recognized by HUD, program participants, civil rights advocates, the U.S. Government Accountability Office (GAO), and others, the fair housing elements of current housing and community development planning are not as effective as they could be, do not incorporate leading innovations in sound planning practice, and do not sufficiently promote the effective use of limited public resources to affirmatively further fair housing. The approach proposed by the rule addresses these issues and strengthens affirmatively furthering fair housing implementation. It does so by providing data to program participants related to fair housing planning, clarifying the goals of the affirmatively furthering fair housing process, and instituting a more effective mechanism for HUD's review and oversight of fair housing planning. The proposed rule does not mandate specific outcomes for the planning process. Instead, recognizing the importance of local decision-making, the rule proposes to establish basic parameters and help guide public sector housing and community development planning and investment decisions to fulfill their obligation to affirmatively further fair housing.

Summary of Legal Basis: The Fair Housing Act (Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601–3619), enacted into law on April 11, 1968, declares that it is "the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States." (See 42 U.S.C. 3601.) Accordingly, the Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions because of race, color, religion, sex, familial status, national origin, or handicap. (See 42 U.S.C. 3601 *et seq.* Also note that "handicap" is the original term used in the statute.) Section 808(e)(5) of the Fair Housing Act (42 U.S.C. 3608(e)(5)) requires that HUD programs and activities be administered in a manner affirmatively to further the policies of the Fair Housing Act. The Act leaves it to the Secretary to define the precise scope of the affirmatively furthering fair housing obligation for HUD's program participants.

Alternatives: HUD has approached the obligation to affirmatively further fair housing in various ways, and this proposed rule is intended in particular to improve fair housing planning by more directly linking it to the housing and community development planning processes currently undertaken by program participants as a condition of their receipt of HUD funds. At the jurisdictional planning level, HUD requires program participants receiving Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), Emergency Solutions Grants (ESG), and Housing Opportunities for Persons With AIDS (HOPWA) formula funding to undertake an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments, and keep records on such efforts. Likewise, PHAs must commit, as part of their planning process for PHA Plans and Capital Fund Plans, to examine their programs or proposed programs, identify any impediments to fair housing choice within those programs, address those impediments in a reasonable fashion in view of the resources available, work with jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require PHA involvement, maintain records reflecting those analyses and actions, and operate programs in a manner that is consistent with the applicable jurisdiction's consolidated plan. Over the past several years, HUD has reviewed the efficacy of these mechanisms to fulfill the affirmatively furthering fair housing mandate and has concluded that the analysis of impediment process can be a more meaningful a tool to integrate fair housing into the program participants' existing planning efforts.

Anticipated Cost and Benefits: HUD does not expect a large aggregate change in compliance costs for program participants as a result of the rule. As a result of increased emphasis on affirmatively furthering fair housing within the planning process, there may be increased compliance costs for some program participants, while for others the improved process and goal-setting, combined with HUD's provision of the foundational data, is likely to decrease compliance costs. Program participants are currently required to engage in outreach and collect data in order to meet the obligation to affirmatively further fair housing. There are some elements of the proposed rule that would increase compliance costs, but others would decrease such costs. HUD estimates net annual compliance costs in the range of $3 to $9 million.

Further, HUD believes the rule has the potential for substantial benefit for program participants and the communities they serve. The rule would improve the fair housing planning process by providing greater clarity to the steps that program participants undertake to meaningfully affirmatively further fair housing, and at the same time provide better resources for

program participants to use in taking such steps. Through this rule, HUD commits to provide states, local governments, PHAs, the communities they serve, and the general public with local and regional data on patterns of integration, racially and ethnically concentrated areas of poverty, access to opportunity in select domains, and disproportionate housing needs based on protected class. From these data, program participants should be better able to evaluate their present environment to assess fair housing issues, identify the primary determinants that account for those issues, and set forth fair housing priorities and goals and document these activities.

Risks: This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	4/00/2013	
NPRM Comment Period End.		
Final Action.		

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: No.

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RIN: 2501–AD33

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 397 park units, 560 wildlife refuges, and approximately 1.7 billion of submerged offshore acres. These areas include natural resources that are essential for America's industry—oil and gas, coal, and minerals such as gold and uranium. On public lands and the Outer Continental Shelf, Interior provides access for renewable and conventional energy development and manages the protection and restoration of surface mined lands.

The Department protects and recovers endangered species; protects natural, historic, and cultural resources; manages water projects that are a lifeline and economic engine for many communities in the West; manages forests and fights wildfires; manages Federal energy resources; regulates surface coal mining operations; reclaims abandoned coal mines; educates children in Indian schools; and provides recreational opportunities for over 400 million visitors annually in the Nation's national parks, public lands, national wildlife refuges, and recreation areas.

The DOI will continue to review and update its regulations and policies to ensure that they are effective and efficient, and that they promote accountability and sustainability. The DOI will emphasize regulations and policies that:

- Promote environmentally responsible, safe, and balanced development of renewable and conventional energy on our public lands and the Outer Continental Shelf (OCS);
- Use the best available science to ensure that public resources are protected, conserved, and used wisely;
- Preserve America's natural treasures for future generations;
- Improve the nation-to-nation relationship with American Indian tribes;
- Promote partnerships with States, tribes, local governments, other groups, and individuals to achieve common goals; and
- Promote transparency, fairness, accountability, and the highest ethical standards while maintaining performance goals.

Major Regulatory Areas

The DOI bureaus implement congressionally mandated programs through their regulations. Some of these regulatory programs include:

- Developing onshore and offshore energy, including renewable, mineral, oil and gas, and other energy resources;
- Regulating surface coal mining and reclamation operations on public and private lands;
- Managing migratory birds and preserving marine mammals and endangered species;
- Managing dedicated lands, such as national parks, wildlife refuges, National Landscape Conservation System lands, and American Indian trust lands;
- Managing public lands open to multiple use;
- Managing revenues from American Indian and Federal minerals;
- Fulfilling trust and other responsibilities pertaining to American Indians and Alaska Natives;
- Managing natural resource damage assessments; and
- Managing assistance programs.

Regulatory Policy

The DOI's regulatory programs seek to operate programs transparently, efficiently, and cooperatively while maximizing protection of our land, resources, and environment in a fiscally responsible way by:

(1) Protecting Natural, Cultural, and Heritage Resources

The Department's mission includes protecting and providing access to our Nation's natural and cultural heritage and honoring our trust responsibilities to tribes. We are committed to this mission and to applying laws and regulations fairly and effectively. Our priorities include protecting public health and safety, restoring and maintaining public lands, protecting threatened and endangered species, ameliorating land- and resource-management problems on public lands, and ensuring accountability and compliance with Federal laws and regulations.

(2) Sustainably Using Energy, Water, and Natural Resources

Since the beginning of the Obama Administration, the Department has focused on renewable energy issues and has established priorities for environmentally responsible development of renewable energy on public lands and the OCS. Industry has started to respond by investing in the development of wind farms off the Atlantic seacoast and solar, wind, and geothermal energy facilities throughout the West. Power generation from these new energy sources produces virtually no greenhouse gases and, when done in an environmentally responsible manner, harnesses with minimum impact abundant renewable energy. The Department will continue its intra- and inter-departmental efforts to move forward with the environmentally responsible review and permitting of renewable energy projects on public lands, and will identify how its regulatory processes can be improved to facilitate the responsible development of these resources.

The Secretary issued his first Secretarial Order on March 11, 2009, making renewable energy on public lands and the OCS top priorities at the Department. These remain top priorities. In implementing these priorities through its regulations, the

Department will continue to create jobs and contribute to a healthy economy while protecting our signature landscapes, natural resources, wildlife, and cultural resources.

(3) Empowering People and Communities

The Department strongly encourages public participation in the regulatory process and will continue to actively engage the public in the implementation of priority initiatives. Throughout the Department, individual bureaus and offices are ensuring that the American people have an active role in managing our Nation's public lands and resources.

For example, every year the FWS establishes migratory bird hunting seasons in partnership with flyway councils composed of State fish and wildlife agencies. The FWS also holds a series of public meetings to give other interested parties, including hunters and other groups, opportunities to participate in establishing the upcoming season's regulations. Similarly, the BLM uses Resource Advisory Councils to provide advice on the management of public lands and resources. These citizen based groups provide an opportunity for individuals from all backgrounds and interests to have a voice in the management of public lands.

In October 2010, NPS published an interim final rule with request for comments revising the former regulations for management of demonstrations and the sale or distribution of printed matter in most areas of the National Park System to allow a small-group exception to permit requirements. In essence, under specific criteria, demonstrations and the sale or distribution of printed matter involving 25 or fewer persons may be held in designated areas, without first obtaining a permit; i.e. making it easier for individuals and small groups to express their views. The NPS has analyzed the comments and expects to publish a final rule in early 2013.

Retrospective Review of Regulations

President Obama's Executive Order 13563 directs agencies to make the regulatory system work better for the American public. Regulations should "* * * protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation." DOI's plan for retrospective regulatory review identifies specific efforts to relieve regulatory burdens, add jobs to the economy, and make regulations work better for the American public while protecting our environment and resources. The DOI plan seeks to strengthen and maintain a culture of retrospective review by consolidating all regulatory review requirements [1] into DOI's annual regulatory plan. When opportunities arise to improve our regulations, we try to respond quickly. For example, some small businesses recently raised a concern about inspection fees required for imports and exports of wildlife by certain licensed businesses. Our regulations set forth the fees that are required to be paid at the time of inspection of imports and exports of wildlife. In 2009, we implemented a new user fee system intended to recover the costs of the compliance portion of the wildlife inspection program. In summer 2012, the Service learned that we may have placed an undue economic burden on businesses that exclusively trade in small volumes of low-value, non-Federally protected wildlife parts and products. To address this issue, we immediately issued an interim rule (October 26, 2012—77 FR 65321), implementing a program that exempts certain businesses from the designated port base inspection fees as an interim measure while the Service reassesses its current user fee system.

In examining its current regulatory requirements, DOI has also taken a hybrid regulatory approach, incorporating flexible, performance based standards with existing regulatory requirements where possible to strengthen safety and environmental protection across the onshore and offshore oil and natural gas industry while minimizing additional burdens on the economy. The Department routinely meets with stakeholders to solicit feedback and gather input on how to incorporate performance based standards. For example, in September, DOI personnel participated with staff from the Environmental Protection Agency, the U.S. Coast Guard, and the Department of Transportation in a stakeholder meeting sponsored by the Occupational Health and Safety Administration specifically to receive input on the inclusion of performance based standards as a regulatory approach. DOI has received helpful public input through this process and will continue to participate in this effort with relevant interagency partners as part of its retrospective regulatory review.

Pursuant to section 6 of Executive Order 13563 "Improving Regulation and Regulatory Review" (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of the entries on this list may be completed actions, which do not appear in the *Regulatory Plan*. However, more information can be found about these completed rulemakings in past publications of the unified Agenda on reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on regulations.gov.

Bureau	RIN	Title	Description	Significantly reduce burdens on small business?
Office of Natural Resources Revenue (ONRR).	1012–AA13	Oil and Gas Royalty Valuation.	DOI is exploring a simplified market-based approach to arrive at the value of oil and gas for royalty purposes that could dramatically reduce accounting and paperwork requirements and costs on industry and better ensure proper royalty valuation by creating a more transparent royalty calculation method.	Yes.

[1] DOI conducts regulatory review under numerous statutes, Executive orders, memoranda, and policies, including but not limited to the Regulatory Flexibility Act of 1980 (RFA), the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Executive Orders 12866 and 13563, and the DOI Departmental Manual.

Bureau	RIN	Title	Description	Significantly reduce burdens on small business?
Fish and Wildlife Service (FWS).	1018–AX44	Critical Habitat Boundary Descriptions.	FWS published a final rule on May 1, 2012 (77 FR 25611), that minimizes the requirements for written descriptions of critical habitat boundaries in favor of map and Internet-based descriptions. This rule will make the process of designating critical habitat more user-friendly for affected parties, the public as a whole, and the Services, as well as more efficient and cost effective.	Yes.
FWS	1018–AX85	ESA Section 7 Consultation Process; Incidental Take Statements.	Court decisions rendered over the last decade regarding the adequacy ot incidental take statements have prompted us, along with the National Marine Fisheries Service (NOAA, Commerce), to consider clarifying our regulations concerning two aspects of issuance of incidental take statements during section 7 consultation under the Endangered Species Act. The proposed regulatory changes will specifically address the use of surrogates to express the limit of exempted take and how to determine when deferral of an incidental take exemption is appropriate. This is a joint rulemaking with NOAA.	No.
FWS	1018–AX86	Regulations Governing Designation of Critical Habitat Under Section 4 of the ESA.	The proposed rule would amend existing regulations governing the designation of critical habitat under section 4 of the Endangered Species Act. A number of factors, including litigation and the Services' experience over the years in interpreting and applying the statutory definition of critical habitat, have highlighted the need to clarify or revise the current regulations. This is a joint rulemaking with NOAA.	No.
FWS	1018–AX87	Policy for Designation of Critical Habitat Under Section 4 of the Endangered Species Act.	This proposed policy would articulate the purpose of critical habitat, provide a clear interpretation of the statutory definition of "critical habitat," and describe a comprehensive approach for designating critical habitat under section 4 of the Endangered Species Act. This policy would help provide clarity and consistency in the designation of critical habitat in an effort to ensure that the purposes of the Endangered Species Act are fully met. We will seek public review and comment on the proposed policy. This is a joint policy with NOAA.	No.
FWS	1018–AX88	ESA Section 7 Consultation Regulations; Definition of "Destruction or Adverse Modification" of Critical Habitat.	The proposed rule would amend the existing regulations governing section 7 consultation under the Endangered Species Act to revise the definition of "destruction or adverse modification" of critical habitat. The current regulatory definition has been invalidated by the courts for being inconsistent with the language of the Endangered Species Act. We therefore need to propose a revised definition and seek public review and comment This is a joint rulemaking with NOAA.	No.
Bureau of Indian Affairs (BIA).	1076–AE73	Leasing and Rights of Way.	To encourage and speed up economic development in Indian Country, the Department through the BIA, undertook a sweeping reform of antiquated, "one-size-fits-all" Federal leasing regulations for the 56 million surface acres the Federal government holds in trust for Tribes and individual Indians. The final leasing rule was published on December 5, 2012, and provides greater transparency and firm deadlines for BIA review and approval of lease documents; gives greater deference to Indian tribes in leasing approval and enforcement decisions; and removes unnecessary burdens, including deleting the requirement for BIA review of permits, which some view as unjustified and excessively burdensome.	Yes.

Bureau	RIN	Title	Description	Significantly reduce burdens on small business?
National Park Service (NPS), FWS, Bureau of Land Mgt. (BLM), and Bureau of Reclamation (BOR), and BIA.	1024–AD30	Commercial Filming on Public Lands.	This joint effort between the National Park Service (NPS), Fish and Wildlife Service (FWS), Bureau of Land Management (BLM), Bureau of Reclamation (BOR), and Bureau of Indian Affairs (BIA) will create consistent regulations and a unified DOI fee schedule for commercial filming and still photography on public land. It will provide the commercial filming industry with a predictable fee for using Federal lands, while earning the Government a fair return for the use of that land.	Yes.

DOI bureaus work to make our regulations easier to comply with and understand. Our regulatory process ensures that bureaus share ideas on how to reduce regulatory burdens while meeting the requirements of the laws they enforce and improving their stewardship of the environment and resources. Results include:

- Effective stewardship of our Nation's resources in a way that is responsive to the needs of small businesses;
- Increased benefits per dollars spent by carefully evaluating the economic effects of planned rules; and
- Improved compliance and transparency by use of plain language in our regulations and guidance documents.

Bureaus and Offices Within DOI

The following provides an overview of some of the major regulatory priorities that individual bureaus and offices within DOI will undertake.

Bureau of Indian Affairs

The Bureau of Indian Affairs (BIA) administers and manages 55 million acres of surface land and 57 million acres of subsurface minerals held in trust by the United States for Indians and Indian tribes, provides services to approximately 1.9 million Indians and Alaska Natives, and maintains a government-to-government relationship with the 566 federally recognized Indian tribes. The BIA's mission is to enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to protect and improve the trust assets of American Indians, Indian tribes, and Alaska Natives, as well as to provide quality education opportunities to students in Indian schools.

In the coming year, BIA will continue its focus on improved management of trust responsibilities with each regulatory review and revision. BIA will also continue to promote economic development in Indian communities by ensuring the regulations support, rather than hinder, productive land management. In addition, BIA will focus on updating Indian education regulations and on other regulatory changes to increase transparency in support of the President's Open Government Initiative.

In the coming year, BIA's regulatory priorities are to:

- Develop regulations to meet the Indian trust reform goals for rights-of-ways across Indian land.
- Develop regulatory changes necessary for improved Indian education.

BIA is reviewing regulations that require the Bureau of Indian Education to follow 23 different State adequate yearly progress (AYP) standards to determine whether a uniform standard would better meet the needs of students at Bureau-funded schools. With regard to undergraduate education, BIE is reviewing regulations that address grants to tribally controlled community colleges and other Indian education regulations. These reviews will identify provisions that need to be updated to comply with applicable statutes and ensure that the proper regulatory framework is in place to support students of Bureau-funded schools.

- Develop regulatory changes to reform the process for Federal acknowledgment of Indian tribes.

Over the years, BIA has received significant comments from American Indian groups and members of Congress on the Federal acknowledgment process. Most of these comments claim that the current process is cumbersome and overly restrictive. The BIA is reviewing the Federal acknowledgment regulations to determine how regulatory changes may streamline the acknowledgment process and clarify criteria by which an Indian group is examined.

- Finalize regulations establishing uniform Buy Indian acquisition procedures.

BIA currently exercises authority provided by the Buy Indian Act to set-aside acquisitions for services and products for Indian economic enterprises, under certain circumstances allowed under the Federal Acquisition Regulations. This rule would standardize BIA procedures for implementing the Buy Indian Act.

- Revise regulations to reflect updated statutory provisions and increase transparency.

BIA is making a concentrated effort to improve the readability and precision of its regulations. Because trust beneficiaries often turn to the regulations for guidance on how a given BIA process works, BIA is ensuring that each revised regulation is written as clearly as possible and accurately reflects the current organization of the Bureau. The Bureau is also simplifying language and eliminating obsolete provisions. The Bureau recently completed a major overhaul of regulations governing residential, business, and wind and solar resource leasing on Indian land to reflect updated laws and increase user-friendliness. In the coming year, the Bureau also plans to review regulations regarding rights-of-way (25 CFR 169); Indian Reservation Roads (25 CFR 170); and certain regulations specific to the Osage Nation.

The Bureau of Land Management

The BLM manages the 245-million-acre National System of Public Lands, located primarily in the western States, including Alaska, and the 700-million-acre subsurface mineral estate located throughout the Nation. In doing so, the BLM manages such varied uses as energy and mineral development, outdoor recreation, livestock grazing, and forestry and woodlands products. BLM's complex multiple-use mission affects the lives of millions of Americans, including those who live near and visit the public lands, as well as those who benefit from the commodities, such as minerals, energy, or timber, produced from the lands' rich

resources. In undertaking its management responsibilities, the BLM seeks to conserve our public lands' natural and cultural resources and sustain the health and productivity of the public lands for the use and enjoyment of present and future generations. In the coming year, BLM's highest regulatory priorities include:

• Revising antiquated hydraulic fracturing regulations.

BLM's existing regulations applicable to hydraulic fracturing were promulgated over twenty years ago and do not reflect modern technology. In seeking to modernize its requirements and ensure the protection of our Nation's public lands, the BLM has proposed a rule that would provide disclosure to the public of chemicals used in hydraulic fracturing on public land and Indian land, strengthen regulations related to well-bore integrity, and address issues related to flowback water.

• Updating onshore oil and gas operating standards.

Onshore orders establish requirements and minimum standards and provide standard operating procedures for oil and gas operations. The orders are binding on operating rights owners and operators of Federal and Indian (except the Osage Nation) oil and gas leases and on all wells and facilities on State or private lands committed to Federal agreements. The BLM is responsible for ensuring that oil or gas produced and sold from Federal or Indian leases is accurately measured for quantity and quality. The volume and quality of oil or gas sold from leases is key to ensuring that the American public is receiving a fair return from operators for the right to extract public resources. BLM is focusing on revising existing Onshore Orders Number 3, 4, and 5 to adopt new industry standards to reflect current operating procedures used by industry. These existing Onshore Orders would also be revised to require that proper verification and accounting practices are implemented consistently. A new Onshore Order Number 9 would cover the prevention of waste and beneficial use of the oil and gas resource to ensure that proper royalties are paid on oil and gas removed from Federal and Trust lands.

• Competitive leasing process for solar and wind rights-of-way.

The BLM is preparing a proposed rule that would establish an efficient competitive process for leasing public lands for solar and wind energy development. The amended regulations would establish competitive bidding procedures for lands within designated solar and wind energy development leasing areas, define qualifications for potential bidders, and structure the financial arrangements necessary for the process. The proposed rule would enhance the BLM's ability to capture fair market value for the use of public lands, ensure fair access to leasing opportunities for renewable energy development, and foster the growth and development of the renewable energy sector of the economy.

The Bureau of Ocean Energy Management (BOEM)

The Bureau of Ocean Energy Management (BOEM) is the resource manager for the conventional and renewable energy and mineral resources on the Outer Continental Shelf (OCS). Protecting the environment, while ensuring the safe development of the nation's offshore energy and marine mineral resources, is a critical part of BOEM's mission. The Bureau, as with all Federal agencies, must consider the potential environmental impacts from exploring and extracting these resources. It fosters development of the OCS for both conventional and renewable energy and mineral resources in an efficient and effective manner that ensures fair market value for the rights conveyed. BOEM's near-term regulatory agenda will cover a number of issues, including:

Clarifying its functional responsibilities in light of the recent re-organization of offshore energy functions: A new proposed rule will reorganize the BOEM regulations in a more logical manner and better clarify the functional responsibilities of the agency with respect to OCS lessee and operators and provides supporting changes to ensure regulatory compliance.

Modernizing leasing regulations: BOEM is developing a final rule to update and streamline the existing OCS leasing regulations to better reflect policy priorities including incentivizing diligent development. For example, the rule will implement a two term leasing process, whereby leases are issued subject to a requirement that drilling commences within a specific time period or else reverts back to the government.

Updating BOEM's air quality program in light of expanded statutory authority: DOI has jurisdiction over air emissions from OCS sources operating on certain portions of the OCS. As part of the FY 2012 Appropriations bill, Congress increased DOI authority in this area by transferring responsibility for monitoring OCS air quality off the north coast of Alaska from the Environmental Protection Agency to the Department of the Interior. In light of new authorities, BOEM is undertaking a full review of its air quality program in order to ensure that regulations are best suited to achieve the statutory mandate of requiring offshore activities compliance with EPA's National Ambient Air Quality Standards (NAAQS), to the extent that those activities significantly affect the air quality of a State.

Enhancing regulatory efficiency for BOEM's offshore renewables program: Two specific rulemakings would respond to recommendations submitted to BOEM following independent technical reviews of existing requirements: (1) A recommendation from a Transportation Research Board report to develop specific wind turbine design standards; and (2) a recommendation from a Technology Assessment and Research Program report to clarify the role of Certified Verification Agents in the BOEM permitting process. In addition, the proposed regulations would clarify requirements associated with lessee notification to BOEM of a discovery of potential archaeological resource(s) and revise renewables rules to improve procedural and administrative efficiencies, reduce regulatory burdens and streamline operations.

Promoting financial assurance and risk management: BOEM is responsible for the Financial Assurance and Risk Management (FARM) program, designed to ensure lessees and operators on the OCS do not engage in activities that could generate an undue financial risk to the Government. FARM and bonding regulations have not been updated in many years and no longer accurately reflect current industry financial monitoring and controls. In addition, reliable and comprehensive cost data are neither accessible nor widely available in the offshore industry, and so new data collection efforts are suggested to improve future bonding formulas and to ensure that levels remain properly calibrated. BOEM has established a series of task forces to review these issues and will prepare a series of updates to the regulations, once this effort is completed. This is likely a medium-to-longer-term effort. Also related to risk and financial assurance, BOEM is undertaking a rulemaking to adjust limits of liability for damages from offshore facilities under the Oil Pollution Act of 1990, to reflect increases in the Consumer Price Index since the enactment of that statute and to ensure the environment is protected in the event of an offshore incident.

Formally addressing the use of OCS sand, gravel, and shell resources: BOEM is developing regulations to formally

address the use of OCS sand, gravel, or shell resources for shore protection, beach replenishment, wetlands restoration, or in construction projects funded by the Federal government.

The Bureau of Safety and Environmental Enforcement

BSEE was formally established in October 2011, as part of a major reorganization of the Department of the Interior's offshore regulatory structure. At its core, the Bureau's mission is to compel safety, emergency preparedness, environmental responsibility and appropriate development and conservation of offshore oil and natural gas resources. BSEE's regulatory priorities are guided by the newly developed BSEE FY 2012–2015 Strategic Plan, which includes two strategic goals to focus the Bureau's priorities in fulfillment of its mission:

- Regulate, enforce, and respond to OCS development using the full range of authorities, policies, and tools to compel safety and environmental responsibility and appropriate development of offshore oil and natural gas resources.
- Build and sustain the organizational, technical, and intellectual capacity within and across BSEE's key functions—capacity that keeps pace with OCS industry technology improvements, innovates in regulation and enforcement, and reduces risk through systemic assessment and regulatory and enforcement actions.

The Three-Year Strategic Plan reflects the intent of BSEE to build a bureau capable of keeping pace with the rapidly advancing technologies employed by the industry, building and sustaining its organizational, technical, and intellectual capacity, and instilling a commitment to safe practices at all levels of offshore operations, at all times. Additionally, the strategic plan incorporates BSEE's approach to address numerous recommendations contained in Government Accountability Office, Office of Inspector General (OIG), and other external reports.

- The BSEE has identified the following four areas of regulatory priorities: (1) Compliance; (2) Oil Spill Response; (3) Safety and Environmental Management Systems (SEMS); and (4) Managing and Mitigating Risk. Among the specific regulatory priorities that will be BSEE's priorities over the course of the next year are: Compliance

BSEE will finalize revisions of its rule on production safety systems and expand the use of lifecycle analysis of critical equipment. This rule addresses issues such as subsurface safety devices, safety device testing, and expands the requirements for operating production systems on the OCS.

- Oil Spill Response.

BSEE will update regulations for offshore oil spill response planning and preparedness. This rule will incorporate lessons learned from the 2010 Deepwater Horizon spill, improved preparedness capability standards, and applicable research findings. This regulatory update will establish standards that drive owners, lessees, and operators to use all applicable tools in a system-based plan that demonstrates the ability to respond to oil spills quickly and effectively.

- Safety and Environmental Management Systems (SEMS).

BSEE will propose additional revisions to the current SEMS rule. BSEE will collaborate extensively with the U.S. Coast Guard on this rule to further enhance the development of industry safety systems that will reduce the risk of offshore oil and gas operations.

- Managing and Mitigating Risk.

BSEE will develop a proposal to modernize requirements for blowout prevention systems to address potential risks associated with existing systems and enhance the safety of well operations.

BSEE will propose a rule to assess leading and lagging performance indicators to identify risks and near-miss incidents on the OCS. The current incident reporting regulations focus on reporting only accidents associated with offshore operations. This proposed rule will support the bureau's risk assessment activities and identify trends or potential hazards involving causes for equipment failures, procedures, people, or safety management systems.

Office of Natural Resources Revenue

The Office of Natural Resources Revenue (ONRR) collects, accounts for, and disburses revenues from Federal offshore energy and mineral leases and from onshore mineral leases on Federal and Indian lands. The program operates nationwide and is primarily responsible for timely and accurate collection, distribution, and accounting for revenues associated with mineral and energy production.

ONRR's regulatory plan priorities for the upcoming year include:

- Simplify valuation regulations.

ONRR plans to simplify the regulations at 30 CFR part 1206 for establishing the value for royalty purposes of: (1) Oil and natural gas produced from Federal leases; and (2) coal and geothermal resources produced from Federal and Indian leases. Additionally, the proposed rules would consolidate sections of the regulations common to all minerals, such as definitions and instructions regarding how a payor should request a valuation determination. ONRR published Advance Notices of Proposed Rulemaking (ANPRMs) to initiate the rulemaking process and to obtain input from interested parties.

- Finalize debt collection regulations.

ONRR is preparing regulations governing collection of delinquent royalties, rentals, bonuses, and other amounts due under Federal and Indian oil, gas, and other mineral leases. The regulations would include provisions for administrative offset and would clarify and codify the provisions of the Debt Collection Act of 1982, and the Debt Collection Improvement Act of 1996.

- Continue to meet Indian trust responsibilities.

ONRR has a trust responsibility to accurately collect and disburse oil and gas royalties on Indian lands. ONRR will increase royalty certainty by addressing oil valuation for Indian lands through a negotiated rulemaking process involving key stakeholders.

Office of Surface Mining Reclamation and Enforcement

The Office of Surface Mining Reclamation and Enforcement (OSM) was created by the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Under SMCRA, OSM has two principal functions—the regulation of surface coal mining and reclamation operations and the reclamation and restoration of abandoned coal mine lands. In enacting SMCRA, Congress directed OSM to "strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy." In response to its statutory mandate, OSM has sought to develop and maintain a stable regulatory program that is safe, cost-effective, and environmentally sound. A stable regulatory program ensures that the coal mining industry has clear guidelines for operation and reclamation, and that citizens know how the program is being implemented.

OSM's Federal regulatory program sets minimum requirements for obtaining a permit for surface and underground coal mining operations, sets performance standards for those operations, requires reclamation of lands and waters disturbed by mining, and requires enforcement to ensure that the standards are met. OSM is the primary regulatory authority for SMCRA

enforcement until a State or Indian tribe develops its own regulatory program, which is no less effective than the Federal program. When a State or Indian tribe achieves "primacy," it assumes direct responsibility for permitting, inspection, and enforcement activities under its federally approved regulatory program. The regulatory standards in Federal program states and in primacy states are essentially the same with only minor, non-substantive differences. Today, 24 States have primacy, including 23 of the 24 coal producing States. OSM's regulatory priorities for the coming year will focus on:

• Stream Protection.

Protect streams and related environmental resources from the adverse effects of surface coal mining operations; and

• Coal Combustion Residues.

Establish Federal standards for the beneficial use of coal combustion residues on active and abandoned coal mines.

U.S. Fish and Wildlife Service

The mission of the U.S. Fish and Wildlife Service (FWS) is to work with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. FWS also helps ensure a healthy environment for people by providing opportunities for Americans to enjoy the outdoors and our shared natural heritage.

FWS fulfills its responsibilities through a diverse array of programs that:

• Protect and recover endangered and threatened species;

• Monitor and manage migratory birds;

• Restore native aquatic populations and nationally significant fisheries;

• Enforce Federal wildlife laws and regulate international trade;

• Conserve and restore wildlife habitat such as wetlands;

• Help foreign governments conserve wildlife through international conservation efforts;

• Distribute Federal funds to States, territories, and tribes for fish and wildlife conservation projects; and

• Manage the more than 150-million-acre National Wildlife Refuge System, which protects and conserves fish and wildlife and their habitats and allows the public to engage in outdoor recreational activities.

Over the course of the next year, FWS regulatory priorities will include:

• Regulations under the Endangered Species Act (ESA), including rules to list, delist, and reclassify species and designate critical habitat for certain listed species as set forth by the Multi-District Litigation, and rules to transform the processes for listing species and designating critical habitat:

▪ In regard to the ESA lists, we will issue rules to amend the format of the lists to make them more user-friendly for the public, to correct errors in regard to taxonomy, to include rules issued by the National Marine Fisheries Service for marine species, and to more clearly describe areas where listed species are protected.

▪ In regard to the designation of critical habitat for listed species, we will issue rules to revise the timeframe for our issuance of economic analyses pertaining to critical habitat designations, to clarify definitions of "critical habitat" and "destruction or adverse modification," to improve our consultation process in regard to issuing incidental take statements, and otherwise make improvements to the process of critical habitat designation.

• Regulations under the Migratory Bird Treaty Act (MBTA), including rules to manage migratory bird populations, such as the annual migratory bird hunting regulations, and guidelines for protecting migratory birds while supporting renewable energy initiatives:

▪ To ensure proper administration of the MBTA, we will revise the list of migratory bird species based on new information. This list is vital to our regulation of activities, such as transport, sale, and import and export, of protected species. We will also propose to revise our regulations that are designed to prevent the wanton waste of migratory game birds to clarify that the hunting public must make reasonable efforts to retrieve birds that have been killed or injured.

▪ In an effort to promote renewable energy while carrying out our responsibility to protect certain species of birds, we will issue guidance that includes an iterative process for developers to use to avoid and minimize negative effects on eagles and their habitats resulting from the construction, operation, and maintenance of land-based wind energy facilities in the United States. In addition, we will finalize our proposal to revise our regulations for permits for nonpurposeful take of eagles. By proposing to extend the maximum term for programmatic permits to 30 years, as long as certain requirements are met, we will facilitate the development of renewable energy projects that are designed to be in operation for many decades.

▪ We will continue our efforts to empower State governments by adding States that meet our requirements to the list of States that are delegated authority to regulate falconry. We will also continue our efforts to protect wildlife and promote business by revising our regulations to approve additional formulations of nontoxic shot for use in hunting waterfowl.

• Regulations to carry out our responsibilities to administer the National Wildlife Refuge System (NWRS), such as the development of Comprehensive Conservation Plans, acquisition planning, and implementation of our "Conserving the Future" vision:

▪ We will issue a policy to guide Service employees to increase efficiency and effectiveness in achieving the mission of the NWRS through partnerships with Friends (Refuge volunteer or advocate) organizations. This policy will help us strengthen the Refuge system by giving Refuge managers across the country consistent guidance on ways to increase community involvement on Refuge lands.

▪ To further this effort of ensuring consistent administration of our Refuges, we will issue a proposed rule to ensure that all operators conducting oil or gas operations on NWRS lands do so in a manner that prevents or minimizes damage to the lands, visitor values, and management objectives.

▪ To help us build strong and lasting partnerships with self-governance Tribes and consortia, we propose a policy to respond to and negotiate with Tribes on their requests for annual funding agreements in implementing the provisions of title IV of the Indian Self-Determination and Education Assistance Act.

• Regulations to carry out the Convention on International Trade in Endangered Species of Wild Fauna and Flora to update the regulations and permit international trade:

▪ To provide clear guidance to U.S. importers and exporters of wildlife products, we will update our CITES regulations to incorporate provisions resulting from the 14th and 15th Conferences of the Parties to CITES. The revisions will help us more effectively promote species conservation and help those affected by CITES to understand how to conduct lawful international trade in wildlife and wildlife products.

▪ In regard to efforts to protect specific species, we will issue regulations regarding generic tigers (those not identifiable as members of the Bengal, Sumatran, Siberian, or Indochinese subspecies) the same level of protection that "pure" tigers have. We will also revise our regulations regarding the importation of ivory from African elephants to allow the

importation of ivory specimens for scientific and law enforcement purposes. This revision will ensure that our regulations do not prohibit activities that support the purposes of the ESA.

• We provide this summary in accordance with section 3(a) of Executive Order 13609 ("Promoting International Regulatory Cooperation").

National Park Service

The NPS preserves unimpaired the natural and cultural resources and values within almost 400 units of the National Park System encompassing nearly 84 million acres of lands and waters for the enjoyment, education, and inspiration of this and future generations. The NPS also cooperates with partners to extend the benefits of natural and resource conservation and outdoor recreation throughout the United States and the world.

To achieve this mission the NPS adheres to the following guiding principles:

• *Excellent Service:* Providing the best possible service to park visitors and partners.

• *Productive Partnerships:* Collaborating with Federal, State, tribal, and local governments, private organizations, and businesses to work toward common goals.

• *Citizen Involvement:* Providing opportunities for citizens to participate in the decisions and actions of the National Park Service.

• *Heritage Education:* Educating park visitors and the general public about their history and common heritage.

• *Outstanding Employees:* Empowering a diverse workforce committed to excellence, integrity, and quality work.

• *Employee Development:* Providing developmental opportunities and training so employees have the "tools to do the job" safely and efficiently.

• *Wise Decisions:* Integrating social, economic, environmental, and ethical considerations into the decision-making process.

• *Effective Management:* Instilling a performance management philosophy that fosters creativity, focuses on results, and requires accountability at all levels.

• *Research and Technology:* Incorporating research findings and new technologies to improve work practices, products, and services.

Our regulatory priorities for the coming year include:

—Revising the existing regulation pertaining to Commercial Film and Related Activities.

This joint effort between the National Park Service (NPS), Fish and Wildlife Service (FWS), Bureau of Land Management (BLM), Bureau of Reclamation (BOR), and Bureau of Indian Affairs (BIA) will create consistent regulations and a unified DOI fee schedule for commercial filming and still photography on public land. It will provide the commercial filming industry with a predictable fee for using Federal lands, while earning the Government a fair return for the use of that land.

—Establishing new rules related to:

• Collection of Natural Products by Members of Federally Recognized Tribes for Traditional and Cultural Purposes

The rule will clarify the Park Superintendent's authority to permit American Indians and Alaska Natives to collect limited quantities of plant and mineral resources in parks for traditional cultural uses, practices, and activities.

• Managing Winter Use at Yellowstone NP.

The rule will retain for the 2012–2013 winter season the regulations and management framework that have been in place for the last three winter seasons (2009–2010, 2010–2011, 2011–2012).

• Managing Off Road Vehicle Use.

(1) A rule to designate routes and areas within Curecanti National Recreation Area where off-road vehicles (ORVs) and snowmobiles will be allowed within the recreation area. ORV use will primarily occur below the high water line of the Blue Mesa Reservoir. The rule also provides for designation of new snowmobile access points and designates snowmobile routes from the access points to the frozen surface of the Blue Mesa Reservoir.

(2) A rule to define applicable terms, designates driving routes, driving conditions, and establishes permit conditions for ORV use within Fire Island National Seashore.

(3) A rule to (i) designate trails in the Nabesna District of Wrangell-St. Elias National Preserve where ORVs may be used for recreational purposes; (ii) impose ORV size and weight restrictions; and (iii) close areas to ORV use for subsistence purposes in designated wilderness.

• Managing Bicycling.

NPS rules would designate bicycles routes and allow for management of bicycle use on designated routes at Chattahoochee NRA, Sleeping Bear Dunes National Lakeshore, and Lake Meredith NRA.

• Implementation of the Native American Graves Protection and Repatriation Act.

(1) A rule will correct inaccuracies or inconsistencies in the 43 CFR part 10 regulations, implementing the Native American Graves Protection and Repatriation Act, which have been identified by or brought to the attention of the Department of the Interior.

(2) A rule would establish a process for disposition of Unclaimed Human Remains and Funerary Objects discovered after November 16, 1990, on Federal or Indian Lands.

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DEPARTMENT OF JUSTICE (DOJ)

Statement of Regulatory Priorities

The mission of the Department of Justice is to enforce the law and defend the interests of the United States according to the law, to ensure public safety against threats foreign and domestic, to provide Federal leadership in preventing and controlling crime, to seek just punishment for those guilty of unlawful behavior, and to ensure fair and impartial administration of justice for all Americans. In carrying out its mission, the Department is guided by four core values: (1) equal justice under the law; (2) honesty and integrity; (3) commitment to excellence; and (4) respect for the worth and dignity of each human being. The Department of Justice is primarily a law-enforcement agency, not a regulatory agency; it carries out its principal investigative, prosecutorial, and other enforcement activities through means other than the regulatory process.

The regulatory priorities of the Department include initiatives in the areas of civil rights, criminal justice, and immigration. These initiatives are summarized below. In addition, several other components of the Department carry out important responsibilities through the regulatory process. Although their regulatory efforts are not separately discussed in this overview of the regulatory priorities, those components have key roles in implementing the Department's anti-terrorism and law enforcement priorities.

Civil Rights

Regulatory Plan Initiatives

The Department is including five disability nondiscrimination rulemaking initiatives in its Regulatory Plan: (1) Implementation of the ADA Amendments Act of 2008 in the ADA regulations (titles II and III); (2) Implementation of the ADA Amendments Act of 2008 in the Department's section 504 regulations; (3) Nondiscrimination on the Basis of Disability by Public Accommodations:

Movie Captioning and Audio Description; (4) Accessibility of Web Information and Services of State and Local Governments; and (5) Accessibility of Web Information and Services of Public Accommodations. The Department's other disability nondiscrimination rulemaking initiatives, while important priorities for the Department's rulemaking agenda, will be included in the Department's long-term actions for FY 2014. As will be discussed more fully below, these initiatives include: (1) Accessibility of Medical Equipment and Furniture; (2) Accessibility of Beds in Guestrooms with Mobility Features in Places of Lodging; (3) Next Generation 9–1–1 Services; and (4) Accessibility of Equipment and Furniture.

ADA Amendments Act. In September 2008, Congress passed the ADA Amendments Act, which revises the definition of "disability" to more broadly encompass impairments that substantially limit a major life activity. In FY 2013, the Department plans to propose amendments to both its title II and title III ADA regulations and its section 504 regulations to implement the ADA Amendments Act of 2008.

Captioning and Video Description in Movie Theaters. Title III of the ADA requires public accommodations to take "such steps as may be necessary to ensure that no individual with a disability is treated differently because of the absence of auxiliary aids and services, unless the covered entity can demonstrate that taking such steps would cause a fundamental alteration or would result in an undue burden." 42 U.S.C. section 12182(b)(2)(A)(iii). Both open and closed captioning and audio recordings are examples of auxiliary aids and services that should be provided by places of public accommodations, 28 CFR section 36.303(b)(1)–(2). The Department stated in the preamble to its 1991 rule that "[m]ovie theaters are not required * * * to present open-captioned films," 28 CFR part 36, app. C (2011), but it did not address closed captioning and video description in movie theaters.

Since 1991, there have been many technological advances in the area of closed captioning and video description for first-run movies. In June 2008, the Department issued a Notice of Proposed Rulemaking (NPRM) to revise the ADA title III regulation, 73 FR 34466, in which the Department stated that it was considering options for requiring that movie theater owners or operators exhibit movies that are captioned or that provide video (narrative) description. The Department issued an ANPRM on July 26, 2010, to obtain more information regarding issues raised by commenters; to seek comment on technical questions that arose from the Department's research; and to learn more about the status of digital conversion. In addition, the Department sought information regarding whether other technologies or areas of interest (e.g., 3D) have developed or are in the process of development that either would replace or augment digital cinema or make any regulatory requirements for captioning and video description more difficult or expensive to implement. The Department received approximately 1,171 public comments in response to its movie captioning and video description ANPRM. The Department is in the process of completing its review of these comments and expects to publish an NPRM addressing captioning and video description in movie theaters in FY 2013.

Web Site Accessibility. The Internet as it is known today did not exist when Congress enacted the ADA, yet today the World Wide Web plays a critical role in the daily personal, professional, civic, and business life of Americans. The ADA's expansive nondiscrimination mandate reaches goods and services provided by public accommodations and public entities using Internet Web sites. Being unable to access Web sites puts individuals at a great disadvantage in today's society, which is driven by a dynamic electronic marketplace and unprecedented access to information. On the economic front, electronic commerce, or "e-commerce," often offers consumers a wider selection and lower prices than traditional, "brick-and-mortar" storefronts, with the added convenience of not having to leave one's home to obtain goods and services. For individuals with disabilities who experience barriers to their ability to travel or to leave their homes, the Internet may be their only way to access certain goods and services. Beyond goods and services, information available on the Internet has become a gateway to education, socializing, and entertainment.

The Internet is also dramatically changing the way that governmental entities serve the public. Public entities are increasingly providing their constituents access to government services and programs through their Web sites. Through government Web sites, the public can obtain information or correspond with local officials without having to wait in line or be placed on hold. They can also pay fines, apply for benefits, renew State-issued identification, register to vote, file taxes, request copies of vital records, and complete numerous other everyday tasks. The availability of these services and information online not only makes life easier for the public but also often enables governmental entities to operate more efficiently and at a lower cost.

The ADA's promise to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of American civic and economic life will be achieved in today's technologically advanced society only if it is clear to State and local governments, businesses, educators, and other public accommodations that their Web sites must be accessible. Consequently, the Department is considering amending its regulations implementing title II and title III of the ADA to require public entities and public accommodations that provide products or services to the public through Internet Web sites to make their sites accessible to and usable by individuals with disabilities.

In particular, the Department's ANPRM on Web site accessibility sought public comment regarding what standards, if any, it should adopt for Web site accessibility, whether the Department should adopt coverage limitations for certain entities, like small businesses, and what resources and services are available to make existing Web sites accessible to individuals with disabilities. The Department also solicited comments on the costs of making Web sites accessible and on the existence of any other effective and reasonably feasible alternatives to making Web sites accessible. The Department received approximately 440 public comments and is in the process of reviewing these comments. The Department anticipates publishing separate NPRMs addressing Web site accessibility pursuant to titles II and III of the ADA. The Department projects publishing the title II Web Site Accessibility NPRM in FY 2013 with the publication of the title III NPRM to follow in early FY 2014.

The final rulemaking initiatives from the 2010 ANPRMs are included in the Department's long-term priorities projected for the middle to latter part of FY 2014:

Next Generation 9–1–1. This ANPRM sought information on possible revisions to the Department's regulation to ensure direct access to Next Generation 9–1–1 (NG 9–1–1) services for individuals with disabilities. In 1991, the Department of Justice published a regulation to implement title II of the Americans with Disabilities Act of 1990 (ADA). That regulation requires public safety answering points (PSAPs) to provide

direct access to persons with disabilities who use analog telecommunication devices for the deaf (TTYs), 28 CFR 35.162. Since that rule was published, there have been major changes in the types of communications technology used by the general public and by people who have disabilities that affect their hearing or speech. Many individuals with disabilities now use the Internet and wireless text devices as their primary modes of telecommunications. At the same time, PSAPs are planning to shift from analog telecommunications technology to new Internet-Protocol (IP)-enabled NG 9–1–1 services that will provide voice and data (such as text, pictures, and video) capabilities. As PSAPs transition from the analog systems to the new technologies, it is essential people with communication disabilities will be able to use the new systems. Therefore, the Department published this ANPRM to begin to develop appropriate regulatory guidance for PSAPs that are making this transition. The Department is in the process of completing its review of the approximately 146 public comments it received in response to its NG 9–1–1 ANPRM and expects to publish an NPRM addressing accessibility of NG 9–1–1 in FY 2014.

Equipment and Furniture. Both title II and title III of the ADA require covered entities to make reasonable modifications in their programs or services to facilitate participation by persons with disabilities. In addition, covered entities are required to ensure that people are not excluded from participation because facilities are inaccessible or because the entity has failed to provide auxiliary aids. The use of accessible equipment and furniture is often critical to an entity's ability to provide a person with a disability equal access to its services. Changes in technology have resulted in the development and improved availability of accessible equipment and furniture that benefit individuals with disabilities. The 2010 ADA Standards include accessibility requirements for some types of fixed equipment (*e.g.*, ATMs, washing machines, dryers, tables, benches and vending machines) and the Department plans to look to these standards for guidance, where applicable, when it proposes accessibility standards for equipment and furniture that is not fixed. The ANPRM sought information about other categories of equipment, including beds in accessible guest rooms, and medical equipment and furniture. The Department received approximately 420 comments in response to its ANPRM and is in the process of reviewing these comments. The Department plans to publish in FY 2014 a separate NPRM pursuant to title III of the ADA on beds in accessible guest rooms and a more detailed ANPRM pursuant to titles II and III of the ADA that focuses solely on accessible medical equipment and furniture. The remaining items of equipment and furniture addressed in the 2010 ANPRM will be the subject of an NPRM that the Department anticipates publishing in late FY 2014.

Federal Habeas Corpus Review Procedures in Capital Cases

Pursuant to the USA PATRIOT Improvement and Reauthorization Act of 2005, on December 11, 2008, the Department promulgated a final rule to implement certification procedures for States seeking to qualify for the expedited Federal habeas corpus review procedures in capital cases under chapter 154 of title 28 of the United States Code. On February 5, 2009, the Department published in the **Federal Register** a notice soliciting further public comment on all aspects of the December 2008 final rule. As the Department reviewed the comments submitted in response to the February 2009 notice, it considered further the statutory requirements governing the regulatory implementation of the chapter 154 certification procedures. The Attorney General determined that chapter 154 reasonably could be construed to allow the Attorney General greater discretion in making certification determinations than the December 2008 regulations allowed. Accordingly, the Department published a notice in the **Federal Register** on May 25, 2010, proposing to remove the December 2008 regulations pending the completion of a new rulemaking process. The Department finalized the removal of the December 2008 regulations on November 23, 2010. The Department published an NPRM in the **Federal Register** on March 3, 2011, proposing a new rule and seeking public input on the certification procedure for chapter 154 and the standards the Attorney General will apply in making certification decisions. The comment period for the proposed new rule closed on June 1, 2011. The Department thereafter published a supplemental NPRM on February 13, 2012, which identified a number of possible changes the Department was considering based on comments received in response to the publication of the proposed rule. The comment period for the supplemental NPRM closed on March 14, 2012,

Criminal Law Enforcement

For the most part, the Department's criminal law enforcement components do not rely on the rulemaking process to carry out their assigned missions. The Federal Bureau of Investigation (FBI), for example, is responsible for protecting and defending the United States against terrorist and foreign intelligence threats, upholding and enforcing the criminal laws of the United States, and providing leadership and criminal justice services to Federal, State, municipal, and international agencies and partners. Only in very limited contexts does the FBI rely on rulemaking. For example, in FY 2013 the FBI expects to propose updating its National Instant Criminal Background Check System (NCIS) regulations to address the current prohibition on criminal justice agencies accessing the NICS to conduct background checks prior to the return of firearms.

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Initiatives. ATF issues regulations to enforce the Federal laws relating to the manufacture and commerce of firearms and explosives. ATF's mission and regulations are designed to, among other objectives, curb illegal traffic in, and criminal use of, firearms, and to assist State, local, and other Federal law enforcement agencies in reducing crime and violence. ATF will continue, as a priority during fiscal year 2013, to seek modifications to its regulations governing commerce in firearms and explosives. ATF plans to issue final regulations implementing the provisions of the Safe Explosives Act, title XI, subtitle C, of Public Law 107–296, the Homeland Security Act of 2002 (enacted Nov. 25, 2002).

Pursuant to Executive Order 13563 "Improving Regulation and Regulatory Review," ATF has proposed a rulemaking proceeding to amend existing regulations and extend the term of import permits for firearms, ammunition, and defense articles from 1 year to 2 years. The additional time will allow importers sufficient time to complete the importation of an authorized commodity before the permit expires and eliminate the need for importers to submit new and duplicative import applications. ATF believes that extending the term of import permits will result in substantial cost and time savings for both ATF and industry.

ATF also has begun a rulemaking process that will lead to promulgation of a revised set of regulations (27 CFR part 771) governing the procedure and practice for proposed denial of

applications for explosives licenses or permits and proposed revocation of such licenses and permits.

Drug Enforcement Administration (DEA) Initiatives. DEA is the primary agency responsible for coordinating the drug law enforcement activities of the United States and also assists in the implementation of the President's National Drug Control Strategy. DEA implements and enforces Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and the Controlled Substances Import and Export Act (21 U.S.C. 801–971), as amended, and referred to as the Controlled Substances Act (CSA). DEA's mission is to enforce the CSA and its regulations and bring to the criminal and civil justice system those organizations and individuals involved in the growing, manufacture, or distribution of controlled substances and listed chemicals appearing in or destined for illicit traffic in the United States. DEA promulgates the CSA implementing regulations in title 21 of the Code of Federal Regulations (CFR), parts 1300 to 1321. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while ensuring a sufficient supply of controlled substances and listed chemicals for legitimate medical, scientific, research, and industrial purposes.

Pursuant to its statutory authority, DEA continuously evaluates new and emerging substances to determine whether such substances should be controlled under the CSA. During fiscal year 2013, in addition to initiating temporary scheduling actions to prevent immediate harm to the public safety, DEA will also consider petitions to schedule or reschedule various substances. Among other regulatory reviews and initiatives, DEA also plans to propose and finalize regulations implementing the Secure and Responsible Drug Disposal Act of 2010 (Pub. L. 111–273) to provide means for individuals to safely and securely dispose of controlled substances.

2013

Bureau of Prisons Initiatives. The Federal Bureau of Prisons issues regulations to enforce the Federal laws relating to its mission: To protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens. During the next 12 months, in addition to other regulatory objectives aimed at accomplishing its mission, the Bureau will continue its ongoing efforts to: Streamline regulations, eliminating unnecessary language and improving readability; improve disciplinary procedures through a revision of the subpart relating to the disciplinary process; reduce the introduction of contraband through various means, such as clarifying drug and alcohol surveillance testing programs; protect the public from continuing criminal activity committed within prison; and enhance the Bureau's ability to more closely monitor the communications of high-risk inmates.

Immigration

On March 1, 2003, pursuant to the Homeland Security Act of 2002 (HSA), the responsibility for immigration enforcement and for providing immigration-related services and benefits, such as naturalization and work authorization, was transferred from the Justice Department's Immigration and Naturalization Service (INS) to the Department of Homeland Security (DHS). However, the immigration judges and the Board of Immigration Appeals (Board) in the Executive Office for Immigration Review (EOIR) remain part of the Department of Justice. The immigration judges adjudicate approximately 400,000 cases each year to determine whether aliens should be removed from the United States or should be granted some form of relief from removal. The Board has jurisdiction over appeals from the decisions of immigration judges, as well as other matters. Accordingly, the Attorney General has a continuing role in the conduct of removal hearings, the granting of relief from removal, and custody determinations regarding the detention of aliens pending completion of removal proceedings. The Attorney General also is responsible for civil litigation and criminal prosecutions relating to the immigration laws.

In several pending rulemaking actions, the Department is working to revise and update the regulations relating to removal proceedings in order to improve the efficiency and effectiveness of the hearings. In furtherance of these goals, the Department is drafting a regulation to improve the recognition and accreditation process for organizations and representatives that appear in immigration proceedings. With the assistance of DHS, the Department is also drafting a regulation pursuant to the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to implement procedures that take into account the specialized needs of unaccompanied alien children in removal proceedings. In addition, the Department is considering regulatory action to address mental incompetency issues in removal proceedings. Moreover, the Department is finalizing a regulation requiring attorneys and accredited representatives to register electronically with EOIR, as an initial step in a multi-year, multi-phased initiative to make the transition to an electronic case access and filing system. Finally, in response to Executive Order 13653, the Department is retrospectively reviewing EOIR's regulations to eliminate regulations that unnecessarily duplicate DHS's regulations and update outdated references to the pre-2002 immigration system.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 "Improving Regulation and Regulatory Review" (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan.* However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. The final Justice Department plan can be found at: *http://www.justice.gov/open/doj-rr-final-plan.pdf.*

RIN	Title	Description
1140–AA42	Importation of Arms, Ammunition and Implements of War and Machine Guns, Destructive Devices, and Certain Other Firearms; Extending the Term of Import Permits".	The regulations in 27 CFR 447 and 479 generally provide that firearms, ammunition, and defense articles may not be imported into the United States except pursuant to a permit. Section 447.43 provides that import permits are valid for one year from their issuance date. ATF will consider whether these regulations could be revised to achieve the same regulatory objective in a manner that is less burdensome for both industry and ATF. This rulemaking could reduce paperwork burdens on the small entities that apply for these permits by as much as half.
1125–AA71	Retrospective Regulatory Review Under E.O. 13563 of 8 CFR Parts 1003, 1103, 1211, 1212, 1215, 1216, 1235.	Advance notice of future rulemaking concerning appeals of DHS decisions (8 CFR part 1103), documentary requirements for aliens (8 CFR parts 1211 and 1212), control of aliens departing from the United States (8 CFR part 1215), procedures governing conditional permanent resident status (8 CFR part 1216), and inspection of individuals applying for admission to the United States (8 CFR part 1235). A number of attorneys, firms, and organizations in immigration practice are small entities. EOIR believes this rule will improve the efficiency and fairness of adjudications before EOIR by, for example, eliminating duplication, ensuring consistency with the Department of Homeland Security's regulations in chapter I of title 8 of the CFR, and delineating more clearly the authority and jurisdiction of each agency.

Executive Order 13609—Promoting International Regulatory Cooperation

The Department is not currently engaged in international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations.

DOJ—CIVIL RIGHTS DIVISION (CRT)

Proposed Rule Stage

69. Implementation of the ADA Amendments Act of 2008 (Title II and Title III of the ADA)

Priority: Other Significant.

Legal Authority: Pub. L. 110–325; 42 U.S.C. 12134(a); 42 U.S.C. 12186(b)

CFR Citation: 28 CFR part 35; 28 CFR part 36.

Legal Deadline: None.

Abstract: This rule would propose to amend the Department's regulations implementing title II and title III of the Americans with Disabilities Act (ADA), 28 CFR part 35 and 28 CFR part 36, to implement changes to the ADA enacted in the ADA Amendments Act of 2008, Public Law 110–325, 122 Stat. 3553 (Sept. 25, 2008). The ADA Amendments Act took effect on January 1, 2009.

The ADA Amendments Act amended the Americans with Disabilities Act, 42 U.S.C. 12101, *et seq.*, to clarify terms within the definition of disability and to establish standards that must be applied to determine if a person has a covered disability. These changes are intended to mitigate the effects of the Supreme Court's decisions in Sutton v. United Airlines, 527 U.S. 471 (1999), and Toyota Motor Manufacturing v. Williams, 534, U.S. 184 (2002). Specifically, the ADA Amendments Act (1) adds illustrative lists of "major life activities," including "major bodily functions," that provide more examples of covered activities and covered conditions than are now contained in agency regulations (sec. 3[2]); (2) clarifies that a person who is "regarded as" having a disability does not have to be regarded as being substantially limited in a major life activity (sec. 3[3]); and (3) adds rules of construction regarding the definition of disability that provide guidance in applying the term "substantially limits" and prohibit consideration of mitigating measures in determining whether a person has a disability (sec. 3[4]).

Statement of Need: This rule is necessary to bring the Department's ADA regulations into compliance with the ADA Amendments Act of 2008, which became effective on January 1, 2009. In addition, this rule is necessary to make the Department's ADA title II and title III regulations consistent with the ADA title I regulations issued on March 25, 2011 by the Equal Employment Opportunity Commission (EEOC) incorporating the ADA Amendments Act definition of disability.

Summary of Legal Basis: The summary of the legal basis of authority for this regulation is set forth above in the abstract.

Alternatives: Because this NPRM implements statutory changes to the ADA, there are no appropriate alternatives to issuing this NPRM.

Anticipated Cost and Benefits: The Department's preliminary analysis indicates that the proposed rule would not be "economically significant," that is, the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities. In this NPRM, the Department will be soliciting public comment in response to its preliminary analysis.

Risks: The ADA authorizes the Attorney General to enforce the ADA and to promulgate regulations implementing the law's requirements. Failure to update the Department's regulations to conform to statutory changes and to be consistent with the EEOC regulations under title I of the ADA will interfere with the Department's enforcement efforts and lead to confusion about the law's requirements among entities covered by titles I, II and III of the ADA, as well as members of the public.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Local, State

Federalism: Undetermined.
Agency Contact: Gregory B. Friel, Acting Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20031, *Phone:* 800 514–0301, *Fax:* 202 307–1198.
RIN: 1190–AA59

DOJ—CRT

70. Implementation of the ADA Amendments Act of 2008 (Section 504 of the Rehabilitation Act of 1973)

Priority: Other Significant.
Legal Authority: Pub. L. 110–325; 29 U.S.C. 794 (sec 504 of the Rehabilitation Act of 1973, as amended); EO 12250 (45 FR 72955; 11/04/1980)
CFR Citation: 28 CFR part 39; 28 CFR part 41; 28 CFR part 42, subpart G.
Legal Deadline: None.
Abstract: This rule would propose to amend the Department's regulations implementing section 504 of the Rehabilitation Act of 1973, as amended, 28 CFR part 39 and part 42, subpart G, and its regulation implementing Executive Order 12250, 28 CFR part 41, to reflect statutory amendments to the definition of disability applicable to section 504 of the Rehabilitation Act, which were enacted in the ADA Amendments Act of 2008, Public Law 110–325, 122 Stat. 3553 (Sep. 25, 2008). The ADA Amendments Act took effect on January 1, 2009.

The ADA Amendments Act revised 29 U.S.C. section 705, to make the definition of disability used in the nondiscrimination provisions in title V of the Rehabilitation Act consistent with the amended ADA requirements. These amendments (1) add illustrative lists of "major life activities," including "major bodily functions," that provide more examples of covered activities and covered conditions than are now contained in agency regulations (sec. 3[2]); (2) clarify that a person who is "regarded as" having a disability does not have to be regarded as being substantially limited in a major life activity (sec. 3[3]); and (3) add rules of construction regarding the definition of disability that provide guidance in applying the term "substantially limits" and prohibit consideration of mitigating measures in determining whether a person has a disability (sec. 3[4]).

The Department anticipates that these changes will be published for comment in a proposed rule within the next 12 months. During the drafting of these revisions, the Department will also review the currently published rules to ensure that any other legal requirements under the Rehabilitation Act have been properly addressed in these regulations.
Statement of Need: This rule is necessary to bring the Department's prior section 504 regulations into compliance with the ADA Amendments Act of 2008, which became effective on January 1, 2009.
Summary of Legal Basis: The summary of the legal basis of authority for this regulation is set forth above in the abstract.
Alternatives: Because this NPRM implements statutory changes to the Section 504 definition of disability, there are no appropriate alternatives to issuing this NPRM.
Anticipated Cost and Benefits: The Department has determined that this rule would not be "economically significant," that is, that the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities. In this NPRM, the Department will be soliciting public comment in response to its preliminary analysis.
Risks: Failure to update the Department's Section 504 regulations to conform to statutory changes will interfere with the Department's enforcement efforts and lead to confusion about the law's requirements among entities that receive federal financial assistance from the Department or who participate in its federally conducted programs.
Timetable:

Action	Date	FR Cite
NPRM	11/00/13	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: Businesses, Governmental Jurisdictions.
Government Levels Affected: Local, State.
Federalism: Undetermined.
Agency Contact: Gregory B. Friel, Acting Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20031, *Phone:* 800 514–0301, *Fax:* 202 307–1198.
RIN: 1190–AA60

DOJ—CRT

71. Nondiscrimination on the Basis of Disability; Movie Captioning and Video Description

Priority: Other Significant.
Legal Authority: 42 U.S.C. 12101, *et seq.*
CFR Citation: 28 CFR part 36.
Legal Deadline: None.
Abstract: Following its advance notice of proposed rulemaking published on July 26, 2010, the Department plans to publish a proposed rule addressing the requirements for captioning and video description of movies exhibited in movie theatres under title III of the Americans with Disabilities Act of 1990 (ADA). Title III prohibits discrimination on the basis of disability in the activities of places of public accommodation (private entities whose operations affect commerce and that fall into one of twelve categories listed in the ADA). 42 U.S.C. 12181–12189. Title III makes it unlawful for places of public accommodation, such as movie theaters, to discriminate against individuals with disabilities in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation (42 U.S.C. 12182[a]). Moreover, title III prohibits places of public accommodation from affording an unequal or lesser service to individuals or classes of individuals with disabilities than is offered to other individuals (42 U.S.C. 12182(b)(1)(A)(ii)). Title III requires places of public accommodation to take "such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently because of the absence of auxiliary aids and services, such as captioning and video description, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden," (42 U.S.C. 12182(h)(2)(A)(iii)).
Statement of Need: A significant-and increasing-proportion of Americans have hearing or vision disabilities that prevent them from fully and effectively understanding movies without captioning or audio description. For persons with hearing and vision disabilities, the unavailability of captioned or audio-described movies inhibits their ability to socialize and fully take part in family outings and deprives them of the opportunity to meaningfully participate in an important aspect of American culture. Many individuals with hearing or vision disabilities who commented on the Department's 2010 ANPRM remarked that they have not been able to enjoy a commercial movie unless they watched it on TV, or that when they took their

children to the movies they could not understand what they were seeing or discuss what was happening with their children. Today, more and more movies are produced with captions and audio description. However, despite the underlying ADA obligation, the advancement of digital technology and the availability of captioned and audio-described films, many movie theaters are still not exhibiting captioned or audio-described movies, and when they do exhibit them, they are only for a few showings of a movie, and usually at off-times. Recently, a number of theater companies have committed to provide greater availability of captioning and audio description. In some cases, these have been nationwide commitments; in other cases it has only been in a particular state or locality. A uniform federal ADA requirement for captioning and audio description is necessary to ensure that access to movies for persons with hearing and vision disabilities is not dictated by the individual's residence or the presence of litigation in their locality. In addition, the movie theater industry is in the process of converting its movie screens to use digital technology, and the Department believes that it will be extremely helpful to provide timely guidance on the ADA requirements for captioning and audio description so that the industry may factor this into its conversion efforts and minimize costs.

Summary of Legal Basis: The summary of the legal basis of authority for this regulation is set forth above in the abstract.

Alternatives: The Department will consider any public comments that propose achievable alternatives that will still accomplish the goal of providing access to movies for persons with hearing and vision disabilities. However, the Department believes that the baseline alternative of not providing such access would be inconsistent with the provisions of Title III of the ADA.

Anticipated Cost and Benefits: The Department's preliminary analysis indicates that the proposed rule would not be "economically significant," that is, that the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities. In the NPRM, the Department will be soliciting public comment in response to its preliminary analysis regarding the costs imposed by the rule.

Risks: Without the proposed changes to the Department's Title III regulation, persons with hearing and vision disabilities will continue to be denied access to movies shown in movie theaters and movie theater owners and operators will not understand what they are required to do in order to provide auxiliary aids and services to patrons with hearing and vision disabilities.

Timetable:

Action	Date	FR Cite
ANPRM	07/26/10	75 FR 43467
ANPRM Comment Period End.	01/24/11	
NPRM	05/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Gregory B. Friel, Acting Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20031, *Phone:* 800 514–0301, *Fax:* 202 307–1198.

RIN: 1190–AA63

DOJ—CRT

72. Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Governments

Priority: Economically Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 42 U.S.C. 12101, *et seq.*

CFR Citation: 28 CFR part 35.

Legal Deadline: None.

Abstract: The Department published an ANPRM on July 26, 2010, RIN 1190–AA61, that addressed issues relating to proposed revisions of both the title II and title III ADA regulations in order to provide guidance on the obligations of covered entities to make programs, services and activities offered over the Web accessible to individuals with disabilities.

The Department has now divided the rulemakings in the next step of the rulemaking process so as to proceed with separate notices of proposed rulemakings for title II and title III. The title III rulemaking on Web accessibility will continue under RIN 1190–AA61 and the title II rulemaking will continue under the new RIN 1190–AA65. This rulemaking will provide specific guidance to State and local governments in order to make services, programs, or activities offered to the public via the Web accessible to individuals with disabilities.

The ADA requires that State and local governments provide qualified individuals with disabilities equal access to their programs, services, or activities unless doing so would fundamentally alter the nature of their programs, services, or activities or would impose an undue burden. 42. U.S.C. 12132. The Internet as it is known today did not exist when Congress enacted the ADA; yet today the Internet is dramatically changing the way that governmental entities serve the public. Taking advantage of new technology, citizens can now use State and local government Web sites to correspond online with local officials; obtain information about government services; renew library books or driver's licenses; pay fines; register to vote; obtain tax information and file tax returns; apply for jobs or benefits; and complete numerous other civic tasks. These government Web sites are important because they allow programs and services to be offered in a more dynamic, interactive way in order to increase citizen participation; increase convenience and speed in obtaining information or services; reduce costs in providing information about government services and administering programs; reduce the amount of paperwork; and expand the possibilities of reaching new sectors of the community or offering new programs or services.

Many States and localities have begun to improve the accessibility of portions of their Web sites. However, full compliance with the ADA's promise to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of the programs, services, and activities provided by State and local governments in today's technologically advanced society will only occur if it is clear to public entities that their Web sites must be accessible. Consequently, the Department intends to publish a Notice of Proposed Rulemaking (NPRM) to amend its title II regulations to expressly address the obligations of public entities to make the Web sites they use to provide programs, activities, or services or information to the public accessible to and usable by individuals with disabilities under the legal framework established by the ADA. The proposed regulation will propose the scope of the obligation to provide accessibility when persons with disabilities access public Web sites, as well as propose the technical standards necessary to comply with the ADA.

Statement of Need: Many people with disabilities use "assistive technology" to enable them to use computers and access the Internet. Individuals who are blind or have low vision who cannot see

computer monitors may use screen readers—devices that speak the text that would normally appear on a monitor. People who have difficulty using a computer mouse can use voice recognition software to control their computers with verbal commands. People with other types of disabilities may use still other kinds of assistive technology. New and innovative assistive technologies are being introduced every day.

Web sites that do not accommodate assistive technology, for example, can create unnecessary barriers for people with disabilities, just as buildings not designed to accommodate people with disabilities prevent some individuals from entering and accessing services. Web designers may not realize how simple features built into a Web site will assist someone who, for instance, cannot see a computer monitor or use a mouse. In addition, in many cases, these Web sites do not provide captioning for videos or live events streamed over the web, leaving persons who are deaf or hard of hearing unable to access the information that is being provided. Although an increasing number of State and local governments are making efforts to provide accessible Web sites, because there are no specific ADA standards for Web site accessibility, these Web sites vary in actual usability.

Summary of Legal Basis: The ADA requires that State and local governments provide qualified individuals with disabilities equal access to their programs, services, or activities unless doing so would fundamentally alter the nature of their programs, services, or activities or would impose an undue burden. 42 U.S.C. 12132.

Alternatives: The Department intends to consider various alternatives for ensuring full access to Web sites of State and local governments and will solicit public comment addressing these alternatives.

Anticipated Cost and Benefits: The Department anticipates that this rule will be "economically significant," that is, that the rule will have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities. However, the Department believes that revising its title II rule to clarify the obligations of State and local governments to provide accessible Web sites will significantly increase the opportunities for citizens with disabilities to participate in, and benefit from, State and local government programs, activities, and services. It will also ensure that individuals have access to important information that is provided over the Internet, including emergency information. The Department also believes that providing accessible Web sites will benefit State and local governments as it will increase the numbers of citizens who can use these Web sites, and thus improve the efficiency of delivery of services to the public. In drafting this NPRM, the Department will attempt to minimize the compliance costs to State and local governments while ensuring the benefits of compliance to persons with disabilities.

Risks: If the Department does not revise its ADA title II regulations to address Web site accessibility, persons with disabilities in many communities will continue to be unable to access their State and local governmental services in the same manner available to citizens without disabilities, and in some cases will not be able to access those services at all.

Timetable:

Action	Date	FR Cite
ANPRM	07/26/10	75 FR 43460
ANPRM Comment Period End.	01/21/11	
NPRM	07/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: Local, State.

Federalism: Undetermined.

Additional Information: Split from RIN 1190–AA61.

Agency Contact: Gregory B. Friel, Acting Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20031, *Phone:* 800 514–0301, *Fax:* 202 307–1198.

RIN: 1190–AA65

DOJ—CRT LONG-TERM ACTIONS

73. Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of Public Accommodations

Priority: Economically Significant.

Legal Authority: 42 U.S.C. 12101, *et seq.*

CFR Citation: 28 CFR part 36.

Legal Deadline: None.

Abstract: The Department of Justice is considering proposed revisions to the regulation implementing title III of the Americans with Disabilities Act (ADA) in order to address the obligations of public accommodations to make goods, services, facilities, privileges, accommodations, or advantages they offer via the Internet, specifically at sites on the World Wide Web (Web), accessible to individuals with disabilities. The ADA requires that public accommodations provide individuals with full and equal enjoyment of their goods, services, facilities, privileges, advantages, and accommodations. 42. U.S.C. 12182. The Internet as it is known today did not exist when Congress enacted the ADA. Today the Internet, most notably the sites on the Web, plays a critical role in the daily personal, professional, and business life of most Americans. Increasingly, private entities of all types are providing goods and services to the public through Web sites that operate as places of public accommodation under title III of the ADA. Many Web sites of public accommodations, however, render use by individuals with disabilities difficult or impossible due to barriers posed by Web sites designed without accessible features.

Being unable to access Web sites puts individuals at a great disadvantage in today's society, which is driven by a global marketplace and unprecedented access to information. On the economic front, electronic commerce, or "e-commerce," often offers consumers a wider selection and lower prices than traditional "brick-and-mortar" storefronts, with the added convenience of not having to leave one's home to obtain goods and services. Beyond goods and services, information available on the Internet has become a gateway to education. Schools at all levels are increasingly offering programs and classroom instruction through Web sites. Many colleges and universities offer degree programs online; some universities exist exclusively on the Internet. The Internet also is changing the way individuals socialize and seek entertainment. Social networks and other online meeting places provide a unique way for individuals to meet and fraternize. These networks allow individuals to meet others with similar interests and connect with friends, business colleagues, elected officials, and businesses. They also provide an effective networking opportunity for entrepreneurs, artists, and others seeking to put their skills and talents to use. Web sites also bring a myriad of entertainment and information options for internet users-from games and music to news and videos.

The ADA's promise to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of American civic and

economic life will be achieved in today's technologically advanced society only if it is clear to businesses, educators, and other public accommodations, that their Web sites must be accessible. Consequently, the Department is proposing to amend its title III regulation to expressly address the obligations of public accommodations to make the Web sites they use to provide their goods and services to the public accessible to and usable by individuals with disabilities under the legal framework established by the ADA. The proposed regulation will propose the scope of the obligation to provide accessibility when persons with disabilities attempt to access Web sites of public accommodations, as well as propose the technical standards necessary to comply with the ADA.

Statement of Need: Many people with disabilities use "assistive technology" to enable them to use computers and access the Internet. Individuals who are blind or have low vision who cannot see computer monitors may use screen readers-devices that speak the text that would normally appear on a monitor. People who have difficulty using a computer mouse can use voice recognition software to control their computers with verbal commands. People with other types of disabilities may use still other kinds of assistive technology. New and innovative assistive technologies are being introduced every day. Web sites that do not accommodate assistive technology, for example, can create unnecessary barriers for people with disabilities, just as buildings not designed to accommodate individuals with disabilities can prevent some individuals from entering and accessing services. Web designers may not realize how simple features built into a Web site will assist someone who, for instance, cannot see a computer monitor or use a mouse. In addition, in many cases, these Web sites do not provide captioning for videos or live events streamed over the web, leaving persons who are deaf or hard of hearing unable to access the information that is being provided.

Although the Department has been clear that the ADA applies to Web sites of private entities that meet the definition of "public accommodations," inconsistent court decisions, differing standards for determining web accessibility, and repeated calls for Department action indicate remaining uncertainty regarding the applicability of the ADA to Web sites of entities covered by title III. For these reasons, the Department plans to propose to amendments to its regulation so as to make clear to entities covered by the ADA their obligations to make their Web sites accessible. Despite the need for action, the Department appreciates the need to move forward deliberatively. Any regulations the Department adopts must provide specific guidance to help ensure web access to individuals with disabilities without hampering innovation and technological advancement on the Web.

Summary of Legal Basis: The ADA requires that public accommodations provide individuals with full and equal enjoyment of their goods, services, facilities, privileges, advantages, and accommodations. 42. U.S.C. 12182. Increasingly, private entities of all types are providing goods and services to the public through Web sites that operate as places of public accommodation under title III of the ADA.

Alternatives: The Department intends to consider various alternatives for ensuring full access to Web sites of public accommodations and will solicit public comment addressing these alternatives.

Anticipated Cost and Benefits: The Department anticipates that this rule will be "economically significant." The Department believes that revising its title III rule to clarify the obligations of public accommodations to provide accessible Web sites will significantly increase the opportunities of individuals with disabilities to access the variety of goods and services public accommodations offer on the web, while increasing the number of customers that access the Web sites to procure the goods and service offered by these public accommodations. In drafting this NPRM, the Department will attempt to minimize the compliance costs to public accommodations, while ensuring the benefits of compliance to persons with disabilities.

Risks: If the Department does not revise its ADA title III regulations to address Web site accessibility, persons with disabilities will continue to be unable to access the many goods and services of public accommodations available on the web to individuals without disabilities.

Timetable:

Action	Date	FR Cite
ANPRM	07/26/10	75 FR 43460
ANPRM Comment Period End.	01/24/11	
NPRM	12/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: See also RIN 1190–AA65 which was split from this RIN of 1190–AA61.

Agency Contact: Gregory B. Friel, Acting Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20031, *Phone:* 800 514–0301, *Fax:* 202 307–1198.

RIN: 1190–AA61

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DEPARTMENT OF LABOR

Fall 2012 Statement of Regulatory Priorities

The Department of Labor's fall 2012 agenda continues Secretary Solis' vision of *Good Jobs for Everyone.* It also renews the Labor Department's commitment to efficient and effective regulation through the review and modification of our existing regulations, consistent with Executive Order 13563 ("E.O. 13563").

The Labor Department's vision of a "good job" includes jobs that:

- Increase workers' incomes and narrow wage and income inequality;
- Assure workers are paid their wages and overtime;
- Are in safe and healthy workplaces, and fair and diverse workplaces;
- Provide workplace flexibility for family and personal care-giving;
- Improve health benefits and retirement security for all workers; and,
- Assure workers have a voice in the workplace.

The Department continues to use a variety of mechanisms to achieve the goal of *Good Jobs for Everyone,* including increased enforcement actions, increased education and outreach, and regulatory actions that foster compliance. At the same time, the Department is enhancing the efficiency and effectiveness of its efforts through targeted regulatory actions designed to improve compliance and burden reduction initiatives. The Department's Plan/Prevent/Protect and Openness and Transparency compliance strategies and the implementation of E.O. 13563 create unifying themes that seek to foster a new calculus that strengthens protections for workers. By requiring employers and other regulated entities to take full ownership over their adherence to Department regulations and promoting greater openness and transparency for employers and workers alike, the Department seeks to significantly increase compliance. The increased effectiveness of this compliance strategy will enable the Department to achieve the *Good Jobs for Everyone* goal in a regulatory

environment that is more efficient and less burdensome.

Plan/Prevent/Protect Compliance Strategy: The regulatory actions that comprise the Department's Plan/Prevent/Protect strategy are designed to ensure employers and other regulated entities are in full compliance with the law every day, not just when Department inspectors come calling. The Plan/Prevent/Protect strategy was first announced with the Spring 2010 Regulatory Agenda. Employers, unions, and others who follow the Department's Plan/Prevent/Protect strategy will assure compliance with employment laws before Labor Department enforcement personnel arrive at their doorsteps. Most important, they will assure that workers get the safe, healthy, diverse, family-friendly, and fair workplaces they deserve. In the Fall 2012 Regulatory Agenda, the Occupational Safety and Health Administration (OSHA), Mine Safety and Health Administration (MSHA), and the Office of Federal Contract Compliance Programs (OFCCP) will all propose regulatory actions furthering the Department's implementation of the Plan/Prevent/Protect strategy.

Openness and Transparency—Tools for Achieving Compliance: Greater openness and transparency continues to be central to the Department's compliance and regulatory strategies. The fall 2012- regulatory plan demonstrates the Department's continued commitment to conducting the people's business with openness and transparency, not only as good Government and stakeholder engagement strategies, but as important means to achieve compliance with the employment laws administered and enforced by the Department. Openness and transparency will not only enhance agencies' enforcement actions but will encourage greater levels of compliance by the regulated community and enhance awareness among workers of their rights and benefits. When employers, unions, workers, advocates, and members of the public have greater access to information concerning workplace conditions and expectations, then we all become partners in the endeavor to create *Good Jobs for Everyone.*

Risk Reduction: The Department believes Plan/Prevent/Protect and increased Openness and Transparency will result in improvements to worker health and safety; fair pay, earned overtime compensation, secure benefits; fair, diverse and family-friendly environments that provide workplace flexibility for family and personal caregiving However, when the Department identifies specific hazards and risks to worker health, safety, security, or fairness, the Department will utilize its regulatory powers to limit the risk to workers. The Fall 2012 Regulatory Agenda includes examples of such regulatory initiatives to address such specific concerns, many of which are discussed in this document.

Retrospective Review of Existing Rules: The Fall 2012 Regulatory Agenda aims to achieve more efficient and less burdensome regulation through retrospective review of Labor Department regulations. On January 18, 2011, the President issued Executive Order (E.O.) 13563 entitled "Improving Regulation and Regulatory Review." The E.O. aims to "strike the right balance" between what is needed to protect health, welfare, safety, and the environment for all Americans, and what is needed to foster economic growth, job creation, and competitiveness.

In August 2011, as part of a Government wide response to E.O. 13563, the Department published its Plan for Retrospective Analysis of Existing Rules, which identifies several burden-reducing review projects. On March 26, 2012 OSHA published the Hazard Communication/Globally Harmonized System for Classification and Labeling of Chemicals final rule. Cost savings for employers from productivity improvements arising from the rule were estimated to be $507.2 million annually. The estimated net benefits of the rule are $556 million annually. EBSA's Abandoned Plan Program, results in an estimated $500,000 savings, and expanding the program will provide substantial benefits to plans of sponsors in bankruptcy liquidation and bankruptcy trustees while imposing minimal costs ($64,000). These projects estimate monetized savings that would eliminate between roughly $580 to $790 million in annual regulatory burdens. Proposals such as OSHA's Standard Improvement Project—Phase IV (SIP IV) and Revocation of Certification Records are expected to produce additional savings. Several non-regulatory actions are expected to have similar results.

The Department is also taking action to eliminate regulations that are no longer effective or enforceable. This effort will include removal of the Job Training Partnership Act program requirements; attestation requirements by facilities using nonimmigrant aliens as registered nurses as implemented through the Immigration Nursing Relief Act of 1999; and, attestation requirements by employers using F–1 students in off-campus work as authorized by the supplementing sections of Immigration Act of 1990. It will also include removal of regulatory actions that are no longer enforceable, including labor certification process requirements for logging employment and non-H–2A agricultural employment. In total, this agenda includes 10 review projects—that is, more than 13 percent of all the Department's planned regulatory actions.

Pursuant to section 6 of E.O. 13563, the following Regulatory Identifier Numbers (RINs) are associated with the Department's Plan for Retrospective Analysis of Existing Rules. More information about completed rulemakings, which are no longer included in the plan, can be found on Reginfo.gov. The original August 2011 DOL Plan for Retrospective Analysis of Existing Rules and subsequent quarterly updates can be found at: *http://www.dol.gov/regulations/.*

Regulatory Identifier No.	Title of Rulemaking	Whether it is Expected to Significantly Reduce Burdens on Small Businesses
1218–AC34	Bloodborne Pathogens	No.
1218–AC77	Updating OSHA Standards Based on National Consensus Standards (Signage)	No.
1218–AC67	Standard Improvement Project—Phase IV (SIP IV)	Yes.
1218–AC75	Cranes and Derricks in Construction: Revision to Digger Derricks' Requirements	Yes.
1218–AC74	Review/Lookback of OSHA Chemical Standards	To Be Determined.
1218–AC80	Revocation of Certification Records	To Be Determined.
1219–AB72	Criteria and Procedures for Proposed Assessment of Civil Penalties (Part 100)	To Be Determined.
1250–AA05	Sex Discrimination Guidelines	To Be Determined.
1210–AB47	Amendment of Abandoned Plan Program	Yes.

Regulatory Identifier No.	Title of Rulemaking	Whether it is Expected to Significantly Reduce Burdens on Small Businesses
1205–AB59	Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations	To Be Determined.
1205–AB62	Implementation of Total Unemployment Rate Extended Benefits Trigger and Rounding Rule	No.
1205–AB68	Job Training Partnership Act; Removal of JTPA	No, action will not increase burden to small businesses as regulatory provisions are no longer operative.
1205–AB65	Labor Certification Process for Logging Employment and Non-H–2A Agricultural Employment	No, action will not increase burden to small businesses as regulatory provisions are no longer operative.
1205–AB66	Attestations by Employers Using F–1 Students in Off-Campus Work	No, action will not increase burden to small businesses as regulatory provisions are no longer operative.
1205–AB67	Attestations by Facilities Using Nonimmigrant Aliens as Registered Nurses	No, action will not increase burden to small businesses as regulatory provisions are no longer operative.

Occupational Safety and Health Administration (OSHA)

OSHA's regulatory program is designed to help workers and employers identify hazards in the workplace, prevent the occurrence of injuries and adverse health effects, and communicate with the regulated community regarding hazards and how to effectively control them. Long-recognized health hazards and emerging hazards place American workers at risk of serious disease and death and are initiatives on OSHA's regulatory agenda. In addition to targeting specific hazards, OSHA is focusing on systematic processes that will modernize the culture of safety in America's workplaces and retrospective review projects that will update regulations and reduce burdens on regulated communities. OSHA's retrospective review projects under E.O.13563 include consideration of the Bloodborne Pathogens standard, updating consensus standards, phase IV of OSHA's standard improvement project (SIP IV), and reviewing various permissible exposure levels.

Plan/Prevent/Protect

• *Infectious Diseases:* OSHA is considering the need for regulatory action to address the risk to workers exposed to infectious diseases in healthcare and other related high-risk environments. OSHA is interested in all routes of infectious disease transmission in healthcare settings not already covered by its bloodborne pathogens standard (e.g. contact, droplet, and airborne) The agency is particularly concerned by studies that indicate that transmission of infections diseases to both patients and healthcare workers may be occurring as a result of incomplete adherence to recognized, but voluntary, infection control measures. The agency is considering an approach that would combine elements of the Department's Plan/Prevent/Protect strategy with established infection control practices. The agency received strong stakeholder participation in response to its May 2010 request for information and July 2011 stakeholder meetings.

In 2007, the healthcare and social assistance sector as a whole had *16.5* million employees. Healthcare workplaces can range from small private practices of physicians to hospitals that employ thousands of workers. In addition, healthcare is increasingly being provided in other settings such as nursing homes, free-standing surgical and outpatient centers, emergency care clinics, patients' homes, and pre-hospitalization emergency care settings. OSHA is concerned with the movement of healthcare delivery from the traditional hospital setting, with its greater infrastructure and resources to effectively implement infection control measures, into more diverse and smaller workplace settings with less infrastructure and fewer resources, but with an expanding worker population.

• *Injury and Illness Prevention Program:* OSHA's Injury and Illness Prevention Program is the prototype for the Department's Plan/Prevent/Protect strategy. OSHA's first step in this important rulemaking was to hold stakeholder meetings. Stakeholder meetings were held in East Brunswick, NJ; Dallas, Texas; Washington, DC; and Sacramento, California, beginning in June 2010 and ending in August 2010. More than 200 stakeholders participated in these meetings, and in addition, nearly 300 stakeholders attended as observers. The proposed rule will explore requiring employers to provide their employees with opportunities to participate in the development and implementation of an injury and illness prevention program, including a systematic process to proactively and continuously address workplace safety and health hazards. This rule will involve planning, implementing, evaluating, and improving processes and activities that promote worker safety and health hazards. OSHA has substantial evidence showing that employers that have implemented similar injury and illness prevention programs have significantly reduced injuries and illnesses in their workplaces. The new rule would build on OSHA's existing Safety and Health Program Management Guidelines and lessons learned from successful

approaches and best practices that have been applied by companies participating in OSHA's Voluntary Protection Program and Safety and Health Achievement Recognition Program, and similar industry and international initiatives.

Openness and Transparency

• *Modernizing Recordkeeping:* OSHA held informal meetings to gather information from experts and stakeholders regarding the modification of its current injury and illness data collection system that will help the agency, employers, employees, researchers, and the public prevent workplace injuries and illnesses, as well as support President Obama's Open Government Initiative. Under the proposed rule, OSHA will explore requiring employers to electronically submit to the Agency data required by part 1904 (Recording and Reporting Occupational Injuries). The proposed rule will enable OSHA to conduct data collections ranging from the periodic collection of all part 1904 data from a handful of employers to the annual collection of summary data from many employers. OSHA learned from stakeholders that most large employers already maintain their part 1904 data electronically; as a result, electronic submission will constitute a minimal burden on these employers, while providing a wealth of data to help OSHA, employers, employees, researchers, and the public prevent workplace injuries and illnesses. The proposed rule also does not add to or change the recording criteria or definitions in part 1904. The proposed rule only modifies employers' obligations to transmit information from these records to OSHA.

• *Whistleblower Protection Regulations:* The ability of workers to speak out and exercise their legal rights without fear of retaliation is essential to many of the legal protections and safeguards that all Americans value. Whether the goal is the safety of our food, drugs, or workplaces, the integrity of our financial system, or the security of our transportation systems, whistleblowers have been essential to ensuring that our laws are fully and fairly executed. In the fall regulatory agenda, OSHA proposes to issue procedural rules that will establish consistent and transparent procedures for the filing of whistleblower complaints under eight statutes as discussed in the regulatory agenda. These procedural rules will strengthen OSHA's enforcement of its whistleblower program by providing specific timeframes and guidance for filing a complaint with OSHA, issuing a finding, avenues of appeal, and allowable remedies.

Risk Reduction

• *Silica:* In order to target one of the most serious hazards workers face, OSHA is proposing to address worker exposures to crystalline silica through the promulgation and enforcement of a comprehensive health standard. Exposure to silica causes silicosis, a debilitating respiratory disease, and may cause cancer, other chronic respiratory diseases, and renal and autoimmune disease as well. The seriousness of the health hazards associated with silica exposure is demonstrated by the large number of fatalities and disabling illnesses that continue to occur. Over 2 million workers are exposed to crystalline silica in general industry, construction, and maritime industries. Reducing these hazardous exposures through promulgation and enforcement of a comprehensive health standard will contribute to OSHA's goal of reducing occupational fatalities and illnesses. As a part of the Secretary's strategy for securing safe and healthy workplaces, MSHA will also utilize information provided by OSHA to undertake regulatory action related to silica exposure in mines.

• *Preventing Backover Injuries and Fatalities:* Workers across many industries face a serious hazard when vehicles perform backing maneuvers, especially vehicles with an obstructed view to the rear. OSHA is collecting information on this hazard and researching emerging technologies that may help to reduce this risk. NIOSH reports, for example, that one-half of the fatalities involving construction equipment occur while the equipment is backing. Backing accidents cause at least 60 occupational deaths per year. Emerging technologies that address the risks of backing operations include cameras, radar, and sonar—to help view or detect the presence of workers on foot in blind areas—and new monitoring technology, such as tag-based warning systems that use radio frequency (RFID) and magnetic field generators on equipment to detect electronic tags worn by workers. Along with MSHA, which is developing regulations concerning Proximity Detection Systems, and based on information collected and the Agency's review and research, the Agency may consider rulemaking as an appropriate measure to address this source of employee risk. The Agency published an RFI on March 27, 2012 seeking information from the public; the comment period ended on July 27, 2012.

• *Reinforced Concrete in Construction:* OSHA has published an RFI seeking information about the hazards associated with reinforcing operation in construction. Current rules regarding reinforcing steel and post-tensioning activities may not adequately address worker hazards in work related to post-tensioning and reinforcing steel. Both are techniques for reinforcing concrete and are generally used in commercial and industrial construction. OSHA currently has few rules which address the steel reinforcing and post-tensioning fields directly. The few rules that do exist are found in subpart Q—Concrete and Masonry Construction of 29 CFR 1926. OSHA IMIS data indicates that 31 workers died while performing work on or near post-tensioning operations or reinforcing steel between 2000 and 2009. The use of reinforced steel and post-tensioned poured in place concrete in commercial and industrial construction is expected to rise. Without adequate standards, the rate of accidents will likely rise as well. Currently, workers performing steel reinforcing suffer injuries caused by unsafe material handling, structural collapse, and impalement by protruding reinforcing steel dowels, among others. Employees involved in post-tensioning activities are at risk for incidents caused by the misuse of post-tensioning equipment and improper training.

Regulatory Review and Burden Reduction

• *Bloodborne Pathogens:* OSHA will undertake a review of the Bloodborne Pathogen Standard in accordance with the requirements of the Regulatory Flexibility Act, section 5 of Executive Order 12866, and E.O. 13563. The review will consider the continued need for the rule; whether the rule overlaps, duplicates, or conflicts with other Federal, State or local regulations; and the degree to which technology, economic conditions, or other factors may have changed since the rule was evaluated.

• *Updating OSHA Standards Based on National Consensus Standards—Signage:* Under section 6(a) of the OSH Act, during the first 2 years of the Act, the Agency was directed to adopt national consensus standards as OSHA standards. In the more than 40 years since these standards were adopted by OSHA, the organizations responsible for these consensus standards have issued updated versions of these standards. However, in most cases, OSHA has not revised its regulations to reflect later editions of the consensus standards. This project is part of a multi-year project to update OSHA standards that

are based on consensus standards. On June 22nd, OSHA published a Direct Final Rule (DFR) and Notice of Proposed Rulemaking (NPRM) addressing OSHA's Head Protection standards. The Agency received no significant adverse comment, and the standards went into effect September 20, 2012. On (insert date prior to October) OSHA published another DFR/NPRM Consensus Standard addressing signage.

• *Standard Improvement Project—Phase IV (SIP IV):* OSHA's Standards Improvement Projects (SIPs) are intended to remove or revise duplicative, unnecessary, and inconsistent safety and health standards. The Agency has published three earlier final standards to remove unnecessary provisions, thus reducing costs or paperwork burden on affected employers. The Agency believes that these standards have reduced the compliance costs and eliminated or reduced the paperwork burden for a number of its standards. The Agency only considers such changes to its standards so long as they do not diminish employee protections. The Agency initiated a fourth rulemaking effort to identify unnecessary or duplicative provisions or paperwork requirements that is focused primarily on revisions to its construction standards in 29 CFR 1926.

• *Cranes and Derricks in Construction: Revision to Digger Derricks' Requirements:* OSHA published its final Cranes and Derricks in Construction Standard in August 2010. Edison Electric Institute (EEI) filed a petition for review challenging several aspects of the standard, including the scope of the exemption for digger derricks. As part of the settlement agreement with EEI, OSHA agreed to publish a direct final rule expanding the scope of a partial exemption for work by digger derricks. In the direct final rule, OSHA will revise the scope provision on digger derricks as an exemption for all work done by digger derricks covered by subpart V of 29 CFR 1926. The change in scope will result in an estimated cost savings of $21.6 million annually.

• *Review-Lookback of OSHA Chemical Standards:* The majority of OSHA's Permissible Exposure Limits (PELs) were adopted in 1971 under section 6(a) of the OSH Act, and only a few have been successfully updated since that time. There is widespread agreement among industry, labor, and professional occupational safety and health organizations that OSHA's PELs are outdated and need revising in order to take into account newer scientific data that indicate that significant occupational health risks exist at levels below OSHA's current PELs. In 1989, OSHA issued a final standard that lowered PELs for over 200 chemicals and added PELs for 164. However, the final rule was challenged and ultimately vacated by the 11th Circuit Court of Appeals in 1991 citing deficiencies in OSHA's analyses. Since that time, OSHA has made attempts to examine its outdated PELs in light of the Court's 1991 decision. Most recently, OSHA sought input through a stakeholder meeting and web forum to discuss various approaches that might be used to address its outdated PELs. As part of the Department's Regulatory Review and Lookback Efforts, OSHA is developing a Request for Information (RFI), seeking input from the public to help the Agency identify effective ways to address occupational exposure to chemicals.

• *Confined Spaces in Construction:* In 1993, OSHA issued a rule to protect employees who enter confined spaces while engaged in general industry work (29 CFR 1910.146). This standard did not address confined space entry in construction. Pursuant to discussions with the United Steel Workers of America that led to a settlement agreement regarding the general industry standard, OSHA agreed to issue a proposed rule to protect construction workers in confined spaces. The proposed rule for confined spaces in construction was published in 2007, public hearings were held in 2008.

Mine Safety and Health Administration (MSHA)

The Mine Safety and Health Administration is the worker protection agency focused on the prevention of death, disease, and injury from mining and the promotion of safe and healthful workplaces for the Nation's miners. The Department believes that every worker has a right to a safe and healthy workplace. Workers should never have to sacrifice their lives for their livelihood, and all workers deserve to come home to their families at the end of their shift safe and whole. MSHA's approach to reducing workplace fatalities and injuries includes promulgating and enforcing mandatory health and safety standards. MSHA's retrospective review project under E.O.13563 addresses revising the process for proposing civil penalties.

Plan/Prevent/Protect

• *Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines:* MSHA published a proposed rule to address the danger that miners face when working near continuous mining machines in underground coal mines. MSHA has concluded, from investigations of accidents involving mobile equipment and other reports, that action was necessary to protect miners. From 1984 to 2012, there have been 32 fatalities resulting from pinning, crushing or striking accidents involving continuous mining machines. Proximity detection technology can prevent these types of accidents. Proximity detection systems can be installed on mining machinery to detect the presence of personnel or equipment within a certain distance of the machine. The rule would strengthen the protection for underground miners by reducing the potential for pinning, crushing, or striking hazards associated with working close to continuous mining machines.

• *Proximity Detection Systems for Mobile Machines in Underground Mines:* MSHA plans to publish a proposed rule to require underground coal mine operators to equip shuttle cars, coal hauling machines, continuous haulage systems, and scoops with proximity detection systems. Miners working near these machines face pinning, crushing, and striking hazards that have resulted, and continue to result, in accidents involving life threatening injuries and death. The proposal would strengthen protections for miners by reducing the potential for pinning, crushing, or striking accidents in underground mines.

Openness and Transparency

• *Pattern of Violations:* MSHA has determined that the existing pattern criteria and procedures contained in 30 CFR part 104 do not reflect the statutory intent for section 104(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act). The legislative history of the Mine Act explains that Congress intended the pattern of violations to be an enforcement tool for operators who have demonstrated a disregard for the health and safety of miners. These mine operators, who have a chronic history of persistent significant and substantial (S&S) violations, needlessly expose miners to the same hazards again and again. This indicates a serious safety and health management problem at a mine. The goal of the pattern of violations final rule is to compel operators to manage health and safety conditions so that the root causes of S&S violations are found and fixed before they become a hazard to miners. The final rule would reflect statutory intent, simplify the pattern of violations

criteria, and improve consistency in applying the pattern of violations criteria. MSHA developed an online service that enables mine operators, miners, and others to monitor a mining operation to determine if the mine could be approaching a potential pattern of violations. The web tool contains the specific criteria that MSHA uses to review a mine for a potential pattern of violations. The pattern of violations monitoring tool promotes openness and transparency in government.

• *Notification of Legal Identity:* The existing requirements do not provide sufficient information for MSHA to identify all of the mine "operators" responsible for operator safety and health obligations under the Federal Mine Safety and Health Act of 1977, as amended. This proposed regulation would expand the information required to be submitted to MSHA to create more transparent and open records that would allow the Agency to better identify and focus on the most egregious or persistent violators and more effectively deter future violations by imposing penalties and other remedies on those violators.

Risk Reduction

• *Lowering Miners' Exposure to Coal Mine Dust, including Continuous Personal Dust Monitors:* MSHA will continue its regulatory action related to preventing Black Lung disease. Data from the NIOSH indicate increased prevalence of coal workers pneumoconiosis (CWP) "clusters" in several geographical areas, particularly in the Southern Appalachian Region. MSHA published a notice of proposed rulemaking to address continued risk to coal miners from exposure to respirable coal mine dust. This regulatory action is part of MSHA's Comprehensive Black Lung Reduction Strategy for reducing miners' exposure to respirable dust. This strategy includes enhanced enforcement, education and training, and health outreach and collaboration.

• *Regulatory Actions in Response to Recommendations Resulting From the Investigation of the Upper Big Branch Explosion:* On April 5, 2010, a massive coal dust explosion occurred a the Upper Big Branch Mine. Following the explosion, MSHA conducted its investigation under the authority of the Federal Mine Safety and Health Act of 1977, for the purpose of obtaining, using, and disseminating information relating to the causes of accidents. The accident report included recommendations for regulatory actions to prevent a recurrence of this type of accident. MSHA also conducted an internal review (IR) into the Agency's actions leading up to the explosion. The IR report also included recommendations for regulatory actions. In response to the recommendations, MSHA will address issues associated with rock dusting, ventilation, the operator's responsibility for certain mine examinations and certified persons.

• *Respirable Crystalline Silica Standard:* The Agency's regulatory actions also exemplify a commitment to protecting the most vulnerable populations while assuring broad-based compliance. Health hazards are pervasive in both coal and metal/nonmetal mines, including surface and underground mines and large and small mines. As mentioned previously, as part of the Secretary's strategy for securing safe and healthy workplaces, both MSHA and OSHA will be undertaking regulatory actions related to silica. Overexposure to crystalline silica can result in some miners developing silicosis, an irreversible but preventable lung disease, which ultimately may be fatal. In its proposed rule, MSHA plans to follow the recommendations of the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers, the National Institute for Occupational Safety and Health (NIOSH), and other groups to address the exposure limit for respirable crystalline silica. As another example of intra-departmental collaboration, MSHA intends to consider OSHA's work on the health effects of occupational exposure to silica and OSHA's risk assessment in developing the appropriate standard for the mining industry.

Regulatory Review and Burden Reduction

• *Criteria and Procedures for Proposed Assessment of Civil Penalties (Part 100):* MSHA plans to publish a proposed rule to revise the process for proposing civil penalties. The assessment of civil penalties is a key component in MSHA's strategy to enforce safety and health standards. The Congress intended that the imposition of civil penalties would induce mine operators to be proactive in their approach to mine safety and health, and take necessary action to prevent safety and health hazards before they occur. MSHA believes that the procedures for assessing civil penalties can be revised to improve the efficiency of the Agency's efforts and to facilitate the resolution of enforcement issues.

Office of Federal Contract Compliance Programs (OFCCP)

Through the work of OFCCP, DOL ensures that contractors and subcontractors doing business with the Federal Government provide equal employment opportunity and take affirmative action to create fair and diverse workplaces. OFCCP also combats discrimination based on race, color, religion, sex, national origin, disability, or status as a protected veteran by ensuring that federal contractors recruit, hire, train, promote, terminate, and compensate workers in a nondiscriminatory manner. DOL, through OFCCP, protects workers, promotes diversity and enforces civil rights laws.

Plan/Prevent/Protect

• *Construction Contractor Affirmative Action Requirements:* OFCCP plans to publish a proposed rule that would enhance the effectiveness of the affirmative action programs of Federal and federally assisted construction contractors and subcontractors. The existing regulations provide that the Director is to issue goals and timetables for the utilization of minorities and women based on appropriate workforce, demographic or other relevant data. The existing minority goals for construction were issued in a 1980 based on 1970 Census data, the most current data available at the time. The goals for the utilization of women in the construction occupations were issued in 1978, and extended indefinitely in 1980, are were also developed using 1970 Census data. The proposed rule would remove these outdated goals and instead give contractors increased flexibility to assess their workforce and determine whether disparities in the utilization of women or the utilization of a particular racial or ethnic group in an on-site construction job group exist. The proposed rule would also provide contractors and subcontractors the tools to assess their progress and appropriately tailor their affirmative action plans. The proposed rule would strengthen affirmative action programs particularly in the areas of recruitment, training, and apprenticeships. The proposed rule would also allow contractors and subcontractors to focus on their affirmative action obligations earlier in the contracting process. OFCCP is coordinating with the Employment and Training Administration (ETA), which is developing a proposed regulation revising the equal opportunity regulatory framework under the National Apprenticeship Act.

Regulatory Review and Burden Reduction

• *Sex Discrimination Guidelines:* OFCCP proposes updating regulations setting forth contractors' obligations not to discriminate on the basis of sex under Executive Order 11246, as amended. The Sex Discrimination Guidelines, found at 41 CFR Part 60–20, have not been updated in more than 30 years and warrants a regulatory lookback. Since that time, the nature and extent of women's participation in the labor force and employer policies and practices have changed significantly. In addition, extensive changes in the law regarding sex-based employment discrimination have taken place. Title VII of the Civil Rights Act of 1964, which generally governs the law of sex-based employment discrimination, has been amended twice. The nondiscrimination requirement of the Sex Discrimination Guidelines also applies to contractors and subcontractors performing under federally assisted construction contracts. OFCCP will issue a Notice of Proposed Rulemaking to create sex discrimination regulations that reflect the current state of the law in this area.

Employee Benefits Security Administration (EBSA)

The Employee Benefits Security Administration (EBSA) is responsible for administering and enforcing the fiduciary, reporting and disclosure, and health coverage provisions of title I of the Employee Retirement Income Security Act of 1974 (ERISA). This includes recent amendments and additions to ERISA enacted in the Pension Protection Act of 2006, as well as new health coverage provisions under the Patient Protection and Affordable Care Act of 2010 (the Affordable Care Act). EBSA's regulatory plan initiatives are intended to improve health benefits and retirement security for workers in every type of job at every income level. EBSA is charged with protecting approximately 140 million Americans covered by an estimated 707,000 private retirement plans, 2.3 million health plans, and similar numbers of other welfare benefit plans, which together hold $6.7 trillion in assets.

EBSA will continue to issue guidance implementing the health reform provisions of the Affordable Care Act to help provide better quality health care for American workers and their families. EBSA's regulations reduce discrimination in health coverage, promote better access to quality coverage, and protect the ability of individuals and businesses to keep their current health coverage. Many regulations are joint rulemakings with the Departments of Health and Human Services and the Treasury.

Using regulatory changes to produce greater openness and transparency is an integral part of EBSA's contribution to a department-wide compliance strategy. These efforts will not only enhance EBSA's enforcement toolbox but will encourage greater levels of compliance by the regulated community and enhance awareness among workers of their rights and benefits. Several proposals from the EBSA agenda expand disclosure requirements, substantially enhancing the availability of information to employee benefit plan participants and beneficiaries and employers, and strengthening the retirement security of America's workers. EBSA's retrospective review project under E.O.13563 is Abandoned Plan Program amendments.

Risk Reduction

• *Health Reform Implementation:* Since the passage of health care reform, EBSA has helped put the employment-based health provisions into action. Working with HHS and Treasury, EBSA has issued regulations covering issues such as the elimination of preexisting condition exclusions for children under age 19, internal and external appeals of benefit denials, the extension of coverage for children up to age 26, and a ban on rescissions (which are retroactive terminations of health care coverage). These regulations will eventually impact up to 138 million Americans in employer-sponsored plans. EBSA will continue its work in this regard, to ensure a smooth implementation of the legislation's market reforms, minimizing disruption to existing plans and practices, and strengthening America's health care system.

• *Enhancing Participant Protections:* EBSA plans to re-propose amendments to its regulations to clarify the circumstances under which a person will be considered a "fiduciary" when providing investment advice to retirement plans and other employee benefit plans and participants and beneficiaries of such plans. The amendments would take into account current practices of investment advisers and the expectations of plan officials and participants who receive investment advice. This initiative is intended to assure retirement security for workers in all jobs regardless of income level by ensuring that financial advisers and similar persons are required to meet ERISA's standards of care when providing the investment advice that is relied upon by millions of plan sponsors and workers.

Promoting Openness and Transparency

In addition to its health care reform and participant protection initiatives discussed above, EBSA is pursuing a regulatory program that, as reflected in the Unified Agenda, is designed to encourage, foster, and promote openness, transparency, and communication with respect to the management and operations of pension plans, as well as participant rights and benefits under such plans. Among other things, EBSA will be issuing a final rule addressing the requirement that administrators of defined benefit pension plans annually disclose the funding status of their plan to the plan's participants and beneficiaries (RIN 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:* EBSA in 2010 published a request for information concerning steps it can take by regulation, or otherwise, to encourage the offering of lifetime annuities or similar lifetime benefit distribution options for participants and beneficiaries of defined contribution plans. EBSA also held a hearing with the Department of the Treasury and Internal Revenue Service to further explore these possibilities. This initiative is intended to assure retirement security for workers in all jobs regardless of income level by helping to ensure that participants and beneficiaries have the benefit of their plan savings throughout retirement. EBSA now has established a public record which supports further consideration or action in a number of areas including pension benefit statements, participant education, and fiduciary guidance. With regard to pension benefit statements specifically, EBSA is developing an advance notice of proposed rulemaking under ERISA section 105 relating to the presentation of a participant's accrued benefits; i.e., the participant's account balance, as a lifetime income stream of payments, in addition to presenting the benefits as an account balance.

Regulatory Review and Burden Reduction

• *Abandoned Plan Program Amendment:* In 2006, the Department published regulations that facilitate the

termination and winding up of 401(k)-type retirement plans that have been abandoned by their plan sponsors. The regulation establishes a streamlined program under which plans are terminated with very limited involvement of EBSA regional offices. EBSA now has six years of experience with this program and believes certain changes would improve the overall efficiency of the program and increase its usage. EBSA expects that the cost burden reduction that will result from this initiative will be approximately $500,000, because the prompt, efficient termination of abandoned plans will eliminate future administrative expenses charged to the plans that otherwise would diminish plan assets. Moreover, by following the specific standards and procedures set forth in the rule, the Department expects that overall plan termination costs will be reduced due to increased efficiency.

EBSA intends to revise the regulations to expand the program to include plans of businesses in liquidation proceedings to reflect recent changes in the U.S. Bankruptcy Code. The Department believes that this expansion has the potential to substantially reduce burdens on these plans and bankruptcy trustees. Plans of businesses in liquidation currently do not have the option of using the streamlined termination and winding-up procedures under the program. This is true even though bankruptcy trustees, pursuant to the Bankruptcy Code, can have a legal duty to administer the plan. Thus, bankruptcy trustees, who often are unfamiliar with applicable fiduciary requirements and plan-termination procedures, presently have little in the way of a blueprint or guide for efficiently terminating and winding-up such plans. Expanding the program to cover these plans will allow eligible bankruptcy trustees to use the streamlined termination process to better discharge their obligations under the law. The use of streamlined procedures will reduce the amount of time and effort it would take ordinarily to terminate and wind up such plans. The expansion also will eliminate Government filings ordinarily required of terminating plans. Participation in the program will reduce the overall cost of terminating and winding-up such plans, which will result in larger benefit distributions to participants and beneficiaries in such plans. EBSA estimates that approximately 165 additional plans will benefit from the Amended Abandoned Plan Program allowing bankruptcy trustees to participate in the program. As explained above, the current Abandoned Plan Program results in an estimated $500,000 savings for plans terminated pursuant to that program, and we believe the amendment expanding the program will provide substantial benefits to plans of sponsors in Chapter 7 bankruptcy liquidation and bankruptcy trustees through the orderly termination of plans, less service provider fees, and preservation of assets for participants and beneficiaries, while imposing minimal costs ($64,000).

Office of Labor-Management Standards (OLMS)

The Office of Labor-Management Standards (OLMS) administers and enforces most provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). The LMRDA promotes labor-management transparency by requiring unions, employers, labor-relations consultants, and others to file reports, which are publicly available. The LMRDA includes provisions protecting union member rights to participate in their union's governance, to run for office and fully exercise their union citizenship, as well as procedural safeguards to ensure free and fair union elections. Besides enforcing these provisions, OLMS also ensures the financial accountability of unions, their officers and employees, through enforcement and voluntary compliance efforts. Because of these activities, OLMS better ensures that workers have a more effective voice in the governance of their unions, which in turn affords them a more effective voice in their workplaces. OLMS also administers Executive Order 13496, which requires Federal contractors to notify their employees concerning their rights to organize and bargain collectively under Federal labor laws.

Openness and Transparency

• *Persuader Agreements—Employer and Labor Relations Consultant Reporting under the LMRDA:* OLMS published a proposed regulatory initiative in June 2011, which is a transparency regulation intended to provide workers with information critical to their effective participation in the workplace. The proposed regulations would better implement the public disclosure objectives of the LMRDA in situations where an employer engages a consultant in order to persuade employees concerning their rights to organize and bargain collectively. Under LMRDA section 203, an employer must report any agreement or arrangement with a consultant to persuade employees concerning their rights to organize and collectively bargain, or to obtain certain information concerning activities of employees or a labor organization in connection with a labor dispute involving the employer. The consultant is also required to report such an agreement or arrangement with an employer. Statutory exceptions to these reporting requirements are set forth in LMRDA section 203(c), which provides, in part, that employers and consultants are not required to file a report by reason of the consultant's giving or agreeing to give "advice" to the employer. The Department in its proposal reconsidered the current policy concerning the scope of the "advice" exception. When workers have the necessary information about arrangements that have been made by their employer to persuade them whether or not to form, join, or assist a union, they are better able to make a more informed choice about representation.

Employment and Training Administration (ETA)

The Employment and Training Administration (ETA) administers and oversees programs that prepare workers for good jobs at good wages by providing high quality job training, employment, labor market information, and income maintenance services through its national network of One-Stop centers. The programs within ETA promote pathways to economic independence for individuals and families. Through several laws, ETA is charged with administering numerous employment and training programs designed to assist the American worker in developing the knowledge, skills, and abilities that are sought in the 21st century's economy.

Regulatory Review and Burden Reduction

• *Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations:* The revision of the National Apprenticeship Act Equal Opportunity in Apprenticeship and Training (EEO) regulations is a critical element in the Department's vision to promote and expand registered apprenticeship opportunities in the 21st Century while safeguarding the welfare and safety of all apprentices. In October 2008, ETA issued a final rule updating 29 CFR part 29, the regulatory framework for registration of apprenticeship programs and apprentices, and administration of the National Apprenticeship System. The companion EEO regulations, 29 CFR part 30, have not been amended since 1978. ETA proposes to update part 30 EEO in the Apprenticeship and

Training regulations to ensure that they act in concert with the 2008 revised part 29 rule. The proposed EEO regulations also will further Secretary Solis' vision of good jobs for everyone by ensuring that apprenticeship program sponsors develop and fully implement nondiscrimination and affirmative action efforts that provide equal opportunity for all applicants to apprenticeship and apprentices, regardless of race, gender, national origin, color, religion, or disability.

• *Implementation of Total Unemployment Rate Extended Benefits Trigger and Rounding Rule:* This rule will update regulations to conform to existing law and State practice. It will benefit State Unemployment Insurance systems by remove any potential confusion between complying with guidance and current law.

• *Elimination of several obsolete program regulations from the Code of Federal Regulations:* ETA plans to pursue four regulatory projects that will eliminate regulations that are no longer effective or enforceable because their underlying program authority was superseded or no longer exists. These include the Job Training Partnership Act Removal of JTPA (RIN 1205–AB68), Labor Certification Process for Logging Employment and Non-H–2A Agricultural Employment (RIN 1205–AB65), Attestations by Employers Using F–1 Students in Off-Campus Work (RIN 1205–AB66), and Attestations by Facilities Using Nonimmigrant Aliens as Registered Nurses (RIN 1205–AB67).

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DEPARTMENT OF TRANSPORTATION (DOT)

Introduction: Department Overview and Summary of Regulatory Priorities

The Department of Transportation (DOT) consists of 10 operating administrations and the Office of the Secretary, each of which has statutory responsibility for a wide range of regulations. DOT regulates safety in the aviation, motor carrier, railroad, motor vehicle, commercial space, public transportation, and pipeline transportation areas. DOT also regulates aviation consumer and economic issues and provides financial assistance for programs involving highways, airports, public transportation, the maritime industry, railroads, and motor vehicle safety. In addition, the Department writes regulations to carry out a variety of statutes ranging from the Americans With Disabilities Act to the Uniform Time Act. Finally, DOT develops and implements a wide range of regulations that govern internal DOT programs such as acquisitions and grants, access for the disabled, environmental protection, energy conservation, information technology, occupational safety and health, property asset management, seismic safety, and the use of aircraft and vehicles.

The Department's Regulatory Priorities

The Department's regulatory priorities respond to the challenges and opportunities we face. Our mission generally is as follows:

The national objectives of general welfare, economic growth and stability, and the security of the United States require the development of transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation at the lowest cost consistent with those and other national objectives, including the efficient use and conservation of the resources of the United States.

To help us achieve our mission, we have five goals in the Department's Strategic Plan for Fiscal Years 2012–2016:

• Safety: Improve safety by "reducing transportation-related fatalities and injuries."

• State of Good Repair: Improve the condition of our Nation's transportation infrastructure.

• Economic Competitiveness: Foster "smart strategic investments that will serve the traveling public and facilitate freight movements."

• Livable Communities: Foster livable communities through "coordinated, place-based policies and investments that increase transportation choices and access to transportation services."

• Environmental Sustainability: Advance environmental sustainability "through strategies such as fuel economy standards for cars and trucks, more environmentally sound construction and operational practices, and by expanding opportunities for shifting freight from less fuel-efficient modes to more fuel-efficient modes."

In identifying our regulatory priorities for the next year, the Department considered its mission and goals and focused on a number of factors, including the following:

• The relative risk being addressed.

• Requirements imposed by statute or other law.

• Actions on the National Transportation Safety Board "Most Wanted List".

• The costs and benefits of the regulations.

• The advantages of nonregulatory alternatives.

• Opportunities for deregulatory action.

• The enforceability of any rule, including the effect on agency resources.

This regulatory plan identifies the Department's regulatory priorities—the 20 pending rulemakings chosen, from among the dozens of significant rulemakings listed in the Department's broader regulatory agenda, that the Department believes will merit special attention in the upcoming year. The rules included in the regulatory plan embody the Department's focus on our strategic goals.

The regulatory plan reflects the Department's primary focus on safety—a focus that extends across several modes of transportation. For example:

• The Federal Aviation Administration (FAA) will continue its efforts to implement safety management systems.

• The Federal Motor Carrier Safety Administration (FMCSA) continues its work to strengthen the requirements for Electronic On-Board Recorders.

• The FMCSA will continue its work to revise motor carrier safety fitness procedures.

• The National Highway Traffic Safety Administration (NHTSA) will continue its rulemaking efforts to reduce death and injury resulting from incidents involving motor coaches.

Additionally, the Office of the Secretary of Transportation (OST) remains focused on an aviation consumer rulemaking designed to further safeguard the interests of consumers flying the Nation's skies.

Each of the rulemakings in the regulatory plan is described below in detail. In order to place them in context, we first review the Department's regulatory philosophy and our initiatives to educate and inform the public about transportation safety issues. We then describe the role of the Department's retrospective reviews and its regulatory process and other important regulatory initiatives of OST and of each of the Department's components. Since each transportation "mode" within the Department has its own area of focus, we summarize the regulatory priorities of each mode and of OST, which supervises and coordinates modal initiatives and has its own regulatory responsibilities, such as consumer protection in the aviation industry.

The Department's Regulatory Philosophy and Initiatives

The Department has adopted a regulatory philosophy that applies to all its rulemaking activities. This

philosophy is articulated as follows: DOT regulations must be clear, simple, timely, fair, reasonable, and necessary. They will be issued only after an appropriate opportunity for public comment, which must provide an equal chance for all affected interests to participate, and after appropriate consultation with other governmental entities. The Department will fully consider the comments received. It will assess the risks addressed by the rules and their costs and benefits, including the cumulative effects. The Department will consider appropriate alternatives, including nonregulatory approaches. It will also make every effort to ensure that regulation does not impose unreasonable mandates.

The Department stresses the importance of conducting high-quality rulemakings in a timely manner and reducing the number of old rulemakings. To implement this, the Department has required the following actions: (1) Regular meetings of senior DOT officials to ensure effective policy leadership and timely decisions, (2) effective tracking and coordination of rulemakings, (3) regular reporting, (4) early briefings of interested officials, (5) regular training of staff, and (6) adequate allocations of resources. The Department has achieved significant success because of this effort. It allows the Department to use its resources more effectively and efficiently.

The Department's regulatory policies and procedures provide a comprehensive internal management and review process for new and existing regulations and ensure that the Secretary and other appropriate appointed officials review and concur in all significant DOT rules. DOT continually seeks to improve its regulatory process. A few examples include: The Department's development of regulatory process and related training courses for its employees; its use of an electronic, Internet-accessible docket that can also be used to submit comments electronically; a "list serve" that allows the public to sign up for email notification when the Department issues a rulemaking document; creation of an electronic rulemaking tracking and coordination system; the use of direct final rulemaking; the use of regulatory negotiation; a continually expanding and improved Internet page that provides important regulatory information, including "effects" reports and status reports (*http://www.dot.gov/regulations*); and the continued exploration and use of Internet blogs and other Web 2.0 technology to increase and enhance public participation in its rulemaking process.

In addition, the Department continues to engage in a wide variety of activities to help cement the partnerships between its agencies and its customers that will produce good results for transportation programs and safety. The Department's agencies also have established a number of continuing partnership mechanisms in the form of rulemaking advisory committees.

The Department's Retrospective Review of Existing Regulations

In accordance with Executive Order (E.O.) 13563 (Improving Regulation and Regulatory Review), the Department actively engaged in a special retrospective review of our existing rules to determine whether they need to be revised or revoked. This review was in addition to those reviews in accordance with section 610 of the Regulatory Flexibility Act, E.O. 12866, and the Department's Regulatory Policies and Procedures. As part of this effort, we also reviewed our processes for determining what rules to review and ensuring that the rules are effectively reviewed. As a result of the review, we identified many rules for expedited review and changes to our retrospective review process. Pursuant to section 6 of E.O. 13563, the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan*. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. The final agency plan can be found at *http://www.dot.gov/regulations*.

RIN	Title	Significantly Reduces Costs on Small Businesses
1. 2120–AJ94	Enhanced Flight Vision System (EFVS) (RRR)	
2. 2120–AJ97	14 CFR Part 16; Rules of Practice for Federally-Assisted Airport Enforcement Proceedings (RRR).	Y
3. 2120–AK01	Combined Drug and Alcohol Testing Programs for Operators Conducting Commercial Air Tours (RRR).	Y
4. 2120–AK11	Minimum Altitudes for Use of Autopilots (RRR)	
5. 2125–AF44	Administration of Engineering and Design Related Service Contracts (RRR)	
6. 2126–AB43	Self-Reporting of Out-of-State Convictions (RRR)	Y
7. 2126–AB46	Single Pre-trip Inspection (RRR)	Y
8. 2126–AB47	Electronic Signatures (E-Signatures) (RRR)	Y
9. 2126–AB49	Elimination of Redundant Maintenance Rule (RRR)	Y
10. 2127–AK99	Federal Motor Vehicle Standard No. 108; Lamps, reflective devices, and associated equipment—Color Boundaries (RRR).	Y
11. 2127–AL05	Amend FMVSS No. 210 to Incorporate the Use of a New Force Application Device (RRR)	Y
12. 2127–AL24	Rapid Tire Deflation Test in FMVSS No. 110 (RRR)	
13. 2130–AC06	Training Standards for Railroad Employees (RRR)	
14. 2130–AC07	Development and Use of Rail Safety Technology: Dark Territory (RRR)	
15. 2130–AC09	Vehicle/Track Interaction Safety Standards; High-Speed and High Cant Deficiency Operations (RRR).	
16. 2130–AC11	Risk Reduction Program (RRR)	
17. 2130–AC14	Emergency Escape Breathing Apparatus (RRR)	
18. 2130–AC28	Track Safety Standards: Improving Rail Integrity (RRR)	
19. 2130–AC32	Positive Train Control Systems: De Minimis Exception, Yard Movements, En Route Failures; Miscellaneous Grade Crossing/Signal and Train Control Amendments (RRR).	
20. 2132–AB02	Major Capital Investment Projects (RRR)	
21. 2132–AB03	Environmental Impact and Related Procedures (RRR)	
22. 2133–AB79	Administrative Claims, Part 327 (RRR)	

RIN	Title	Significantly Reduces Costs on Small Businesses
23. 2137–AE62	Hazardous Materials: Approval and Communication Requirements for the Safe Transportation of Air Bag Inflators, Air Bag Modules, and Seat-Belt Pretensioners (RRR).	Y
24. 2137–AE70	Hazardous Materials: Revision of Requirements for Fireworks Approvals (RRR)	Y
25. 2137–AE72	Pipeline Safety: Gas Transmission (RRR)	Y
26. 2137–AE78	Hazardous Materials: Miscellaneous Amendments (RRR)	Y
27. 2137–AE79	Hazardous Materials: Miscellaneous Amendments; Petitions for Rulemaking (RRR)	Y
28. 2137–AE80	Hazardous Materials: Miscellaneous Pressure Vessel Requirements (DOT Spec Cylinders) (RRR).	Y
29. 2137–AE81	Hazardous Materials: Reverse Logistics (RRR)	Y
30. 2137–AE82	Hazardous Materials: Incorporation of Certain Special Permits and Competent Authorities into the HMR (RRR).	Y
31. 2137–AE85	Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments (RRR).	
32. 2137–AE86	Hazardous Materials: Requirements for the Safe Transportation of Bulk Explosives (RRR)	
33. 2137–AE87	Hazardous Materials: Harmonization with International Standards (RRR)	
34. 2137–AE91	Hazardous Materials: Rail Petitions and Recommendations to Improve the Safety of Railroad Tank Car Transportation (RRR).	Y
35. 2137–AE94	Pipeline Safety: Miscellaneous Amendments Related to Reauthorization and Petitions for Rulemaking (RRR*).	Y

International Regulatory Cooperation

E.O. 13609 (Promoting International Regulatory Cooperation) stresses that "[i]n an increasingly global economy, international regulatory cooperation, consistent with domestic law and prerogatives and U.S. trade policy, can be an important means of promoting the goals of" E.O. 13563 to "protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation." DOT has long recognized the value of international regulatory cooperation and has engaged in a variety of activities with both foreign governments and international bodies. These activities have ranged from cooperation in the development of particular standards to discussions of necessary steps for rulemakings in general, such as risk assessments and cost-benefit analyses of possible standards. Since the issuance of E.O. 13609, we have increased our efforts in this area. For example, many of DOT's Operating Administrations are active in groundbreaking government-wide Regulatory Cooperation Councils (RCC) with Canada, Mexico, and the European Union. These RCC working groups are setting a precedent in developing and testing approaches to international coordination of rulemaking to reduce barriers to international trade. We also have been exploring innovative approaches to ease the development process.

Examples of the many cooperative efforts we are engaged in include the following:

The FAA maintains ongoing efforts with foreign civil aviation authorities, including in particular the European Aviation Safety Agency and Transport Canada, to harmonize standards and practices where doing so will improve the safety of aviation and aviation-related activities. The FAA also plays an active role in the standard-setting work of the International Civil Aviation Organization (ICAO), particularly on the Air Navigation Commission and the Legal Committee. In doing so, the FAA works with other Nations to shape the standards and recommended practices adopted by ICAO. The FAA's rulemaking actions related to safety management systems are examples of the FAA's harmonization efforts.

As a signatory of the 1998 Agreement on the Harmonization of Vehicle Regulations, NHTSA is an active participant in the World Forum for Vehicle Regulations (WP.29) at the UN. Under that umbrella, NHTSA is working on the development of harmonized regulations for the safety of electric vehicles; hydrogen and fuel cell vehicles; advanced head restraints; pole side impact test procedures; pedestrian protection; the safety risks associated with quieter vehicles, such as electric and hybrid electric vehicles; and advancements in tires.

Further, NHTSA is working bilaterally with Transport Canada to facilitate our Joint Action Plans under the Motor Vehicles Working Group of the U.S.—Canada RCC. Under these plans, NHTSA is working very closely with its counterparts within Transport Canada on the development of international standards on quieter vehicles, electric vehicle safety, and hydrogen and fuel cell vehicles.

PHMSA's hazardous material group works with ICAO, the UN Subcommittee of Experts on Dangerous Goods, and the International Maritime Organization. Through participation in these international bodies, PHMSA is able to advocate on behalf of U.S. safety and commercial interests to guide the development of international standards with which U.S. businesses have to comply when shipping in international commerce. PHMSA additionally participates in the RCC with Canada and has a Memorandum of Cooperation in place to ensure that cross-border shipments are not hampered by conflicting regulations. The pipeline group at PHMSA incorporates many standards by reference into the Pipeline Safety Regulations, and the development of these standards benefit from the participation of experts from around the world.

In the areas of airline consumer protection and civil rights regulation, OST is particularly conscientious in seeking international regulatory cooperation. For example, the Department participates in the standard-setting activities of ICAO and meets and works with other governments and international airline associations on the implementation of U.S. and foreign aviation rules.

For a number of years the Department has also provided information on which of its rulemaking actions have international effects. This information, updated monthly, is available at the Department's regulatory information Web site, *http://www.dot.gov/regulations*, under the heading "Effects Reports." (The reports can be found under headings for "EU," "NAFTA" (Canada and Mexico) and "Foreign.") A list of our significant rulemakings that are expected to have international effects follows; the identifying RIN provided below can be used to find

summary and other information about the rulemakings in the Department's Regulatory Agenda published along with this Plan:

DOT Significant Rulemakings With International Impacts

RIN	Title
2105–AD90	Stowage and Assistive Devices.
2105–AD91	Accessibility of Airports.
2105–AE06	E-Cigarette.
2120–AJ34	Super cooled Large Droplet Icing Conditions.
2120–AK09	Drug & Alcohol Testing for Repair Stations.
2126–AA34	Application by Certain Mexico-Domiciled Motor Carriers to Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border.
2126–AA35	Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States.
2126–AA70	Limitations on the Issuance of Commercial Driver Licenses with a Hazardous Materials Endorsement.
2127–AK43	Rearview Visibility.
2127–AK56	Seat Belts on Motor coaches.
2127–AK75	Alternative Fuel Usage Labeling & Badging.
2127–AK76	Tire Fuel Efficiency Part 2.
2127–AK93	Quieter Vehicles Sound Alert.
2127–AK95	Side Impact Test Procedure for CRS.
2127–AL01	Novelty Helmets Enforcement.
2133–AB74	Cargo Preference (RRR).
2137–AE62	Air Bags and Pretensioners (RRR).

As we identify rulemakings arising out of our ongoing regulatory cooperation activities that we reasonably anticipate will lead to significant regulations, we will add them to our Web site report and subsequent Agendas and Plans.

The Department's Regulatory Process

The Department will also continue its efforts to use advances in technology to improve its rulemaking management process. For example, the Department created an effective tracking system for significant rulemakings to ensure that either rules are completed in a timely manner or delays are identified and fixed. Through this tracking system, a monthly status report is generated. To make its efforts more transparent, the Department has made this report Internet accessible at *http://www.dot.gov/regulations*, as well as through a list-serve. By doing this, the Department is providing valuable infonuation 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 subhstance 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 flexihility analyses; other related analyses; retrospective reviews of rules; and data quality, including peer reviews.

OST also leads and coordinates the Department's response to the Office of Management and Budget's (OMB) intergovernmental review of other agencies' significant rulemaking documents and to Administration and congressional proposals that concern the regulatory process. The General Counsel's office works closely with representatives of other agencies, OMB, the White House, and congressional staff to provide information on how various proposals would affect the ability of the Department to perform its safety, infrastructure, and other missions.

During fiscal year 2013, OST will continue to focus its efforts on enhancing airline passenger protections by requiring carriers to adopt various consumer service practices under the following rulemaking initiatives:

- Accessibility of Carrier Web sites and Ticket Kiosks (2105–AD96).
- Enhancing Airline Passenger Protections III (2105–AE11).
- Carrier-Supplied Medical Oxygen, Accessible In-Flight Entertainment Systems, Service Animals, and Accessible Lavatories on Single-Aisle Aircraft (2105–AE12).

OST will also continue its efforts to help coordinate the activities of several operating administrations that advance various departmental efforts that support the Administration's initiatives on promoting safety, stimulating the economy and creating jobs, sustaining and building America's transportation infrastructure, and improving livability for the people and communities who use transportation systems subject to the Department's policies. It will also oversee the Department's rulemaking actions to implement the "Moving Ahead for Progress in the 21st Century Act" (MAP–21).

Federal Aviation Administration (FAA)

The Federal Aviation Administration is charged with safely and efficiently

operating and maintaining the most complex aviation system in the world. It is guided by Destination 2025—a transformation of the Nation's aviation system in which air traffic will move safely, swiftly, efficiently, and seamlessly around the globe. Our vision is to develop new systems and to enhance a culture that increases the safety, reliability, efficiency, capacity, and environmental performance of our aviation system. To meet our vision will require enhanced skills, clear communication, strong leadership, effective management, innovative technology, new equipment, advanced system oversight, and global integration.

FAA activities that may lead to rulemaking in fiscal year 2013 include continuing to:

• Promote and expand safety information-sharing efforts, such as FAA-industry partnerships and data-driven safety programs that prioritize and address risks before they lead to accidents. Specifically, FAA will continue implementing Commercial Aviation Safety Team projects related to controlled flight into terrain, loss of control of an aircraft, uncontained engine failures, runway incursions, weather, pilot decisionmaking, and cabin safety. Some of these projects may result in rulemaking and guidance materials.

• Work cooperatively to harmonize the U.S. aviation regulations with those of other countries, without compromising rigorous safety standards, or our requirements to develop cost benefit analysis. The differences worldwide in certification standards, practice and procedures, and operating rules must be identified and minimized to reduce the regulatory burden on the international aviation system. The differences between the FAA regulations and the requirements of other nations impose a heavy burden on U.S. aircraft manufacturers and operators, some of which are small businesses. Standardization should help the U.S. aerospace industry remain internationally competitive. The FAA continues to publish regulations based on internal analysis, public comment, and recommendations of Aviation Rulemaking Committees that are the result of cooperative rulemaking between the U.S. and other countries.

• Develop and implement Safety Management Systems (SMS) where these systems will improve safety of aviation and aviation-related activities. An SMS proactively identifies potential hazards in the operating environment, analyzes the risks of those hazards, and encourages mitigation prior to an accident or incident. In its most general form, an SMS is a set of decisionmaking tools that can be used to plan, organize, direct, and control activities in a manner that enhances safety.

FAA top regulatory priorities for 2012 through 2013 include:

• Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers (2120–AJ00) (Pub. L. 111–216, sec. 209 (Aug. 1, 2010).

• Helicopter Air Ambulance and Commercial Helicopter Safety Initiatives and Miscellaneous Amendments (2120–AJ53) (Pub. L. 112–95, sec 306 (Feb. 14, 2012).

• Congestion Management for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport (2120–AJ89).

• Safety Management System for Certificate Holders Operating Under 14 CFR part 121 (2120–AJ86) (Pub. L. 111–216, sec 215 (Aug. 1, 2010).

The Crewmember and Aircraft Dispatcher Training rulemaking would:

• Reduce human error and improve performance;

• Enhance traditional training programs through the use of flight simulation training devices for flight crewmembers; and

• Include additional training in areas critical to safety.

The Air Ambulance and Commercial Helicopter rulemaking would:

• Codify current agency guidance;

• Address National Transportation Safety Board recommendations;

• Provide certificate holders and pilots with tools and procedures that will aid in reducing accidents, including potential equipage requirements; and

• Amend all part 135 commercial helicopter operations regulations to include pilot training and alternate airport weather minimums.

The Congestion Management rulemaking for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport would:

• Replace the orders limiting scheduled operations at John F. Kennedy International Airport (JFK), limiting scheduled operations at Newark Liberty International Airport (EWR), and limiting scheduled and unscheduled operations at LaGuardia Airport (LGA); and

• Provide a longer-term and comprehensive approach to congestion management at JFK, EWR, and LGA.

The Safety Management System for Certificate Holders Operating under 14 CFR Part 121 rulemaking would:

• Require certain certificate holders to develop and implement an SMS;

• Propose a general framework from which a certificate holder can build its SMS; and

• Conform to International Civil Aviation Organization Annexes and adopt several National Transportation Safety Board recommendations.

Federal Highway Administration (FHWA)

The Federal Highway Administration (FHWA) carries out the Federal highway program in partnership with State and local agencies to meet the Nation's transportation needs. The FHWA's mission is to improve continually the quality and performance of our Nation's highway system and its intermodal connectors.

Consistent with this mission, the FHWA will continue:

• With ongoing regulatory initiatives in support of its surface transportation programs;

• To implement legislation in the least burdensome and restrictive way possible; and

• To pursue regulatory reform in areas where project development can be streamlined or accelerated, duplicative requirements can be consolidated, recordkeeping requirements can be reduced or simplified, and the decisionmaking authority of our State and local partners can be increased.

On July 6, 2012, President Obama signed the Moving Ahead for Progress in the 21st Century Act (MAP–21). MAP–21 authorizes the Federal surface transportation programs for highways, highway safety, and transit for the two-year period from 2012–2014. The FHWA is analyzing MAP–21 to identify congressionally directed rulemakings. These rulemakings will be the FHWA's top regulatory priorities. Additionally, the FHWA is in the process of reviewing all FHWA regulations to ensure that they are consistent with MAP–21 and will update those regulations that are not consistent with the recently enacted legislation.

Federal Motor Carrier Safety Administration (FMCSA)

The mission of the Federal Motor Carrier Safety Administration (FMCSA) is to reduce crashes, injuries, and fatalities involving commercial trucks and buses. A strong regulatory program is a cornerstone of FMCSA's compliance and enforcement efforts to advance this safety mission. FMCSA develops new and more effective safety regulations based on three core priorities: Raising the bar for entry, maintaining high standards, and removing high-risk behavior. In addition to Agency-directed regulations, FMCSA develops

regulations mandated by Congress, through legislation such as the Moving Ahead for Progress in the 21st Century (MAP–21) and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). FMCSA regulations establish standards for motor carriers, drivers, vehicles, and State agencies receiving certain motor carrier safety grants and issuing commercial drivers' licenses.

FMCSA's regulatory plan for FY 2013 includes completion of a number of rulemakings that are high priorities for the Agency because they would have a positive impact on safety. Among the rulemakings included in the plan are: (1) Carrier Safety Fitness Determination (RIN 2126–AB11), (2) Electronic On-Board Recorders and Hours of Service Supporting Documents (RIN 2126–AB20), and (3) Unified Registration System (RIN 2126–AA22).

Together, these priority rules could help to substantially improve commercial motor vehicle (CMV) safety on our Nation's highways by improving FMCSA's ability to provide safety oversight of motor carriers and drivers.

In FY 2013, FMCSA will continue its work on the Comprehensive Safety Analysis (CSA). The CSA initiative will improve the way FMCSA identifies and conducts carrier compliance and enforcement operations over the coming years. CSA's goal is to improve large truck and bus safety by assessing a wider range of safety performance data from a larger segment of the motor carrier industry through an array of progressive compliance interventions. FMCSA anticipates that the impacts of CSA and its associated rulemaking to put into place a new safety fitness standard will enable the Agency to prohibit "unfit" carriers from operating on the Nation's highways (the Carrier Safety Fitness Determination (RIN 2126–AB11)) and will contribute further to the Agency's overall goal of decreasing CMV-related fatalities and injuries.

In FY 2013, FMCSA plans to issue a supplemental notice of proposed rulemaking on Electronic On-Board Recorders and Hours of Service Supporting Documents (RIN 2126–AB20) to establish the required usage and technical specifications, and to clarify the requirements for Hours of Service Supporting Documents.

Also in FY 2013, FMCSA plans to issue a final rule on the Unified Registration System (RIN 2126–AA22), which will replace three legacy registration systems with a single system that will improve the registration process for motor carriers, property brokers, freight forwarders, and other entities that register with FMCSA.

National Highway Traffic Safety Administration

The statutory responsibilities of the National Highway Traffic Safety Administration (NHTSA) relating to motor vehicles include reducing the number of, and mitigating the effects of, motor vehicle crashes and related fatalities and injuries; providing safety performance information to aid prospective purchasers of vehicles, child restraints, and tires; and improving automotive fuel efficiency. NHTSA pursues policies that encourage the development of nonregulatory approaches when feasible in meeting its statutory mandates. It issues new standards and regulations or amendments to existing standards and regulations when appropriate. It ensures that regulatory alternatives reflect a careful assessment of the problem and a comprehensive analysis of the benefits, costs, and other impacts associated with the proposed regulatory action. Finally, it considers alternatives consistent with the Administration's regulatory principles.

NHTSA continues to focus on the high-priority vehicle safety issue of motor coaches and their occupants in fiscal year 2013 and plans to issue a notice that would propose promulgation of a new Federal motor vehicle safety standard (FMVSS) for rollover structural integrity requirements for newly manufactured motor coaches in accordance with NHTSA's 2007 Motorcoach Safety Plan, DOT's 2009 departmental Motorcoach Safety Action Plan, and requirements of the Moving Ahead for Progress in the 21st Century (MAP–21) Act. NHTSA will also continue work toward a new FMVSS for electronic stability control systems for motor coaches and truck tractors, and expects to promulgate a final rule that will require the installation of lap/shoulder belts on motor coaches. Together, these rulemaking actions will address nine recommendations issued by the National Transportation Safety Board related to motorcoach safety.

In fiscal year 2013, NHTSA plans to issue a final rule on rear visibility to expand the required field of view to enable the driver of a motor vehicle to detect areas behind the motor vehicle to reduce death and injury resulting from backing incidents, particularly incidents involving small children and disabled persons. This final rule is mandated by the Cameron Gulbransen Kids Transportation Safety Act of 2007. Also in 2013, NHTSA plans to continue work toward a final rule that would establish a new FMVSS to provide a means of alerting blind and other pedestrians of motor vehicle operation. This rulemaking is mandated by the Pedestrian Safety Enhancement Act of 2010 to further enhance the safety of passenger vehicles and pedestrians. NHTSA will also issue a notice that would propose promulgation of a new FMVSS to mandate the installation of Event Data Recorders (EDRs) in light vehicles.

In addition to numerous programs that focus on the safe performance of motor vehicles, the Agency is engaged in a variety of programs to improve driver and occupant behavior. These programs emphasize the human aspects of motor vehicle safety and recognize the important role of the States in this common pursuit. NHTSA has identified two high-priority areas: Safety belt use and impaired driving. To address these issue areas, the Agency is focusing especially on three strategies—conducting highly visible, well-publicized enforcement; supporting prosecutors who handle impaired driving cases and expanding the use of DWI/Drug Courts, which hold offenders accountable for receiving and completing treatment for alcohol abuse and dependency; and adopting alcohol screening and brief intervention by medical and health care professionals. Other behavioral efforts encourage child safety-seat use; combat excessive speed and aggressive driving; improve motorcycle, bicycle, and pedestrian safety; and provide consumer information to the public.

Federal Railroad Administration (FRA)

FRA's current regulatory program reflects a number of pending proceedings to satisfy mandates resulting from the Rail Safety Improvement Act of 2008 (RSIA08), the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), the Moving Ahead for Progress in the 21st Century Act (MAP–21), as well as actions supporting the Department's High-Speed Rail Strategic Plan. RSIA08 alone has required 21 rulemaking actions, 12 of which have been completed. In addition, while FRA is currently developing its regulatory strategy for implementing MAP–21, FRA expects to initiate a rulemaking to amend references to the statutory minimum and maximum penalties for violations of DOT's hazardous materials regulations to be consistent with MAP–21. However, FRA continues to prioritize its rulemakings according to the greatest effect on safety, as well as expressed congressional interest, and will work to complete as many

rulemakings as possible prior to their statutory deadlines.

Through the Railroad Safety Advisory Committee (RSAC), FRA is working to complete many of the RSIA08 actions that include developing requirements for operations in dark territory, track safety, critical incident stress plans, employee training and alcohol and drug testing of maintenance-of-way personnel. FRA is also developing requirements related to the creation and implementation of railroad risk reduction and system safety programs, both of which are required by RSIA08. FRA is also in the process of finalizing other RSAC-supported actions that advance high-speed passenger rail such as final revisions to the Track Safety Standards dealing with vehicle-track interaction. Finally, FRA will be engaging in a rulemaking proceeding to address various miscellaneous issues related to the implementation of positive train control systems. FRA expects this regulatory action to provide substantial benefits to the industry while ensuring the safe and effective implementation of the technology.

Federal Transit Administration (FTA)

FTA helps communities support public transportation by making grants of Federal funding for transit vehicles, construction of transit facilities, and planning and operation of transit and other transit-related purposes. FTA regulatory activity implements the laws that apply to recipients' uses of Federal funding and the terms and conditions of FTA grant awards. FTA policy regarding regulations is to:

- Ensure the safety of public transportation systems;
- Provide maximum benefit to the mobility of the Nation's citizens and the connectivity of transportation infrastructure;
- Provide maximum local discretion;
- Ensure the most productive use of limited Federal resources;
- Protect taxpayer investments in public transportation;
- Incorporate principles of sound management into the grant management process.

As the needs for public transportation have changed over the years, the Federal transit programs have grown in number and complexity, often requiring implementation through the rulemaking process. In fact, FTA is currently developing its regulatory strategy for implementing public transportation programs authorized under MAP–21. For example, MAP–21 recently provided FTA with authority to develop safety standards for public transportation and to provide oversight and enforcement of public transportation safety. FTA's regulatory priorities for the coming year will reflect the mandates of the Agency's authorization statute, including, most notably, developing a National Public Transportation Safety Plan, amending the State Safety Oversight rule (49 CFR part 659), and amending the Major Capital Investments (RIN 2132–AB02) "New Starts" program. The New Starts program is the main source of discretionary Federal funding for construction of rapid rail, light rail, commuter rail, and other forms of transit infrastructure. FTA also anticipates amending its regulations governing recipients' management of major capital projects and its Bus Testing rule for purposes of establishing a new bus model pass/fail testing system. Additionally, FTA plans to amend its regulations implementing the National Environmental Policy Act (49 CFR part 771) in order to streamline the FTA environmental review process by updating and expanding the Categorical Exclusions for particular types of proposed transit projects.

Maritime Administration (MARAD)

The Maritime Administration (MARAD) administers Federal laws and programs to improve and strengthen the maritime transportation system to meet the economic, environmental, and security needs of the Nation. To that end, MARAD's efforts are focused upon ensuring a strong American presence in the domestic and international trades and to expanding maritime opportunities for American businesses and workers.

MARAD's regulatory objectives and priorities reflect the agency's responsibility for ensuring the availability of a water transportation services for American shippers and consumers and, in times of war or national emergency, for the U.S. armed forces. Major program areas include the following: Maritime Security, Voluntary Intermodal Sealift Agreement, National Defense Reserve Fleet and the Ready Reserve Force, Cargo Preference, Maritime Guaranteed Loan Financing, United States Merchant Marine Academy, Mariner Education and Training Support, Deepwater Port Licensing, and Port and Intermodal Development. Additionally, MARAD administers the Small Shipyard Grants Program through which equipment and technical skills training are provided to America's maritime workforce, with the aim of helping businesses to compete in the global marketplace while creating well-paying jobs at home.

MARAD's primary regulatory activities in fiscal year 2013 will be to continue the update of existing regulations as part of the Department's Retrospective Regulatory Review effort, and to propose new regulations where appropriate.

Pipeline and Hazardous Materials Safety Administration (PHMSA)

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has responsibility for rulemaking under two programs. Through the Associate Administrator for Hazardous Materials Safety, PHMSA administers regulatory programs under Federal hazardous materials transportation law and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. Through the Associate Administrator for Pipeline Safety, PHMSA administers regulatory programs under the Federal pipeline safety laws and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2012 toughened the Federal pipeline safety regulations by strengthening PHMSA's ability to enforce the regulations. The Act includes technical changes to civil penalties and the administrative enforcement processes within Part 190 of the Code of Federal Regulations. PHMSA's authority to enforce the provisions of the Oil Pollution Act of 1990, which had been administered by the Department of Homeland Security, was also returned by the Act.

On July 6, 2012 President Obama signed into law the "Moving Ahead for Progress in the 21st Century Act". Prior to this Act being signed into law, the current highway bill was on its ninth temporary extension and was set to expire on June 30, 2012. The Act reauthorizes the federal-aid highway and transit programs through September 30, 2014. For the Office of Hazardous Materials (OHMS), the Act reauthorizes the DOT hazardous materials safety program, and delays a DOT-proposed wetlines regulation until the Government Accountability Office can analyze its costs and benefits. In addition, the Act authorizes PHMSA to conduct pilot projects on using paperless hazard communications systems and report later on whether the agency recommends incorporating such paperless hazcom systems into the Hazardous Materials Regulations (HMR). The Act requires PHMSA to assess methods to collect, analyze and report data on hazmat transportation accidents and incidents. Further the Act directs PHMSA to establish uniform

standards for the training of inspectors and to train inspectors in all modes on how to: (1) Collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material; (2) how to identify noncompliance with the HMRs; and (3) take appropriate enforcement action. The Act includes language that amends the authority of DOT to open and inspect hazmat packages en route when the inspector reasonably believes the package presents an imminent hazard. In addition, the Act increases the maximum civil penalties for violations of the HMRs from $50,000 to $75,000, and from $100,000 to $175,000 where the violation results in death, serious illness, or severe injury to any person or substantial destruction of property, and adds a minimum civil penalty for training violations of $450. The Act requires a rulemaking within two years to set out procedures and criteria for evaluating applications for special permits and approvals. The Act requires a review and another rulemaking within three years to establish a means to incorporate special permits that have been in continuous effect for a ten-year period into the HMRs. Finally Act requires States to submit to DOT a list of the State's currently effective hazardous material highway route designations and to update that list every two years.

PHMSA will continue to work toward the reduction of deaths and injuries associated with the transportation of hazardous materials by all transportation modes, including pipeline. We will concentrate on the prevention of high-risk incidents identified through the findings of the National Transportation Safety Board and PHMSA's evaluation of transportation incident data. PHMSA will use all available Agency tools to assess data; evaluate alternative safety strategies, including regulatory strategies as necessary and appropriate; target enforcement efforts; and enhance outreach, public education, and training to promote safety outcomes.

PHMSA will continue to focus on the streamlining of its regulatory system and to reduce regulatory burdens. PHMSA will evaluate existing rules to examine whether they remain justified; should be modified to account for changing circumstances and technologies; or should be streamlined or even repealed. PHMSA will continue to be responsive to petitions for rulemaking. PHMSA will review regulations, letters of interpretation, petitions for rulemaking, special permits, enforcement actions, approvals, and international standards to identify inconsistencies, outdated provisions, and barriers to regulatory compliance.

PHMSA will be considering whether changes are needed to the regulations covering hazardous liquid onshore pipelines. In particular, PHMSA is considering whether it should extend regulation to certain pipelines currently exempt from regulation; whether other areas along a pipeline should either be identified for extra protection or be included as additional high-consequence areas (HCAs) for integrity management (IM) protection; whether to establish and/or adopt standards and procedures for minimum lead detection requirements for all pipelines; whether to require the installation of emergency flow restricting devices (EFRDs) in certain areas; whether revised valve spacing requirements are needed on new construction or existing pipelines; whether repair timeframes should be specified for pipeline segments in areas outside the HCAs that are assessed as part of the IM; and whether to establish and/or adopt standards and procedures for improving the methods of preventing, detecting, assessing, and remediating stress corrosion cracking (SCC) in hazardous liquid pipeline systems.

Additionally, PHMSA will consider whether or not to revise the requirements in the pipeline safety regulations addressing integrity management principles for gas transmission pipelines. Specifically, PHMSA will be reviewing the definition of an HCA (including the concept of a potential impact radius), the repair criteria for both HCA and non-HCA areas, requiring the use of automatic and remote-controlled shutoff valves, valve spacing, and whether applying the integrity management program requirements to additional areas would mitigate the need for class location requirements.

Research and Innovative Technology Administration (RITA)

The Research and Innovative Technology Administration (RITA) seeks to identify and facilitate solutions to the challenges and opportunities facing America's transportation system through:

- Coordination, facilitation, and review of the Department's research and development programs and activities;
- Providing multi-modal expertise in transportation and logistics research, analysis, strategic planning, systems engineering and training;
- Advancement, and research and development, of innovative technologies, including intelligent transportation systems;
- Comprehensive transportation statistics research, analysis, and reporting;
- Managing education and training in transportation and national transportation-related fields; and
- Managing the activities of the John A. Volpe National Transportation Systems Center.

Through its Bureau of Transportation Statistics, Office of Airline Information, RITA collects, compiles, analyzes, and makes accessible information on the Nation's air transportation system. RITA collects airline financial, traffic, and operating statistical data, including on-time flight performance data that highlight long tarmac times and chronically late flights. This information gives the Government consistent and comprehensive economic and market data on airline operations that are used in supporting policy initiatives and administering the Department's mandated aviation responsibilities, including negotiating international bilateral aviation agreements, awarding international route authorities, performing airline and industry status evaluations, supporting air service to small communities, setting Alaskan Bush Mail rates, and meeting international treaty obligations.

Through its Intelligent Transportation Systems Joint Program Office (ITS/JPO), RITA conducts research and demonstrations and, as appropriate, may develop new regulations, in coordination with OST and other DOT operating administrations, to enable deployment of ITS research and technology results. This office collects and disseminates benefits and costs information resulting from ITS-related research along with direct measurement of the deployment of ITS nationwide. These efforts support market assessments for emerging market sectors that would be cost-prohibitive for industry to absorb alone. Such information is widely consumed by the community of stakeholders to determine their deployment needs.

The ITS Architecture and Standards Programs develop and maintain a National ITS Architecture; develop open, non-proprietary interface standards to facilitate rapid and economical adoption of nationally interoperable ITS technologies; and cooperate to harmonize ITS standards internationally. These standards are incorporated into DOT operating administration regulatory activities when appropriate.

Through its Volpe National Transportation Systems Center, RITA

provides a comprehensive range of engineering expertise, and qualitative and quantitative assessment services, focused on applying, maintaining, and increasing the technical body of knowledge to support DOT operating administration regulatory activities.

Through its Transportation Safety Institute, RITA designs, develops, conducts, and evaluates training and technical assistance programs in transportation safety and security to support DOT operating administration regulatory implementation and enforcement activities.

RITA's regulatory priorities are to assist OST and all DOT operating administrations in updating existing regulations by applying research, technology, and analytical results; to provide reliable information to transportation system decisionmakers; and to provide safety regulation implementation and enforcement t

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DEPARTMENT OF THE TREASURY

Statement of Regulatory Priorities

The primary missions of the Department of the Treasury are:

- To promote prosperous and stable American and world economies, including promoting domestic economic growth and maintaining our Nation's leadership in global economic issues, supervising national banks and thrift institutions, and helping to bring residents of distressed communities into the economic mainstream.
- To manage the Government's finances by protecting the revenue and collecting the correct amount of revenue under the Internal Revenue Code, overseeing customs revenue functions, financing the Federal Government and managing its fiscal operations, and producing our Nation's coins and currency.
- To safeguard the U.S. and international financial systems from those who would use these systems for illegal purposes or to compromise U.S. national security interests, while keeping them free and open to legitimate users.

Consistent with these missions, most regulations of the Department and its constituent bureaus are promulgated to interpret and implement the laws as enacted by the Congress and signed by the President. It is the policy of the Department to comply with applicable requirements to issue a notice of proposed rulemaking and carefully consider public comments before adopting a final rule. Also, in particular cases, the Department invites interested parties to submit views on rulemaking projects while a proposed rule is being developed.

In response to the events of September 11, 2001, the USA PATRIOT Act of 2001 was signed into law on October 26, 2001. Since then, the Department has accorded the highest priority to developing and issuing regulations to implement the provisions in this historic legislation that target money laundering and terrorist financing. These efforts, which will continue during the coming year, are reflected in the regulatory priorities of the Financial Crimes Enforcement Network (FinCEN).

To the extent permitted by law, it is the policy of the Department to adhere to the regulatory philosophy and principles set forth in Executive Orders 12866, 13563, and 13609 and to develop regulations that maximize aggregate net benefits to society while minimizing the economic and paperwork burdens imposed on persons and businesses subject to those regulations.

Community Development Financial Institutions Fund

The Community Development Financial Institutions Fund (CDFI Fund) was established by the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*). The primary purpose of the CDFI Fund is to promote economic revitalization and community development through the following programs: The Community Development Financial Institutions (CDFI) Program, the Bank Enterprise Award (BEA) Program, the Native American CDFI Assistance (NACA) Program, and the New Markets Tax Credit (NMTC) Program. In addition, the CDFI Fund administers the Financial Education and Counseling Pilot Program (FEC), the Capital Magnet Fund (CMF), and the CDFI Bond Guarantee Program (BGP).

In fiscal year (FY) 2013, the CDFI Fund will publish Interim regulations implementing the CDFI Bond Guarantee Program (BGP). The BGP was established through the Small Business Jobs Act of 2010 and authorizes the Secretary of the Treasury (through the CDFI Fund) to guarantee the full amount of notes or bonds, including the principal, interest, and call premiums, issued to finance or refinance loans to certified CDFIs for eligible community or economic development purposes for a period not to exceed 30 years. The bonds or notes will support CDFI lending and investment by providing a source of long-term, patient capital to CDFIs. In accordance with Federal credit policy, the Federal Financing Bank (FFB), a body corporate and instrumentality of the United States Government under the general supervision and direction of the Secretary of the Treasury, will finance obligations that are 100 percent guaranteed by the United States, such as the bonds or notes to be issued by Qualified Issuers under the BGP.

Also in FY 2013, the CDFI Fund will publish revised Environmental Quality Regulations (12 CFR 1815) which will reflect economic and programmatic changes affecting applicants and awardees. The current environmental quality regulations do not reflect the full expansion of programs administered by the CDFI Fund to date. The revised regulations will include technical clarifications, revised definitions, and modifications to categorical exclusions relevant to the CDFI Fund's programs.

In FY 2013, subject to funding availability, the CDFI Fund will provide awards through the following programs:

Community Development Financial Institutions (CDFI) Program. Through the CDFI Program, the CDFI Fund will provide technical assistance grants and financial assistance awards to financial institutions serving distressed communities.

Native American CDFI Assistance (NACA) Program. Through the NACA Program, the CDFI Fund will provide technical assistance grants and financial assistance awards to promote the development of CDFIs that serve Native American, Alaska Native, and Native Hawaiian communities.

Bank Enterprise Award (BEA) Program. Through the BEA Program, the CDFI Fund will provide financial incentives to encourage insured depository institutions to engage in eligible development activities and to make equity investments in CDFIs.

New Markets Tax Credit (NMTC) Program. Through the NMTC Program, the CDFI Fund will provide allocations of tax credits to qualified community development entities (CDEs). The CDEs in turn provide tax credits to private sector investors in exchange for their investment dollars; investment proceeds received by the CDEs are to be used to make loans and equity investments in low-income communities. The CDFI Fund administers the NMTC Program in coordination with the Office of Tax Policy and the Internal Revenue Service.

CDFI Bond Guarantee Program (BGP). Through the BGP, the CDFI Fund will select Qualified Issuers of federally guaranteed bonds, the bond proceeds will be used to make or refinance loans to certified CDFIs. The bonds must be a

minimum of $100 million and may have terms of up to 30 years. The CDFI Fund is authorized to award up to $1 billion in guarantees per fiscal year through FY 2014.

Customs Revenue Functions

The Homeland Security Act of 2002 (the Act) provides that the Secretary of the Treasury retains sole legal authority over the customs revenue functions. The Act also authorizes the Secretary of the Treasury to delegate any of the retained authority over customs revenue functions to the Secretary of Homeland Security. By Treasury Department Order No. 100–16, the Secretary of the Treasury delegated to the Secretary of Homeland Security authority to prescribe regulations pertaining to the customs revenue functions subject to certain exceptions. This Order further provided that the Secretary of the Treasury retained the sole authority to approve such regulations.

During the past fiscal year, among the customs-revenue function regulations issued, was the United States-Oman Free Trade Agreement final rule (76 FR 65365) of October 21, 2011 that adopted interim amendments (76 FR 692) of January 6, 2011, which implemented the preferential tariff treatment and other customs-related provisions of the United States-Oman Free Trade Agreement Implementation Act. CBP also issued the United States-Peru Trade Promotion Agreement interim amendments (76 FR 66875) of November 3, 2011 to the CBP regulations which implemented the United States-Peru Trade Promotion Agreement. CBP plans to finalize this rulemaking before the end of the fiscal year 2012. In addition, CBP published on March 19, 2012 the United States-Korea Free Trade Agreement interim amendments (77 FR 15943) to the CBP regulations which implemented the preferential tariff treatment and other customs-related provisions of the United States-Korea Free Trade Agreement Implementation Act, which took effect on March 15, 2012. CBP also plans to finalize this rulemaking in 2013.

On October 25, 2011, Treasury and CBP issued a final rule (76 FR 65953) that amended the regulations to add provisions for using sampling methods in CBP audits and for the offsetting of overpayments and over-declarations when an audit involves a calculation of lost duties, taxes, or fees or monetary penalties under 19 U.S.C. 1592.

On February 22, 2012, Treasury and CBP published a final rule (77 FR 10368) which amends the CBP regulations by extending the time period after the date of entry for an applicant to file the certification documentation required for duty-free treatment of certain visual and auditory material of an educational, scientific, or cultural character under chapter 98 of the Harmonized Tariff Schedule of the United States.

On March 26, 2012, CBP also issued a final rule (77 FR 17331) that adopted, without change, the April 2011 proposal that where an owner or master of a vessel documented under the laws of the United States fails to timely pay the duties determined to be due to CBP that are associated with the purchase of equipment for, or repair to, the vessel while it is outside the United States, interest will accrue on the amounts owed to CBP and that person will be liable for interest. The purpose of this rule is to ensure that the regulations reflect that CBP collects interest as part of its inherent revenue collection functions in situations where an owner or master of a vessel fails to pay the vessel repair duties determined to be due within 30 days of CBP issuing the bill.

This past fiscal year, consistent with the practice of continuing to move forward with Customs Modernization provisions of the North American Free Trade Implementation Act to improve its regulatory procedures and consistent with the goals of Executive Orders 12866 and 13563, Treasury and CBP finalized on June 8, 2012 (77 FR 33966), its March 2010 proposal regarding customs broker recordkeeping requirements as they pertain to the location and method of record retention. The amendments permit a licensed customs broker, under prescribed conditions, to store records relating to his or her customs transactions at any location within the customs territory of the United States. The amendments also removed the requirement, as it currently applies to brokers who maintain separate electronic records, that certain entry records must be retained in their original format for the 120-day period after the release or conditional release of imported merchandise. These changes maximize the use of available technologies and serve to conform CBP's recordkeeping requirements to reflect modern business practices without compromising the agency's ability to monitor and enforce recordkeeping compliance.

During fiscal year 2013, CBP and Treasury plan to give priority to the following regulatory matters involving the customs revenue functions:

Members of a Family for Purposes of Filing a CBP Family Declaration. Treasury and CBP plan to finalize a proposal to expand the definition of the term, "members of a family residing in one household," to allow more U.S. returning residents traveling as a family upon their arrival in the United States to be eligible to group their duty exemptions and file a single customs declaration for articles acquired abroad.

Informal Entry Limit and Removal of a Formal Entry Requirement. Treasury and CBP plan to publish a final rule amending the regulations to increase the $2,000 limit on the aggregate customs value of informal entries to its statutory maximum of $2,500 in order to mitigate the effects of inflation and to meet the international commitments to Canada for the Beyond the Border Initiative. It also removes the requirement for formal entry for certain articles formerly subject to absolute quotas under the Agreement on Textiles and Clothing.

Trade Act of 2002's preferential trade benefit provisions. Treasury and CBP plan to make permanent several interim regulations that implement the trade benefit provisions of the Trade Act of 2002.

Free Trade Agreements. Treasury and CBP also plan to issue interim regulations this fiscal year to implement the preferential trade benefit provisions of the United States-Singapore Free Trade Agreement Implementation Act. Treasury and CBP also expect to issue interim regulations implementing the preferential trade benefit provisions of the United States-Australia Free Trade Agreement Implementation Act and the United States-Colombia Trade Promotion Agreement Implementation Act.

Customs and Border Protection's Bond Program. Treasury and CBP plan to publish a final rule amending the regulations to reflect the centralization of the continuous bond program at CBP's Revenue Division. The changes proposed would support CBP's bond program by ensuring an efficient and uniform approach to the approval, maintenance, and periodic review of continuous bonds, as well as accommodating the use of information technology and modern business practices.

Disclosure of Information for Certain Intellectual Property Rights Enforced at the Border. Treasury and CBP plan to finalize interim amendments to the CBP regulations which provides a pre-seizure notice procedure for disclosing information appearing on the imported merchandise and/or its retail packing suspected of bearing a counterfeit mark to an intellectual property right holder for the limited purpose of obtaining the right holder's assistance in determining whether the mark is counterfeit or not.

Domestic Finance—Office of the Fiscal Assistant Secretary (OFAS)

The Office of the Fiscal Assistant Secretary develops policy for and oversees the operations of the financial infrastructure of the Federal Government, including payments, collections, cash management, financing, central accounting, and delinquent debt collection.

Anti-Garnishment. On February 23, 2011, the Treasury published an interim final rule and request for public comment with the Office of Personnel Management, the Railroad Retirement Board, the Social Security Administration, and Veterans Affairs. Treasury plans to promulgate a final rule, with the Federal benefit agencies, early in 2013 to give force and effect to various benefit agency statutes that exempt Federal benefits from garnishment. Typically, upon receipt of a garnishment order from a State court, financial institutions will freeze an account as they perform due diligence in complying with the order. The joint final rule will address this practice of account freezes to ensure that benefit recipients have access to a certain amount of lifeline funds while garnishment orders or other legal processes are resolved or adjudicated.

RESTORE Act. On July 6, 2012, the President signed Public Law 112–141, commonly known as the Transportation Bill. The bill includes a significant new responsibility for Treasury under Section 1601 "Recourses and Ecosystems Sustainability, Tourism Opportunities and Revived Economies of the Gulf Coast States Act of 2012" (RESTORE Act). The RESTORE Act establishes the Gulf Coast Restoration Trust Fund (the Trust Fund) in the Treasury, to be available for expenditures to restore the Gulf Coast region from the Deepwater Horizon oil spill, and for funding approved Federal, State and local projects and programs to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of that region. The RESTORE Act gives Treasury significant new responsibilities relating to the expenditures of moneys from the Trust Fund, and requires Treasury to develop procedures to assess whether the programs and activities carried out under the Act are compliant with applicable requirements and to develop requirements for the audit of programs and activities. To meet Treasury's new responsibility, Treasury proposes to issue the required procedures as regulations. The rule will apply to recipients of funds from the Trust Fund and authorized under the RESTORE Act, including the Gulf Coast Ecosystem Restoration Council and state and local governments in the five Gulf Coast States.

Bureau of the Public Debt

The Bureau of the Public Debt (BPD) has responsibility for borrowing the money needed to operate the Federal Government and accounting for the resulting debt, regulating the primary and secondary Treasury securities markets, and ensuring that reliable systems and processes are in place for buying and transferring Treasury securities.

BPD, on Treasury's behalf, administers regulations: (1) Governing transactions in Government securities by Government securities brokers and dealers under the Government Securities Act of 1986 (GSA), as amended; (2) implementing Treasury's borrowing authority, including rules governing the sale and issue of savings bonds, marketable Treasury securities, and State and local government securities; (3) Setting out the terms and conditions by which Treasury may buy back and redeem outstanding, unmatured marketable Treasury securities through debt buyback operations; (4) Governing securities held in Treasury's retail systems; and (5) Governing the acceptability and valuation of collateral pledged to secure deposits of public monies and other financial interests of the Federal Government.

During fiscal year 2013, BPD will accord priority to the following regulatory projects:

Eliminating Credit Rating References. In compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act, BPD, on behalf of Treasury (Financial Markets), plans to amend the Government Securities Act regulations (17 CFR chapter IV) to eliminate references to credit ratings from Treasury's liquid capital rule.

Financial Management Service

The Financial Management Service (FMS) issues regulations to improve the quality of Government financial management and to administer its payments, collections, debt collection, and Governmentwide accounting programs. For fiscal year 2013, FMS's regulatory plan includes the following priorities:

Notice of Proposed Rulemaking for Publishing Delinquent Debtor Information. The Debt Collection Improvement Act of 1996, Pub. L. 104–134, 110 Stat. 1321 (DCIA) authorizes Federal agencies to publish or otherwise publicly disseminate information regarding the identity of persons owing delinquent nontax debts to the United States for the purpose of collecting the debts, provided certain criteria are met. Treasury proposes to issue a notice of proposed rulemaking seeking comments on a proposed rule that would establish the procedures Federal agencies must follow before publishing information about delinquent debtors and the standards for determining when use of this debt collection remedy is appropriate.

Financial Crimes Enforcement Network

As chief administrator of the Bank Secrecy Act (BSA), the Financial Crimes Enforcement Network (FinCEN) is responsible for developing and implementing regulations that are the core of the Department's anti-money laundering and counter-terrorism financing efforts. FinCEN's responsibilities and objectives are linked to, and flow from, that role. In fulfilling this role, FinCEN seeks to enhance U.S. national security by making the financial system increasingly resistant to abuse by money launderers, terrorists and their financial supporters, and other perpetrators of crime.

The Secretary of the Treasury, through FinCEN, is authorized by the BSA to issue regulations requiring financial institutions to file reports and keep records that are determined to have a high degree of usefulness in criminal, tax, or regulatory matters or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism. The BSA also authorizes requiring designated financial institutions to establish anti-money laundering programs and compliance procedures. To implement and realize its mission, FinCEN has established regulatory objectives and priorities to safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity. These objectives and priorities include: (1) Issuing, interpreting, and enforcing compliance with regulations implementing the BSA; (2) supporting, working with, and as appropriate, overseeing compliance examination functions delegated to other Federal regulators; (3) managing the collection, processing, storage, and dissemination of data related to the BSA; (4) maintaining a Government-wide access service to that same data and for network users with overlapping interests; (5) conducting analysis in support of policymakers, law enforcement, regulatory and intelligence

agencies, and the financial sector; and (6) coordinating with and collaborating on anti-terrorism and anti-money laundering initiatives with domestic law enforcement and intelligence agencies, as well as foreign financial intelligence units.

During fiscal year 2012, FinCEN issued the following regulatory actions:

Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 Reporting Requirements Under Section 104(e). As a result of a congressional mandate to prescribe regulations under the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA), on October 11,2011, FinCEN issued a final rule imposing a reporting requirement that would be invoked, as necessary, to elicit information valuable in the implementation of CISADA and would work in tandem with other financial provisions of CISADA to isolate Iran's Islamic Revolutionary Guard Corps and financial institutions designated by the U.S. Government in connection with Iran's proliferation of weapons of mass destruction (WMD) or WMD delivery systems or in connection with its support for international terrorism.

Amendment to the BSA Regulations—Definition of Monetary Instrument. On October 17, 2011, FinCEN published an NPRM to address the mandate in the Credit Card Accountability, Responsibility, and Disclosure Act of 2009, which authorizes regulations regarding international transport of prepaid access devices because of the potential to substitute prepaid access for cash and other monetary instruments as a means to smuggle the proceeds of illegal activity into and out of the United States.

Anti-Money Laundering Program and Suspicious Activity Reporting (SAR) Requirements for Housing Government-Sponsored Enterprises. On November 3, 2011, FinCEN issued an NPRM that would define certain housing government-sponsored enterprises as financial institutions for the purpose of requiring them to establish anti-money laundering programs and report suspicious activity to FinCEN pursuant to the BSA.

Non-Bank Residential Mortgage Lenders and Originators. On February 7, 2012, FinCEN issued a Final rule to require a specific subset of loan and finance companies, i.e., non-bank residential mortgage lenders and originators, to comply with anti-money laundering (AML) program and SAR regulations. The regulations close a regulatory gap that previously allowed other originators, such as mortgage brokers and mortgage lenders not affiliated with banks, to avoid having AML and SAR obligations. Based on its ongoing work supporting criminal investigators and prosecutors in combating mortgage fraud, FinCEN believes that this regulatory measure will help mitigate some of the vulnerabilities that criminals have exploited.

Imposition of Special Measure Against the Islamic Republic of Iran as a Jurisdiction of Primary Money Laundering Concern. On November 25, 2011, FinCEN issued a finding that the Islamic Republic of Iran is a jurisdiction of primary money laundering concern under section 311 of the USA PATRIOT Act for its direct support of terrorism and its pursuit of nuclear/ballistic missile capabilities, its reliance on state agencies or state-owned or -controlled financial institutions to facilitate weapons of mass destruction proliferation and financing, and its use of deceptive financial practices to facilitate illicit conduct and evade sanctions. On November 28, 2011, FinCEN issued a Notice of Proposed Rulemaking to impose the fifth special measure against the Islamic Republic of Iran. The fifth special measure prohibits or conditions the opening or maintaining of correspondent or payable-through accounts by U.S. financial institutions if the correspondent account involves the targeted jurisdiction. These actions are intended to serve as an additional tool in preventing Iran from accessing the U.S. financial system, to support and uphold U.S. national security and foreign policy goals, and to complement the U.S. Government's worldwide efforts to expose and disrupt international money laundering and terrorist financing.

Electronic Filing of Bank Secrecy Act (BSA) Reports. On February 24, 2012, FinCEN issued a final notice requiring that all financial institutions subject to Bank Secrecy Act (BSA) reporting, with the exception of those institutions granted limited hardship exceptions, use electronic filing for certain reports beginning no later than July 1, 2012. This requirement supports the Department of the Treasury's paperless initiative and efforts to make government operations more efficient. Also, it is intended to enhance significantly the quality of FinCEN's electronic data, improve its analytic capabilities in supporting law enforcement requirements, and result in a significant reduction in real costs to the U.S. Government and ultimately to U.S. taxpayers.

Customer Due Diligence Requirements. On February 29, 2012, FinCEN issued an advance notice of proposed rulemaking to solicit public comment on a wide range of questions pertaining to the development of a customer due diligence (CDD) regulation that would clarify, consolidate, and strengthen existing CDD obligations for financial institutions and also incorporate the collection of beneficial ownership information into the CDD framework.

Imposition of Special Measure Against JSC Credex Bank as a Financial Institution of Primary Money Laundering Concern. On May 25, 2012, FinCEN issued a finding that JSC Credex Bank (Credex) is a financial institution of primary money laundering concern under section 311 of the USA PATRIOT Act. In addition to the bank's location in a high-risk jurisdiction, FinCEN has reason to believe that the bank has engaged in high volumes of transactions that are indicative of money laundering on behalf of shell corporations and has a history of ownership by shell corporations whose lack of transparency contributes to considerable uncertainty surrounding Credex's beneficial ownership. The lack of transparency associated with Credex indicates a high degree of money laundering risk and vulnerability to other financial crimes. On May 30, 2012, FinCEN issued a Notice of Proposed Rulemaking to impose the first special measure and the fifth special measure against the bank. The first special measure requires any U.S. financial institution to maintain records, file reports, or both, concerning the aggregate amount of transactions, or concerning each transaction, with respect to a financial institution operating outside of the United States found to be of primary money laundering concern. The fifth special measure prohibits or conditions the opening or maintaining of correspondent or payable-through accounts for the designated institution by U.S. financial institutions.

Amendment to the Bank Secrecy Act Regulations—Exemption From the Requirement To Report Transactions in Currency. On June 7, 2012, FinCEN issued a final rule to amend the regulations that allow depository institutions to exempt transaction of certain payroll customers from the requirement to report transactions in currency in excess of $10,000. By substituting the term "frequently" for the term "regularly" in the provision of the exemption rules dealing with payroll customers, depository institutions may rely on FinCEN's prior interpretation of the term "frequently" to mean five or more times a year. This change harmonizes the exemption

standard for payroll customers with those for non-listed businesses and will provide greater ease of application and promote full use of the exemption for payroll customers.

This change is part of the Department of the Treasury's continuing effort to increase efficiency and effectiveness of its anti-money laundering and counter-terrorist financing policies.

Amendment to the Bank Secrecy Act Regulations—Requirement That Clerks of Court Report Certain Currency Transactions. On June 7, 2012, FinCEN issued a final rule amending the rules relating to the reporting of certain currency transactions consistent with a recent statutory amendment authorizing FinCEN to require clerks of court to file such reports with FinCEN. This information already is required to be reported by clerks of court pursuant to regulations issued by the Internal Revenue Service (IRS), but FinCEN heretofore had been limited in its ability to access and share that information further because of minor differences between the relevant statutory authorities applicable to FinCEN and the IRS. The final rule imposes no new or additional reporting or recordkeeping burden on clerks of court.

Amendments to the Definitions of Funds Transfer and Transmittal of Funds in the Bank Secrecy Act (BSA) Regulations. FinCEN has drafted an NPRM to be issued jointly with the Board of Governors of the Federal Reserve System proposing amendments to the regulatory definitions of "funds transfer" and "transmittal of funds" under the regulations implementing the Bank Secrecy Act (BSA). The proposed changes are intended to maintain the current scope to the definitions and are necessary in light of changes to the Electronic Fund Transfer Act that will result in certain currently covered transactions being excluded from BSA requirements.

Repeal of the Final Rule Imposing Special Measures and Withdrawal of the Findings of Primary Money Laundering Concern Against Myanmar Mayflower Bank and Asia Wealth Bank. FinCEN published in the **Federal Register** a document repealing the final rule "Imposition of Special Measures Against Myanmar Mayflower Bank and Asia Wealth Bank" and withdrawing the findings of these banks as financial institutions of primary money laundering concern issued on April 12, 2004. The banks' licenses were revoked by the Government of Burma and they have ceased their business activities.

Renewal of Existing Rules. FinCEN renewed without change a number of information collections associated with the following existing requirements: Anti-money laundering programs for money services businesses (31 CFR 1022.210); mutual funds (31 CFR 1024.210); operators of credit card systems (31 CFR 1028.210); dealers in precious metals, stones, or jewels (31 CFR 1027.210); and insurance companies (31 CFR 1025.210); customer identification programs for futures commission merchants and introducing brokers in commodities (31 CFR 1026.220); various depository institutions (31 CFR 1020.220); mutual funds (31 CFR 1024.220); securities broker-dealers (31 CFR 1023.220); report of international transportation of currency and monetary instruments (31 CFR 1010.340); reports of transactions in currency (31 CFR 1010.310); suspicious activity reporting by the securities and futures industries (31 CFR 1026.320 and 31 CFR 1023.320). FinCEN also renewed with changes the Registration of Money Services Business, Report 107, to incorporate recent changes to the MSB definitions and add provisions for prepaid access.

Administrative Rulings and Written Guidance. FinCEN published 14 administrative rulings and written guidance pieces, and provided 45 responses to written inquiries/correspondence interpreting the BSA and providing clarity to regulated industries.

FinCEN's regulatory priorities for fiscal year 2013, include finalizing any initiatives mentioned above that are not finalized by fiscal year end, as well as the following projects:

Anti-Money Laundering Program and SAR Requirements for Investment Advisers. FinCEN has drafted an NPRM that would prescribe minimum standards for anti-money laundering programs to be established by certain investment advisers and to require such investment advisers to report suspicious activity to FinCEN. FinCEN has been working closely with the Securities and Exchange Commission on issues related to the draft NPRM.

Amendment to the Bank Secrecy Act Regulations—Registration, Recordkeeping, and Reporting of Money Services Businesses. FinCEN has been developing an NPRM to amend the requirements for money services businesses with respect to registering with FinCEN and with respect to the information reported during the registration process. The proposed changes are intended to enhance the quality and timeliness of FinCEN's electronic data, improve analytic capabilities, and support law enforcement needs more effectively.

FBAR Requirements. On February 24, 2011, FinCEN issued a final rule that amended the BSA implementing regulations regarding the filing of Reports of Foreign Bank and Financial Accounts (FBARs). The FBAR form is used to report a financial interest in, or signature or other authority over, one or more financial accounts in foreign countries. FBARs are used in conjunction with SARs, CTRs, and other BSA reports to provide law enforcement and regulatory investigators with valuable information to fight fraud, money laundering, tax evasion, and other financial crimes. Since issuance of the final rule, FinCEN and the Internal Revenue Service (IRS) have received numerous requests for clarification, many of which involve employees who have signature authority over, but no financial interest in, the foreign financial accounts of their employers. FinCEN is working with the Internal Revenue Service (IRS) to resolve these issues, which may include additional guidance and rulemaking.

Anti-Money Laundering Program for State-Chartered Credit Unions and Other Depository Institutions Without a Federal Functional Regulator. Pursuant to section 352 of the USA PATRIOT Act, certain financial institutions are required to establish AML programs. Continued from prior fiscal years, FinCEN is developing a rulemaking to require State-chartered credit unions and other depository institutions without a Federal functional regulator to implement AML programs.

Cross Border Electronic Transmittal of Funds. On September 27, 2010, FinCEN issued a Notice of Proposed Rulemaking (NPRM) in conjunction with the feasibility study prepared pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004 concerning the issue of obtaining information about certain cross-border funds transfers and transmittals of funds. As FinCEN has continued to work on developing the system to receive, store, and use this data, FinCEN determined that a Supplemental NPRM that updates the previously published proposed rule would provide additional information to those banks and money transmitters that will become subject to the rule.

Other Requirements. FinCEN also will continue to issue proposed and final rules pursuant to section 311 of the USA PATRIOT Act, as appropriate. Finally, FinCEN expects to propose various technical and other regulatory amendments in conjunction with its ongoing, comprehensive review of existing regulations to enhance regulatory efficiency.

Internal Revenue Service

The Internal Revenue Service (IRS), working with the Office of Tax Policy, promulgates regulations that interpret and implement the Internal Revenue Code and related tax statutes. The purpose of these regulations is to carry out the tax policy determined by Congress in a fair, impartial, and reasonable manner, taking into account the intent of Congress, the realities of relevant transactions, the need for the Government to administer the rules and monitor compliance, and the overall integrity of the Federal tax system. The goal is to make the regulations practical and as clear and simple as possible.

Most IRS regulations interpret tax statutes to resolve ambiguities or fill gaps in the tax statutes. This includes interpreting particular words, applying rules to broad classes of circumstances, and resolving apparent and potential conflicts between various statutory provisions.

During fiscal year 2013, the IRS will accord priority to the following regulatory projects:

Deduction and Capitalization of Costs for Tangible Property. Section 162 of the Internal Revenue Code allows a deduction for ordinary and necessary expenses paid or incurred in carrying on a trade or business. Section 263(a) of the Code provides that no deduction is allowed for amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate, and generally such capital expenditures may be recovered only in future taxable years. Although existing regulations provide that a deductible repair expense is an expenditure that does not materially add to the value of the property or appreciably prolong its life, the standards for determining whether an amount paid for tangible property should be treated as an ordinary or capital expenditure can be difficult to discern. Treasury and the IRS believe that additional clarification is needed to reduce uncertainty and controversy in this area, and in December 2011 Treasury and the IRS issued proposed and temporary regulations in this area. We intend to finalize those regulations.

Research Expenditures. Section 41 of the Internal Revenue Code provides a credit against taxable income for certain expenses paid or incurred in conducting research activities. Section 174 of the Internal Revenue Code allows a taxpayer to elect to currently deduct or amortize certain research and experimental expenditures. To assist in resolving areas of controversy and uncertainty with respect to research expenses, Treasury and the IRS plan to issue guidance on both the credit and the deduction. With respect to the research credit, Treasury and the IRS plan to issue proposed regulations with respect to the definition and credit eligibility of expenditures for internal use software and the treatment of intra-group transfers of property for purposes of determining the controlled group's gross receipts for purposes of the credit computation. With respect to the deduction for research and experimental expenditures, Treasury and the IRS plan to issue guidance on the treatment of amounts paid or incurred in connection with the development of tangible property and guidance clarifying the procedures for the adoption and change of methods of accounting for the expenditures.

Arbitrage Investment Restrictions on Tax-Exempt Bonds. The arbitrage investment restrictions on tax-exempt bonds under section 148 generally limit issuers from investing bond proceeds in higher-yielding investments. Treasury and the IRS plan to issue proposed regulations to address selected current issues involving the arbitrage restrictions, including guidance on the issue price definition used in the computation of bond yield, working capital financings, grants, investment valuation, modifications, terminations of qualified hedging transactions, and selected other issues.

Contingent Notional Principal Contract Regulations. Notice 2001–44 (2001–2 CB 77) outlined four possible approaches for recognizing nonperiodic payments made or received on a notional principal contract (NPC) when the contract includes a nonperiodic payment that is contingent in fact or in amount. The Notice solicited further comments and information on the treatment of such payments. After considering the comments received in response to Notice 2001–44, Treasury and the IRS published proposed regulations (69 FR 8886) (the 2004 proposed regulations) that would amend section 1.446–3 and provide additional rules regarding the timing and character of income, deduction, gain, or loss with respect to such nonperiodic payments, including termination payments. On December 7, 2007, Treasury and IRS released Notice 2008–2 requesting comments and information with respect to transactions frequently referred to as prepaid forward contracts. Treasury and the IRS plan to re-propose regulations to address issues relating to the timing and character of nonperiodic contingent payments on NPCs, including termination payments and payments on prepaid forward contracts.

Tax Treatment of Distressed Debt. A number of tax issues relating to the amount, character, and timing of income, expense, gain, or loss on distressed debt remain unresolved. In addition, the tax treatment of distressed debt, including distressed debt that has been modified, may affect the qualification of certain entities for tax purposes or result in additional taxes on the investors in such entities, such as regulated investment companies, real estate investment trusts (REITs), and real estate mortgage investment conduits (REMICs). During fiscal year 2012, Treasury and the IRS have addressed some of these issues through published guidance, including guidance for REITs and REMICs relating to home mortgages refinanced under the Home Affordable Refinancing Program. Treasury and the IRS plan to address more of these issues in published guidance.

Elective Deferral of Certain Business Discharge of Indebtedness Income. In the recent economic downturn, many business taxpayers realized income as a result of modifying the terms of their outstanding indebtedness or refinancing on terms subjecting them to less risk of default. The American Recovery and Reinvestment Act of 2009 includes a special relief provision allowing for the elective deferral of certain discharge of indebtedness income realized in 2009 and 2010. The provision, section 108(i) of the Code, is complicated and many of the details have to be supplied through regulatory guidance. On August 9, 2009, Treasury and the IRS issued Revenue Procedure 2009–37 that prescribes the procedure for making the election. On August 13, 2010, Treasury and the IRS published temporary and proposed regulations (TD 9497 and TD 9498) in the **Federal Register**. These regulations provide additional guidance on such issues as the types of indebtedness eligible for the relief, acceleration of deferred amounts, the operation of the provision in the context of flow-through entities, the treatment of the discharge for the purpose of computing earnings and profits, and the operation of a provision of the statute deferring original issue discount deductions arising from such modifications or refinancings. Treasury and the IRS expect to finalize those regulations by the end of 2013.

Election To Treat Certain Stock Sales and Distributions as Asset Sales. Congress enacted section 336(e) as part of the provisions of the Tax Reform Act of 1986 implementing the repeal of the General Utilities doctrine (which had

prevented corporate level recognition of gain on the sale or distribution of appreciated property in certain cases). Section 336(e) authorizes the Secretary to prescribe regulations allowing an election (Section 336(e) Election) to treat certain taxable sales, exchanges, or distributions (collectively, "dispositions") of stock in a corporation (a "target") instead as a sale of the target's underlying assets. If made, a Section 336(e) Election offers taxpayers relief from multiple taxation at the corporate level of the same economic gain. Treasury and the IRS published proposed regulations in 2008 that addressed dispositions by domestic corporations of domestic target to unrelated parties. Treasury and the IRS expect to finalize these regulations this year.

Disguised Sale and Allocation of Liabilities. A contribution of property by a partner to a partnership may be recharacterized as a sale under section 707(a)(2)(B) if the partnership distributes to the contributing partner cash or other property that is, in substance, consideration for the contribution. The allocation of partnership liabilities to the partners under section 752 may impact the determination of whether a disguised sale has occurred and whether gain is otherwise recognized upon a distribution. Treasury and the IRS have determined that guidance should be issued to address certain issues that arise in the disguised sale context and other issues regarding the partners' shares of partnership liabilities. Proposed regulations are expected to be issued later this year.

Certain Partnership Distributions Treated as Sales or Exchanges. In 1954, Congress enacted section 751 to prevent the use of a partnership to convert potential ordinary income into capital gain. In 1956, Treasury and the IRS issued regulations implementing section 751. The current regulations, however, do not achieve the purpose of the statute in many cases. In 2006, Treasury and the IRS published Notice 2006–14 (2006–1 CB 498) to propose and solicit alternative approaches to section 751 that better achieve the purpose of the statnte while providing greater simplicity. Treasury and the IRS are currently working on proposed regulations following up on Notice 2006–14. These regulations will provide guidance on determining a partner's interest in a partnership's section 751 property and how a partnership recognizes income required by section 751.

Tax Return Preparers. In June 2009, the IRS launched a comprehensive review of the tax return preparer program with the intent to propose a set of recommendations to ensure uniform and high ethical standards of conduct for all tax return preparers and to increase taxpayer compliance. In Publication 4832, Return Preparer Review, the IRS recommended increased oversight of the tax return preparer industry, including but not limited to, mandatory preparer tax identification number (PTIN) registration and usage, competency testing, continuing education requirements, and ethical standards for all tax return preparers. As part of a multi-step effort to increase oversight of Federal tax return preparers, Treasury and the IRS published in 2010 final regulations: (1) Authorizing the IRS to require tax return preparers who prepare all or substantially all of a tax return for compensation after December 31, 2010 to use PTINs as the preparer's identifying number on all tax returns and refund claims that they prepare; and (2) setting the user fee for obtaining a PTIN at $50 plus a third-party vendor's fee. On June 3, 2011, Treasury and the IRS published final regulations amending Circular 230, which established registered tax return preparers as a new category of tax practitioner and extended the ethical rules for tax practitioners to any individual who is a tax return preparer. On November 25, 2011, Treasury and the IRS published final regulations setting the competency testing fee at $27, and published proposed regulations on February 15, 2012, describing who must obtain a PTIN and who may obtain one. Treasury and the IRS intend to finalize those PTIN regulations in 2013. Finally, Treasury and the IRS intend to finalize temporary regulations under section 7216 addressing the disclosure or use of information by tax return preparers, which were issued in December 2009.

Circular 230 Rules Governing Written Tax Advice. After years of experience with the covered opinion rules in Circular 230 governing written tax advice, the government and practitioners agree that rules are often burdensome and provide only minimal taxpayer protection. On September 17, 2012, Treasury and the IRS published proposed regulations that modify the standards governing written tax advice under Circular 230. The proposed regulations streamline the existing rules for written tax advice by applying one standard for all written tax advice under proposed section 10.37. The proposed regulations revise section 10.37 to state affirmatively the standards to which a practitioner must adhere when providing written advice on a Federal tax matter. Proposed section 10.37 requires, among other things, that the practitioner base all written advice on reasonable factual and legal assumptions, exercise reasonable reliance, and consider all relevant facts that the practitioner knows or should know. A practitioner must also use reasonable efforts to identify and ascertain the facts relevant to written advice on a Federal tax matter under the proposed regulations. The proposed amendments will eliminate the burdensome requirement that practitioners fully describe the relevant facts (including the factual and legal assumptions relied upon) and the application of the law to the facts in the written advice itself, and the use of Circular 230 disclaimers in documents and transmissions, including emails. The proposed regulations also make several other necessary amendments to Circular 230. Treasury and IRS intend to finalize these regulations in 2013.

Penalties and Limitation Periods. Congress amended several penalty provisions in the Internal Revenue Code in the past several years and Treasury and the IRS intend to publish a number of guidance projects in fiscal year 2013 addressing these new or amended penalty provisions. Specifically, on September 7, 2011, Treasury and the IRS published final regulations under section 6707A addressing when the penalty for failure to disclose reportable transactions applies. Treasury and the IRS intend to publish proposed regulations under sections 6662, 6662A, and 6664, to provide further guidance on the circumstances under which a taxpayer could be subject to the accuracy-related penalty on underpayments or reportable transaction understatements and the reasonable cause exception. Treasury and the IRS also intend to publish: (1) proposed regulations under section 6676 regarding the penalty related to an erroneous claim for refund or credit; (2) proposed regulations under section 6708 regarding the penalty for failure to make available upon request a list of advisees that is required to be maintained under section 6112; (3) final regulations under section 6501(c)(10) regarding the extension of the period of limitations to assess any tax with respect to a listed transaction that was not disclosed as required under section 6011; and (4) temporary and proposed regulations under section 6707A addressing statutory changes to the method of computing the section 6707A penalty, which were enacted after

existing temporary regulations were published.

Whistleblower Regulations. Under section 7623(b), the Secretary shall make an award to whistleblowers in cases where a whistleblower provided information regarding underpayments of tax or violations of the internal revenue laws that resulted in proceeds being collected from an administrative or judicial action. On February 22, 2012, Treasury and the IRS published final regulations (TD 9580) defining "collected proceeds." Treasury and the IRS plan to issue proposed regulations providing comprehensive guidance on the whistleblower award program. The proposed regulations are expected to include guidance on the process for filing for an award, definitions of statutory terms, and guidance regarding how the amount of an award will be computed.

Basis Reporting. Section 403 of the Energy Improvement and Extension Act of 2008 (Pub. L. 110–343), enacted on October 3, 2008, added sections 6045(g), 6045(h), 6045A, and 6045B to the Internal Revenue Code. Section 6045(g) provides that every broker required to file a return with the Service under section 6045(a) showing the gross proceeds from the sale of a covered security must include in the return the customer's adjusted basis in the security and whether any gain or loss with respect to the security is long-term or short-term. Section 6045(h) extends the basis reporting requirement in section 6045(g) and the gross proceeds reporting requirement in section 6045(a) to options that are granted or acquired on or after January 1, 2013. Section 6045A provides that a broker and any other specified person (transferor) that transfers custody of a covered security to a receiving broker must furnish to the receiving broker a written statement that allows the receiving broker to satisfy the basis reporting requirements of section 6045(g). Section 6045B requires issuers of specified securities to make a return relating to organizational actions that affect the basis of the security. Final regulations implementing these provisions for stock were published on October 18, 2010. Proposed regulations implementing these provisions for options and debt instruments were published on November 25, 2011. In response to comments on the proposed regulations, Notice 2012–34 extended the proposed effective date for basis reporting for options and debt instruments to January 1, 2014. Treasury and the IRS plan to issue final regulations for options and debt instruments in 2013.

Information Reporting for Foreign Accounts of U.S. Persons. In March 2010, chapter 4 (sections 1471 to 1474) was added to subtitle A of the Internal Revenue Code as part of the Hiring Incentives to Restore Employment Act (HIRE Act) (Pub. L. 111–147). Chapter 4 was enacted to address concerns with offshore tax evasion and generally requires foreign financial institutions (FFIs) to enter into an agreement (FFI Agreement) with the IRS to report information regarding certain financial accounts of U.S. persons and foreign entities with significant U.S. ownership. An FFI that does not enter into an FFI Agreement generally will be subject to a withholding tax on the gross amount of certain payments from U.S. sources, as well as the proceeds from disposing of certain U.S. investments. Treasury and the IRS published Notice 2010–60, Notice 2011–34, Notice 2011–53, Announcement 2012–42, and proposed regulations which provide preliminary guidance and request comments on the most important and time-sensitive issues under chapter 4. Treasury and the IRS expect to issue final regulations and a model FFI Agreement in this fiscal year that respond to the comments received.

Withholding on Certain Dividend Equivalent Payments Under Notional Principal Contracts. The HIRE Act also added section 871(l) to the Code (now section 871(m)), which designates certain substitute dividend payments in security lending and sale-repurchase transactions and dividend-referenced payments made under certain notional principal contracts as U.S.-source dividends for Federal tax purposes. In response to this legislation, on May 20, 2010, the IRS issued Notice 2010–46, addressing the requirements for determining the proper withholding in connection with substitute dividends paid in foreign-to-foreign security lending and sale-repurchase transactions. Treasury and the IRS also issued temporary and proposed regulations addressing cases in which dividend equivalents will be found to arise in connection with notional principal contracts and other financial derivatives. Treasury and the IRS expect to issue further guidance with respect to section 871(m) in this fiscal year.

International Tax Provisions of the Education, Jobs, and Medicaid Assistance Act. On August 10, 2010, the Education, Jobs, and Medicaid Assistance Act of 2010 (EJMAA) (Pub. L. 111–226) was signed into law. The new law includes a significant package of international tax provisions, including limitations on the availability of foreign tax credits in certain cases in which U.S. tax law and foreign tax law provide different rules for recognizing income and gain, and in cases in which income items treated as foreign source under certain tax treaties would otherwise be sourced in the United States. The legislation also limits the ability of multinationals to reduce their U.S. tax burdens by using a provision intended to prevent corporations from avoiding U.S. income tax on repatriated corporate earnings. Other new provisions under this legislation limit the ability of multinational corporations to use acquisitions of related party stock to avoid U.S. tax on what would otherwise be taxable distributions of dividends. The statute also includes a new provision intended to tighten the rules under which interest expense is allocated between U.S.- and foreign-source income within multinational groups of related corporations when a foreign corporation has significant amounts of U.S.-source income that is effectively connected with a U.S. business. Treasury and the IRS published temporary and proposed regulations addressing foreign tax credits under section 909 and expect to issue additional guidance on EJMAA in this fiscal year.

International Philanthropy. Treasury and the IRS plan to issue guidance intended to facilitate more efficient and effective international grantmaking by U.S. private foundations. Treasury and the IRS issued proposed regulations relating to program related investments on April 19, 2012. We are working on finalizing these regulations that incorporate additional, more modern examples of how private foundations may use program related investments to accomplish charitable purposes, both domestically and abroad. In addition, Treasury and the IRS issued proposed regulations on September 24, 2012 relating to the reliance standards for private foundations making tax-status determinations regarding foreign charitable organizations, which should facilitate foreign grantmaking.

Tax-Related Health Care Provisions. On March 23, 2010, the President signed the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148) and on March 30, 2010, the President signed the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (referred to collectively as the Affordable Care Act (ACA)). The ACA's comprehensive reform of the health insurance system affects individuals, families, employers, health care providers, and health insurance providers. The ACA provides authority for Treasury and the IRS to issue regulations and other guidance to

implement tax provisions in the ACA, some of which are effective immediately and some of which will become effective over the next several years. Since enactment of the ACA, Treasury and the IRS, together with the Department of Health and Human Services and the Department of Labor, have issued a series of temporary and proposed regulations implementing various provisions of the ACA related to individual and group market reforms. In the past year, Treasury and IRS also have issued temporary and proposed regulations on the application for recognition as a section 501(c)(29) organization; proposed regulations on the fees under sections 4375, 4376, and 4377 of the Code to fund the Patient-Centered Outcomes Research Trust Fund; proposed regulations regarding disclosures to the Department of Health and Human Services under section 6103(l)(21) of the Code; proposed regulations under section 4191 of the Code on the excise tax on medical device manufacturers and importers; proposed regulations under section 501(r) of the Code on new requirements for charitable hospitals; and final regulations on the premium assistance tax credit under section 36B of the Code. In addition, Treasury and the IRS have issued guidance on other ACA provisions, including guidance on the treatment of certain nonprofit health insurers (section 833 of the Code), the $2,500 annual limit on salary reduction contributions to health flexible spending arrangements (section 125(i) of the Code), the procedures for nonprofit health insurance issuers to seek tax-exempt status (section 501(c)(29) of the Code), the reporting of the cost of coverage of group health insurance on Form W–2 (section 6051(a)(14) of the Code), and determining full-time employees for purposes of the shared responsibility for employers regarding health coverage (section 4980H of the Code). Treasury and the IRS will continue to provide additional guidance to implement tax provisions of the ACA in 2013.

Lifetime income from retirement plans. Treasury and the IRS continue to review certain regulations pertaining to retirement plans to determine whether any modifications could better achieve the objective of promoting retirement security by facilitating the offering of benefit distribution options in the form of annuities. As part of this initiative, proposed regulations were issued in February 2012 to facilitate the purchase of longevity annuity contracts under tax-qualified defined contribution plans, section 403(b) plans, individual retirement annuities and accounts (IRAs), and eligible governmental section 457 plans. These regulations provide the public with guidance necessary to comply with the required minimum distribution rules under the Code. Under the proposed amendments to these rules, prior to annuitization, the participant would be permitted to exclude the value of a longevity annuity contract that meets certain requirements from the account balance used to determine required minimum distributions. Thus, a participant would not need to commence distributions from the annuity contract before the advanced age at which the annuity would begin in order to satisfy the required minimum distribution rules and, accordingly, the contract could be designed with a fixed annuity starting date at the advanced age. Purchasing longevity annuity contracts could help participants hedge the risk of drawing down their benefits too quickly and thereby outliving their retirement savings. Treasury and the IRS intend to finalize these regulations.

Terrorism Risk Insurance Program Office

The Terrorism Risk Insurance Act of 2002 (TRIA) was signed into law on November 26, 2002. The law, which was enacted as a consequence of the events of September 11, 2001, established a temporary Federal reinsurance program under which the Federal Government shares the risk of losses associated with certain types of terrorist acts with commercial property and casualty insurers. The Act, originally scheduled to expire on December 31, 2005, was extended to December 31, 2007, by the Terrorism Risk Insurance Extension Act of 2005 (TRIEA). The Act has since been extended to December 31, 2014, by the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA).

The Office of the Assistant Secretary for Financial Institutions is responsible for developing and promulgating regulations implementing TRIA, as extended and amended by TRIEA and TRIPRA. The Terrorism Risk Insurance Program Office, which is part of the Office of the Assistant Secretary for Financial Institutions, is responsible for operational implementation of TRIA. The purposes of this legislation are to address market disruptions, ensure the continued widespread availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for a transition period for the private markets to stabilize and build capacity while preserving State insurance regulation and consumer protections.

Over the past year, the Office of the Assistant Secretary has issued proposed rules implementing changes authorized by TRIA as revised by TRIPRA. The following regulations should be published by July 31, 2013:

Final Netting. This final rule would establish procedures by which, after the Secretary has determined that claims for the Federal share of insured losses arising from a particular Program Year shall be considered final, a final netting of payments to or from insurers will be accomplished.

Affiliates. This proposed rule would make changes to the definition of "affiliate" to conform to the language in the statute.

Civil Penalty. This proposed rule would establish procedures by which the Secretary may assess civil penalties against any insurer that the Secretary determines, on the record after an opportunity for a hearing, has violated provisions of the Act.

Treasury will continue the ongoing work of implementing TRIA and carrying out revised operations as a result of the TRIPRA-related regulation changes.

Alcohol and Tobacco Tax and Trade Bureau

The Alcohol and Tobacco Tax and Trade Bureau (TTB) issues regulations to enforce the Federal laws relating to alcohol, tobacco, firearms, and ammunition excise taxes and certain non-tax laws relating to alcohol. TTB's mission and regulations are designed to:

(1) Regulate with regard to the issuance of permits and authorizations to operate in the alcohol and tobacco industries;

(2) Assure the collection of all Federal alcohol, tobacco, and firearms and ammunition taxes, and obtain a high level of voluntary compliance with laws governing those industries; and

(3) Suppress commercial bribery, consumer deception, and other prohibited practices in the alcohol beverage industry.

In FY 2013, TTB plans to give priority to the following regulatory matters:

Modernization of Title 27, Code of Federal Regulations. TTB will continue its multi-year Regulations Modernization Project, which has resulted in the past few years of updating parts 9 (American Viticultural Areas) and 19 (Distilled Spirits Plants) of title 27, Code of Federal Regulations. In FY 2012, TTB finalized the temporary rule to amend regulations promulgated under the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), which included provisions to help prevent the diversion of tobacco

products and to collect the tobacco excise taxes rightfully due. Congress mandated the regulation of processed tobacco to strengthen the enforcement authority for the Federal excise tax on tobacco products, which significantly increased under CHIPRA. A three-year temporary rule was published in June of 2009; the final rule was published in June 2012. As described in greater detail below, in FY 2013, TTB plans to continue its Regulations Modernization Project concerning its Specially Denatured and Completely Denatured Alcohol regulations, Labeling Requirement regulations, Nonbeverage Products regulations, and Beer regulations.

Revision to Specially Denatured and Completely Denatured Alcohol Regulations. TTB plans to propose changes to regulations for specially denatured alcohol (SDA) and completely denatured alcohol (CDA) that would result in cost savings for both TTB and regulated industry members. Under the authority of the Internal Revenue Code of 1986 (IRC), TTB regulates denatured alcohol that is unfit for beverage use, and which may be removed from a regulated distilled spirits plant free of tax. SDA and CDA are widely used in the American fuel, medical, and manufacturing sectors. The industrial alcohol industry far exceeds the beverage alcohol industry in size and scope, and it is a rapidly growing industry in the United States. Some concerns have been raised that the current regulations may create significant roadblocks for industry members in getting products to the marketplace quickly and efficiently. TTB is proposing to reclassify certain SDA formulas as CDA and to issue new general-use formulas for articles made with SDA so that industry members would less frequently need to seek formula approval from TTB and in turn decrease the dedication of TTB resources to formula review. TTB estimates that these proposed changes would result in an 80 percent reduction in the formula approval submissions currently required from industry members and would reduce total annual paperwork burden hours on affected industry members from 2,415 to 517 hours. The reduction in formula submissions will enable TTB to redirect its resources to address backlogs that exist in other areas of TTB's mission activities, such as analyses of compliance samples for industrial/fuel alcohol to protect the revenue and working with industry to test and approve new and more environmentally friendly denaturants. Other proposed changes would remove unnecessary regulatory burdens and update the regulations to align them with current industry practice.

Revisions to the Labeling Requirements (Parts 4 (Wine), 5 (Distilled Spirits), and 7 (Malt Beverages)), also known as Modernization of the Alcohol Beverage Labeling and Advertising Regulations. The Federal Alcohol Administration Act requires that alcohol beverages introduced in interstate commerce have a label issued and approved under regulations prescribed by the Secretary of the Treasury. In connection with E.O. 13563, TTB has near-term plans to revise the regulations concerning the approval of labels for distilled spirits, wine, and malt beverages to reduce the cost to TTB of reviewing and approving an ever-increasing number of applications for label approval (well over 130,000 per year). Currently, the review and approval process requires a staff of at least 13 people for the pre-approval of labels in addition to management review. These regulatory changes, to be developed with industry input, also have the intent of accelerating the approval process, which will result in the regulated industries being able to bring products to market without undue delay.

Revision of the Part 17 Regulations, "Drawback on Taxpaid Distilled Spirits Used in Manufacturing Nonbeverage Products," To Allow Self-Certification of Nonbeverage Product Formulas. TTB is considering revisions to the part 17 regulations governing nonbeverage products made with taxpaid distilled spirits. These nonbeverage products include foods, medicines, and flavors. The revisions would practically eliminate the need for TTB to formally approve nonbeverage product formulas by proposing to allow for self-certification of such formulas. The changes would result in significant cost savings for an important industry which currently must obtain formula approval from TTB, and some savings for TTB, which must review and take action to approve or disapprove each formula. The specific savings to TTB is unknown at this stage of the rulemaking project.

Revisions to the Beer Regulations (Part 25). Under the authority of the IRC, TTB regulates activities at breweries. The regulations of title 27 of the Code of Federal Regulations, part 25, address the qualification of breweries, bonds and taxation, removals without payment of tax, and records and reporting. Brewery regulations were last revised in 1986 and need to be updated to reflect changes to the industry, including the increased number of small ("craft") brewers. TTB initially intended to publish an advance notice of proposed rulemaking (ANPRM) and solicit written comments from the public before proposing changes to its regulations in part 25. After discussions with industry groups and members, analyzing available data, and reviewing our existing regulations and requirements, TTB will propose for immediate consideration changes to our regulations that would reduce the tax return submission and filing and operations reporting burdens on "small" brewers. This regulatory proposal is entitled *Penal Sum Exception for Brewers Eligible To File Federal Excise Tax Returns and Payments Quarterly and Other Proposed Revisions to the Beer Regulations.* Such proposals would accelerate change in the regulations, compared to publishing an ANPRM and awaiting comments before proposing specific changes, and thus provide more immediate and significant relief from existing regulatory burdens. TTB will also solicit comments from the public in this notice of proposed rulemaking (NPRM) on other changes TTB could make to its beer regulations contained in part 25 that could further reduce the regulatory burden on brewers and at the same time meet statutory requirements and regulatory objectives. Upon consideration of comments received, TTB intends to develop and propose other specific regulatory changes.

Revisions to Distilled Spirits Plant Reporting Requirements. In FY 2012, TTB published an NPRM proposing to revise regulations in part 19 and replace the current four report forms used by distilled spirits plants to report their operations on a monthly basis with two new report forms that would be submitted on a monthly basis (plants that qualify to file taxes on a quarterly basis would submit the new reports on a quarterly basis). This project, which was included in the President's FY 2012 budget for TTB as a cost-saving item, will address numerous concerns and desires for improved reporting by the affected distilled spirits industry and result in cost savings to the industry and TTB by significantly reducing the number of monthly plant operations reports that must be completed and filed by industry members and processed by TTB. TTB preliminarily estimates that this project will result in an annual savings of approximately 23,218 paperwork burden hours (or 11.6 staff years) for industry members and 629 processing hours (or 0.3 staff years) and $12,442 per year for TTB in contractor time. In addition, TTB estimates that this project will result in additional

savings in staff time (approximately 3 staff years) equaling $300,000 annually based on the more efficient and effective processing of reports and the use of report data to reconcile industry member tax accounts. Based on comments received in response to the NPRM, TTB will revise the proposed forms and publish them for additional public consideration, before issuing a final rule.

Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency (OCC) was created by Congress to charter national banks, to oversee a nationwide system of banking institutions, and to assure that national banks are safe and sound, competitive and profitable, and capable of serving in the best possible manner the banking needs of their customers.

The OCC seeks to assure a banking system in which national banks and Federal savings associations soundly manage their risks, maintain the ability to compete effectively with other providers of financial services, meet the needs of their communities for credit and financial services, comply with laws and regulations, and provide fair access to financial services and fair treatment of their customers.

Significant rules issued during fiscal years 2011 and 2012 include:

Alternatives to the Use of External Credit Ratings in the Regulations of the OCC (12 CFR parts 1, 16, and 28). Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) directs all Federal agencies to review, no later than 1 year after enactment, any regulation that requires the use of an assessment of credit-worthiness of a security or money market instrument and any references to or requirements in regulations regarding credit ratings. The agencies are also required to remove references or requirements of reliance on credit ratings and to substitute an alternative standard of credit-worthiness. Through an advanced notice of proposed rulemaking (ANPRM), the OCC sought to gather information as it begins to review its regulations pursuant to the Dodd-Frank Act. It described the areas where the OCC's regulations, other than those that establish regulatory capital requirements, currently rely on credit ratings; sets forth the considerations underlying such reliance; and requests comment on potential alternatives to the use of credit ratings. The ANPRM was published on August 13, 2010 (75 FR 49423). OTS published a parallel ANPRM on October 14, 2010 (75 FR 63107). OCC published an NPRM on November 29, 2011 (76 FR 73526) and a final rule on June 13, 2012. 77 FR 35253.

Regulatory Capital Rules (12 CFR parts 3, 5, 6, 165, 167). The OCC, FRB, and FDIC (banking agencies) issued three joint notices of proposed rulemaking (NPRM 1, NPRM 2, and NPRM 3) that would revise and replace their current capital rules and other OCC rules:

- NPRM 1: The banking agencies are proposing to revise their risk-based and leverage capital requirements consistent with agreements reached by the Basel Committee on Banking Supervision (BCBS) in Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems (Basel III). The rule includes implementation of a new common equity Tier 1 minimum capital requirement, a higher minimum Tier 1 capital requirement, and, for banking organizations subject to the advanced approaches capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator measure. The rule applies limits on capital distributions and certain discretionary bonus payments, and establishes more conservative standards for including an instrument in regulatory capital. The OCC is also proposing to amend its capital rules and Prompt Corrective Action (PCA) rules with respect to national banks (12 CFR parts 3 and 6, respectively) to make those rules applicable to Federal savings associations; to rescind the current capital rules and PCA rules applicable to Federal savings associations (12 CFR parts 165 and 167, respectively), with the exception of 12 CFR 165.8; and to make other technical changes related to Federal savings associations.
- NPRM 2: The banking agencies are proposing to amend their general risk-based capital requirements for calculating the denominator of a banking organization's risk-based capital ratios (Standardized Approach). The revisions would revise and harmonize the agencies' rules for calculating risk-weighted assets to enhance risk-sensitivity and address weaknesses identified over recent years, including by incorporating certain BCBS international capital standards. The agencies are proposing alternatives to credit ratings for calculating risk-weighted assets for certain assets and setting forth methodologies for determining risk-weighted assets for residential mortgages, securitization exposures, and counterparty credit risk. Disclosures are introduced that would apply to top-tier banking organizations domiciled in the United States with $50 billion or more in total assets.
- NPRM 3: The banking agencies are proposing to revise the advanced approaches risk-based capital rule to incorporate certain aspects of Basel III that would be applied only to advanced approach banking organizations. The revisions include replacing references to credit ratings with alternative standards of creditworthiness. The OCC is proposing that the market risk capital rule be applicable to Federal savings associations.

The NPRMs were published on August 30, 2012. 77 FR 52792, 52888, 52978.

Risk-Based Capital Standards: Market Risk (12 CFR part 3). The banking agencies issued a final rule revising their market risk capital rules to modify their scope to better capture positions for which the market risk capital rules are appropriate; reduce procyclicality in market risk capital requirements; enhance the rules' sensitivity to risks that are not adequately captured under current regulatory measurement methodologies; and increase transparency through enhanced disclosures. An NPRM was published on January 11, 2011. 76 FR 1890. The final rule was published on August 30, 2012. 77 FR 53060.

Short-Term Investment Funds (12 CFR part 9). This final rule updates the regulation of short-term investment funds (STIFs), a type of collective investment fund permissible under OCC regulations, through the addition of STIF eligibility requirements to ensure the safety of STIFs. The OCC issued an NPRM on April 9, 2012. 77 FR 21057. The final rule was issued on October 9, 2012. 77 FR 61229.

Lending Limits for Derivative Transactions (12 CFR parts 32, 159, and 160). Section 610 of the Dodd-Frank Act amends the lending limits statute, 12 U.S.C. section 84, to apply it to any credit exposure to a person arising from a derivative transaction and certain other transactions between the bank and the person. 12 U.S.C. 1464(u)(1) applies this lending limit to savings associations. The amendment was effective 1 year after the transfer date, July 21, 2012. On June 21, 2012, the OCC issued an interim final rule that implements section 610. This interim final rule also integrates savings associations into part 32. 77 FR 37265.

Truth in Lending Act (TILA) (12 CFR parts 34, 164). Appraisals for High Risk Mortgages. The banking agencies, CFPB, FHFA, and NCUA, have issued a proposed rule to amend Regulation Z and its official interpretation. The proposed revisions to Regulation Z

would implement a new TILA provision requiring appraisals for "higher-risk mortgages" that was added to TILA as part of the Dodd-Frank Act. For mortgages with an annual percentage rate that exceeds market-based prime mortgage rate benchmarks by a specified percentage, the proposed rule generally would require creditors to obtain an appraisal or appraisals meeting certain specified standards, provide applicants with a notification regarding the use of the appraisals, and give applicants a copy of the written appraisals used. The NPRM was published on September 5, 2012. 77 FR 54722.

Incentive-Based Compensation Arrangements (12 CFR part 42). Section 956 of the Dodd-Frank Act requires the banking agencies, NCUA, SEC, and FHFA, to jointly prescribe regulations or guidance prohibiting any type of incentive-based payment arrangement, or any feature of any such arrangement, that the regulators determine encourages inappropriate risks by covered financial institutions by providing an executive officer, employee, director, or principal shareholder with excessive compensation, fees or benefits, or that could lead to material financial loss to the covered financial institution. The Act also requires such agencies to jointly prescribe regulations or guidance requiring each covered financial institution to disclose to its regulator the structure of all incentive-based compensation arrangements offered by such institution sufficient to determine whether the compensation structure provides any officer, employee, director, or principal shareholder with excessive compensation or could lead to material financial loss to the institution. The agencies issued an NPRM on April 14, 2011. 76 FR 21170.

Credit Risk Retention (12 CFR part 43). The banking agencies, SEC, FHFA, and HUD proposed rules to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934 (15 U.S.C. section 78o-11), as added by section 941 of the Dodd-Frank Act. Section 15G generally requires the securitizer of asset-backed securities to retain not less than 5 percent of the credit risk of the assets collateralizing the asset-backed securities. Section 15G includes a variety of exemptions from these requirements, including an exemption for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as "qualified residential mortgages," as such term is defined by the Agencies by rule. This NPRM was published on April 29, 2011. 76 FR 24090.

Prohibition and Restrictions on Proprietary Trading and Certain Interests In, and Relationships with, Hedge Funds and Private Equity Funds (12 CFR part 44). The banking agencies, SEC, and CFTC, issued proposed rules that implement section 619 of the Dodd-Frank Act, which contains certain prohibitions and restrictions on the ability of banking entities and nonbank financial companies supervised by the Federal Reserve Board to engage in proprietary trading and have certain investments in, or relationships with, hedge funds or private equity funds. The OCC issued an NPRM on November 7, 2011. 75 FR 68846.

Margin and Capital Requirements for Covered Swap Entities (12 CFR part 45). The banking agencies, FCA, and FHFA issued a proposed rule to establish minimum margin and capital requirements for registered swap dealers, major swap participants, security-based swap dealers, and major security-based swap participants for which one of the Agencies is the prudential regulator. This proposed rule implements sections 731 and 764 of the Dodd-Frank Act, which require the Agencies to adopt rules jointly to establish capital requirements and initial and variation margin requirements for such entities on all non-cleared swaps and non-cleared security-based swaps in order to offset the greater risk to such entities and the financial system arising from the use of swaps and security-based swaps that are not cleared. This NPRM was published on May 11, 2011. 76 FR 27564.

Annual Stress Test (12 CFR part 46). This regulation will implement 12 U.S.C. 5365(i) that requires annual stress testing to be conducted by financial companies with total consolidated assets of more than $10 billion and will establish a definition of stress test, methodologies for conducting stress tests, and reporting and disclosure requirements. The OCC published an NPRM on January 24, 2012 and a final rule on October 9, 2012. 77 FR 3408, 61238.

Integration of Savings Association Supervision (12 CFR chapter V). Pursuant to the transfer of OTS functions relating to Federal savings associations to the OCC, the OCC issued two rulemakings in FY 2011 that incorporated savings associations into certain OCC rules and republished former OTS rules as OCC rules. An interim final rule was published on August 9, 2011 (76 FR 48950), and a final rule was published on July 21, 2012 (76 FR 43549).

Retail Foreign Exchange Transactions (12 CFR part 48). The OCC engaged in a rulemaking on retail foreign exchange transactions involving national banks to implement section 742 of the Dodd-Frank Act. The proposed rule was published on April 22, 2011 (76 FR 22633) and the final rule was published on July 14, 2011 (76 FR 41384). The final rule was amended through an interim final rule to apply to Federal savings associations on September 12, 2011 (76 FR 56096).

Civil Money Penalty Inflation Adjustment (12 CFR parts 19 and 109). The OCC has amended its rules of practice and procedure for national banks, set forth at 12 CFR part 19, and its rules of practice and procedure in adjudicatory proceedings for Federal savings associations, set forth at 12 CFR part 109, to adjust the maximum amount of each civil money penalty (CMP) within its jurisdiction to administer to account for inflation. These actions, including the amount of the adjustment, are required under the Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Adjustment Act), as amended by the Debt Collection Improvement Act of 1996. This final rule was published on November 6, 2012. 77 FR 66529.

Regulatory priorities for fiscal year 2013 include finalizing the proposals listed above as well as initiating the following rulemakings:

Source of Strength. (12 CFR part 47). The OCC plans to issue a proposed rule to implement section 616(d) of the Dodd-Frank Act. Section 616(d) requires that bank holding companies, savings and loan holding companies and companies that directly or indirectly control an insurance depository institution serve as a source of strength for the insured depository institution. The appropriate Federal banking agency for the insured depository institution may require that the company submit a report that would assess the company's ability to comply with the provisions of the statute and its compliance. The OCC, the FDIC, and the Federal Reserve are required to jointly issue regulations to implement these requirements.

Integration of Savings Association Supervision (12 CFR chapter V). The OCC plans to issue one or more rulemakings resulting from our review of OCC rules applicable to banks and/or savings associations that will consolidate our rules and establish, to the extent practicable, consistent regulations for national banks and federal savings associations.

Appraisal Management Companies (12 CFR part 34). The OCC plans to issue a proposed rule that will set minimum standards for state

registration and regulation of appraisal management companies.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 "Improving Regulation and Regulatory Review" (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in "The Regulatory Plan." However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. Treasury's final plan can be found at: *www.treasury.gov/open.*

RIN	Title
1545–BF40	Definitions and Special Rules Regarding Accuracy-Related Penalties on Underpayments and Reportable Transaction Understatements and the Reasonable Cause Exception.
1513–AB54	Modernization of the Alcohol Beverage Labeling and Advertising Regulations.
1513–AB39	Revision of American Viticultural Area Regulations.
1513–AA23	Revision of Distilled Spirits Plant Regulations.
1513–AB59	Proposed Revisions to SDA and CDA Formulas Regulations.
1513–AB72	Implementation of Statutory Amendments Requiring the Qualification of Manufacturers and Importers of Processed Tobacco and Other Amendments.
1513–AB62	Proposed Revisions to Distilled Spirits for Fuel Use and Alcohol Fuel Plant Regulations.
1513–AB35	Self-Certification of Nonbeverage Product Formulas.
1513–AB94	Penal Sum Exception for Brewers Eligible To File Federal Excise Tax Returns and Payments Quarterly and Other Proposed Revisions to the Beer Regulation.
1513–AB89	Revisions to Distilled Spirits Plant Operations Reports and Regulations.
1515–AD67	Courtesy Notice of Liquidation.

International Regulatory Cooperation

On May 1, 2012, the President signed Executive Order 13609, "Promoting International Regulatory Cooperation," which is designed to promote economic growth, innovation, competitiveness, and job creation through international regulatory cooperation. Although much of the Department's regulations are not covered by the Order (see section 6), the Department is committed to furthering the goals of the Order and looks for opportunities to engage in discussions that lead to increased and improved regulatory cooperation.

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DEPARTMENT OF VETERANS AFFAIRS (VA)

Statement of Regulatory Priorities

The Department of Veterans Affairs (VA) administers benefit programs that recognize the important public obligations to those who served this Nation. VA's regulatory responsibility is almost solely confined to carrying out mandates of the laws enacted by Congress relating to programs for veterans and their beneficiaries. VA's major regulatory objective is to implement these laws with fairness, justice, and efficiency.

Most of the regulations issued by VA involve at least one of three VA components: The Veterans Benefits Administration, the Veterans Health Administration, and the National Cemetery Administration. The primary mission of the Veterans Benefits Administration is to provide high-quality and timely nonmedical benefits to eligible veterans and their beneficiaries. The primary mission of the Veterans Health Administration is to provide high-quality health care on a timely basis to eligible veterans through its system of medical centers, nursing homes, domiciliaries, and outpatient medical and dental facilities. The primary mission of the National Cemetery Administration is to bury eligible veterans, members of the Reserve components, and their dependents in VA National Cemeteries and to maintain those cemeteries as national shrines in perpetuity as a final tribute of a grateful Nation to honor the memory and service of those who served in the Armed Forces.

VA Regulatory Priorities

VA's regulatory priorities include a special project to undertake a comprehensive review and improvement of its existing regulations. The first portion of this project is devoted to reviewing, reorganizing, and rewriting the VA's compensation and pension regulations found in 38 CFR part 3. The goal of the Regulation Rewrite Project is to improve the clarity and logical consistency of these regulations in order to better inform veterans and their family members of their entitlements.

A second VA regulatory priority includes a new caregiver benefits program provided by VA. This rule implements title I of the Caregivers and Veterans Omnibus Health Services Act of 2010, which was signed into law on May 5, 2010. The purpose of the new caregiver benefits program is to provide certain medical, travel, training, and financial benefits to caregivers of certain veterans and servicemembers who were seriously injured in the line of duty on or after September 11, 2001.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 "Improving Regulation and Regulatory Review" (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in The Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. The final agency plans can be found at: *http://www.va.gov/ORPM/docs/RegMgmt_VA_EO13563_RegRevPlan20110810.docx.*

RIN	Title	Significantly reduce burdens on small businesses
2900–AO13*	VA Compensation and Pension Regulation Rewrite Project	No

*Consolidating Proposed Rules: 2900–AL67, AL70, AL71, AL72, AL74, AL76, AL82, AL83, AL84, AL87, AL88, AL89, AL94, AL95, AM01, AM04, AM05, AM06, AM07, AM16.

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

FY 2013 Regulatory Plan

Statement of Regulatory and Deregulatory Priorities

The Architectural and Transportation Barriers Compliance Board (Access Board) is an independent federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792). The Access Board is responsible for developing accessibility guidelines and standards under various laws to ensure that individuals with disabilities have access to and use of buildings and facilities, transportation vehicles, and information and communication technology. Other federal agencies adopt the accessibility guidelines and standards issued by the Access Board as mandatory requirements for entities under their jurisdiction.

The Access Board is engaged in a number of regulatory efforts to promote accessibility that are reflected in the agency's regulatory agenda for FY 2013. This plan highlights three regulatory priorities for the Access Board in FY 2013: (A) Passenger Vessel Accessibility Guidelines; (B) Information and Communication Technology Standards and Guidelines; and (C) Accessibility Standards for Medical Diagnostic Equipment.

Each of these regulatory priorities is expected to provide significant benefits to citizens. By promoting equality of opportunity, the proposed regulations would enable individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency. Each highlighted proposal promotes our national values of equity, human dignity, and fairness, the benefits of which are impossible to monetize.

In addition, the Information and Communication Technology Standards and Guidelines would also promote open government for all people, regardless of disability status, by providing federal agencies with standards to ensure that when they procure, develop, maintain or use electronic and information technology, that citizens and employees who are individuals with disabilities have access to and use of information and data that is comparable to the access to and use of the information and data by others without disabilities.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts, and we have incorporated into our rulemaking process extensive outreach efforts to industry representatives, disability groups, standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium, and other countries such as representatives from the European Commission, Canada, Australia, and Japan.

These three initiatives are summarized below.

A. Americans with Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels (RIN 3014–AA11)

The Access Board plans to issue an NPRM requesting public comment on the proposed accessibility guidelines for passenger vessels, pursuant to Section 504 of the Americans with Disabilities Act (ADA). Passenger vessels may include certain types of cruise ships, excursion vessels, ferries, and tenders. The Access Board published an advance notice of proposed rulemaking in 2004, and made drafts of the guidelines available for public review and comment in 2004 and 2006. The U.S. Department of Transportation (DOT) and U.S. Department of Justice (DOJ) are required to issue accessibility standards for the construction and alteration of passenger vessels covered by the ADA that are consistent with the guidelines issued by the Access Board. When DOT and DOJ issue accessibility standards, vessel owners and operators are required to comply with the standards.

The proposed guidelines would apply to the construction and alteration of passenger vessels; they would not require existing passenger vessels to be retrofitted. The proposed guidelines would contain scoping and technical provisions. Scoping provisions specify what passenger vessel features would be required to be accessible and, where multiple features of the same type are provided, how many of the features would be required to be accessible. Technical provisions specify the design criteria for accessible features. The passenger vessel features addressed by the scoping and technical provisions include onboard accessible routes connecting passenger decks and passenger amenities, accessible means of escape, doors and thresholds or coamings, toilet rooms, wheelchair spaces in assembly areas and transportation seating areas, assistive listening systems, and guest rooms and other spaces and facilities used by passengers.

A.1 *Statement of Need:* Section 504 of the Americans with Disabilities Act (ADA) requires the Access Board to issue accessibility guidelines for the construction and alteration of passenger vessels covered by the law to ensure that the vessels are readily accessible to and usable by individuals with disabilities (42 U.S.C. 12204).

A.2 *Summary of the Legal Basis:* Title II of the ADA applies to state and local governments and Title III of the ADA applies to places of public accommodation operated by private entities. The ADA covers designated public transportation services provided by state and local governments and specified public transportation services provided by private entities that are primarily engaged in the business of transporting people and whose operations affect commerce. (See 42 U.S.C. 12141 to 12147 and 12184.) Passenger vessels that provide designated public transportation services or specified public transportation services such as ferries and excursion vessels, and passenger vessels that are places of public accommodation such as vessels that provide dinner or sightseeing cruises are covered by the ADA.

Titles II and III of the ADA require the DOT and DOJ to issue accessibility standards for the construction and alteration of passenger vessels covered by the law that are consistent with the guidelines issued by the Access Board. (See 42 U.S.C. 12134 (c), 12149 (b), and 12186 (c).) The DOT has reserved a subpart in its ADA regulations for accessibility standards for passenger vessels in anticipation of the Access Board issuing these guidelines. (See 49 CFR part 39, subpart E.) When DOT and DOJ issue accessibility standards for the

construction and alteration of passenger vessels covered by the ADA, vessel owners and operators are required to comply with the standards.

A.3 *Alternatives:* In developing the proposed accessibility guidelines, the Access Board has received and considered extensive input from passenger vessel owners and operators, individuals with disabilities, and other interested parties for more than a decade. The Access Board convened an advisory committee comprised of passenger vessel industry trade groups, passenger vessel owners and operators, disability advocacy groups, and state and local government agencies to advise how to develop the accessibility guidelines. The committee submitted its report to the Access Board in 2000. In addition, over the years, the Access Board issued an ANPRM and three versions of draft accessibility guidelines and conducted in-depth case studies on various passenger vessels. The Access Board solicited and analyzed public comments on these documents in developing the proposed guidelines and regulatory impact analysis. All the published documents together with public comments are available on the Access Board's Web site at: *http://www.access-board.gov/pvaac/*.

A.4 *Anticipated Costs and Benefits:* The anticipated compliance costs for certain types of vessels would include: (1) The difference between the cost of constructing a vessel in the absence of the proposed guidelines and the cost of constructing a vessel complying with the guidelines and (2) the additional operation and maintenance costs incurred by vessel owners and operators as a result of complying with the guidelines. For certain large cruise ships, the compliance costs would be estimated based on the number of standard guest rooms and revenues that would be lost when the cruise ships would be replaced by new vessels complying with the proposed guidelines. According to the cruise industry, two guest rooms with mobility features occupy the same square footage as three standard guest rooms resulting in the loss of one standard guest room for every two guest rooms with mobility features. The Board's preliminary estimate of the cost of the draft proposed rule they range from $4 million in 2013 to $45 million in 2012 discounted at 7 percent. The estimate for 2012 is higher than any other year because the methodology assumes that existing vessels would be replaced at the end of their expected service life and a large number of existing vessels are beyond their expect service life so a disproportionate share of the compliance costs are front loaded in the first year.

The Board has not quantified the benefits of the proposed guidelines, but they would afford individuals with disabilities the opportunity to travel on passenger vessels for employment, transportation, public accommodation, and leisure. By promoting equality of opportunity, the proposed guidelines would afford individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency. The proposed guidelines would promote our national values of equity, human dignity, and fairness, the benefits of which are impossible to quantify.

B. Information and Communication Technology Standards and Guidelines (RIN: 3014–AA37)

The Access Board plans to issue an NPRM to update its standards for electronic and information technology covered by section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794(d)) (Section 508) and its guidelines for telecommunication products and equipment covered by section 255 of the Telecommunications Act of 1996 (47 U.S.C. 153, 255) (Section 255).

The Board published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** in March 2010, 75 FR 13457 (March 22, 2010). The Board held two public hearings and received 384 comments on the 2010 ANPRM and prepared a 2011 ANPRM based on a review of those comments. The 2011 ANPRM was published in the **Federal Register** in December 2011, 76 FR 76640 (December 8, 2011), and the Access Board held public hearings on January 11, 2012 and March 1, 2012. The Access Board is currently preparing an NPRM based on public comments on the 2011 ANPRM.

B.1 *Statement of Need:* The Board issued the Electronic and Information Technology Accessibility Standards in December 2000, (65 FR 80500, December 21, 2000), and the Telecommunications Act Accessibility Guidelines for telecommunications equipment and customer premises equipment in February 1998 (63 FR 5608, February 3, 1998). Since these standards and the guidelines were issued, technology has evolved and changed. Telecommunications products and electronic and information technology products have converged. For example, smartphones can perform many of the same functions as computers. Real time text technologies and video relay services are replacing TTYs (text telephones). The Board has since decided to update and revise these guidelines and the standards together to address changes in technology and to make both documents consistent.

B.2 *Summary of the Legal Basis:* Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 (d) (Section 508) requires that when developing, procuring, maintaining, or using electronic and information technology, each federal department or agency must ensure, unless an undue burden would be imposed on the department or agency, that electronic and information technology (regardless of the type of medium) allows individuals with disabilities to have access to and use of information and data that is comparable to the access and use of the information and data by others without disabilities. Section 255 of the Telecommunications Act of 1996, 47 U.S.C. 153, 255 (Section 255) requires telecommunications manufacturers to ensure that telecommunications equipment and customer premises equipment are designed, developed, and fabricated to be accessible to and usable by individuals with disabilities when it is readily achievable to do so.

Section 508 and Section 255 require that the Access Board periodically review and, as appropriate, amend the standards and guidelines to reflect technological advances or changes in electronic and information technology or in telecommunications equipment and customer premises equipment. Once revised, the Board's standards and guidelines are made enforceable by other federal agencies. Section 508(a)(3) of the Rehabilitation Act provides that within 6 months after the Access Board revises its standards, the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each appropriate federal department or agency shall revise their procurement policies and directives, as necessary, to incorporate the revisions.

B.3 *Alternatives:* In developing the ANPRMs, the Board has solicited various stakeholders' views and practices. The Access Board formed the Telecommunications and Electronic and Information Technology Advisory Committee (TEITAC) in 2006 to review the existing guidelines and standards and to recommend changes. TEITAC's 41 members comprised a broad cross-section of stakeholders, including representatives from industry, disability groups, and a number of government agencies in the U.S. and abroad—the European Commission, Canada, Australia, and Japan. Recognizing the importance of standardization across

markets worldwide, TEITAC coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium (W3C). TEITAC members addressed a range of issues, including new or convergent technologies, market forces, and international harmonization. On April 3, 2008, TEITAC presented its report to the Board. The report recommended revisions to the Board's Section 508 standards and Section 255 guidelines. The report is available on the Board's Web site at *www.access-board.gov/sec508/refresh/report/.*

B.4 *Anticipated Costs and Benefits:* The Access Board is seeking input from the public on costs and benefits associated with the standards, and working with an outside contractor to assess costs and benefits associated with the proposed rule and to support the preliminary regulatory impact assessment that will accompany the proposed rule.

The Information and Communication Technology Standards and Guidelines will promote open government for all people, regardless of disability status, by providing federal agencies with standards to ensure that when they procure, develop, maintain or use electronic and information technology, that citizens and employees who are individuals with disabilities have access to and use of information and data that is comparable to the access to and use of the information and data by others without disabilities.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts. Accordingly, the agency has incorporated into its rulemaking process extensive outreach efforts to include industry representatives, disability groups, standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium, and other countries such as representatives from the European Commission, Canada, Australia, and Japan.

C. Accessibility Standards for Medical Diagnostic Equipment (RIN: 3014–AA40)

The Access Board plans to issue a final rule establishing accessibility standards for medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals pursuant to Section 510 of the Rehabilitation Act (29 U.S.C. 794f).

The Access Board published its NPRM with proposed accessibility standards for notice and comment in the **Federal Register** on February 9, 2012, 77 FR 6916. The Access Board's NPRM includes technical design criteria concerning medical equipment that is commonly used by health professionals for diagnostic purposes such as examination tables, examination chairs, weight scales, mammography equipment, and other imaging. The NPRM is available at: *http://www.access-board.gov/mde/nprm.htm.* Since the NPRM publication, the Access Board held two public hearings, on March 14, 2012 and May 8, 2012; the comment period closed on June 8, 2012.

C.1 *Statement of Need:* Under section 510 of the Rehabilitation Act (29 U.S.C. 794f), the Access Board, in consultation with the Commissioner of the Food and Drug Administration, is required to issue standards that contain minimum technical criteria to ensure that medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals are accessible to and usable by individuals with disabilities. The statute provides that the standards must allow for independent access to and use of the medical diagnostic equipment by individuals with disabilities to the maximum extent possible. Section 510 of the Rehabilitation Act requires the standards to be issued not later than 24 months after the enactment of the Patient Protection and Affordable Care Act (P. L. 111–148, 124 Stat. 570). The statutory deadline for issuing the standards was March 23, 2012.

C.2 *Summary of the Legal Basis:* Section 4203 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570) amended title V of the Rehabilitation Act, which establishes rights and protections for individuals with disabilities, by adding section 510.

C.3 *Alternatives:* In developing the NPRM, the Access Board has considered and will continue to consider alternatives proposed by a variety of stakeholders. First, the Access Board considered approaches contained in the Association for the Advancement of Medical Instrumentation's ANSI/AAMI HE 75:2009, "Human factors engineering-Design of medical devices" in developing the proposed standards. ANSI/AAMI HE 75 is a recommended practice that provides guidance on human factors design principles for medical devices. In particular, Chapter 16 of ANSI/AAMI HE 75 provides guidance on accessibility for patients and health care professionals with disabilities (Chapter 16 of ANSI/AAMI HE 75 is available at: *http://www.aami.org/he75/*). The Access Board's proposed standards do not reference the guidance in chapter 16 of ANSI/AAMI HE 75 because the guidance is not mandatory. The Access Board seeks to harmonize its standards and guidelines with voluntary consensus standards and plans to participate in future revisions to ANSI/AAMI HE 75.

In addition, the Access Board has consulted closely with the Department of Justice and the Food and Drug Administration in the development of the proposed standards, and plans to continue to work closely with them in the development of the final rule. The Access Board has also established an Advisory Committee to make recommendations to the Board on how to address issues raised in the public comments on the proposed rule.

C.4 *Anticipated Costs and Benefits:* The proposed standards address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. For example, the proposed standards would facilitate independent transfers by individuals with disabilities onto and off of diagnostic equipment, and enable them to maintain their independence, confidence, and dignity, lessening the need for health care personnel to assist individuals with disabilities when transferring on and off of diagnostic equipment. The proposed standards would improve the quality of health care for individuals with disabilities and ensure that they receive examinations, diagnostic procedures, and other health care services equal to those received by individuals without disabilities.

The Access Board has prepared a preliminary regulatory assessment for the proposed standards, which is available on the Access Board's Web site at: *http://www.access-board.gov/medical-equipment.htm.* The preliminary assessment compares costs of select medical diagnostic equipment with and without accessibility features in the market. The Access Board is seeking input from the public on costs and benefits associated with these proposed standards to support a final regulatory impact assessment that will accompany the final rule.

Section 510 of the Rehabilitation Act does not address who is required to comply with the standards. Compliance with the standards would not be mandatory unless other agencies adopt the standards as mandatory requirements for entities under their jurisdiction. In July 2010, the Department of Justice issued an advance notice of proposed rulemaking

(ANPRM) announcing that it was considering amending its Americans with Disabilities Act (ADA) regulations to ensure that equipment and furniture are accessible to individuals with disabilities. See 75 FR 43452 (July 26, 2010). The ANPRM noted that the ADA has always required the provision of accessible equipment and furniture, and that the Department has entered into settlement agreements with medical care providers requiring them to provide accessible medical equipment. The ANPRM stated that when the Access Board has issued accessibility standards for medical diagnostic equipment, the Department would consider adopting the standards in its ADA regulations. The ANPRM also stated that if the Department adopts the Access Board's accessibility standards for medical diagnostic equipment, it would develop scoping requirements that specify the minimum number of accessible types of equipment required for different medical settings. At that time, the impact of scoping and application of the proposed standards can be more fully assessed.

ATBCB

Proposed Rule Stage

74. Americans With Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 12204, Americans With Disabilities Act of 1990

CFR Citation: 36 CFR part 1196.

Legal Deadline: None.

Abstract: This rulemaking would establish accessibility guidelines to ensure that newly constructed and altered passenger vessels covered by the Americans With Disabilities Act (ADA) are accessible to and usable by individuals with disabilities. The U.S. Department of Transportation and U.S. Department of Justice are expected to adopt the guidelines as enforceable standards in separate rulemakings for the construction and alteration of passenger vessels covered by the ADA.

Statement of Need: Section 504 of the Americans with Disabilities Act (ADA) requires the Access Board to issue accessibility guidelines for the construction and alteration of passenger vessels covered by the law to ensure that the vessels are readily accessible to and usable by individuals with disabilities (42 U.S.C. 12204).

Summary of Legal Basis: Title II of the ADA applies to state and local governments and title III of the ADA applies to places of public accommodation operated by private entities. The ADA covers designated public transportation services provided by state and local governments and specified public transportation services provided by private entities that are primarily engaged in the business of transporting people and whose operations affect commerce. (See 42 U.S.C. 12141 to 12147 and 12184.) Passenger vessels that provide designated public transportation services or specified public transportation services such as ferries and excursion vessels, and passenger vessels that are places of public accommodation such as vessels that provide dinner or sightseeing cruises are covered by the ADA.

Titles II and III of the ADA require the DOT and DOJ to issue accessibility standards for the construction and alteration of passenger vessels covered by the law that are consistent with the guidelines issued by the Access Board. (See 42 U.S.C. 12134(c), 12149(b), and 12186(c).) The DOT has reserved a subpart in its ADA regulations for accessibility standards for passenger vessels in anticipation of the Access Board issuing these guidelines. (See 49 CFR part 39, subpart E.) When DOT and DOJ issue accessibility standards for the construction and alteration of passenger vessels covered by the ADA, vessel owners and operators are required to comply with the standards.

Alternatives: In developing the proposed accessibility guidelines, the Access Board has received and considered extensive input from passenger vessel owners and operators, individuals with disabilities, and other interested parties for more than a decade. The Access Board convened an advisory committee comprised of passenger vessel industry trade groups, passenger vessel owners and operators, disability advocacy groups, and state and local government agencies to advise how to develop the accessibility guidelines. The committee submitted its report to the Access Board in 2000. In addition, over the years, the Access Board issued an ANPRM and three versions of draft accessibility guidelines and conducted in-depth case studies on various passenger vessels. The Access Board solicited and analyzed public comments on these documents in developing the proposed guidelines and regulatory impact analysis. All the published documents together with public comments are available on the Access Board's Web site at: *http://www.access-board.gov/pvuac/.*

Anticipated Cost and Benefits: The compliance costs for certain types of vessels would include: (1) the difference between the cost of constructing a vessel in the absence of the proposed guidelines and the cost of constructing a vessel complying with the guidelines and (2) the additional operation and maintenance costs incurred by vessel owners and operators as a result of complying with the guidelines. For certain large cruise ships, the compliance costs would be estimated based on the number of standard guest rooms and revenues that would be lost when the cruise ships would be replaced by new vessels complying with the proposed guidelines. According to the cruise industry, two guest rooms with mobility features occupy the same square footage as three standard guest rooms resulting in the loss of one standard guest room for every two guest rooms with mobility features. The Board's preliminary estimate of the cost of the draft proposed rule they range from $4 million in 2013 to $45 million in 2012 discounted at 7 percent. The estimate for 2012 is higher than any other year because the methodology assumes that existing vessels would be replaced at the end of their expected service life and a large number of existing vessels are beyond their expect service life so a disproportionate share of the compliance costs are front loaded in the first year.

The proposed guidelines would afford individuals with disabilities the opportunity to travel on passenger vessels for employment, transportation, public accommodation, and leisure. By promoting equality of opportunity, the proposed guidelines would afford individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency. The proposed guidelines promote our national values of equity, human dignity, and fairness, the benefits of which are impossible to quantify.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee.	03/30/98	63 FR 15175
Establishment of Advisory Committee.	08/12/98	63 FR 43136
Availability of Draft Guidelines.	11/26/04	69 FR 69244
ANPRM	11/26/04	69 FR 69246
Comment Period Extended.	03/22/05	70 FR 14435
ANPRM Comment Period End.	07/28/05	
Availability of Draft Guidelines.	07/07/06	71 FR 38563

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee.	06/25/07	72 FR 34653
Establishment of Advisory Committee.	08/13/07	72 FR 45200
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Local, State.

Federalism: This action may have federalism implications as defined in EO 13132.

URL for More Information: *www.access-board.gov/pvacc/index.htm.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: James Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111, *Phone:* 202 272–0040, *TDD Phone:* 202 272–0062, *Fax:* 202 272–0081, *Email:* *raggio@access-board.gov.*

RIN: 3014–AA11

ATBCB

75. Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards

Priority: Other Significant.

Legal Authority: 47 U.S.C. 255(e); 29 U.S.C. 794(d)

CFR Citation: 36 CFR part 1193; 36 CFR part 1194.

Legal Deadline: None.

Abstract: This rulemaking would update in a single document the accessibility guidelines for telecommunication equipment and customer premises equipment issued in 1998 under section 255 of the Telecommunications Act of 1966, and the accessibility standards for electronic and information technology issued in 2000 under section 508 of the Rehabilitation Act of 1973, as amended. Section 255 of the Telecommunications Act requires manufacturers of telecommunication equipment and customer premises equipment to ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable. Section 508 of the Rehabilitation Act requires Federal agencies to ensure that electronic and information technology developed, procured, maintained, or used by the agencies allows individuals with disabilities to have comparable access to and use of information and data as afforded others who are not individuals with disabilities, unless an undue burden would be imposed on the Federal agency. The Federal Communications Commission has issued regulations (47 CFR parts 6 and 7) implementing Section 255 of the Telecommunications Act that are consistent with the accessibility guidelines for telecommunication equipment and customer premises equipment. The Federal Acquisition Regulatory Council has incorporated the accessibility standards for electronic and information technology in the Federal Acquisition Regulation (48 CFR Chapter 1). The Federal Communications Commission and Federal Acquisition Regulatory Council are expected to update their regulations in separate rulemakings when the accessibility guidelines for telecommunication equipment and customer premises equipment and accessibility standards for electronic and information technology are updated.

Statement of Need: Since the Access Board first issued the standards and the guidelines, technology has evolved and changed. The Board issued the (Section 508) Electronic and Information Technology Accessibility Standards in December 2000, 65 FR 80500 (December 21, 2000), and the Telecommunications Act Accessibility Guidelines for telecommunications equipment and customer premises equipment in February 1998, 63 FR 5608 (February 3, 1998). The Board has since decided to update and revise these guidelines and the standards together to address changes in technology and to make both documents consistent.

Summary of Legal Basis: Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794(d) (Section 508) requires that when developing, procuring, maintaining, or using electronic and information technology, each federal department or agency must ensure, unless an undue burden would be imposed on the department or agency, that electronic and information technology (regardless of the type of medium) allows individuals with disabilities to have access to and use of information and data that is comparable to the access and use of the information and data by others without disabilities. Section 255 of the Telecommunications Act of 1996, 47 U.S.C. 153, 255 (Section 255) requires telecommunications manufacturers to ensure that telecommunications equipment and customer premises equipment are designed, developed, and fabricated to be accessible to and usable by individuals with disabilities when it is readily achievable to do so.

Alternatives: In developing the ANPRMs, the Board has solicited various stakeholders' views and practices. The Access Board formed the Telecommunications and Electronic and Information Technology Advisory Committee (TEITAC) in 2006 to review the existing guidelines and standards and to recommend changes. TEITAC's 41 members comprised a broad cross-section of stakeholders, including representatives from industry, disability groups, and a number of government agencies in the U.S. and abroad—the European Commission, Canada, Australia, and Japan. Recognizing the importance of standardization across markets worldwide, TEITAC coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium (W3C). TEITAC members addressed a range of issues, including new or convergent technologies, market forces, and international harmonization. On April 3, 2008, TEITAC presented its report to the Board. The report recommended revisions to the Board's Section 508 standards and Section 255 guidelines. The report is available on the Board's Web site at *www.access-board.gov/sec508/refresh/report/.*

Anticipated Cost and Benefits: The Access Board is seeking input from the public on costs and benefits associated with the standards, and working with an outside contractor to assess costs and benefits associated with the proposed rule and to support the preliminary regulatory impact assessment that will accompany the proposed rule.

The Information and Communication Technology Standards and Guidelines will promote open government for all people, regardless of disability status, by providing federal agencies with standards to ensure that when they procure, develop, maintain or use electronic and information technology, that citizens and employees who are individuals with disabilities have access to and use of information and data that is comparable to the access to and use of the information and data by others without disabilities.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts. Accordingly, the agency has incorporated into its rulemaking process extensive outreach efforts to include industry representatives, disability groups, standard-setting bodies in the

U.S. and abroad such as the World Wide Web Consortium, and other countries such as representatives from the European Commission, Canada, Australia, and Japan.

Timetable:

Action	Date	FR Cite
Establishment of Advisory Committee.	07/06/06	71 FR 38324
ANPRM	03/22/10	75 FR 13457
ANPRM Comment Period End.	06/21/10	
ANPRM	12/08/11	76 FR 76640
ANPRM Comment Period End.	03/07/12	
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal.

URL for More Information: *www.access-board.gov/508.htm.*

URL for Public Comments: *www.regulations.gov.*

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RIN: 3014–AA37

ATBCB

Final Rule Stage

76. Accessibility Standards for Medical Diagnostic Equipment

Priority: Other Significant.

Legal Authority: 29 U.S.C. 794(f)

CFR Citation: 30 CFR part 1197 (New).

Legal Deadline: Final, Statutory, March 22, 2012, 29 U.S.C. 794(f).

Abstract: This regulation will establish minimum technical criteria to ensure that medical equipment used for diagnostic purposes by health professionals in (or in conjunction with) physician's offices, clinics, emergency rooms, hospitals, and other medical settings is accessible to and usable by individuals with disabilities.

Statement of Need: Under section 510 of the Rehabilitation Act (29 U.S.C.794f), the Access Board, in consultation with the Commissioner of the Food and Drug Administration, is required to issue standards that contain minimum technical criteria to ensure that medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals are accessible to and usable by individuals with disabilities. The statute provides that the standards must allow for independent access to and use of the medical diagnostic equipment by individuals with disabilities to the maximum extent possible. Section 510 of the Rehabilitation Act requires the standards to be issued not later than 24 months after the enactment of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570).The statutory deadline for issuing the standards was March 23, 2012.

Summary of Legal Basis: Section 4203 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570) amended title V of the Rehabilitation Act, which establishes rights and protections for individuals with disabilities, by adding section 510.

Alternatives: In developing the NPRM, the Access Board has considered and will continue to consider alternatives proposed by a variety of stakeholders. First, the Access Board considered approaches contained in the Association for the Advancement of Medical Instrumentation's ANSI/AAMI HE 75:2009, "Human factors engineering-Design of medical devices" in developing the proposed standards. ANSI/AAMI HE 75 is a recommended practice that provides guidance on human factors design principles for medical devices. In particular, Chapter 16 of ANSI/AAMI HE 75 provides guidance on accessibility for patients and health care professionals with disabilities (Chapter 16 of ANSI/AAMI HE 75 is available at: *http://www.aami.org/he75/*). The Access Board's proposed standards do not reference the guidance in chapter 16 of ANSI/AAMI HE 75 because the guidance is not mandatory. The Access Board seeks to harmonize its standards and guidelines with voluntary consensus standards and plans to participate in future revisions to ANSI/AAMI HE 75.

In addition, the Access Board has consulted closely with the Department of Justice and the Food and Drug Administration in the development of the proposed standards, and plans to continue to work closely with them in the development of the final rule. The Access Board has also established an Advisory Committee to make recommendations to the Board on how to address issues raised in the public comments on the proposed rule.

Anticipated Cost and Benefits: The proposed standards address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. For example, the proposed standards would facilitate independent transfers by individuals with disabilities onto and off of diagnostic equipment, and enable them to maintain their independence, confidence, and dignity, lessening the need for health care personnel to assist individuals with disabilities when transferring on and off of diagnostic equipment. The proposed standards would improve the quality of health care for individuals with disabilities and ensure that they receive examinations, diagnostic procedures, and other health care services equal to those received by individuals without disabilities.

The Access Board has prepared a preliminary regulatory assessment for the proposed standards, which is available on the Access Board's web site at: *http://www.accessboard.gov/medical-equipment.htm.* The preliminary assessment compares costs of select medical diagnostic equipment with and without accessibility features in the market. The Access Board is seeking input from the public on costs and benefits associated with these proposed standards to support a final regulatory impact assessment that will accompany the final rule.

Section 510 of the Rehabilitation Act does not address who is required to comply with the standards. Compliance with the standards would not be mandatory unless other agencies adopt the standards as mandatory requirements for entities under their jurisdiction. In July 2010, the Department of Justice issued an advance notice of proposed rulemaking (ANPRM) annonncing that it was considering amending its Americans with Disabilities Act (ADA) regulations to ensure that equipment and furniture are accessible to individuals with disabilities. See 75 FR 43452 (July 26, 2010). The ANPRM noted that the ADA has always required the provision of accessible equipment and furniture, and that the Department has entered into settlement agreements with medical care providers requiring them to provide accessible medical equipment. The ANPRM stated that when the Access Board has issued accessibility standards for medical diagnostic equipment, the Department would consider adopting the standards in its ADA regulations. The ANPRM also stated that if the Department adopts the Access Board's accessibility standards for medical diagnostic equipment, it would develop scoping requirements that specify the minimum number of accessible types of equipment required for different medical settings. At that time, the impact of scoping and application of the

proposed standards can be more fully assessed.

Timetable:

Action	Date	FR Cite
Notice of Public Information Meeting.	06/22/10	75 FR 35439
NPRM	02/09/12	77 FR 6916
NPRM Comment Period End.	06/08/12	
Notice of Intent to Form Advisory Committee.	03/13/12	77 FR 14706
Final Action	11/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

URL for More Information: *www.access-board.gov/medical-equipment.htm.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: James Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111, *Phone:* 202 272–0040, *TDD Phone:* 202 272–0062, *Fax:* 202 272–0081, *Email:* *raggio@access-board.gov.*

RIN: 3014–AA40

BILLING CODE 8150–01–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

FY 2013 Regulatory Plan

Statement of Regulatory and Deregulatory Priorities

The Architectural and Transportation Barriers Compliance Board (Access Board) is an independent federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792). The Access Board is responsible for developing accessibility guidelines and standards under various laws to ensure that individuals with disabilities have access to and use of buildings and facilities, transportation vehicles, and information and communication technology. Other federal agencies adopt the accessibility guidelines and standards issued by the Access Board as mandatory requirements for entities under their jurisdiction.

The Access Board is engaged in a number of regulatory efforts to promote accessibility that are reflected in the agency's regulatory agenda for FY 2013. This plan highlights three regulatory priorities for the Access Board in FY 2013: (A) Passenger Vessel Accessibility Guidelines; (B) Information and Communication Technology Standards and Guidelines; and (C) Accessibility Standards for Medical Diagnostic Equipment.

Each of these regulatory priorities is expected to provide significant benefits to citizens. By promoting equality of opportunity, the proposed regulations would enable individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency. Each highlighted proposal promotes our national values of equity, human dignity, and fairness, the benefits of which are impossible to monetize.

In addition, the Information and Communication Technology Standards and Guidelines would also promote open government for all people, regardless of disability status, by providing federal agencies with standards to ensure that when they procure, develop, maintain or use electronic and information technology, that citizens and employees who are individuals with disabilities have access to and use of information and data that is comparable to the access to and use of the information and data by others without disabilities.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts, and we have incorporated into our rulemaking process extensive outreach efforts to industry representatives, disability groups, standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium, and other countries such as representatives from the European Commission, Canada, Australia, and Japan.

These three initiatives are summarized below.

A. Americans With Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels (RIN 3014–AA11)

The Access Board plans to issue an NPRM requesting public comment on the proposed accessibility guidelines for passenger vessels, pursuant to Section 504 of the Americans with Disabilities Act (ADA). Passenger vessels may include certain types of cruise ships, excursion vessels, ferries, and tenders. The Access Board published an advance notice of proposed rulemaking in 2004, and made drafts of the guidelines available for public review and comment in 2004 and 2006. The U.S. Department of Transportation (DOT) and U.S. Department of Justice (DOJ) are required to issue accessibility standards for the construction and alteration of passenger vessels covered by the ADA that are consistent with the guidelines issued by the Access Board. When DOT and DOJ issue accessibility standards, vessel owners and operators are required to comply with the standards.

The proposed guidelines would apply to the construction and alteration of passenger vessels; they would not require existing passenger vessels to be retrofitted. The proposed guidelines would contain scoping and technical provisions. Scoping provisions specify what passenger vessel features would be required to be accessible and, where multiple features of the same type are provided, how many of the features would be required to be accessible. Technical provisions specify the design criteria for accessible features. The passenger vessel features addressed by the scoping and technical provisions include onboard accessible routes connecting passenger decks and passenger amenities, accessible means of escape, doors and thresholds or coamings, toilet rooms, wheelchair spaces in assembly areas and transportation seating areas, assistive listening systems, and guest rooms and other spaces and facilities used by passengers.

A.1 *Statement of Need:* Section 504 of the Americans with Disabilities Act (ADA) requires the Access Board to issue accessibility guidelines for the construction and alteration of passenger vessels covered by the law to ensure that the vessels are readily accessible to and usable by individuals with disabilities (42 U.S.C. 12204).

A.2 *Summary of the Legal Basis:* Title II of the ADA applies to state and local governments and Title III of the ADA applies to places of public accommodation operated by private entities. The ADA covers designated public transportation services provided by state and local governments and specified public transportation services provided by private entities that are primarily engaged in the business of transporting people and whose operations affect commerce. (See 42 U.S.C. 12141 to 12147 and 12184.) Passenger vessels that provide designated public transportation services or specified public transportation services such as ferries and excursion vessels, and passenger vessels that are places of public accommodation such as vessels that provide dinner or sightseeing cruises are covered by the ADA.

Titles II and III of the ADA require the DOT and DOJ to issue accessibility standards for the construction and alteration of passenger vessels covered by the law that are consistent with the

guidelines issued by the Access Board. (See 42 U.S.C. 12134(c), 12149(b), and 12186(c).) The DOT has reserved a subpart in its ADA regulations for accessibility standards for passenger vessels in anticipation of the Access Board issuing these guidelines. (See 49 CFR part 39, subpart E.) When DOT and DOJ issue accessibility standards for the construction and alteration of passenger vessels covered by the ADA, vessel owners and operators are required to comply with the standards.

A.3 *Alternatives:* In developing the proposed accessibility guidelines, the Access Board has received and considered extensive input from passenger vessel owners and operators, individuals with disabilities, and other interested parties for more than a decade. The Access Board convened an advisory committee comprised of passenger vessel industry trade groups, passenger vessel owners and operators, disability advocacy groups, and state and local government agencies to advise how to develop the accessibility guidelines. The committee submitted its report to the Access Board in 2000. In addition, over the years, the Access Board issued an ANPRM and three versions of draft accessibility guidelines and conducted in-depth case studies on various passenger vessels. The Access Board solicited and analyzed public comments on these documents in developing the proposed guidelines and regulatory impact analysis. All the published documents together with public comments are available on the Access Board's Web site at: *http://www.access-board.gov/pvaac/.*

A.4 *Anticipated Costs and Benefits:* The anticipated compliance costs for certain types of vessels would include: (1) The difference between the cost of constructing a vessel in the absence of the proposed guidelines and the cost of constructing a vessel complying with the guidelines and (2) the additional operation and maintenance costs incurred by vessel owners and operators as a result of complying with the guidelines. For certain large cruise ships, the compliance costs would be estimated based on the number of standard guest rooms and revenues that would be lost when the cruise ships would be replaced by new vessels complying with the proposed guidelines. According to the cruise industry, two guest rooms with mobility features occupy the same square footage as three standard guest rooms resulting in the loss of one standard guest room for every two guest rooms with mobility features. The Board's preliminary estimate of the cost of the draft proposed rule they range from $4 million in 2013 to $45 million in 2012 discounted at 7 percent. The estimate for 2012 is higher than any other year because the methodology assumes that existing vessels would be replaced at the end of their expected service life and a large number of existing vessels are beyond their expect service life so a disproportionate share of the compliance costs are front loaded in the first year.

The Board has not quantified the benefits of the proposed guidelines, but they would afford individuals with disabilities the opportunity to travel on passenger vessels for employment, transportation, public accommodation, and leisure. By promoting equality of opportunity, the proposed guidelines would afford individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency. The proposed guidelines would promote our national values of equity, human dignity, and fairness, the benefits of which are impossible to quantify.

B. Information and Communication Technology Standards and Guidelines (RIN: 3014–AA37)

The Access Board plans to issue an NPRM to update its standards for electronic and information technology covered by section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794(d)) (Section 508) and its guidelines for telecommunication products and equipment covered by section 255 of the Telecommunications Act of 1996 (47 U.S.C. 153, 255) (Section 255).

The Board published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** in March 2010, 75 FR 13457 (March 22, 2010). The Board held two public hearings and received 384 comments on the 2010 ANPRM and prepared a 2011 ANPRM based on a review of those comments. The 2011 ANPRM was published in the **Federal Register** in December 2011, 76 FR 76640 (December 8, 2011), and the Access Board held public hearings on January 11, 2012 and March 1, 2012. The Access Board is currently preparing an NPRM based on public comments on the 2011 ANPRM.

B.1 *Statement of Need:* The Board issued the Electronic and Information Technology Accessibility Standards in December 2000, (65 FR 80500, December 21, 2000), and the Telecommunications Act Accessibility Guidelines for telecommunications equipment and customer premises equipment in February 1998 (63 FR 5608, February 3, 1998). Since these standards and the guidelines were issued, technology has evolved and changed. Telecommunications products and electronic and information technology products have converged. For example, smartphones can perform many of the same functions as computers. Real time text technologies and video relay services are replacing TTY's (text telephones). The Board has since decided to update and revise these guidelines and the standards together to address changes in technology and to make both documents consistent.

B.2 *Summary of the Legal Basis:* Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794(d) (Section 508) requires that when developing, procuring, maintaining, or using electronic and information technology, each federal department or agency must ensure, unless an undue-burden would be imposed on the department or agency, that electronic and information technology (regardless of the type of medium) allows individuals with disabilities to have access to and use of information and data that is comparable to the access and use of the information and data by others without disabilities. Section 255 of the Telecommunications Act of 1996, 47 U.S.C. 153, 255 (Section 255) requires telecommunications manufacturers to ensure that telecommunications equipment and customer premises equipment are designed, developed, and fabricated to be accessible to and usable by individuals with disabilities when it is readily achievable to do so.

Section 508 and Section 255 require that the Access Board periodically review and, as appropriate, amend the standards and guidelines to reflect technological advances or changes in electronic and information technology or in telecommunications equipment and customer premises equipment. Once revised, the Board's standards and guidelines are made enforceable by other federal agencies. Section 508(a)(3) of the Rehabilitation Act provides that within 6 months after the Access Board revises its standards, the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each appropriate federal department or agency shall revise their procurement policies and directives, as necessary, to incorporate the revisions.

B.3 *Alternatives:* In developing the ANPRMs, the Board has solicited various stakeholders' views and practices. The Access Board formed the Telecommunications and Electronic and Information Technology Advisory Committee (TEITAC) in 2006 to review the existing guidelines and standards

and to recommend changes. TEITAC's 41 members comprised a broad cross-section of stakeholders, including representatives from industry, disability groups, and a number of government agencies in the U.S. and abroad—the European Commission, Canada, Australia, and Japan. Recognizing the importance of standardization across markets worldwide, TEITAC coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium (W3C). TEITAC members addressed a range of issues, including new or convergent technologies, market forces, and international harmonization. On April 3, 2008, TEITAC presented its report to the Board. The report recommended revisions to the Board's Section 508 standards and Section 255 guidelines. The report is available on the Board's Web site at *www.access-board.gov/sec508/refresh/report/.*

B.4 *Anticipated Costs and Benefits:* The Access Board is seeking input from the public on costs and benefits associated with the standards, and working with an outside contractor to assess costs and benefits associated with the proposed rule and to support the preliminary regulatory impact assessment that will accompany the proposed rule.

The Information and Communication Technology Standards and Guidelines will promote open government for all people, regardless of disability status, by providing federal agencies with standards to ensure that when they procure, develop, maintain or use electronic and information technology, that citizens and employees who are individuals with disabilities have access to and use of information and data that is comparable to the access to and use of the information and data by others without disabilities.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts. Accordingly, the agency has incorporated into its rulemaking process extensive outreach efforts to include industry representatives, disability groups, standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium, and other countries such as representatives from the European Commission, Canada, Australia, and Japan.

C. Accessibility Standards for Medical Diagnostic Equipment (RIN: 3014–AA40)

The Access Board plans to issue a final rule establishing accessibility standards for medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals pursuant to Section 510 of the Rehabilitation Act (29 U.S.C. 794f).

The Access Board published its NPRM with proposed accessibility standards for notice and comment in the **Federal Register** on February 9, 2012, 77 FR 6916. The Access Board's NPRM includes technical design criteria concerning medical equipment that is commonly used by health professionals for diagnostic purposes such as examination tables, examination chairs, weight scales, mammography equipment, and other imaging. The NPRM is available at: *http://www.access-board.gov/mde/nprm.htm.* Since the NPRM publication, the Access Board held two public hearings, on March 14, 2012 and May 8, 2012; the comment period closed on June 8, 2012.

C.1 *Statement of Need:* Under section 510 of the Rehabilitation Act (29 U.S.C. 794f), the Access Board, in consultation with the Commissioner of the Food and Drug Administration, is required to issue standards that contain minimum technical criteria to ensure that medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals are accessible to and usable by individuals with disabilities. The statute provides that the standards must allow for independent access to and use of the medical diagnostic equipment by individuals with disabilities to the maximum extent possible. Section 510 of the Rehabilitation Act requires the standards to be issued not later than 24 months after the enactment of the Patient Protection and Affordable Care Act (P.L. 111–148, 124 Stat. 570). The statutory deadline for issuing the standards was March 23, 2012.

C.2 *Summary of the Legal Basis:* Section 4203 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570) amended title V of the Rehabilitation Act, which establishes rights and protections for individuals with disabilities, by adding section 510.

C.3 *Alternatives:* In developing the NPRM, the Access Board has considered and will continue to consider alternatives proposed by a variety of stakeholders. First, the Access Board considered approaches contained in the Association for the Advancement of Medical Instrumentation's ANSI/AAMI HE 75:2009, "Human factors engineering-Design of medical devices" in developing the proposed standards. ANSI/AAMI HE 75 is a recommended practice that provides guidance on human factors design principles for medical devices. In particular, Chapter 16 of ANSI/AAMI HE 75 provides guidance on accessibility for patients and health care professionals with disabilities (Chapter 16 of ANSI/AAMI HE 75 is available at: *http://www.aami.org/he75/*). The Access Board's proposed standards do not reference the guidance in chapter16 of ANSI/AAMI HE 75 because the guidance is not mandatory. The Access Board seeks to harmonize its standards and guidelines with voluntary consensus standards and plans to participate in future revisions to ANSI/AAMI HE 75.

In addition, the Access Board has consulted closely with the Department of Justice and the Food and Drug Administration in the development of the proposed standards, and plans to continue to work closely with them in the development of the final rule. The Access Board has also established an Advisory Committee to make recommendations to the Board on how to address issues raised in the public comments on the proposed rule.

C.4 *Anticipated Costs and Benefits:* The proposed standards address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. For example, the proposed standards would facilitate independent transfers by individuals with disabilities onto and off of diagnostic equipment, and enable them to maintain their independence, confidence, and dignity, lessening the need for health care personnel to assist individuals with disabilities when transferring on and off of diagnostic equipment. The proposed standards would improve the quality of health care for individuals with disabilities and ensure that they receive examinations, diagnostic procedures, and other health care services equal to those received by individuals without disabilities.

The Access Board has prepared a preliminary regulatory assessment for the proposed standards, which is available on the Access Board's web site at: *http://www.access-board.gov/medical-equipment.htm.* The preliminary assessment compares costs of select medical diagnostic equipment with and without accessibility features in the market. The Access Board is seeking input from the public on costs and benefits associated with these proposed standards to support a final regulatory impact assessment that will accompany the final rule. Section 510 of the Rehabilitation Act does not address

who is required to comply with the standards. Compliance with the standards would not be mandatory unless other agencies adopt the standards as mandatory requirements for entities under their jurisdiction. In July 2010, the Department of Justice issued an advance notice of proposed rulemaking (ANPRM) announcing that it was considering amending its Americans with Disabilities Act (ADA) regulations to ensure that equipment and furniture are accessible to individuals with disabilities. See 75 FR 43452 (July 26, 2010). The ANPRM noted that the ADA has always required the provision of accessible equipment and furniture, and that the Department has entered into settlement agreements with medical care providers requiring them to provide accessible medical equipment. The ANPRM stated that when the Access Board has issued accessibility standards for medical diagnostic equipment, the Department would consider adopting the standards in its ADA regulations. The ANPRM also stated that if the Department adopts the Access Board's accessibility standards for medical diagnostic equipment, it would develop scoping requirements that specify the minimum number of accessible types of equipment required for different medical settings. At that time, the impact of scoping and application of the proposed standards can be more fully assessed.

ATBCB

Proposed Rule Stage

74. Americans With Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 12204, Americans With Disabilities Act of 1990

CFR Citation: 36 CFR part 1196.

Legal Deadline: None.

Abstract: This rulemaking would establish accessibility guidelines to ensure that newly constructed and altered passenger vessels covered by the Americans With Disabilities Act (ADA) are accessible to and usable by individuals with disabilities. The U.S. Department of Transportation and U.S. Department of Justice are expected to adopt the guidelines as enforceable standards in separate rulemakings for the construction and alteration of passenger vessels covered by the ADA.

Statement of Need: Section 504 of the Americans with Disabilities Act (ADA) requires the Access Board to issue accessibility guidelines for the construction and alteration of passenger vessels covered by the law to ensure that the vessels are readily accessible to and usable by individuals with disabilities (42 U.S.C. 12204).

Summary of Legal Basis: Title II of the ADA applies to state and local governments and title III of the ADA applies to places of public accommodation operated by private entities. The ADA covers designated public transportation services provided by state and local governments and specified public transportation services provided by private entities that are primarily engaged in the business of transporting people and whose operations affect commerce. (See 42 U.S.C. 12141 to 12147 and 12184.) Passenger vessels that provide designated public transportation services or specified public transportation services such as ferries and excursion vessels, and passenger vessels that are places of public accommodation such as vessels that provide dinner or sightseeing cruises are covered by the ADA.

Titles II and III of the ADA require the DOT and DOJ to issue accessibility standards for the construction and alteration of passenger vessels covered by the law that are consistent with the guidelines issued by the Access Board. (See 42 U.S.C. 12134(c), 12149(b), and 12186(c).) The DOT has reserved a subpart in its ADA regulations for accessibility standards for passenger vessels in anticipation of the Access Board issuing these guidelines. (See 49 CFR part 39, subpart E.) When DOT and DOJ issue accessibility standards for the construction and alteration of passenger vessels covered by the ADA, vessel owners and operators are required to comply with the standards.

Alternatives: In developing the proposed accessibility guidelines, the Access Board has received and considered extensive input from passenger vessel owners and operators, individuals with disabilities, and other interested parties for more than a decade. The Access Board convened an advisory committee comprised of passenger vessel industry trade groups, passenger vessel owners and operators, disability advocacy groups, and state and local government agencies to advise how to develop the accessibility guidelines. The committee submitted its report to the Access Board in 2000. In addition, over the years, the Access Board issued an ANPRM and three versions of draft accessibility guidelines and conducted in-depth case studies on various passenger vessels. The Access Board solicited and analyzed public comments on these documents in developing the proposed guidelines and regulatory impact analysis. All the published documents together with public comments are available on the Access Board's Web site at: *http://www.access-board.gov/pvaac/*.

Anticipated Cost and Benefits: The compliance costs for certain types of vessels would include: (1) the difference between the cost of constructing a vessel in the absence of the proposed guidelines and the cost of constructing a vessel complying with the guidelines and (2) the additional operation and maintenance costs incurred by vessel owners and operators as a result of complying with the guidelines. For certain large cruise ships, the compliance costs would be estimated based on the number of standard guest rooms and revenues that would be lost when the cruise ships would be replaced by new vessels complying with the proposed guidelines. According to the cruise industry, two guest rooms with mobility features occupy the same square footage as three standard guest rooms resulting in the loss of one standard guest room for every two guest rooms with mobility features. The Board's preliminary estimate of the cost of the draft proposed rule they range from $4 million in 2013 to $45 million in 2012 discounted at 7 percent. The estimate for 2012 is higher than any other year because the methodology assumes that existing vessels would be replaced at the end of their expected service life and a large number of existing vessels are beyond their expect service life so a disproportionate share of the compliance costs are front loaded in the first year.

The proposed guidelines would afford individuals with disabilities the opportunity to travel on passenger vessels for employment, transportation, public accommodation, and leisure. By promoting equality of opportunity, the proposed guidelines would afford individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency. The proposed guidelines promote our national values of equity, human dignity, and fairness, the benefits of which are impossible to quantify.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee.	03/30/98	63 FR 15175
Establishment of Advisory Committee.	08/12/98	63 FR 43136

Action	Date	FR Cite
Availability of Draft Guidelines.	11/26/04	69 FR 69244
ANPRM	11/26/04	69 FR 69246
Comment Period Extended.	03/22/05	70 FR 14435
ANPRM Comment Period End.	07/28/05	
Availability of Draft Guidelines.	07/07/06	71 FR 38563
Notice of Intent to Establish Advisory Committee.	06/25/07	72 FR 34653
Establishment of Advisory Committee.	08/13/07	72 FR 45200
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Local, State.

Federalism: This action may have federalism implications as defined in EO 13132.

URL for More Information: www.access-board.gov/pvacc/index.htm.

URL for Public Comments: www.regulations.gov.

Agency Contact: James Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111, *Phone:* 202 272–0040, *TDD Phone:* 202 272–0062, *Fax:* 202 272–0081, *Email: raggio@access-board.gov.*

RIN: 3014–AA11

ATBCB

75. Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards

Priority: Other Significant.

Legal Authority: 47 U.S.C. 255(e); 29 U.S.C. 794(d)

CFR Citation: 36 CFR part 1193; 36 CFR part 1194.

Legal Deadline: None.

Abstract: This rulemaking would update in a single document the accessibility guidelines for telecommunication equipment and customer premises equipment issued in 1998 under section 255 of the Telecommunications Act of 1966, and the accessibility standards for electronic and information technology issued in 2000 under section 508 of the Rehabilitation Act of 1973, as amended. Section 255 of the Telecommunications Act requires manufacturers of telecommunication equipment and customer premises equipment to ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable. Section 508 of the Rehabilitation Act requires Federal agencies to ensure that electronic and information technology developed, procured, maintained, or used by the agencies allows individuals with disabilities to have comparable access to and use of information and data as afforded others who are not individuals with disabilities, unless an undue burden would be imposed on the Federal agency. The Federal Communications Commission has issued regulations (47 CFR parts 6 and 7) implementing Section 255 of the Telecommunications Act that are consistent with the accessibility guidelines for telecommunication equipment and customer premises equipment. The Federal Acquisition Regulatory Council has incorporated the accessibility standards for electronic and information technology in the Federal Acquisition Regulation (48 CFR Chapter 1). The Federal Communications Commission and Federal Acquisition Regulatory Council are expected to update their regulations in separate rulemakings when the accessibility guidelines for telecommunication equipment and customer premises equipment and accessibility standards for electronic and information technology are updated.

Statement of Need: Since the Access Board first issued the standards and the guidelines, technology has evolved and changed. The Board issued the (Section 508) Electronic and Information Technology Accessibility Standards in December 2000, 65 FR 80500 (December 21, 2000), and the Telecommunications Act Accessibility Guidelines for telecommunications equipment and customer premises equipment in February 1998, 63 FR 5608 (February 3, 1998). The Board has since decided to update and revise these guidelines and the standards together to address changes in technology and to make both documents consistent.

Summary of Legal Basis: Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794(d) (Section 508) requires that when developing, procuring, maintaining, or using electronic and information technology, each federal department or agency must ensure, unless an undue burden would be imposed on the department or agency, that electronic and information technology (regardless of the type of medium) allows individuals with disabilities to have access to and use of information and data that is comparable to the access and use of the information and data by others without disabilities. Section 255 of the Telecommunications Act of 1996, 47 U.S.C. 153, 255 (Section 255) requires telecommunications manufacturers to ensure that telecommunications equipment and customer premises equipment are designed, developed, and fabricated to be accessible to and usable by individuals with disabilities when it is readily achievable to do so.

Alternatives: In developing the ANPRMs, the Board has solicited various stakeholders' views and practices. The Access Board formed the Telecommunications and Electronic and Information Technology Advisory Committee (TEITAC) in 2006 to review the existing guidelines and standards and to recommend changes. TEITAC's 41 members comprised a broad cross-section of stakeholders, including representatives from industry, disability groups, and a number of government agencies in the U.S. and abroad—the European Commission, Canada, Australia, and Japan. Recognizing the importance of standardization across markets worldwide, TEITAC coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium (W3C). TEITAC members addressed a range of issues, including new or convergent technologies, market forces, and international harmonization. On April 3, 2008, TEITAC presented its report to the Board. The report recommended revisions to the Board's Section 508 standards and Section 255 guidelines. The report is available on the Board's Web site at *www.access-board.gov/sec508/refresh/report/.*

Anticipated Cost and Benefits: The Access Board is seeking input from the public on costs and benefits associated with the standards, and working with an outside contractor to assess costs and benefits associated with the proposed rule and to support the preliminary regulatory impact assessment that will accompany the proposed rule.

The Information and Communication Technology Standards and Guidelines will promote open government for all people, regardless of disability status, by providing federal agencies with standards to ensure that when they procure, develop, maintain or use electronic and information technology, that citizens and employees who are individuals with disabilities have access to and use of information and data that is comparable to the access to and use of the information and data by others without disabilities.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts. Accordingly, the agency has incorporated into its rulemaking process extensive outreach efforts to include industry representatives, disability groups, standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium, and other countries such as representatives from the European Commission, Canada, Australia, and Japan.

Timetable:

Action	Date	FR Cite
Establishment of Advisory Committee.	07/06/06	71 FR 38324
ANPRM	03/22/10	75 FR 13457
ANPRM Comment Period End.	06/21/10	
ANPRM	12/08/11	76 FR 76640
ANPRM Comment Period End.	03/07/12	
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal.

URL for More Information: *www.access-board.gov/508.htm.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Lisa Fairhall, Deputy General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004, *Phone:* 202–272–0046, *Fax:* 202–272–0081, *Email:* *fairhall@access-board.gov.*

RIN: 3014–AA37

ATBCB

Final Rule Stage

76. Accessibility Standards for Medical Diagnostic Equipment

Priority: Other Significant

Legal Authority: 29 U.S.C. 794(f)

CFR Citation: 30 CFR part 1197 (New)

Legal Deadline: Final, Statutory, March 22, 2012, 29 U.S.C. 794(f).

Abstract: This regulation will establish minimum technical criteria to ensure that medical equipment used for diagnostic purposes by health professionals in (or in conjunction with) physician's offices, clinics, emergency rooms, hospitals, and other medical settings is accessible to and usable by individuals with disabilities.

Statement of Need: Under section 510 of the Rehabilitation Act (29 U.S.C.794f), the Access Board, in consultation with the Commissioner of the Food and Drug Administration, is required to issue standards that contain minimum technical criteria to ensure that medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals is accessible to and usable by individuals with disabilities. The statute provides that the standards must allow for independent access to and use of the medical diagnostic equipment by individuals with disabilities to the maximum extent possible. Section 510 of the Rehabilitation Act requires the standards to be issued not later than 24 months after the enactment of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570). The statutory deadline for issuing the standards was March 23, 2012.

Summary of Legal Basis: Section 4203 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570) amended title V of the Rehabilitation Act, which establishes rights and protections for individuals with disabilities, by adding section 510.

Alternatives: In developing the NPRM, the Access Board has considered and will continue to consider alternatives proposed by a variety of stakeholders. First, the Access Board considered approaches contained in the Association for the Advancement of Medical Instrumentation's ANSI/AAMI HE 75:2009, "Human factors engineering—Design of medical devices" in developing the proposed standards. ANSI/AAMI HE 75 is a recommended practice that provides guidance on human factors design principles for medical devices. In particular, Chapter 16 of ANSI/AAMI HE 75 provides guidance on accessibility for patients and health care professionals with disabilities (Chapter 16 of ANSI/AAMI HE 75 is available at: *http://www.aami.org/he75/*). The Access Board's proposed standards do not reference the guidance in chapter 16 of ANSI/AAMI HE 75 because the guidance is not mandatory. The Access Board seeks to harmonize its standards and guidelines with voluntary consensus standards and plans to participate in future revisions to ANSI/AAMI HE 75.

In addition, the Access Board has consulted closely with the Department of Justice and the Food and Drug Administration in the development of the proposed standards, and plans to continue to work closely with them in the development of the final rule. The Access Board has also established an Advisory Committee to make recommendations to the Board on how to address issues raised in the public comments on the proposed rule.

Anticipated Cost and Benefits: The proposed standards address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. For example, the proposed standards would facilitate independent transfers by individuals with disabilities onto and off of diagnostic equipment, and enable them to maintain their independence, confidence, and dignity, lessening the need for health care personnel to assist individuals with disabilities when transferring on and off of diagnostic equipment. The proposed standards would improve the quality of health care for individuals with disabilities and ensure that they receive examinations, diagnostic procedures, and other health care services equal to those received by individuals without disabilities.

The Access Board has prepared a preliminary regulatory assessment for the proposed standards, which is available on the Access Board's web site at: *http://www.accessboard.gov/medical-equipment.htm.* The preliminary assessment compares costs of select medical diagnostic equipment with and without accessibility features in the market. The Access Board is seeking input from the public on costs and benefits associated with these proposed standards to support a final regulatory impact assessment that will accompany the final rule.

Section 510 of the Rehabilitation Act does not address who is required to comply with the standards. Compliance with the standards would not be mandatory unless other agencies adopt the standards as mandatory requirements for entities under their jurisdiction. In July 2010, the Department of Justice issued an advance notice of proposed rulemaking (ANPRM) announcing that it was considering amending its Americans with Disabilities Act (ADA) regulations to ensure that equipment and furniture are accessible to individuals with disabilities. See 75 FR 43452 (July 26, 2010). The ANPRM noted that the ADA has always required the provision of accessible equipment and furniture, and that the Department has entered into settlement agreements with medical care providers requiring them to provide accessible medical equipment. The ANPRM stated that when the Access Board has issued accessibility standards for medical diagnostic equipment, the Department would consider adopting the standards in its ADA regulations. The ANPRM also stated that if the

Department adopts the Access Board's accessibility standards for medical diagnostic equipment, it would develop scoping requirements that specify the minimum number of accessible types of equipment required for different medical settings. At that time, the impact of scoping and application of the proposed standards can be more fully assessed.

Timetable:

Action	Date	FR Cite
Notice of Public Information Meeting.	06/22/10	75 FR 35439
NPRM	02/09/12	77 FR 6916
NPRM Comment Period End.	06/08/12	
Notice of Intent to Form Advisory Committee.	03/13/12	77 FR 14706
Final Action	11/00/13	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined.

URL for More Information: *www.access-board.gov/medical-equipment.htm.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: James Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111, *Phone:* 202–272–0040, *TDD Phone:* 202–272–0062, *Fax:* 202–272–0081, *Email:* *raggio@access-board.gov.*

RIN: 3014–AA40

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ENVIRONMENTAL PROTECTION AGENCY (EPA)

Statement of Priorities

Overview

The U.S. Environmental Protection Agency (EPA) was created on December 2, 1970, when Americans across the nation took up a call for cleaner air, safer water and unpolluted land. For the past four decades, EPA has confronted health and environmental challenges, fostered innovations, and cleaned up pollution in the places where people live, work, play and learn.

The EPA remains strongly committed to protecting health and the environment with a focus on:

- Taking action on climate change;
- Improving air quality;
- Assuring the safety of chemicals;
- Cleaning up our communities;
- Protecting America's waters;
- Expanding the conversation on environmentalism and working for environmental justice; and
- Building strong state and tribal partnerships.

EPA and its federal, state, local, and community partners have made enormous progress in protecting the nation's health and environment. From reducing mercury and other toxic air pollution from outdated power plants to doubling the fuel efficiency of our cars and trucks, the Agency is working to save tens of thousands of lives each year and protect the environment. Further, EPA has removed over a billion tons of pollution from the air, and produced hundreds of billions of dollars in benefits for the American people. For example:

- The number of Americans receiving water that meets health standards has gone from 79 percent in 1993 to 92 percent in 2008.
- EPA has also helped realize a 60% reduction in the dangerous air pollutants that cause smog, acid rain, lead poisoning and more since the passage of the Clean Air Act in 1970. Innovations like smokestack scrubbers and catalytic converters in automobiles have helped this process.
- Today, new cars are 98 percent cleaner in terms of smog-forming pollutants than they were in 1970.
- Meanwhile, American families and businesses have gone from recycling about 10 percent of trash in 1980 to more than 34 percent in 2010. Eighty-three million tons of trash are recycled annually—the equivalent of cutting greenhouse gas emissions from more than 33 million automobiles.

Highlights of EPA's Regulatory Plan

EPA's forty years of protecting human health and the environment demonstrates our nation's commitment to reducing pollution that can threaten the air we breathe, the water we use and the communities we live in. Addressing climate change calls for coordinated national and global efforts to reduce emissions and develop new technologies that can be deployed. This Regulatory Plan contains information on some of our most important upcoming regulatory actions. As always, our Semiannual Regulatory Agenda contains information on a broader spectrum of EPA's upcoming regulatory actions.

Seven Guiding Priorities

The EPA's success depends on supporting innovation and creativity in both what we do and how we do it. To guide the agency's efforts, Administrator Lisa P. Jackson has established seven guiding priorities. These priorities are enumerated in the list that follows, along with recent progress and future objectives for each.

1. Taking Action on Climate Change

The Agency will continue to deploy existing regulatory tools where appropriate and warranted. Using the Clean Air Act, EPA will continue to develop greenhouse gas standards for both mobile and stationary sources.

Greenhouse Gas Emission Standards for Power Plants. In April of 2012, EPA proposed emission standards for reducing greenhouse gas emissions new electric power plants. The proposed standards, if finalized, will establish an achievable limit of carbon pollution per megawatt hour for all future units, moving the nation towards a cleaner and more efficient energy future.

Carbon Capture and Storage. EPA proposed a rule to clarify the applicability of the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations to certain Carbon Capture and Storage (CCS) activities. The proposed rule, if finalized, will conditionally exclude CO_2 streams from RCRA hazardous waste requirements when injected into a Class VI Underground Injection Control (UIC) well and meeting certain other conditions. Specifically, the rule will work in conjunction with the Safe Drinking Water Act's Class VI Underground Injection Control Rule, which governs the geological sequestration of CO_2 streams by providing regulatory clarity for defining and managing these CO_2 streams, and help facilitate the deployment of CCS.

2. Improving Air Quality

Since passage of the Clean Air Act Amendments in 1990, nationwide air quality has improved significantly for the six criteria air pollutants for which there are national ambient air quality standards, as well as many other hazardous air pollutants. Long-term exposure to air pollution can cause cancer and damage to the immune, neurological, reproductive, cardiovascular, and respiratory systems.

Reviewing and Implementing Air Quality Standards. Despite progress, millions of Americans still live in areas that exceed one or more of the national standards. Ground-level ozone and particle pollution still present challenges in many areas of the country. This year's regulatory plan describes efforts to review the primary National Ambient Air Quality Standards (NAAQS) for ozone.

Tier 3 Vehicle and Fuel Standards. EPA is now developing vehicle emission and fuel standards to further

reduce NO_X, PM, and air toxics. These standards will also help states to achieve air quality standards.

Cleaner Air From Improved Technology. EPA continues to address hazardous air pollution under authority of the Clean Air Act Amendments of 1990. The centerpiece of this effort is the "Maximum Achievable Control Technology" (MACT) program, which requires that all major sources of a given type use emission controls that better reflect the current state of the art.

3. Assuring the Safety of Chemicals

One of EPA's highest priorities is to make significant and long overdue progress in assuring the safety of chemicals. Using sound science as a compass, EPA protects individuals, families, and the environment from potential risks of pesticides and other chemicals. In its implementation of these programs, EPA uses several different statutory authorities, including the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Federal Food, Drug and Cosmetic Act (FFDCA), the Toxic Substances Control Act (TSCA) and the Pollution Prevention Act (PPA), as well as collaborative and voluntary activities. In 2013, the Agency will continue efforts to enhance its current chemicals management program under TSCA, address concerns with existing chemicals, including PCBs, Mercury, Lead, and Formaldehyde.

EPA's Chemicals Management Program under TSCA. As part of EPA's ongoing efforts to enhance the Agency's existing chemicals management program, EPA continues to take actions identified on priority chemicals and to assess chemicals to determine if action is needed to address potential concerns.

Addressing Concerns with Formaldehyde. As directed by the Formaldehyde Standards for Composite Wood Products Act of 2010, EPA is developing regulations to address formaldehyde emissions from hardwood plywood, particleboard and medium-density fiberboard that is sold, supplied, offered for sale, or manufactured in the United States.

4. Cleaning Up Its Communities

Improve Accountability and Oversight of Hazardous Secondary Materials Recycling. The Definition of Solid Waste (DSW) final rule will take final action on EPA's 2011 DSW proposal, which was developed to improve the accountability and oversight of hazardous secondary materials recycling, while allowing for important flexibilities that will promote its economic and environmental benefits. Through this rulemaking and other partnerships, EPA supports urban, suburban, and rural community goals of improving environmental, human health, and quality-of-life outcomes through partnerships that also promote economic opportunities, energy efficiency, and revitalized neighborhoods. Sustainable communities balance their economic and natural assets so that the diverse needs of local residents can be met now and in the future with limited environmental impacts. EPA accomplishes these outcomes by working with communities, other Federal agencies, States, and national experts to develop and encourage development strategies that have better outcomes for air quality, water quality, and land preservation and revitalization.

5. Protecting America's Waters

Despite considerable progress, America's waters continue to face complex challenges, from nutrient loadings and storm water runoff to invasive species and drinking water contaminants. These challenges demand both traditional and innovative strategies.

Clean Water Protection. U.S. EPA and the U.S. Army Corps of Engineers are developing a proposed rule for determining whether a waterway, water body, or wetland is protected by the Clean Water Act. This rule would make clear which water bodies are protected under the Clean Water Act.

Cooling Water Intake Structures. EPA plans to finalize standards for cooling water intakes for electric power plants and for other manufacturers who use large amounts of cooling water. The goal of the final rule will be to protect aquatic organisms from being killed or injured through impingement or entrainment.

Steam Electric Power Plants. EPA will propose national technology-based regulations, called effluent guidelines, to reduce discharges of pollutants from industries to waters of the U.S. and publicly owned treatment works. These requirements are incorporated into National Pollutant Discharge Elimination System discharge permits issued by EPA and states. The steam electric effluent guidelines apply to steam electric power plants using nuclear or fossil fuels, such as coal, oil and natural gas. Power plant discharges can have major impacts on water quality, including reduced organism abundance and species diversity, contamination of drinking water sources, and other effects. Pollutants of concern include metals (e.g., mercury, arsenic and selenium), nutrients, and total dissolved solids.

Streamlining Drinking Water Standards. EPA plans to propose revisions to the Lead and Copper Rule in fiscal year 2013. Beginning in 2004, EPA conducted a wide-ranging review of implementation of the Lead and Copper Rule (LCR) to determine if there is a national problem related to elevated lead levels. EPA's comprehensive review identified several short-term and long-term regulatory changes. EPA will consider the more recent science and the input from the SAB to prepare proposed regulatory revisions to make the rule more cost effective and more protective of public health.

Electronic Reporting. EPA intends to propose the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule, which would require reports and data to be transmitted electronically rather than in paper form. Through this regulation, EPA will move reporting into the digital age by requiring that most NPDES data be submitted electronically and by streamlining reporting. EPA seeks to ensure that facility-specific information would be readily available, accurate, timely and nationally consistent for the facilities that are regulated by the NPDES program, with minimum burden on the affected entities.

Responding to Oil Spills in U.S. Waters. The Clean Water Act (CWA), as amended by the Oil Pollution Act (OPA), requires that the National Contingency Plan (NCP) include a schedule identifying "dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out" the NCP. The EPA is considering amending the Subpart J of the NCP (the Product Schedule) for a manufacturer to have chemical, biological, or other spill mitigating substances listed on the Product Schedule; updating the listing requirements to reflect new advancements in scientific understanding and, to the extent practicable, considering and addressing concerns regarding the use of dispersants raised during the Deepwater Horizon oil spill.

6. Expanding the Conversation on Environmentalism and Working for Environmental Justice

Environmental Justice in Rulemaking. EPA released an interim guidance document in 2011 to help Agency staff include environmental justice principles in its rulemaking process. The rulemaking guidance is an important and positive step toward meeting EPA Administrator Lisa P.

Jackson's priority to work for environmental justice and protect the health and safety of communities who have been disproportionately impacted by pollution.

Children's Health. EPA continues to lead efforts to protect children from environmental health risks, in accordance with Executive Order 13045. To accomplish this, EPA intends to use a variety of approaches, including regulation, enforcement, research, outreach, community-based programs, and partnerships to protect pregnant women, infants, children, and adolescents from environmental and human health hazards.

7. Building Strong State and Tribal Partnerships

EPA's success depends more than ever on working with increasingly capable and environmentally conscious partners. EPA is supportive of state and tribal capacity to ensure that programs are consistently delivered nationwide. This provides EPA and its intergovernmental partners with an opportunity to further strengthen their working relationship and, thereby, more effectively pursue their shared goal of protecting the nations environmental and public health.

New Tribal Policy—Finalized in 2012, the new EPA Tribal Policy goes well beyond the requirements of the Executive Order on Consultation and Coordination with Indian Tribes (EO 13175). The Policy establishes national guidelines and sets a broad standard for determining which activities are appropriate for tribal consultation. It also encourages flexibility to tailor consultation approaches to reflect circumstances of each consultation situation. The new EPA Tribal Policy is available at *http://www.epa.gov/indian/consultation/.*

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The priorities described above will guide EPA's work in the years ahead. They are built around the challenges and opportunities inherent in our mission to protect health and the environment for all Americans. This mission is carried out by respecting EPA's core values of science, transparency and the rule of law. Within these parameters, EPA carefully considers the impacts its regulatory actions will have on society.

Retrospective Review of Existing Regulations

Just as today's economy is vastly different from that of 40 years before, EPA's regulatory program is evolving to recognize the progress that has already been made in environmental protection and to incorporate new technologies and approaches that allow us to accomplish our mission more efficiently and effectively.

Pursuant to section 6 of Executive Order 13563 "Improving Regulation and Regulatory Review" (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Agency's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan.* However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. EPA's final agency plan can be found at: *http://www.epa.gov/regdarrt/retrospective/.*

Regulatory Identifier No. (RIN)	Rulemaking Title
2060–AO60	New Source Performance Standards (NSPS) Review under CAA § 111(b)(1)(B).
2060–AP06	New Source Performance Standards for Grain Elevators—Amendments.
2060–AR00	Uniform Standards for Equipment Leaks and Ancillary Systems, Closed Vent Systems and Control Devices, Storage Vessels and Transfer Operations, and Wastewater Operations.
2070–AJ75	Electronic Reporting under the Toxic Substances Control Act (TSCA).
2040–AF15	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions.
2040–AF16	Water Quality Standards Regulatory Clarifications.
2040–AF25	National Pollutant Discharge Elimination System (NPDES) Application and Program Updates Rule.
2040–AF29	National Primary Drinking Water Regulations: Group Regulation of Carcinogenic Volatile Organic Compound (VOCs).
2050–AG39	Management Standards for Hazardous Waste Pharmaceuticals.
2050–AG72	Hazardous Waste Requirements for Retail Products; Clarifying and Making the Program More Effective.

Burden Reduction

As described above, EPA continues to review its existing regulations in an effort to achieve its mission in the most efficient means possible. To this end, the Agency is committed to identifying areas in its regulatory program where significant savings or quantifiable reductions in paperwork burdens might be achieved, as outlined in Executive Order 13610, while protecting public health and our environment.

Rules Expected to Affect Small Entities

By better coordinating small business activities, EPA aims to improve its technical assistance and outreach efforts, minimize burdens to small businesses in its regulations, and simplify small businesses' participation in its voluntary programs. Actions that may affect small entities can be tracked on EPA's Regulatory Development and Retrospective Review Tracker (*http://www.epa.gov/regdarrt/*) at any time. This Plan includes a number of rules that may be of particular interest to small entities:

2040–AF15	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions.
2070–AJ44	Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products.
2070–AJ92	Formaldehyde Emission Standards for Composite Wood Products.

International Regulatory Cooperation Activities

EPA has considered international regulatory cooperation activities as described in Executive Order 13609 and has not identified any international activities that are anticipated to lead to significant regulations in the following year.

EPA

Prerule Stage

77. Hydraulic Fracturing Chemicals; Chemical Information Reporting Under TSCA Section 8(A) and Health and Safety Data Reporting Under TSCA Section 8(D)

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Unfunded Mandates: Undetermined.

Legal Authority: 15 U.S.C. 2601 *et seq.*

CFR Citation: 40 CFR part 712; 40 CFR part 716.

Legal Deadline: None.

Abstract: EPA is developing an Advance Notice of Proposed Rulemaking (ANPRM) and intends to initiate a stakeholder process to provide input on the design and scope of possible reporting under the Toxic Substances Control Act (TSCA). EPA anticipates that States, industry, public interest groups and members of the public will be participants in the stakeholder process. The stakeholder process will bring stakeholders together to discuss the information needs and potential reporting under TSCA. As EPA considers potential reporting under TSCA, EPA intends to seek input from the stakeholders to help ensure reporting burdens and costs are minimized, and that information already available is considered in order to avoid duplication of efforts.

Statement of Need: Stakeholder input is needed on the design and scope of possible reporting requirements under Toxic Substances Control Act (TSCA) sections 8(a) and 8(d).

Summary of Legal Basis: TSCA section 8(a) and 8(d).

Alternatives: It is expected that possible alternatives will be identified and evaluated through the ANPRM as part of the stakeholder input process.

Anticipated Cost and Benefits: Costs and benefits will be evaluated during the development of an NPRM.

Risks: Potential risks will be evaluated during development of an NPRM.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Additional Information: Docket #: EPA–HQ–OPPT–2011–1019

URL for More Information: http://www.epa.gov/hydraulicfracture/.

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RIN: 2070–AJ93

EPA

Proposed Rule Stage

78. Review of the National Ambient Air Quality Standards for Ozone

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 7408; 42 U.S.C. 7409

CFR Citation: 40 CFR part 50.

Legal Deadline: None.

Abstract: Under the Clean Air Act, EPA is required to review and, if appropriate, revise the air quality criteria for the primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) every 5 years. On March 23, 2008, the EPA published a final rule to revise the primary and secondary NAAQS for ozone to provide increased protection of public health and welfare. With regard to the primary standard for ozone, EPA revised the level of the 8-hour ozone standard to 0.075 ppm. With regard to the secondary ozone standard, EPA made it identical in all respects to the primary ozone standard, as revised. EPA initiated the current review in October 2008 with a workshop to discuss key policy-relevant issues around which EPA would structure the review. This review includes the preparation of an Integrated Science Assessment, Risk/Exposure Assessment, and a Policy Assessment Document by EPA, with opportunities for review by EPA's Clean Air Scientific Advisory Committee and the public. These documents inform the Administrator's proposed decision as to whether to retain or revise the standards.

Statement of Need: National Ambient Air Quality Standards as required by the CAA.

Summary of Legal Basis: CAA Sections 108 and 109.

Alternatives: Not yet determined.

Anticipated Cost and Benefits: Not yet determined.

Risks: Not yet determined.

Timetable:

Action	Date	FR Cite
Notice	04/28/11	76 FR 23755
NPRM	10/00/13	
Final Rule	09/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State, Tribal.

Additional Information: Docket #: EPA–HQ–OAR–2008–0699.

URL for More Information: http://www.epa.gov/ozone/.

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RIN: 2060–AP38

EPA

79. Petroleum Refinery Sector Risk and Technology Review and NSPS

Priority: Other Significant. Major under 5 U.S.C. 801.

Legal Authority: Clean Air Act secs 111 and 112

CFR Citation: 40 CFR parts 60 and 63.

Legal Deadline: None.

Abstract: This action pertains to the Petroleum Refining industry and specifically to petroleum refinery sources that are subject to maximum achievable control standards (MACT) in 40 CFR part 63, subparts CC (Refinery MACT 1) and UUU (Refinery MACT 2) and new source performance standards (NSPS) in 40 CFR part 60, subpart Ja. Petroleum refineries are facilities engaged in refining and producing products made from crude oil or unfinished petroleum derivatives. Sources include petroleum refinery-specific process units unique to the industry, such as fluid catalytic cracking

units (FCCU) and catalytic reforming units (CRU), as well as units and processes commonly found at other types of manufacturing facilities (including petroleum refineries), such as storage vessels and wastewater treatment plants. Refinery MACT 1 regulates hazardous air pollutant (HAP) emissions from common processes such as miscellaneous process vents (e.g., delayed coking vents), storage vessels, wastewater, equipment leaks, loading racks, marine tank vessel loading, and heat exchange systems at petroleum refineries. Refinery MACT 2 regulates HAP from those processes that are unique to the industry including sulfur recovery units (SRU) and from catalyst regeneration in FCCU and CRU. This action primarily proposes: (1) amendments to Refinery MACT 1 and 2 to address our obligation to assess the risk remaining after application of the original standards in accordance with CAA section 112(f)(2); and (2) amendments resulting from EPA's review of developments in practices, processes, and control technologies that have occurred since the time the EPA adopted the refinery MACT standards in accordance with CAA sections 112(d)(6). In addition, it proposes: (1) new requirements related to emissions during periods of startup, shutdown, and malfunction to ensure that the MACT standards are consistent with court opinions requiring that standards apply at all times and other Clean Air Act programs; and (2) technical corrections and clarifications for Refinery NSPS Ja. These technical corrections and clarifications were raised in a 2008 petition for reconsideration from the American Petroleum Institute, and we are addressing these petition issues in this action because they also affect sources subject to Refinery MACT 2. On January 16, 2009, the EPA Administrator signed a final rule addressing RTR standards for Refinery MACT 1. Upon further review, we determined that this rule may not have accurately characterized the risk posed by this source category. Therefore, we withdrew the risk and technology portions of the rulemaking (76 FR 42052, July 18, 2011). Subsequently, we began a significant effort to gather additional information in 2010 through a comprehensive industry-wide Information Collection Request (ICR) to gather data on HAP, criteria and other pollutants from all refinery processes sufficient to support both the Refinery MACT and NSPS reviews. Data received in response to the ICR will be used to support the analyses for this rulemaking.

Statement of Need: Risk and Technology Review as required by the CAA.

Summary of Legal Basis: CAA sections 111 and 112.

Alternatives: Not yet determined.

Anticipated Cost and Benefits: EPA is currently assessing the costs and benefits associated with this action.

Risks: EPA is currently assessing risks for this action.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	
Final Rule	12/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal, Local, State.

Additional Information: Docket #: EPA–HQ–OAR–2010–0682.

Sectors Affected: 324110 Petroleum Refineries

URL for More Information: http://www.epa.gov/ttn/atw/petrefine/petrefpg.html.

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RIN: 2060–AQ75

EPA

80. Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: CAA 202(a), 202(k), and 211(c)

CFR Citation: 40 CFR part 80; 40 CFR part 85; 40 CFR part 86; 40 CFR part 600; 40 CFR part 1036; 40 CFR part 1037; 40 CFR part 1065; 40 CFR part 1066.

Legal Deadline: None.

Abstract: This action would establish more stringent vehicle emissions standards and reduce the sulfur content of gasoline as part of a systems approach to addressing the impacts of motor vehicles and fuels on air quality and public health. The rule would result in significant reductions in pollutants such as ozone, particulate matter, and air toxics across the country and help state and local agencies in their efforts to attain and maintain health-based National Ambient Air Quality Standards. These proposed vehicle standards are intended to harmonize with California's Low Emission Vehicle program, thus creating a federal vehicle emissions program that would allow automakers to sell the same vehicles in all 50 states. The vehicle standards would also coordinate with the light-duty vehicle greenhouse gas standards for model years 2017–2025, creating a nationwide alignment of vehicle programs for criteria pollutant and greenhouse gases.

Statement of Need: States are working to attain National Ambient Air Quality Standards for ozone, PM, and NO_X. Light-duty vehicles are responsible for a significant portion of the precursors to these pollutants and are large contributors to ambient air toxic pollution. In many nonattainment areas, by 2014, cars and light trucks are projected to contribute 30–45 percent of total nitrogen oxides (NO_X) emissions, 20–25 percent of total volatile organic compound (VOC) emissions, and 5–10 percent of total direct particulate matter ($PM_{2.5}$) emissions. Importantly, without future controls, by 2020 mobile sources are expected to be as much as 50 percent of the inventories of these pollutants for some individual urban areas. EPA has estimated that light-duty vehicles will contribute about half of the 2030 inventory of air toxic emissions from all mobile sources. The most recent National-Scale Air Toxics Assessment in 2005, mobile sources were responsible for over 50 percent of cancer risk and noncancer hazard.

Summary of Legal Basis: The Clean Air Act section 202(a) provides EPA with general authority to prescribe vehicle standards, subject to any specific limitations elsewhere in the Act. In addition, section 202(k) provides EPA with authority to issue and revise regulations applicable to evaporative emissions of hydrocarbons from all gasoline-fueled motor vehicles. EPA is also using its authority under section 211(c) of the Clean Air Act to address gasoline sulfur controls.

Alternatives: The rulemaking proposal will include an evaluation of regulatory alternatives that can be considered in addition to the Agency's primary proposal.

Anticipated Cost and Benefits: Detailed analysis of economy-wide cost impacts, emissions reductions, and societal benefits will be performed during the rulemaking process.

Risks: Approximately 159 million people currently live in counties designated nonattainment for one or more of the NAAQS, and this figure does not include the people living in areas with a risk of exceeding the NAAQS in the future. These people experience unhealthy levels of air pollution, which are linked with respiratory and cardiovascular problems and other adverse health impacts that lead to increased medication use, hospital admissions, emergency department visits, and premature mortality. The reductions in ambient ozone and $PM_{2.5}$ that would result from the proposed Tier 3 standards would provide significant health benefits. In the absence of additional controls such as Tier 3 standards, many counties will continue to have ambient ozone and $PM_{2.5}$ concentrations exceeding the NAAQS in the future. In addition, more than 50 million people live, work, or go to school in close proximity to high-traffic roadways, and the average American spends more than one hour traveling along roads each day. Exposure to traffic-related pollutants has been linked with adverse health impacts such as respiratory problems (particularly in asthmatic children) and cardiovascular problems. The Tier 3 standards would reduce criteria pollutant and air toxic emissions from cars and light trucks, which continue to be a significant contributor to air pollution directly near roads.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	
Final Action	12/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal, Local, Tribal.

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Docket #: EPA–HQ–OAR–2011–0135.

Sectors Affected: 811198 All Other Automotive Repair and Maintenance; 336111 Automobile Manufacturing; 811112 Automotive Exhaust System Repair; 336311 Carburetor, Piston, Piston Ring, and Valve Manufacturing; 336312 Gasoline Engine and Engine Parts Manufacturing; 336120 Heavy Duty Truck Manufacturing; 336112 Light Truck and Utility Vehicle Manufacturing; 454312 Liquefied Petroleum Gas (Bottled Gas) Dealers; 541690 Other Scientific and Technical Consulting Services; 324110 Petroleum Refineries; 484220 Specialized Freight (except Used Goods) Trucking, Local; 484230 Specialized Freight (except Used Goods) Trucking, Long-Distance

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RIN: 2060–AQ86

EPA

81. Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements

Priority: Other Significant.

Legal Authority: 42 U.S.C. 7409; 42 U.S.C. 7410; 42 U.S.C. 7511 to 7511f; 42 U.S.C. 7601(a)(1)

CFR Citation: 40 CFR part 50; 40 CFR part 51; 40 CFR part 70; 40 CFR part 71.

Legal Deadline: None.

Abstract: This proposed rule will address a range of implementation requirements for the 2008 National Ambient Air Quality Standards (NAAQS) for ozone, including requirements pertaining to attainment demonstrations, reasonable further progress, reasonably available control technology, reasonably available control measures, nonattainment new source review, emission inventories, and the timing of State Implementation Plan submissions and compliance. Other issues also addressed in this proposed rule are the revocation of the 1997 ozone NAAQS for purposes other than transportation conformity; anti-backsliding requirements that would apply when the 1997 NAAQS are revoked; and routes to terminate the section 185 fee program.

Statement of Need: This rule is needed to establish submission deadlines and requirements for what states must include in their state implementation plans (SIPs) to bring nonattainment areas into compliance with the 2008 ozone NAAQS. There is no court-ordered deadline for this proposed rule. However, the CAA requires the nonattainment area plans addressed by this rule to be developed and submitted within two to three years after the July 20, 2012 date of nonattainment designations.

Summary of Legal Basis: CAA Section 110.

Alternatives: Not yet determined.

Anticipated Cost and Benefits: The annual burden for this information collection averaged over the first 3 years is estimated to be a total of 120,000 labor hours per year at an annual labor cost of $2.4 million (present value) over the 3-year period or approximately $91,000 per state for the 26 state respondents, including the District of Columbia. The average annual reporting burden is 690 hours per response, with approximately 2 responses per state for 58 state respondents. There are no capital or operating and maintenance costs associated with the proposed rule requirements. Burden is defined at 5 CFR 1320.3(b).

Risks: Not yet determined.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State, Tribal.

Additional Information: Docket #: EPA–HQ–OAR–2010–0885. Split from RIN 2060–AP24.

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RIN: 2060–AR34

EPA

82. • Petroleum Refinery Sector Amendment for Flares

Priority: Other Significant.

Legal Authority: CAA sec 111; CAA sec 112

CFR Citation: 40 CFR part 60; 40 CFR part 63.

Legal Deadline: None.

Abstract: In this action EPA plans to conduct a review of the standards dealing with overall flare performance and efficiency at petroleum refineries. Flares are often used at petrolenm refineries as a control device for regulated vent streams, as well as to handle non-routine emissions (e.g., leaks, purges, emergency releases); and since the development of the current flare regulations, industry has significantly reduced the amount of waste gas being routed to flares. Generally, this reduction has affected

the base load to flares and many are now receiving a small fraction of what the flare was originally designed to receive with only periodic releases of episodic or emergency waste gas that may use up to the full capacity of the flare. Many flare vent gas streams that are regulated by NESHAP and NSPS are often continuous streams that contribute to the base load of a flare; therefore, it is critical for flares to achieve good combustion efficiency at all levels of utilization. The EPA concluded an ad-hoc flare peer review study in the spring of 2012, dedicated to determining parameters for properly designed and operated flares. An eight-person review panel was tasked with answering specific charge questions relating to proper design and operation of steam and air assisted flares. The available data suggest that factors that may affect combustion efficiency and overall flare performance include over-steaming of steam assisted flares, excess aeration of air assisted flares, and maintenance of a stable flame (flame velocity and wind speed). Better flare operation practices will ultimately result in improved combustion efficiencies that have the potential to improve public health by reducing emissions of air toxics and volatile organic compounds that may pose a health risk to vulnerable populations including the young, elderly, and those with respiratory problems. The EPA does not currently plan to include potential flare amendments in RIN 2060–AQ75, "the Petroleum Refinery Sector Risk and Technology Review and NSPS" (described as Item 3 of this Regulatory Plan) because the EPA is currently reviewing the results of the peer review panel and is reaching out to various stakeholders to determine the best approach to ensure a high level of combustion efficiency at flares. The EPA is also evaluating whether to amend 40 CFR part 63, subparts CC and UUU (a.k.a., Refinery Maximum Achievable Control Technology (MACT) 1 and 2) and the Refinery New Source Performance Standards (NSPS) 40 CFR subpart Ja or to develop a separate set of requirements for flares since there are other industries in addition to the refining industry that rely on flares.

Statement of Need: Revising work practice standards for flares and the refining industry to assure proper operation and good combustion efficiency as part of EPA's technology review obligation under CAA section 112.

Summary of Legal Basis: CAA section 111 and 112.

Alternatives: Not yet determined.

Anticipated Cost and Benefits: Not yet determined.

Risks: Risk will be addressed under a separate RTR package (See RIN 2060–AQ75).

Timetable:

Action	Date	FR Cite
NPRM	11/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal.

Federalism: Undetermined.

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RIN: 2060–AR69

EPA

83. NPDES Electronic Reporting Rule

Priority: Other Significant.

Legal Authority: 33 U.S.C. 1314(i) and 1361(a); CWA sections 304(i) and 501(a)

CFR Citation: 40 CFR part 123; 40 CFR part 403 ; 40 CFR part 501.

Legal Deadline: None.

Abstract: The EPA has responsibility to ensure that the Clean Water Act's (CWA) National Pollutant Discharge Elimination System (NPDES) program is effectively and consistently implemented across the country. This regulation would mandate electronic reporting of NPDES data. Through this regulation, EPA seeks to ensure that such facility-specific information would be accurate, timely, and nationally consistent on the facilities that are regulated by the NPDES program. In the past, EPA primarily obtained this information from the Permit Compliance System (PCS). However, the evolution of the NPDES program since the inception of PCS has created an increasing need to better reflect a more complete picture of the NPDES program and the diverse universe of regulated sources. In addition, information technology has advanced significantly so that PCS no longer meets EPA's national needs to manage the full scope of the NPDES program or the needs of individual states that use PCS to implement and enforce the NPDES program.

Statement of Need: EPA views the draft proposed rule as a key means to transform the NPDES program, and provide significant savings and flexibilities to States and the NPDES-regulated universe. The electronic availability of the information would enable States and EPA to better ensure the protection of public health and the environment, effectively manage the national NPDES permitting and enforcement program, monitor compliance, redirect resources, and identify and address environmental problems.

Summary of Legal Basis: The Clean Water Act establishes a comprehensive program for protecting and restoring our Nation's waters. The Clean Water Act established the NPDES permit program to authorize and regulate the discharges of pollutants to waters of the United States. Section 402(a). EPA is proposing this rule under CWA sections 101(f), 304(i), 308, 402, and 501. This proposed rule, which is intended to reduce resource burdens associated with the paper-based system and increase the speed, quality and scope of information echoes the goals of CWA section 101(f). CWA section 304(i)(2) authorizes EPA to promulgate guidelines establishing the minimum procedural and other elements of state programs under section 402, including reporting requirements and procedures to make information available to the public. In addition, EPA is proposing this rule under section 308, which authorizes EPA to require information to carry out the objectives of the CWA, including section 402, which establishes the NPDES permit program. EPA is proposing this rule under CWA sections 402(b) and (c), which require each authorized state, tribe, or territory to ensure that permits meet certain substantive requirements, and provide EPA information from point sources, industrial users, and the authorized program in order to ensure proper oversight. Finally, EPA is issuing this rule under CWA section 501, which authorizes EPA to prescribe such regulations as are necessary to carry out provisions of the Act.

Alternatives: Within the rulemaking process itself, various alternatives are being considered. One alternative would be status quo, where most States are moving toward electronic reporting of some NPDES information. However, unless electronic reporting is made mandatory, participation is not high and States are essentially operating two different reporting systems (i.e., one electronic-based and one paper-based). States also find that they must implement a costly public relations

effort to recruit new users and train new users. State development of their own electronic reporting tools is an additional cost of the status quo. As another alternative, in the absence of electronically available information, EPA could seek this NPDES information from each State, as each State should currently be receiving this information in hard-copy format from regulated facilities. Another alternative that EPA could consider in rule implementation is whether third-party vendors may be better equipped to develop and modify such electronic reporting tools than EPA or States.

Anticipated Cost and Benefits: The economic analysis for the draft proposed rule indicates that significant savings should be anticipated after full implementation. Savings of approximately $30.3 million annually should be realized within three years after the final rule. Most of these savings (approximately $28.5 million) would accrue to the States, largely because of the elimination of data entry by States of paper-based discharge monitoring reports (DMRs) and program reports. The regulated universe would also receive some annual savings and would benefit from reduced incidence of data errors in transcription of the data from hard-copy submissions to electronic form. Some States (e.g., Ohio) have been able to quantify savings realized through mandatory electronic reporting. Additional benefits of this rule will include improved transparency of information regarding the NPDES program, improved information regarding the national NPDES program, improved targeting of resources based on identified program needs and noncompliance problems, and ultimately improved protection of public health and the environment. Some NPDES information associated with NPDES program implementation activities (e.g., permit issuance, inspections, violations, enforcement actions) will also be reported by States to EPA. There will be some upfront initial investment costs needed to realize these savings. EPA will have initial implementation costs to revise the data systems and to develop tools for electronic reporting by permittees, as well as annual operation and maintenance costs associated with those tools (in addition to ongoing ICIS–NPDES operation and maintenance costs). States would have initial investment costs associated with data system upgrades (if not already done) and initial data entry for facilities not currently tracked electronically.

Risks: EPA does not receive sufficient facility-specific NPDES information from the states to be able to fully assess the full scope of compliance with the national NPDES program. This lack of complete information on compliance may adversely impact the states' and EPA's ability to better ensure the protection of public health and the environment, nationally and locally.

Timetable:

Action	Date	FR Cite
NPRM	02/00/13	
Final Rule	01/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State.

Federalism: This action may have federalism implications as defined in EO 13132.

URL for More Information: http://www.regulations.gov/exchange/topic/npdes.

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RIN: 2020–AA47

EPA

84. Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products

Priority: Other Significant.

Legal Authority: 15 U.S.C. 2697; TSCA sec 601

CFR Citation: 40 CFR part 770.

Legal Deadline: Final, Statutory, January 1, 2013, Deadline for promulgation of regulations, per 15 U.S.C. 2697(d).

Abstract: On July 7, 2010, the Formaldehyde Standards for Composite Wood Products Act was enacted. This law amends Toxic Substances Control Act (TSCA) to establish specific formaldehyde emission limits for hardwood plywood, particleboard, and medium-density fiberboard, which are identical to the California emission limits for these products. The law further requires EPA to promulgate implementing regulations by January 1, 2013. This rulemaking includes provisions related to third-party testing and certification. EPA intends to propose a third-party certification program that will help ensure compliance with the emissions standards. A separate Regulatory Agenda entry (RIN 2070–AJ92) covers the other regulations to implement the statutory formaldehyde emission standards for hardwood plywood, medium-density fiberboard, and particleboard sold, supplied, offered for sale, or manufactured (including imported) in the United States.

Statement of Need: Formaldehyde is a colorless, flammable gas at room temperature that has a strong odor. It is found in resins used in the manufacture of composite wood products (i.e., hardwood plywood, particleboard, and medium-density fiberboard). It is also found in household products such as glues, permanent press fabrics, carpets, antiseptics, medicines, cosmetics, dishwashing liquids, fabric softeners, shoe care agents, lacquers, plastics, and paper product coatings. It is a by-product of combustion and certain other natural processes. Examples of sources of formaldehyde gas inside homes include cigarette smoke, unvented, fuel-burning appliances (gas stoves, kerosene space heaters), and composite wood products made using formaldehyde-based resins.

Summary of Legal Basis: The Formaldehyde Standards for Composite Wood Products Act, which created title VI of the Toxic Substances Control Act (TSCA), established formaldehyde emission standards for composite wood products (hardwood plywood, medium-density fiberboard (MDF), and particleboard) sold, supplied, offered for sale or manufactured in the United States. Under TSCA title VI, manufacturers of composite wood products must comply with specific formaldehyde emission standards, and their compliance must be verified by a third-party certifier (TPC).

Alternatives: TSCA title VI establishes national formaldehyde emission limits for hardwood plywood, particleboard, and medium-density fiberboard and EPA has not been given the authority to change the limits. However, EPA will evaluate various implementation alternatives during the course of this rulemaking.

Anticipated Cost and Benefits: EPA is currently evaluating the costs and benefits of this action.

Risks: EPA is currently evaluating the risks presented by exposure to formaldehyde emissions from composite wood products (hardwood plywood, medium-density fiberboard (MDF), and particleboard) in excess of the statutory limits.

Formaldehyde is both an irritant and a known human carcinogen. Depending on concentration, formaldehyde can cause eye, nose, and throat irritation, even when exposure is of relatively short duration. In the indoor environment, sensory reactions and various symptoms as a result of mucous membrane irritation are some potential effects from exposure. There is also evidence that formaldehyde may be associated with changes in pulmonary function and increased risk of asthma in children. In addition, formaldehyde is a by-product of human metabolism; therefore, endogenous levels are present in the body.

Timetable:

Action	Date	FR Cite
ANPRM	12/03/08	73 FR 73620
Second ANPRM	01/30/09	74 FR 5632
NPRM	01/00/13	
Final Rule	02/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: Docket #: ANPRM stage: EPA–HQ–OPPT–2008–0627; NPRM Stage: EPA–HQ–OPPT–2011–0380.

Sectors Affected: 541611 Administrative Management and General Management Consulting Services; 541990 All Other Professional, Scientific, and Technical Services; 561990 All Other Support Services; 813910 Business Associations; 541330 Engineering Services; 813920 Professional Organizations; 321219 Reconstituted Wood Product Manufacturing; 541380 Testing Laboratories; 3212 Veneer, Plywood, and Engineered Wood Product Manufacturing.

URL for More Information: http://www.epa.gov/opptintr/chemtest/formaldehyde/index.html.

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RIN: 2070–AJ44

EPA

85. Formaldehyde Emissions Standards for Composite Wood Products

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Pub. L. 104–4.

Legal Authority: 15 U.S.C. 2697; TSCA sec 601

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Statutory, January 1, 2013, Deadline for promulgation of regulations, per 15 U.S.C. 2697(d).

Abstract: On July 7, 2010, the Formaldehyde Standards for Composite Wood Products Act was enacted. This law amends TSCA to establish specific formaldehyde emission limits for hardwood plywood, particleboard, and medium-density fiberboard, which limits are identical to the California emission limits for these products. The law further requires EPA to promulgate implementing regulations by January 1, 2013. This rulemaking will address the mandate to promulgate regulations to implement the statutory formaldehyde emission standards for hardwood plywood, medium-density fiberboard, and particleboard sold, supplied, offered for sale, or manufactured (including imported) in the United States. As directed by the statute, EPA will also consider provisions relating to, among other things, laminated products, products made with no added formaldehyde resins, testing requirements, product labeling, chain of custody documentation and other recordkeeping requirements, and product inventory sell-through provisions. A separate Regulatory Agenda entry (RIN 2070–AJ44) covers the mandate for EPA to promulgate regulations to address requirements for accrediting bodies and third-party certifiers.

Statement of Need: Formaldehyde is a colorless, flammable gas at room temperature that has a strong odor. It is found in resins used in the manufacture of composite wood products (i.e., hardwood plywood, particleboard, and medium-density fiberboard). It is also found in household products such as glues, permanent press fabrics, carpets, antiseptics, medicines, cosmetics, dishwashing liquids, fabric softeners, shoe care agents, lacquers, plastics, and paper product coatings. It is a by-product of combustion and certain other natural processes. Examples of sources of formaldehyde gas inside homes include cigarette smoke, unvented, fuel-burning appliances (gas stoves, kerosene space heaters), and composite wood products made using formaldehyde-based resins.

Summary of Legal Basis: The Formaldehyde Standards for Composite Wood Products Act, which created title VI of the Toxic Substances Control Act (TSCA), established formaldehyde emission standards for composite wood products (hardwood plywood, medium-density fiberboard (MDF), and particleboard) sold, supplied, offered for sale or manufactured in the United States. Under TSCA title VI, manufacturers of composite wood products must comply with specific formaldehyde emission standards, and their compliance must be verified by a third-party certifier (TPC).

In addition, Congress directed EPA to consider a number of elements for inclusion in implementing the regulations. These elements include: labeling, chain of custody requirements, sell-through provisions, ultra low-emitting formaldehyde resins, no added formaldehyde-based resins, finished goods, third-party testing and certification, auditing and reporting of TPCs, recordkeeping, enforcement, laminated products, and exceptions from the requirements of regulations promulgated for products and components containing de minimis amounts of composite wood products.

Alternatives: TSCA title VI establishes national formaldehyde emission limits for hardwood plywood, particleboard, and medium-density fiberboard and EPA has not been given the authority to change the limits. However, EPA will evaluate various implementation alternatives during the course of this rulemaking.

Anticipated Cost and Benefits: EPA is currently evaluating the costs and benefits of this action.

Risks: EPA is currently evaluating the risks presented by exposure to formaldehyde emissions from composite wood products (hardwood plywood, medium-density fiberboard (MDF), and particleboard) in excess of the statutory limits.

Formaldehyde is both an irritant and a known human carcinogen. Depending on concentration, formaldehyde can cause eye, nose, and throat irritation, even when exposure is of relatively short duration. In the indoor environment, sensory reactions and various symptoms as a result of mucous membrane irritation are some potential effects from exposure. There is also evidence that formaldehyde may be associated with changes in pulmonary function and increased risk of asthma in children. In addition, formaldehyde is a by-product of human metabolism;

therefore, endogenous levels are present in the body.

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Sectors Affected: 325199 All Other Basic Organic Chemical Manufacturing; 423110 Automobile and Other Motor Vehicle Merchant Wholesalers; 337212 Custom Architectural Woodwork and Millwork Manufacturing; 321213 Engineered Wood Member (except Truss) Manufacturing; 423210 Furniture Merchant Wholesalers; 442110 Furniture Stores; 444130 Hardware Stores; 321211 Hardwood Veneer and Plywood Manufacturing; 444110 Home Centers; 337127 Institutional Furniture Manufacturing; 423310 Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers; 453930 Manufactured (Mobile) Home Dealers; 321991 Manufactured Home (Mobile Home) Manufacturing; 336213 Motor Home Manufacturing; 337122 Nonupholstered Wood Household Furniture Manufacturing; 444190 Other Building Material Dealers; 423390 Other Construction Material Merchant Wholesalers; 325211 Plastics Material and Resin Manufacturing; 321992 Prefabricated Wood Building Manufacturing; 321219 Reconstituted Wood Product Manufacturing; 441210 Recreational Vehicle Dealers; 337215 Showcase, Partition, Shelving, and Locker Manufacturing; 321212 Softwood Veneer and Plywood Manufacturing; 336214 Travel Trailer and Camper Manufacturing; 337121 Upholstered Household Furniture Manufacturing; 337110 Wood Kitchen Cabinet and Countertop Manufacturing; 337211 Wood Office Furniture Manufacturing; 337129 Wood Television, Radio, and Sewing Machine Cabinet Manufacturing

URL for More Information: http://www.epa.gov/opptintr/chemtest/formaldehyde/index.html

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RIN: 2070–AJ92

EPA

86. Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan; Subpart J Product Schedule Listing Requirements

Priority: Other Significant.

Legal Authority: 33 U.S.C. 1321(d)(2); 33 U.S.C. 1321(b)(3); 33 U.S.C. 1321(j)

CFR Citation: 40 CFR part 300; 40 CFR part 110.

Legal Deadline: None.

Abstract: The Clean Water Act requires EPA to prepare a schedule identifying dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out the National Contingency Plan (NCP); and the waters and quantities in which they may be used. EPA is considering revising subpart J of the NCP to address the efficacy, toxicity, and environmental monitoring of dispersants, other chemical and biological agents, and other spill mitigating substances, as well as public, State, local, and Federal officials' concerns on their authorization and use. Specifically, the Agency is considering revisions to the technical product requirements under subpart J, including amendments to the effectiveness and toxicity testing protocols, and establishing new effectiveness and toxicity thresholds for listing certain products on the Schedule. Additionally, the Agency is considering amendments to area planning requirements for agent use authorization, and advanced monitoring techniques. The Agency is also considering revisions to harmonize 40 CFR part 110.4 with the definitions for chemical and biological agents proposed for subpart J. These changes, if finalized, will help ensure that chemical and biological agents have met rigorous efficacy and toxicity requirements, that product manufacturers provide important use and safety information, and that the planning and response community is equipped with the proper information to authorize and use the products in a judicious and effective manner.

Statement of Need: The use of dispersants in response to the Deepwater Horizon incident, both on surface slicks and injected directly into the oil from the well riser, raised many questions about efficacy, toxicity, environmental trade-offs, and monitoring challenges. The Agency is considering amendments to subpart J that would increase the overall scientific soundness of the data collected on mitigation agents, take into consideration not only the efficacy but also the toxicity, long-term environmental impacts, endangered species protection, and human health concerns raised during responses to oil discharges, including the Deepwater Horizon incident. The additional data requirements being considered would aid OSCs and RRTs when evaluating specific product information and when deciding whether and which products to use to mitigate hazards caused by discharges or threatened discharges of oil. Additionally, the Agency is considering amendments to area planning requirements for dispersant use authorization, toxicity thresholds, and advanced monitoring techniques. This action is a major component of EPA's effort to inform the use of dispersants and other chemical or biological agents when responding to oil discharges based on lessons learned from the Federal Government's experiences in responding to off-shore oil discharges, including the Deepwater Horizon incident, in the Gulf of Mexico and anticipation of the expansion of oil exploration and production activities in the Arctic.

Summary of Legal Basis: The Federal Water Pollution Control Act (FWPCA) requires the President to prepare and publish a National Contingency Plan (NCP) for the removal of oil and hazardous substances. In turn, the President delegated the authority to implement this section of the FWPCA to EPA through Executive Order 12777 (56 FR 54757; October 22, 1991). Section 311(d)(2)(G)(i) of the FWPCA (a.k.a., Clean Water Act), as amended by the OPA, requires that the NCP include a schedule identifying "dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out" the NCP. Currently, the use of dispersants, other chemicals, and other oil spill mitigating devices and substances (e.g., bioremediation agents) to respond to oil discharges in U.S. waters is governed by subpart J of the NCP (40 CFR part 300 series 900).

Alternatives: The Agency is not proposing to maintain the status quo, and will consider alternatives to the current regulation that address the efficacy, toxicity, and environmental monitoring of dispersants, and other chemical and biological agents, as well as public, State, local, and Federal officials' concerns regarding their use.

Specifically, the alternative requirements to the current NCP Product Schedule (Schedule) consider new listing criteria, revisions to the efficacy and toxicity testing protocols, and clarifications to the evaluation criteria for removing products from the Schedule. EPA is also considering alternatives to the current requirements for the authorities, notifications, monitoring, and data reporting when using chemical or biological agents in response to oil discharges in waters of the U.S. The alternatives to the exxisting rule being considered are intended to encourage the development of safer and more effective spill mitigating products, to better target the use of these products in order to reduce the risks to human health and the environment, and to ensure that On-Scene Coordinators (OSCs), Regional Response Teams (RRTs), and Area Committees have sufficient information to support agent preauthorization or authorization of use decisions.

Anticipated Cost and Benefits: Not yet determined.

Risks: Although major catastrophic oil discharges where chemical or biological agents may be used are relatively infrequent, this proposed rulemaking under subpart J may lead to the manufacture and use of less toxic, more effective oil spill mitigating products. The use of these products may reduce the potential for human and environmental impact, emergency response duration, and costs associated with any oil discharge. However, the impacts will vary greatly depending on factors that include the size, location, and duration of an oil discharge, as well as the type of oil being discharged. While the reduction in environmental impacts associated with the use of oil spill mitigating agents driven by this action are likely small for typical oil discharges, they could be significant in the event of a large oil discharge.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Federal, Local, State, Tribal.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: Includes Retrospective Review under Executive Order 13563.

Sectors Affected: 325 Chemical Manufacturing; 424 Merchant Wholesalers, Nondurable Goods; 211 Oil and Gas Extraction; 541 Professional, Scientific, and Technical Services; 562 Waste Management and Remediation Services.

URL for More Information: www.epa.gov/oilspill.

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RIN: 2050–AE87

EPA

87. Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 33 U.S.C. 1311; 33 U.S.C. 1314; 33 U.S.C. 1316; 33 U.S.C. 1317; 33 U.S.C. 1318; 33 U.S.C. 1342; 33 U.S.C. 1361

CFR Citation: 40 CFR part 423 (revision).

Legal Deadline: NPRM, Judicial, December 14, 2012, Consent Decree.

Final, Judicial, April 19, 2013, 4/19/2013—Consent Decree deadline for Final Action—Defenders of Wildlife v. Jackson, 10—1915, D. D.C.

Abstract: EPA establishes national technology-based regulations, called effluent limitations guidelines and standards, to reduce discharges of pollutants from industries to waters of the U.S. These requirements are incorporated into National Pollutant Discharge Elimination System (NPDES) discharge permits issued by EPA and States and through the national pretreatment program. The steam electric effluent guidelines apply to steam electric power plants using nuclear or fossil fuels, such as coal, oil, and natural gas. There are about 1,200 nuclear- and fossil-fueled steam electric power plants nationwide; approximately 500 of these power plants are coal-fired. In a study completed in 2009, EPA found that the current regulations, which were last updated in 1982, do not adequately address the pollutants being discharged and have not kept pace with changes that have occurred in the electric power industry over the last three decades. Power plant discharges can have impacts on water quality, including reduced organism abundance and species diversity and contamination of drinking water sources. Pollutants of concern include metals (e.g., mercury, arsenic, and selenium), nutrients, and total dissolved solids.

Statement of Need: As described, EPA determined the existing regulations do not adequately address the pollutants being discharged and that revisions are appropriate.

Summary of Legal Basis: Section 301(b)(2) of the Clean Water Act requires EPA to promulgate effluent limitations for categories of point sources, using technology-based standards, that govern the sources' discharge of certain pollutants. 33 U.S.C. Section 1311(b). Section 304(b) of the Act directs EPA to develop effluent limitations guidelines (ELGs) that identify certain technologies and control measures available to achieve effluent reductions for each point source category, specifying factors to be taken into account in identifying those technologies and control measures. 33 U.S.C. Section 1314(b). Since the 1970s, EPA has formulated effluent limitations and ELGs in tandem through a single administrative process. Am. Frozen Food Inst. v. Train, 539 F.2d 107 (DC Cir. 1976). The CWA also requires EPA to perform an annual review of existing ELGs and to revise them, if appropriate. 33 U.S.C. Section 1314(b); see also 33 U.S.C. Section 1314(m)(1)(A). EPA originally established effluent limitations and guidelines for the steam electric generating industry in 1974 and last updated them in 1982. 47 Fed. Reg. 52,290 (Nov. 19, 1982).

Alternatives: To be determined.

Anticipated Cost and Benefits: To be determined.

Risks: To be determined.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	
Final Rule	04/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Additional Information: Docket #: EPA–HQ–OW–2009–0819.

Sectors Affected: 221112 Fossil Fuel Electric Power Generation; 221113 Nuclear Electric Power Generation.

URL for More Information: http://water.epa.gov/scitech/wastetech/guide/steam_index.cfm.

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RIN: 2040–AF14

EPA

88. National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 300f *et seq.*

CFR Citation: 40 CFR part 141; 40 CFR part 142.

Legal Deadline: None.

Abstract: Beginning in 2004, EPA conducted a wide-ranging review of implementation of the Lead and Copper Rule (LCR) to determine if there is a national problem related to elevated lead levels. EPA's comprehensive review consisted of several elements, including a series of workshops designed to solicit issues, comments, and suggestions from stakeholders on particular issues; a review of monitoring data to evaluate the effectiveness of the LCR; and a review of the LCR implementation by States and water utilities. As a result of this multi-part review, EPA identified seven targeted rules changes and EPA promulgated a set of short-term regulatory revisions and clarifications on October 10, 2007, to strengthen implementation of the existing Lead and Copper Rule. In developing the short-term revisions, EPA identified several regulatory changes to be considered as part of identifying more comprehensive changes to the rule. These considerations are longer-term in nature as they require additional data collection, research, analysis, and stakeholder involvement to support decisions. This action addresses the remaining regulatory revisions to be completed in the 2013/2014 time frame. Changes will be made to make the rule more cost effective and more protective of public health.

Statement of Need: EPA identified several regulatory changes to he considered as part of identifying more comprehensive changes to the rule. These considerations are longer-term in nature as they require additional data collection, research, analysis, and stakeholder involvement to support decisions. Changes will be made to make the rule more cost effective and more protective of public health.

Summary of Legal Basis: The Safe Drinking Water Act (SDWA) (42 U.S.C. 300f *et seq.*) requires EPA to establish maximum contaminant level goals (MCLGs) and National Primary Drinking Water Regulations (NPDWRs) for contaminants that may have an adverse effect on the health of persons, may occur in public water systems at a frequency and level of public concern, and in the sole judgment of the Administrator, regulation of the contaminant would present a meaningful opportunity for health risk reduction for persons served by public water systems (section 1412(b)(1)(A)). The 1986 amendments to SDWA established a list of 83 contaminants for which EPA is to develop MCLGs and NPDWRs, which included lead and copper. The 1991 NPDWR for Lead and Copper (56 FR 26460, U.S. EPA, 1991a) fulfilled the requirements of the 1986 SDWA amendments with respect to lead and copper." EPA promulgated a set of short-term regulatory revisions and clarifications on October 10, 2007, to strengthen implementation of the existing Lead and Copper Rule. In developing the short-term revisions, EPA identified several regulatory changes to be considered as part of identifying more comprehensive changes to the rule. These considerations are longer-term in nature as they require additional data collection, research, analysis, and stakeholder involvement to support decisions. Changes will be made to make the rule more cost effective and more protective of public health.

Alternatives: To be determined.

Anticipated Cost and Benefits: To be determined.

Risks: To he determined.

Timetable:

Action	Date	FR Cite
NPRM	09/00/13	
Final Rule	05/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Additional Information: This action includes retrospective review under EO 13563; see: *http://www.epa.gov/regdarrt/retrospective/history.html.*

URL for More Information: http://water.epa.gov/lawsregs/rulesregs/sdwa/lcr/index.cfm.

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RIN: 2040–AF15

EPA

89. Clean Water Protection Rule

Priority: Other Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 33 U.S.C. 1251

CFR Citation: Not Yet Determined

Legal Deadline: None.

Abstract: After U.S. Supreme Court decisions in SWANCC and Rapanos, the scope of "waters of the US" protected under all CWA programs has been an issue of considerable debate and uncertainty. The Act has a single definition for "waters of the United States." As a result, these decisions affect the geographic scope of all CWA programs. SWANCC and Rapanos did not invalidate the current regulatory definition of "waters of the United States." However, the decisions established important considerations for how those regulations should be interpreted, and experience implementing the regulations has identified several areas that could benefit from additional clarification through rulemaking. U.S. EPA and the U.S. Army Corps of Engineers are developing a proposed rule for determining whether a water is protected by the Clean Water Act. This rule would clarify which water bodies are protected under the Clean Water Act.

Statement of Need: After U.S. Supreme Court decisions in SWANCC and Rapanos, the scope of "waters of the US" protected under all CWA programs has heen 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 he interpreted, and experience implementing the regulations has identified several areas that could benefit from additional clarification through rulemaking. U.S. EPA and the U.S. Army Corps of Engineers are developing a proposed rule for determining whether a water is

protected by the Clean Water Act. This rule would clarify which water bodies are protected under the Clean Water Act.

Summary of Legal Basis: To be determined.

Alternatives: To be determined.

Anticipated Cost and Benefits: To be determined.

Risks: To be determined.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

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RIN: 2040–AF30

EPA

Final Rule Stage

90. Greenhouse Gas New Source Performance Standard for Electric Generating Units for New Sources

Priority: Other Significant.

Legal Authority: CAA 111

CFR Citation: 40 CFR part 60.

Legal Deadline: None.

Abstract: This action will amend the new sonrce performance standards (NSPS) for electric generating units (EGUs) and will establish the first NSPS for greenhouse gas (GHG) emissions. The rule will establish CO2 emission standards for certain new and reconstructed fossil fuel-fired electric generating units (EGUs).

Statement of Need: Electric Generating Units (EGUs) are the largest stationary source of greenhouse gas (GHG) emissions in the US. Plants have a 40 plus year life, so sources that commence construction today may be emitting GHGs past 2050.

Summary of Legal Basis: In Massachusetts vs. EPA, in April of 2007 the Supreme Court found that EPA has authority to regulate greenhouse gases under the Clean Air Act. One of the logical outgrowths of the Massachusetts decision is that EPA should be addressing significant GHG emissions from stationary sources.

Alternatives: While we proposed a standard of 1000 lbs GHG/MWh, we took comment on a range of standards from 950 lbs GHG/MWh to 1100 Lbs GHG/MWh. We also proposed to allow coal-fired units to comply using a 30 year average, and took comment on various ways to average GHG emissions across time.

Anticipated Cost and Benefits: Because both Energy Information Administration (EIA) and EPA do not project any new coal-fired EGUs to be constructed beyond a handful that will install CCS (as part of a DOE demonstration project), we do not project costs and benefits associated with the rule.

Risks: The risk addressed is the current and future threat of climate change to public health and welfare, as demonstrated in the 2009 Endangerment and Cause or Contribute Findings for Greenhouse Gases Under section 202(a) of the Clean Air Act. The EPA made this determination based primarily upon the recent, major assessments by the U.S. Global Change Research Program (USGCRP), the National Research Council (NRC) of the National Academies and the Intergovernmental Panel on Climate Change (IPCC).

Timetable:

Action	Date	FR Cite
NPRM	04/13/12	77 FR 22392
Final Rule	03/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Energy Effects: Statement of Energy Effects planned as required by Executive Order 13211.

Additional Information: Docket #: EPA–HQ–OAR–2011–0660.

Sectors Affected: 221 Utilities.

URL for Public Comments: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2011-0660-0001.

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RIN: 2060–AQ91

EPA

91. Hazardous Waste Management Systems: Identification and Listing of Hazardous Waste: Carbon Dioxide (CO_2) Streams in Geological Sequestration Activities

Priority: Other Significant.

Legal Authority: 42 U.S.C. 6912; 42 U.S.C. 6921 to 29; 42 U.S.C. 6934

CFR Citation: 40 CFR parts 260 to 261.

Legal Deadline: None.

Abstract: On July 25, 2008, EPA published a proposed rule under the Safe Drinking Water Act Underground Injection Control Program to create a new class of injection wells (Class VI) for geological sequestration (GS) of carbon dioxide (CO_2). In response to that proposal, EPA received numerous comments asking for clarification on how the Resource Conservation and Recovery Act (RCRA) hazardous waste requirements apply to CO_2 streams. EPA is considering a rule that would conditionally exclude from the RCRA requirements CO_2 streams that otherwise meet the definition of hazardous waste, in order to facilitate implementation of GS, while protecting human health and the environment.

Statement of Need: The development of the proposed rule was the result of numerous outside stakeholder comments seeking clarity on the applicability of the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations to carbon dioxide (CO_2) streams to be geologically sequestered in Underground Injection Control (UIC) Class VI wells. These comments, received in response to a separate proposed rulemaking establishing new UIC Class VI permitting standards, were from industry, trade groups, State and local representatives, environmental interest groups, and concerned citizens. In addition, on February 3, 2010, President Obama established an Interagency Task Force on CCS composed of 14 Executive Departments and Federal Agencies. The Task Force, co-chaired by the Department of Energy and EPA, was charged with proposing a plan to overcome the barriers to the widespread, cost-effective deployment of Carbon Capture and Storage (CCS) within ten years, with a goal of bringing five to ten commercial demonstration projects online by 2016. One of the Task Force recommendations was that EPA propose and finalize a rulemaking to clarify the applicability of RCRA to CCS activities.

Summary of Legal Basis: 42 U.S.C. 6912, 42 U.S.C. 6921–29, and 42 U.S.C. 6934 provide the legal authority for this rule.

Anticipated Cost and Benefits: Due to the high level of uncertainty regarding the percent of CO_2 that may be generated as RCRA hazardous waste and the uncertainty regarding the actual number of facilities potentially affected over the projected 50 year period, EPA's best estimate for the impacts of the proposed rule ranges from a low-end annualized net savings of $7.3 million (7% discount rate) to the high-end annualized net savings of $44.9 million (3% discount rate).

Risks: EPA stated in the proposal its belief that the management of CO_2 streams in accordance with the proposed conditions and thus excluded from RCRA would not present a substantial risk to human health or the environment and, therefore, additional regulation pursuant to RCRA's hazardous waste regulations is unnecessary.

Timetable:

Action	Date	FR Cite
NPRM	08/08/11	76 FR 48073
Notice	09/09/11	76 FR 55846
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, State, Tribal.

Additional Information: Docket #: EPA–HQ–RCRA–2010–0695. NPRM—*http://www.regulations.gov/#!documentDetail;* D=EPA-HQ-RCRA-2010-0695-0001; Notice—*http://www.regulations.gov/#!documentDetail;D=EPA-HQ-RCRA-2010-0695-0054.*

Sectors Affected: 211111 Crude Petroleum and Natural Gas Extraction.

URL for More Information: http://www.epa.gov/epawaste/nonhaz/industrial/geo-sequester/index.htm.

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RIN: 2050–AG60

EPA

92. Rulemaking on the Definition of Solid Waste

Priority: Other Significant.

Legal Authority: 42 U.S.C. 6903; RCRA sec 1004

CFR Citation: 40 CFR 261.2.

Legal Deadline: NPRM, Judicial, June 30, 2011, The settlement agreement requires signature of the proposed rule by June 30, 2011.

Final, Judicial, December 31, 2012, The settlement agreement requires signature of the final rule by December 31, 2012.

Abstract: EPA's reexamination of the 2008 definition of solid waste final rule identified areas that could be improved to better protect public health and the environment with a particular focus on adjacent communities. Potential regulatory changes should improve accountability and oversight of hazardous materials recycling, while allowing flexibility to promote economic and environmental benefits. Facilities affected include those that send hazardous waste offsite to be recycled and those that recycle hazardous waste onsite.

Statement of Need: The new DSW rulemaking may address concerns raised about potential adverse impacts to human health and the environment from the 2008 DSW final rule, including potential disproportionate impacts to minority and low income communities.

Summary of Legal Basis: These regulations are promulgated under the authority of sections 2002, 3001, 3002, 3003, 3004, 3007, 3010 and 3017 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6921, 6922, 6923 and 6924. This statute is commonly referred to as "RCRA."

Alternatives: Alternatives considered include (1) no action (retain the 2008 DSW rule), and (2) additional regulatory requirements for hazardous secondary materials recycling.

Anticipated Cost and Benefits: The Regulatory Impact Analysis (RIA) for the 2011 DSW proposed rule estimates the future average annualized costs to industry to comply with the proposed revisions at between $7.2 million and $47.5 million per year. However, in many cases these costs are not direct costs, but rather are reduced savings from what a company might have otherwise experienced under the 2008 DSW rule. In other words, companies that are currently operating under full Subtitle C hazardous waste regulations would still experience cost savings under the 2011 DSW proposal, but not as much cost savings as they would under the 2008 DSW final rule.

The RIA identifies three categories of expected future benefits for the final action consisting of: (1) Reduction in future environmental damages from industrial recycling of hazardous secondary materials; (2) improved industry environmental compliance; and (3) indirect legal and financial benefits to industry consisting of reduced liability, less uncertainty for regulated facilities, and lower legal and financial credit costs. However, the RIA does not quantify or monetize these benefit categories.

Risks: The 2012 DSW rule is expected to reduce overall risks to human health and the environment as compared to the 2008 DSW rule.

Timetable:

Action	Date	FR Cite
NPRM	07/22/11	76 FR 44094
Notice	08/26/11	76 FR 53376
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Federal, State.

Additional Information: Docket #: EPA–HQ–RCRA–2010–0742.

Sectors Affected: 61 Educational Services; 31–33 Manufacturing; 54 Professional, Scientific, and Technical Services; 92 Public Administration.

URL for More Information: http://www.epa.gov/epawaste/hazard/dsw/rulemaking.htm.

URL for Public Comments: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-RCRA-2010-0742-0001.

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RIN: 2050–AG62

EPA

93. Criteria and Standards for Cooling Water Intake Structures

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Pub. L. 104–4.

Legal Authority: CWA 101; CWA 301; CWA 304; CWA 308; CWA 316; CWA 401; CWA 402; CWA 501; CWA 510

CFR Citation: 40 CFR part 122; 40 CFR part 125.

Legal Deadline: NPRM, Judicial, March 28, 2011, NPRM: 3/28/2011—Settlement Agreement—As per 14 day extension granted 3/10 (or 4 days if no CR). Riverkeeper v. EPA, 06-12987, SDNY (signed 11/22/2010).

Final, Judicial, June 27, 2013, Settlement Agreement—Riverkeeper v. EPA, 06–12987, SDNY (signed 07/17/2012).

Abstract: Section 316(b) of the Clean Water Act (CWA) requires EPA to ensure that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available (BTA) for minimizing adverse environmental impacts. Under a consent decree with environmental organizations, EPA divided the section 316(b) rulemaking into three phases. All new facilities except offshore oil and gas exploration facilities were addressed in Phase I in December 2001; in July, 2004, EPA promulgated Phase II which covered large existing electric generating plants; and all new offshore oil and gas exploration facilities were later addressed in June 2006 as part of Phase III. In July 2007, EPA suspended the Phase II rule following the Second Circuit decision. Several parties petitioned the U.S. Supreme Court to review that decision, and the Supreme Court granted the petitions, limited to the issue of whether the Clean Water Act authorized EPA to consider the relationship of costs and benefits in establishing section 316(b) standards. On April 1, 2009, the Supreme Court reversed and remanded the case to the Second Circuit. The Second Circuit subsequently granted a request from EPA that the case be returned to the Agency for further consideration. Petitions to review this rule were filed in the U.S. Court of Appeals for the Fifth Circuit. In July 2010, the U. S. Court of Appeals for the Fifth Circuit issued a decision upholding EPA's rule for new offshore oil and gas extraction facilities. Further, the court granted the request of EPA and environmental petitioners in the case to remand the existing facility portion of the rule back to the Agency for further rulemaking. EPA entered into a settlement agreement with the plaintiffs in two lawsuits related to Section 316(b) rulemakings. Under the settlement agreement, as twice modified, EPA agreed to sign a notice of a proposed rulemaking implementing section 316(b) of the CWA at existing facilities no later than March 28, 2011 and to sign a notice taking final action on the proposed rule no later than June 27, 2013. Plaintiffs agreed to seek dismissal of both their suits, subject to a request to reopen one of the lawsuits in the event EPA failed to meet the agreed deadlines. EPA's proposed regulation includes uniform controls at all existing facilities to prevent fish from being trapped against screens (impingement), site-specific controls for existing facilities other than new units to prevent fish from being drawn through cooling systems (entrainment), and uniform controls equivalent to closed cycle cooling for new units at existing facilities. Other regulatory options analyzed included similar uniform impingement controls, and progressively more stringent requirements for entrainment controls. Another option considered would imposed the uniform impingement controls only for facilities withdrawing 50 million or more gallons per day of cooling water, with site-specific impingement controls for facilities withdrawing less than 50 million gallons per day. EPA issued two Notices of Data Availability (NODA) in June 2012 that described flexibilities EPA is considering as part of the impingement mortality limitations and that described the preliminary results of surveys of households' willingness to pay for incremental reductions in fish mortality.

Statement of Need: The Clean Water Act requires EPA to establish best technology available standards to minimize adverse environmental impacts from cooling water intake structures. On February 16, 2004, EPA took final action on regulations governing cooling water intake structures at certain existing power producing facilities under section 316(b) of the Clean Water Act (Phase II rule). 69 FR 41576 (July 9, 2004). These regulations were challenged, and the Second Circuit remanded several provisions of the Phase II rule on various grounds. Riverkeeper, Inc. v. EPA, 475F.3d83, (2d Cir., 2007). EPA suspended most of the rule in response to the remand. 72 FR 37107 (July 9, 2007). The remand of Phase III does not change permitting requirements for these facilities. Until the new rule is issued, permit directors continue to issue permits on a case-by-case, Best Professional Judgment basis for Phase II facilities.

Summary of Legal Basis: On February 16, 2004, EPA took final action on regulations governing cooling water intake structures at certain existing power producing facilities under section 316(b) of the Clean Water Act (Phase II rule). 69 FR 41576 (July 9, 2004). These regulations were challenged, and the Second Circuit remanded several provisions of the Phase II rule on various grounds. Riverkeeper, Inc. v. EPA, 475F.3d83, (2d Cir., 2007). EPA suspended most of the rule in response to the remand. 72 FR 37107 (July 9, 2007). The remand of Phase III does not change permitting requirements for these facilities. Until the new rule is issued, permit directors continue to issue permits on a case-by-case, Best Professional Judgment basis for Phase II facilities.

Alternatives: This analysis will cover various sizes and types of potentially regulated facilities, and control technologies. EPA is considering whether to regulate on a national basis, by subcategory, by broad water body category, on a site-specific basis, or some other basis.

Anticipated Cost and Benefits: The technologies under consideration in this rulemaking are similar to the technologies considered for the original Phase II and Phase III rules, and costs have been updated to 2009. The annual social costs associated with EPA's proposed regulation are $384 million, plus an additional $15 million in costs associated with the new units provision. EPA monetized only a portion of the expected annual benefits of the rule, amounting to $18 million.

Risks: Cooling water intake structures may pose significant risks for aquatic ecosystems.

Timetable:

Action	Date	FR Cite
NPRM	04/20/11	76 FR 22174
NPRM Comment Period Extended.	07/20/11	76 FR 43230
Notice	06/11/12	77 FR 34315
Notice	06/12/12	77 FR 34927
Final Rule	05/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Federal, Local, State.

Additional Information: Docket #: EPA–HQ–OW–2008–0667.

Sectors Affected: 336412 Aircraft Engine and Engine Parts Manufacturing; 332999 All Other Miscellaneous Fabricated Metal Product Manufacturing; 321999 All Other Miscellaneous Wood Product Manufacturing; 324199 All Other Petroleum and Coal Products Manufacturing; 326299 All Other Rubber Product Manufacturing; 331521 Aluminum Die-Casting Foundries; 331524 Aluminum Foundries (except Die-Casting); 331315 Aluminum Sheet, Plate, and Foil Manufacturing; 311313 Beet Sugar Manufacturing; 313210 Broadwoven Fabric Mills; 311312 Cane Sugar Refining; 327310 Cement Manufacturing; 611310 Colleges, Universities, and Professional Schools;

333120 Construction Machinery Manufacturing; 333922 Conveyor and Conveying Equipment Manufacturing; 331525 Copper Foundries (except Die-Casting); 339914 Costume Jewelry and Novelty Manufacturing; 211111 Crude Petroleum and Natural Gas Extraction; 321912 Cut Stock, Resawing Lumber, and Planing; 332211 Cutlery and Flatware (except Precious) Manufacturing; 312140 Distilleries; 221121 Electric Bulk Power Transmission and Control; 221122 Electric Power Distribution; 331112 Electrometallurgical Ferroalloy Product Manufacturing; 313320 Fabric Coating Mills; 333111 Farm Machinery and Equipment Manufacturing; 311225 Fats and Oils Refining and Blending; 221112 Fossil Fuel Electric Power Generation; 332212 Hand and Edge Tool Manufacturing; 332510 Hardware Manufacturing; 221111 Hydroelectric Power Generation; 212210 Iron Ore Mining; 331111 Iron and Steel Mills; 221210 Natural Gas Distribution; 211112 Natural Gas Liquid Extraction; 221113 Nuclear Electric Power Generation; 332323 Ornamental and Architectural Metal Work Manufacturing; 221119 Other Electric Power Generation; 332618 Other Fabricated Wire Product Manufacturing; 332439 Other Metal Container Manufacturing; 332919 Other Metal Valve and Pipe Fitting Manufacturing; 321918 Other Millwork (including Flooring); 312229 Other Tobacco Product Manufacturing; 333923 Overhead Traveling Crane, Hoist, and Monorail System Manufacturing; 322130 Paperboard Mills; 324110 Petroleum Refineries; 325992 Photographic Film, Paper, Plate, and Chemical Manufacturing; 333315 Photographic and Photocopying Equipment Manufacturing; 212391 Potash, Soda, and Borate Mineral Mining; 332117 Powder Metallurgy Part Manufacturing; 331312 Primary Aluminum Production; 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum); 333911 Pump and Pumping Equipment Manufacturing; 336510 Railroad Rolling Stock Manufacturing; 321219 Reconstituted Wood Product Manufacturing; 326192 Resilient Floor Covering Manufacturing; 331221 Rolled Steel Shape Manufacturing; 322291 Sanitary Paper Product Manufacturing; 321113 Sawmills; 331492 Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum); 337215 Showcase, Partition, Shelving, and Locker Manufacturing; 321212 Softwood Veneer and Plywood Manufacturing; 311222 Soybean Processing; 221330 Steam and Air-Conditioning Supply; 331222 Steel Wire Drawing; 111991 Sugar Beet Farming; 111930 Sugarcane Farming; 311311 Sugarcane Mills; 326211 Tire Manufacturing (except Retreading); 312210 Tobacco Stemming and Redrying; 311221 Wet Corn Milling

URL for More Information: http://water.epa.gov/lawsregs/lawsguidance/cwa/316b/index.cfm.

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RIN: 2040–AE95

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Statement of Regulatory and Deregulatory Priorities

The mission of the Equal Employment Opportunity Commission (EEOC, Commission, or Agency) is to ensure equality of opportunity in employment by vigorously enforcing and educating the public about the following Federal statutes: Title VII of the Civil Rights Act of 1964, as amended (prohibits employment discrimination on the basis of race, color, sex (including pregnancy), religion, or national origin); the Equal Pay Act of 1963, as amended (makes it illegal to pay unequal wages to men and women performing substantially equal work under similar working conditions at the same establishment); the Age Discrimination in Employment Act of 1967, as amended (prohibits employment discrimination based on age of 40 or older); titles I and V of the Americans with Disabilities Act, as amended, and sections 501 and 505 of the Rehabilitation Act, as amended (prohibit employment discrimination based on disability); Title II of the Genetic Information Nondiscrimination Act (prohibits employment discrimination based on genetic information and limits acquisition and disclosure of genetic information); and section 304 of the Government Employee Rights Act of 1991 (protects certain previously exempt State & local government employees from employment discrimination on the basis of race, color, religion, sex, national origin, age, or disability).

The first three items in this Regulatory Plan are the three remaining items identified in the EEOC's Plan for Retrospective Analysis of Existing Rules in compliance with Executive Order 13563: (1) "Revisions to Procedures for Complaints or Charges of Employment Discrimination Based on Disability Subject to the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973," (2) "Revisions to Procedures for Complaints/Charges of Employment Discrimination Based on Disability Filed Against Employers Holding Government Contracts or Subcontracts," and (3) "Revisions to Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance." These revisions pertain to joint coordination regulations that EEOC has with the Department of Justice and the Department of Labor (DOL) (29 CFR parts 1640, 1641 and 1691) which govern the agencies' internal charge/complaint handling procedures. The EEOC plans to propose to amend and revise these regulations so that they conform to each other and to EEOC's recently revised Memorandum of Understanding with DOL's Office of Federal Contract Compliance Programs. The resulting revisions are expected to make the agency's regulatory program more effective and will not impose any regulatory costs on employers or complainants/charging parties. They instead will provide a net benefit to stakeholders and the agencies by creating consistency between these coordination regulations.

The fourth item in this Regulatory Plan is entitled "Revisions to the Federal Sector's Affirmative Employment Obligations of Individuals with Disabilities Under Section 501, as amended." This revision pertains to the Federal Government's affirmative employment obligations pursuant to section 501 of the Rehabilitation Act, as reflected in 29 CFR part 1614. The EEOC plans to develop a Notice of Proposed Rulemaking to seek comment on revisions to the current rule at 29 CFR section 1614.203 which would reflect a more detailed explanation of how Federal Agencies and Departments should give full consideration to the hiring, placement, and advancement of qualified individuals with disabilities. Any revisions would be informed by Management Directive 715, and may include goals consistent with Executive Order 13548. Furthermore, any revisions would result in costs only to the Federal Government; would contribute to increasing the employment of individuals with disabilities; and would not affect risks to public health, safety, or the environment.

Consistent with section 4(c) of Executive Order 12866, this statement was reviewed and approved by the

Chair of the Agency. The statement has not been reviewed or approved by the other members of the Commission.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563, "Improving Regulation and Regulatory Review" (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the EEOC's final retrospective review of regulations plan. Some of the entries on this list may be completed actions, which do not appear in The Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov (*http://reginfo.gov/*) in the Completed Actions section. These rulemakings can also be found on Regulations.gov (*http://regulations.gov*). The EEOC's final Plan for Retrospective Analysis of Existing Rules can be found at: *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm.*

RIN	Title	Effect on small business
3046–AA91	Revisions to Procedures for Complaints or Charges of Employment Discrimination Based on Disability Subject to the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973.	This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient.
3046–AA92	Revisions to Procedures for Complaints/Charges of Employment Discrimination Based on Disability Filed Against Employers Holding Government Contracts or Subcontracts.	This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient.
3046–AA93	Revisions to Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance Completed.	This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient.
	Completed	
3046–AA76	Disparate Impact and Reasonable Factors Other Than Age Under the Age Discrimination in Employment Act.	This rulemaking is not expected to alter burdens on small businesses.
3046–AA73	Federal Sector Equal Employment Opportunity Complaint Processing.	This rulemaking does not apply to small businesses. It applies only to the Federal Government.

EEOC

Proposed Rule Stage

94. • Revisions to Procedures for Complaints or Charges of Employment Discrimination Based on Disability Subject to the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973

Priority: Other Significant.

Legal Authority: 5 U.S.C. 301; 29 U.S.C. 794(d); 42 U.S.C. 12117(b); EO 12067

CFR Citation: 29 CFR part 1640.

Legal Deadline: None.

Abstract: The EEOC has a joint regulation with the Department of Justice (DOJ) to explain how Federal agencies that provide financial assistance should process disability-based employment discrimination complaints/charges against entities subject to both title I of the Americans with Disabilities Act, as amended (ADA) (prohibiting disability-based employment discrimination by employers with 15 or more employees), and section 504 of the Rehabilitation Act (Section 504) (prohibiting disability-based discrimination in programs or activities receiving Federal financial assistance).[1]

This proposed rule would amend this joint regulation to revise the definitions of certain terms and clarify the procedures for referring these complaints/charges between agencies with responsibility for enforcing title I of the ADA and section 504. These revisions would create consistency between this regulation and two other coordination regulations (29 CFR part 1641 and 29 CFR part 1691), as well as with the recently revised Memorandum of Understanding (MOU) between the EEOC and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). This MOU addresses the investigation and processing of complaints or charges alleging employment discrimination that may fall within the jurisdiction of title VII of the Civil Rights Act of 1964, as amended, and/or Executive Order 11246.

Statement of Need: This regulation was identified as needing revision during a retrospective analysis of existing rules that took place in 2011 under Executive Order 13563. It is identified in EEOC's Final Plan for Retrospective Analysis of Existing Rules available at: *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm.*

Alternatives: The EEOC will consider all alternatives offered by the public commenters.

Anticipated Cost and Benefits: These procedures govern the agencies' internal handling of complaints/charges of employment discrimination and do not impose any regulatory costs on employers or complainants/charging parties. The revised procedures, however, will provide a net benefit to stakeholders and the agencies by creating consistency between this coordination regulation and others.

Risks: The proposed changes do not affect risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Agency Contact: Corbett L. Anderson, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202 663–4579, *Fax:* 202 663–4679, *Email: corbett.anderson@eeoc.gov.*

Kerry Leibig, Senior Attorney Advisor, Office of the Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE.,

[1] The proposed rule would also incorporate provisions established by the DOJ's rule on title II of the ADA (which prohibits discrimination on the basis of disability in all programs and activities of State and local government entities) for coordinating the processing of discrimination complaints that: (1) Fall within the jurisdiction of title II and title I (but are not covered by section 504); and (2) fall within the jurisdiction of title II, but not title I (whether or not they are covered by section 504). See 28 CFR 35.171(b)(2) and (3). The revisions described above would not impact the portions of the regulation addressing title II.

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Related RIN: Related to 3046–AA92, Related to 3046–AA93.

RIN: 3046–AA91

EEOC

95. • Revisions to Procedures for Complaints/Charges of Employment Discrimination Based on Disability Filed Against Employers Holding Government Contracts or Subcontracts

Priority: Other Significant.

Legal Authority: 42 U.S.C. 12117(b); EO 12067

CFR Citation: 29 CFR part 1641.

Legal Deadline: None.

Abstract: The EEOC has a joint regulation with the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) to coordinate the processing of disability-based employment discrimination complaints/charges filed against employers holding Government contracts or subcontracts, where the complaints/charges appear to state a claim under both section 503 of the Rehabilitation Act (Section 503) (requiring affirmative action and prohibiting disability-based employment discrimination by Federal Government contractors and subcontractors), and title I of the ADA (prohibiting disability-based employment discrimination by employers with 15 or more employees).

This proposed rule would amend this joint regulation to revise the definition of certain terms and clarify the procedures for referring these complaints/charges between the agencies with responsibility for enforcing section 503 and title I of the ADA. These revisions would create consistency between this regulation and two other coordination regulations (29 CFR part 1640 and 29 CFR part 1691), as well as the recently revised Memorandum of Understanding between EEOC and OFCCP. This MOU addresses the investigation and processing of complaints or charges alleging employment discrimination that may fall within the jurisdiction of title VII of the Civil Rights Act of 1964, as amended and/or Executive Order 11246.

Statement of Need: This regulation was identified as needing revision during a retrospective analysis of existing rules that took place in 2011 under Executive Order 13563. It is identified in EEOC's Final Plan for Retrospective Analysis of Existing Rules available at: *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm.*

Alternatives: The EEOC will consider all alternatives offered by the public commenters.

Anticipated Cost and Benefits: These procedures govern the agencies' internal handling of complaints/charges of employment discrimination and do not impose any regulatory costs on employers or complainants/charging parties. The revised procedures, however, will provide a net benefit to stakeholders and the agencies by creating consistency between this coordination regulation and others.

Risks: The proposed changes do not affect risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Agency Contact: Corbett L. Anderson, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202 663–4579, *Fax:* 202 663–4679, *Email: corbett.anderson@eeoc.gov.*

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Related RIN: Related to 3046–AA91, Related to 3046–AA93.

RIN: 3046–AA92

EEOC

96. • Revisions to Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance

Priority: Other Significant.

Legal Authority: EO 12250; EO 12067

CFR Citation: 29 CFR part 1691.

Legal Deadline: None.

Abstract: The EEOC has a joint regulation with the Department of Justice (DOJ) to explain how Federal agencies that grant financial assistance or revenue sharing funds should process complaints of employment discrimination subject to various EEO statutes if the complaints allege discrimination that is also prohibited by title VII of the Civil Rights Act of 1964, as amended (Title VII), or the Equal Pay Act of 1963 (EPA).[1] This proposed rule would amend this joint regulation to revise the definitions of certain terms and clarify the procedures for handling these complaints. The revisions would create consistency between this regulation and two other coordination regulations (29 CFR part 1640 and 29 CFR part 1641), as well as the recently revised Memorandum of Understanding between EEOC and the Department of Labor's Office Federal Contract Compliance Programs. This MOU addresses the investigation and processing of complaints or charges alleging employment discrimination that may fall within the jurisdiction of title VII and/or Executive Order 11246.

Statement of Need: This regulation was identified as needing revision during a retrospective analysis of existing rules that took place in 2011 under Executive Order 13563. It is identified in EEOC's Final Plan for Retrospective Analysis of Existing Regulations available at: *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm.*

Alternatives: The EEOC will consider all alternatives offered by the public commenters.

Anticipated Cost and Benefits: These procedures govern the agencies' internal handling of complaints of employment discrimination and do not impose any regulatory costs on employers or complainants. The revised procedures, however, will provide a net benefit to stakeholders and the agencies by creating consistency between this coordination regulation and others.

Risks: The proposed changes do not affect risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Agency Contact: Corbett L. Anderson, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202

[1] The relevant EEO statutes are: Title VI of the Civil Rights Act of 1964, title IX of 1972, the State and Local Fiscal Assistance Act of 1972, as amended (the revenue sharing act), and provisions similar to title VI and title IX in Federal grant statutes to the extent they prohibit discrimination on the basis of race, color, religion, sex, or national origin.

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Kerry Leibig, Senior Attorney Advisor, Office of the Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202 663–4516, *Fax:* 202 663–4679, *Email:* *kerry.leibig@eeoc.gov. Related RIN:* Related to 3046–AA91, Related to 3046–AA92. *RIN:* 3046–AA93

EEOC

97. • Revisions to the Federal Sector's Affirmative Employment Obligations of Individuals With Disabilities Under Section 501 of the Rehabilitation Act of 1973, as Amended

Priority: Other Significant.

Legal Authority: 29 U.S.C. 791(b)

CFR Citation: 29 CFR 1614.203(a).

Legal Deadline: None.

Abstract: Section 501 of the Rehabilitation Act, as amended (Section 501), prohibits discrimination against individuals with disabilities in the Federal Government. The EEOC's regulations implementing section 501, as set forth in 29 CFR part 1614, require Federal agencies and departments to be "model employers" of individuals with disabilities."[2]

This proposed rule would revise the Federal Government's affirmative employment obligations in 29 CFR part 1614, to include a more detailed explanation of how Federal agencies and departments should "give full consideration to the hiring, placement and advancement of qualified individuals with disabilities."[3] The revisions would be informed by the discussion in Management Directive 715 of the tools Federal agencies should use to establish goals for the employment and advancement of individuals with disabilities. The revisions may also include goals consistent with Executive Order 13548 to increase the employment of individuals with disabilities, with a particular focus on the employment of individuals with targeted disabilities.

Statement of Need: Pursuant to section 501 of the Rehabilitation Act, the Commission is authorized to issue such regulations as it deems necessary to carry out its responsibilities under this Act. Executive Order 13548 called for increased efforts by Federal agencies and departments to recruit, hire, retain, and return individuals with disabilities to the Federal workforce.

Alternatives: The EEOC will consider all alternatives offered by public commenters.

Anticipated Cost and Benefits: Any costs that might result would only be borne by the Federal Government. The revisions would contribute to increased employment of individuals with disabilities.

Risks: The proposed changes do not affect risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal.

Agency Contact: Christopher Kuczynski, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202 663–4665, *TDD Phone:* 202 663–7026, *Fax:* 202 663–4679, *Email:* *christopher.kuczynski@eeoc.gov.*

Related RIN: Related to 3046–AA73.

RIN: 3046–AA94

BILLING CODE 6570–01–P

GENERAL SERVICES ADMINISTRATION (GSA)–REGULATORY PLAN–OCTOBER 2012

I. Mission and Overview

GSA oversees the business of the Federal Government. GSA's acquisition solutions supplies Federal purchasers with cost-effective, high-quality products and services from commercial vendors. GSA provides workplaces for Federal employees and oversees the preservation of historic Federal properties. GSA helps keep the Nation safe by providing tools, equipment, and non-tactical vehicles to the U.S. military, and providing State and local governments with law enforcement equipment, firefighting and rescue equipment, and disaster recovery products and services.

GSA serves the public by delivering services directly to its Federal customers through the Federal Acquisition Service (FAS), the Public Buildings Service (PBS), and the Office of Governmentwide Policy (OGP). GSA has a continuing commitment to its Federal customers and the U.S. taxpayers by providing those services in the most cost-effective manner possible.

Federal Acquisition Service (FAS)

FAS is the lead organization for procurement of products and services (other than real property) for the Federal Government. The FAS organization leverages the buying power of the Government by consolidating Federal agencies' requirements for common goods and services. FAS provides a range of high-quality and flexible acquisition services that increase overall Government effectiveness and efficiency. FAS business operations are organized into four business portfolios based on the product or service provided to customer agencies: Integrated Technology Services (ITS); Assisted Acquisition Services (AAS); General Supplies and Services (GSS); and Travel, Motor Vehicles, and Card Services (TMVCS). The FAS portfolio structure enables GSA and FAS to provide best value services, products, and solutions to its customers by aligning resources around key functions.

Public Buildings Service (PBS)

PBS is the largest public real estate organization in the United States, providing facilities and workspace solutions to more than 60 Federal agencies. PBS aims to provide a superior workplace for the Federal worker and superior value for the U.S. taxpayer. Balancing these two objectives is PBS' greatest management challenge. PBS' activities fall into two broad areas. The first is space acquisition through both leases and construction. PBS translates general needs into specific requirements, marshals the necessary resources, and delivers the space necessary to meet the respective missions of its Federal clients. The second area is management of space. This involves making decisions on maintenance, servicing tenants, and ultimately, deciding when and how to dispose of a property at the end of its useful life.

Office of Governmentwide Policy (OGP)

OGP sets Governmentwide policy in the areas of personal and real property, travel and transportation, information technology, regulatory information, and use of Federal advisory committees. OGP also helps direct how all Federal supplies and services are acquired as well as GSA's own acquisition programs. OGP's regulatory function fully incorporates the provisions of the President's priorities and objectives under Executive Order 12866 and 13563 with policies covering acquisition, travel, and property and management practices to promote efficient Government operations. OGP's strategic

[2] 29 CFR 1614.203(a).

[3] Id.

direction is to ensure that Governmentwide policies encourage agencies to develop and utilize the best, most cost effective management practices for the conduct of their specific programs. To reach the goal of improving Governmentwide management of property, technology, and administrative services, OGP builds and maintains a policy framework by (1) incorporating the requirements of Federal laws, Executive orders, and other regulatory material into policies and guidelines; (2) facilitating Governmentwide reform to provide Federal managers with business-like incentives and tools and flexibility to prudently manage their assets; (3) identifying, evaluating, and promoting best practices to improve efficiency of management processes; and (4) performing ongoing analysis if existing rules that may be obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive.

OGP's policy regulations are described in the following subsections:

Office of Asset and Transportation Management (Federal Travel Regulation)

Federal Travel Regulation (FTR) enumerates the travel and relocation policy for all title 5 executive agency employees. The Code of Federal Regulations (CFR) is available at *www.gpoaccess.gov/cfr.* Each version is updated as official changes are published in the **Federal Register** (FR). FR publications and complete versions of the FTR are available at *www.gsa.gov/ftr.*

The FTR is the regulation contained in 41 Code of Federal Regulations (CFR), chapters 300 through 304, that implements statutory requirements and executive branch policies for travel by Federal civilian employees and others authorized to travel at Government expense.

The Administrator of General Services promulgates the FTR to: (a) Interpret statutory and other policy requirements in a manner that balances the need to ensure that official travel is conducted in a responsible manner with the need to minimize administrative costs and (b) communicate the resulting policies in a clear manner to Federal agencies and employees.

Office of Asset and Transportation Management (Federal Management Regulation)

Federal Management Regulation (FMR) establishes policy for aircraft, transportation, personal property, real property, and mail management. The FMR is the successor regulation to the Federal Property Management Regulation (FPMR), and it contains updated regulatory policies originally found in the FPMR. However, it does not contain FPMR material that describes how to do business with the GSA.

Office of Acquisition Policy (Federal Acquisition Regulation and GSA Acquisition Regulation Manual)

The Federal Acquisition Regulation (FAR) was established to codify uniform policies for acquisition of supplies and services by executive agencies. It is issued and maintained jointly, pursuant to the Office of Federal Procurement Policy (OFPP) Reauthorization Act, under the statutory authorities granted to the Administrator of General Services, Secretary of Defense, and the Administrator, National Aeronautics and Space Administration. Statutory authorities to issue and revise the FAR have been delegated to the procurement executives in Department of Defense (DoD), GSA, and National Aeronautics and Space Administration (NASA).

GSA helps provide to the public and the Federal buying community the updating and maintaining the FAR, the rule book for all Federal agency procurements. This is achieved through its extensive involvement with the FAR Council. The FAR Council is comprised of senior representation from OFPP, GSA, DoD, and NASA. The FAR Council directs the writing of the FAR cases, which is accomplished, in part, by teams of expert FAR analysts. All changes to the FAR are accompanied by review and analysis of public comment. Public comments play an important role in clarifying and enhancing this rulemaking process. The regulatory agenda pertaining to changes to the FAR can be found in publications of the FAR Unified Agenda on reginfo.gov. The FAR rules are identified under Regulatory Identifier Numbers (RINs) beginning with the 9000—prefix. Additionally, the DoD Regulatory Plan identifies priorities for the FAR.

GSA's internal rules and practices on how it buys goods and services from its business partners are covered by the General Services Administration Acquisition Manual (GSAM) and the General Services Administration Acquisition Regulation (GSAR). The GSAM is closely related to the FAR as it supplements areas of the FAR where GSA has additional and unique regulatory requirements. Office of Acquisition Policy writes and revises the GSAM and the GSAR. The size and scope of the FAR are substantially larger than the GSAR. The GSAM, which incorporates the GSAR, as well as internal agency acquisition policy, rules that require publication fall into two major categories:

- Those that affect GSA's business partners (*e.g.,* prospective offerors and contractors).
- Those that apply to acquisition of leasehold interests in real property. The FAR does not apply to leasing actions. GSA establishes regulations for lease of real property under the authority of 40 U.S.C. 490 note.

GSA Acquisition Regulation (GSAR): The GSAR establishes agency acquisition rules and guidance, which contains agency acquisition policies and practices, contract clauses, solicitation provisions, and forms that control the relationship between GSA and contractors and prospective contractors.

II. Statement of Regulatory and Deregulatory Priorities

FTR Regulatory Priorities

In fiscal year 2013, GSA plans to amend the FTR by:

- Revising the Relocation Income Tax (RIT) Allowance; amending coverage on family relocation;
- Amending the calculations regarding the commuted rate for employee-managed household goods shipments;
- Removing the Conference Lodging Allowance that allows agencies to exceed the established lodging portion of the per diem rate by up to 25 percent;
- Removing 301–74, Conference Planning from the FTR;
- Revising chapter 301, Temporary Duty Travel, ensuring accountability and transparency to aid in meeting agency missions in an effective and efficient manner at the lowest logical travel cost. This revision will increase travel efficiency and effectiveness, reduce costs, promote sustainability, and incorporate industry best practices.
- Revising chapter 302, Relocation Allowances for miscellaneous items to address current Government relocation needs which the last major rewrite (FTR Amendment 2011–01) did not update.

FMR Regulatory Priorities

In fiscal year 2013, GSA plans to amend the FMR by:

- Revising rules regarding management of Government aircraft;
- Adding Conference Planning section (transferred from FTR 301–74);
- Revising rules regarding mail management;
- Amending transportation management regulations by revising coverage on open skies agreements, obligating authority, commuted rate, and transportation data reporting;

• Amending Transportation Management and Audit by revising the requirements regarding the refund of unused and expired tickets;
• Revising rules on the disposal of electronics;
• Revising rules regarding personal property requiring special handling;
• Amending rules regarding the donation of Federal surplus property to address the transfer of title for vehicles, and incorporating provisions to enable Veteran's organizations to receive surplus property;
• Revising rules related to the Federal Asset Sales program, which initiated the program (policies began rulemaking process in fiscal year 2011); and
• Migrating supply and procurement policy from the FPMR to the FMR.

GSAR Regulatory Priorities

GSA plans, in fiscal year 2013 and 2014, to finalize the rewrite of the GSAR to maintain consistency with the Federal Acquisition Regulation (FAR) and to implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships. Currently, there are only a few parts of the GSAR rewrite effort still outstanding.

GSA is clarifying the GSAR by—
• Providing consistency with the FAR;
• Eliminating coverage that duplicates the FAR or creates inconsistencies within the GSAR;
• Correcting inappropriate references listed to indicate the basis for the regulation;
• Rewriting sections that have become irrelevant because of changes in technology or business processes or that place unnecessary administrative burdens on contractors and the Government;
• Streamlining or simplifying the regulation;
• Rolling up coverage from the services and regions/zones that should be in the GSAR;
• Providing new and/or augmented coverage; and
• Deleting unnecessary burdens on small businesses.

Specific GSAR cases that the agency plans to address in FY 2013 and 2014 include:
• The rewrite of GSAM part 515, Contracting by Negotiation;
• The rewrite of GSAM part 538, Federal Supply Schedule Contracting; and
• The rewrite of GSAM part 536, Construction and A/E Contracts.

These cases are more fully described in the Agency's approved Final Plan for Retrospective Analysis of Existing Rules (Aug. 18, 2011), created in response to Executive Order 13563.

Regulations of Concern to Small Businesses

FAR and GSAR rules are relevant to small businesses who do or wish to do business with the Federal Government. Approximately 18,000 businesses, most of whom are small, have GSA schedule contracts. GSA assists its small businesses by providing assistance through its Office of Small Business Utilization. In addition, GSA extensively utilizes its regional resources, within FAS and PBS, to provide grassroots outreach to small business concerns, through hosting such outreach events, or participating in a vast array of other similar presentations hosted by others.

Regulations Which Promote Open Government and Disclosure

There are currently no regulations which promote open Government and disclosure

Regulations Required by Statute or Court Order

GSA plans to publish FTR Case 2011–308; Payment of Expenses Connected with the Death of Certain Employees in FY 2013. Presidential Memorandum "Delegation Under section 2(a) of the Special Agent Samuel Hicks Families of Fallen Heroes Act," dated September 12, 2011, delegates to the Administrator of General Services the authority to issue regulations under Public Law 111–178, the Special Agent Samuel Hicks Families of Fallen Heroes Act, codified at 5 U.S.C. 5724d, relating to the payment of certain expenses when a covered employee dies as a result of injuries sustained in the performance of his or her official duties. GSA is amending the FTR to establish policy for the transportation of the immediate family, household goods, personal effects, and one privately owned vehicle of a covered employee whose death occurred as a result of personal injury sustained while in the performance of the employee's duty as defined by the agency.

GSA plans to publish a FTR Amendment in updating Chapter 303: Payment of Expenses Connected With Death of Certain Employees in FY13. The final rule will incorporate language based on Public Law 110–181, the National Defense Authorization Act (NDAA) for Fiscal Year 2008, section 1103 and codified at 5 U.S.C. 5742, to allow agencies to provide for relocation of dependents and household effects of an employee whose death occurred while performing official duties outside the continental United States (OCONUS) or for an employee whose death occurred while subject to a mandatory mobility agreement OCONUS and was supporting an overseas contingency operation or overseas emergency as declared by the President. This final rule allows the agency to relocate the dependents and household goods to the covered employee's former actual residence or such other place as is determined by the head of the agency concerned. Also, the final rule amends and updates the FTR regarding the authority to relocate dependents and household goods of an employee on a service agreement or mandatory mobility agreement who dies at or while in transit to or from an official station OCONUS, amends to allow transportation of the remains to the place of interment and shipment of a POV from the TDY location or from an official station OCONUS when the agency previously determined that use of POV was in the best interest of the Government, amends the household goods temporary storage timeframe in subpart H, and allows the agency to authorize additional storage not to exceed a total of 150 days, which is the same as what's allotted to an employee with relocation entitlements. Finally, this final rule reorganizes FTR part 303–70 to make it easier to understand.

III. Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 "Improving Regulation and Regulatory Review" (January 18, 2011), the GSA retrospective review and analysis final and updated regulations plan can be found at *www.gsa.gov/improvingregulations*. The FAR retrospective review and analysis final and updated regulations plan can be found at *www.acquisition.gov*.

Regulation dentifier Number	Title
	Proposed Rule Stage
3090–AI81	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2008–G509, Rewrite GSAR 536, Construction and Architect-Engineer Contracts.
3090–AJ27	Federal Travel Regulation (FTR); FTR Case 2012–301; Removal of Conference Lodging Allowance Provisions.
3090–AJ29	Federal Management Regulation (FMR); FMR Case 2012–102–3; Government Domain Registration and Management.
3090–AJ30	Federal Management Regulation (FMR); FMR Case 2012–102–4, Disposal and Reporting of Federal Electronic Assets (FEA).
3090–AJ31	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2012–G503; Industrial Funding Fee (IFF) and Sales Reporting.
	Final Rule Stage
3090–AI51	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2007–G500, Rewrite of GSAR Part 517, Special Contracting Methods.
3090–AI76	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2008–G506, Rewrite of GSAR Part 515, Contracting by Negotiation.
3090–AI77	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2006–G507, Rewrite of Part 538, Federal Supply Schedule Contracting.
3090–AI95	Federal Travel Regulation (FTR); FTR Case 2009–307, Temporary Duty (TDY) Travel Allowances (Taxes); Relocation Allowances (Taxes).
3090–AJ21	Federal Travel Regulation (FTR); FTR Case 2011–308; Payment of Expenses Connected With the Death of Certain Employees.
3090–AJ23	Federal Travel Regulation (FTR); FTR Case 2011–310; Telework Travel Expenses Test Programs.
3090–AJ26	Federal Management Regulation (FMR); FMR Case 2012–102–2; Donation of Surplus Personal Property.
3090–AJ28	General Services Administration Federal Property Management Regulations (GSPMR); GSPMR Case 2012–105–1; Administrative Wage Garnishment.
	Completed Actions
3090–AI72	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2006–G510, Rewrite of GSAR Part 504, Administrative Matters.
3090–AJ11	Federal Travel Regulation (FTR); FTR Case 2011–301; Per Diem, Miscellaneous Amendments.
3090–AJ25	Federal Management Regulation (FMR); FMR Case 2012–102–1; Annual Vehicle Allocation Methodology Requirement.

Dated: November 2, 2012.

Virginia A. Huth,

Acting Senior Procurement Executive.

BILLING CODE 6824–34–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Statement of Regulatory Priorities

NASA continues to implement programs according to its 2011 Strategic Plan, released in February 2011. NASA's mission is to "Drive advances in science, technology, and exploration to enhance knowledge, education, innovation, economic vitality, and stewardship of the Earth." The 2011 Strategic Plan guides NASA's program activities through a framework of the following six strategic goals:

- Goal 1: Extend and sustain human activities across the solar system.
- Goal 2: Expand scientific understanding of Earth and the universe in which we live.
- Goal 3: Create innovative new space technologies for our exploration, science, and economic future.
- Goal 4: Advance aeronautics research for societal benefit.
- Goal 5: Enable program and institutional capabilities to conduct NASA's aeronautics and space activities.
- Goal 6: Share NASA with the public, educators, and students to provide opportunities to participate in our mission, foster innovation, and contribute to a strong national economy.

In the decades since Congress enacted the National Aeronautics and Space Act of 1958, NASA has challenged its scientific and engineering capabilities in pursuing its mission, generating tremendous results and benefits for humankind. NASA will continue to push scientific and technical boundaries in pursuit of these goals.

The Federal Acquisition Regulation (FAR), 48 CFR chapter 1, contains procurement regulations that apply to NASA and other Federal agencies. NASA implements and supplements FAR requirements through the NASA FAR Supplement (NFS), 48 CFR chapter 18. NASA is planning to review and update the entire NFS starting in 2013, and will provide further information on contemplated regulatory actions in the spring 2013 Unified Agenda. Concurrently, we will continue to make routine changes to the NFS to implement NASA initiatives and Federal procurement policy.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 "Improving Regulations and Regulatory Review" (Jan. 18, 2011), the following Regulation Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in NASA's final retrospective plan of existing regulations. Some of the entries on this list may be completed or withdrawn actions, which do not appear in The Regulatory Plan. However, more information can be found about these rulemakings in past publications of the Unified Agenda on reginfo.gov in the Completed Actions section for NASA. These rulemakings can also be found on regulations.gov. NASA's final plan and updates can be found at *http://www.nasa.gov/open*, under the Compliance Documents Section.

Regulation Identifier No.	Title
2700–AD56	NASA Grant and Cooperative Agreement Handbook, Delete Requirement for U.S. Citizenship.
2700–AD60	NASA Grant and Cooperative Agreement: Change Procedures for Letter of Credit Advance Payments.
2700–AD81	Nonprocurement Rule, Suspension and Debarment.
2700–AD82	NASA, Contract Adjustment Board.
2700–AD96	Use of NASA Airfield Facilities by Aircraft Not Operated for the Benefit of the Federal Government.
2700–AD97	Small Business Policy.
2700–AD98	Space Flight.
2700–AD51	Inventions and Contributions.
2700–AD61	Information Security Protection.
2700–AD63	Claims for Patent and Copyright Infringement.
2700–AD71	Procedures for Implementing the National Environmental Policy Act.
2700–AD72	Tracking and Data Relay Satellite System.
2700–AD78	Removal of Obsolete Regulations.
2700–AD83	Collection of Civil Claims of the United States Arising Out of the Activities of NASA.
2700–AD84	Research Misconduct.
2700–AD85	Accessibility Standards for New Construction and Alterations in Federally-Assisted Programs.
2700–AD86	Privacy Act—NASA Regulations.
2700–AD87	Space Flight Mission Critical Systems Personnel Reliability Program.
2700–AD88	Aeronautics and Space—Statement of Organization and General Information.
2700–AD89	Security Program; Arrest Authority and Use of Force by NASA Security Force Personnel.
2700–AD90	Inspection of Persons and Personal Effects at NASA Installations or on NASA's Property.
2700–AD91	NASA Security Areas.
2700–AD95	Delegations and Designations.
2700–AD99	Duty-Free Entry of Space Articles.
2700–AE00	National Space Grant College and Fellowship Program.

Abstracts for regulations to be amended or repealed between October 2012 and October 2013 are reported in the fall 2012 edition of the Unified Agenda of Federal Regulatory and Deregulation actions.

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Statement of Regulatory Priorities

Overview

The National Archives and Records Administration (NARA) issues regulations directed to other Federal agencies and to the public. Records management regulations directed to Federal agencies concern the proper management and disposition of Federal records. Through the Information Security Oversight Office (ISOO), NARA also issues Government wide regulations concerning information security classification and declassification programs. NARA regulations directed to the public address access to and use of our historically valuable holdings, including archives, donated historical materials, Nixon Presidential materials, and Presidential records. NARA also issues regulations relating to the National Historical Publications and Records Commission (NHPRC) grant programs.

NARA has two regulatory priorities for fiscal year 2013, which are included in The Regulatory Plan. The first is NARA's revisions to the Federal records management regulations found at 36 CFR chapter XII, subchapter B, to include the Electronic Records Archives (ERA). ERA is NARA's system that Federal agencies use to draft new records retention schedules for records, officially submit those schedules for approval by NARA, request the transfer of records to NARA for accessioning or pre-accessioning, and submit electronic records for storage in the ERA electronic records repository. The revisions will cover provisions in 36 CFR parts 1220, 1225, 1226, and 1235.

The second priority is NARA's revisions to its Freedom of Information Act (FOIA) regulations, clarifying the applicability of the FOIA to categories of records in NARA's accessioned holdings as well as operational records. Furthermore, the revisions explain NARA's responsibility in answering FOIA requests, the procedures for requesting a FOIA and the response a requester can expect for a submitted FOIA. The revisions will cover 36 CFR parts 1250 and 1256.

BILLING CODE 7515–01–P

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Statement of Regulatory Priorities

The Office of Personnel Management's mission is to recruit, retain, and honor a world class workforce to serve the American people. OPM fulfills that mission by, among other things, providing human capital advice and leadership for the President and Federal agencies; delivering human resources policies, products, and services; administering a broad range of benefits programs; and holding agencies accountable for their human capital practices. OPM's 2013 regulatory priorities are designed to support these activities.

Phased Retirement

OPM is working on proposed regulations that would implement a new statutory benefit available to Federal employees. This new benefit, called phased retirement, allows an employee to begin to collect a partial annuity while working a part-time schedule for the agency. Individuals taking advantage of this new benefit will be expected to mentor other agency employees to facilitate knowledge transfer and smooth staff transitions.

Extending FEHBP Coverage to the Children of an Employee's Same-Sex Domestic Partner

OPM has issued proposed regulations that would allow employees participating in the Federal Employees Health Benefits Program to obtain health insurance coverage for the children of their same-sex domestic partner. This regulation implements the Presidential Memorandum of June 2, 2010, which requires agencies to provide equity in benefits between employees with spouses and those with same-sex domestic partners, to the greatest extent permitted by law.

Multi-State Plan Program Regulations

Under the Affordable Care Act, OPM is charged with entering contracts with health insurance issuers to establish at least two multi-State plans that are to offer health insurance coverage on the Affordable Care exchanges that are to be established in each of the 50 States and the District of Columbia. The multi-State plans must be available in 31 states as of January 1, 2014. OPM is in the process of completing proposed regulations to implement the Multi-State Plan Program.

Combined Federal Campaign

OPM is planning to issue proposed regulations to modernize the Combined Federal Campaign. The proposed regulations are informed by recommendations made by the CFC 50 Commission. They seek to implement changes that will streamline this charity drive by leveraging available technology and modifying the campaign structures.

Benefits for Family Members of Military Members

OPM is planning to issue proposed regulations to implement amendments to the Family and Medical Leave Act (FMLA). These regulations will implement section 585(b) of the National Defense Authorization Act for Fiscal Year 2008 (NDAA) (Pub. L. 110–181, Jan. 28, 2008) and section 565(b)(1) of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84, Oct. 28, 2009). The statutory changes amended the FMLA provisions in 5 U.S.C. 6381–6383 (applicable to Federal employees) to provide that a Federal employee who is the spouse, son, daughter, parent, or next of kin of a covered service member (either a current or former service member) with a serious injury or illness incurred or aggravated in the line of duty on active duty is entitled to a total of 26 administrative workweeks of leave during a single 12-month period to care for the covered service member.

Under 5 U.S.C. 6387, OPM is required, to the extent appropriate, to be consistent with Department of Labor (DOL) regulations. DOL issued proposed regulations on February 15, 2012, (77 FR 8960). The comment period for the regulations closes April 30, 2012. After DOL issues final regulations, OPM will publish proposed regulations.

Elimination of the Certification of Job Readiness Requirement

OPM is planning to issue final regulations on the appointment of persons with mental retardation, severe physical disabilities, or psychiatric disabilities. The proposed changes would modify or possibly eliminate the certification of job readiness requirement for people with mental retardation, severe physical disabilities, or psychiatric disabilities using Schedule A appointment authority.

Recruitment, Relocation, and Retention Incentives

In OPM's continuing effort to improve the administration and oversight of recruitment, relocation, and retention incentives, OPM anticipates issuing final regulations to improve oversight of recruitment and retention incentive determinations; add succession planning to the list of factors that an agency must consider before approving a retention incentive, if applicable; and provide that OPM may require data on recruitment, relocation, and retention incentives from agencies. These regulations will help support OPM's efforts to ensure agencies actively manage their incentive programs so that they continue to be cost-effective compensation tools.

Senior-Level and Scientific and Professional (SL/ST) Pay for Performance

OPM is planning to issue proposed regulations on pay-for-performance, as appropriate, with respect to senior-level, scientific, and professional employees, consistent with Public Law 110–372.

Managing Senior Executive Performance

OPM is planning to issue proposed regulations to revise the current regulations addressing the performance management of Senior Executives to provide for a Government-wide appraisal system built around the Executive Core Qualifications and agency mission results.

BILLING CODE 6325–44–P

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory and Deregulatory Priorities

The Pension Benefit Guaranty Corporation (PBGC) protects the pensions of about 44 million people in more than 27,000 private-sector defined benefit plans. PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusteed by PBGC, and recoveries from the companies formerly responsible for the trusteed plans.

To carry out these functions, PBGC issues regulations on such matters as termination, payment of premiums, reporting and disclosure, and assessment and collection of employer liability. The Corporation is committed to issuing simple, understandable, flexible, and timely regulations to help affected parties.

PBGC is changing its regulatory approach so that its regulations do not inadvertently discourage the maintenance of existing defined benefit plans or the establishment of new plans. Businesses and plans have commented that PBGC's regulations impose burdens where the actual risk to plans and PBGC is minimal. Thus, in developing new regulations and reviewing existing regulations, the focus, to the extent possible, is to avoid placing burdens on plans, employers, and participants, and to ease and simplify employer compliance. In particular, PBGC strives to meet the needs of small businesses that sponsor defined benefit plans.

PBGC develops its regulations in accordance with the principles set forth in Executive Order 13563 "Improving Regulation and Regulatory Review" (Jan. 18, 2011), and PBGC's Plan for Regulatory Review (Regulatory Review Plan), which can be found at *www.pbgc.gov/documents/plan-for-regulatory-review.pdf*. This Statement of Regulatory and Deregulatory Priorities reflects PBGC's ongoing implementation of its Regulatory Review Plan. Progress reports on the plan can be found at *http://www.pbgc.gov/Documents/PBGC-Retrospective-Review-Plan-Report-May2012.pdf* and *http://www.pbgc.gov/Documents/PBGC-Retrospective-Review-Plan-Report.pdf*.

PBGC Insurance Programs

PBGC administers two insurance programs for privately defined benefit plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA): A single-employer plan termination insurance program and a multiemployer plan insolvency insurance program.

- *Single-Employer Program.* Under the single-employer program, when a plan terminates with insufficient assets to cover all plan benefits (distress and involuntary terminations), PBGC pays plan benefits that are guaranteed under title IV. PBGC also pays nonguaranteed plan benefits to the extent funded by plan assets or recoveries from employers.
- *Multiemployer Program.* The smaller multiemployer program covers more than 1,450 collectively bargained plans involving more than one unrelated employer. PBGC provides financial assistance (in the form of a loan) to the plan if the plan is unable to pay benefits at the guaranteed level.

Guaranteed benefits are less than single-employer guaranteed benefits.

At the end of fiscal year 2012, PBGC had a $34 billion deficit in its insurance programs.

Regulatory Objectives and Priorities

PBGC's regulatory objectives and priorities are developed in the context of the Corporation's statutory purposes:

- To encourage voluntary private pension plans.
- To provide for the timely and uninterrupted payment of pension benefits.
- To keep premiums at the lowest possible levels.

Pensions and the statutory framework in which they are maintained and terminate are inherently complex. Despite this inherent complexity, PBGC is committed to issuing simple, understandable, flexible, and timely regulations and other guidance that do not impose undue burdens that could impede maintenance or establishment of defined benefit plans.

Through its regulations and other guidance, PBGC strives to minimize burdens on plans, plan sponsors, and plan participants; simplify filing; provide relief for small businesses and plans; and assist plans in complying with applicable requirements. To enhance policy-making through collaboration, PBGC also plans to expand opportunities for public participation in rulemaking (see Open Government and Public Participation below).

PBGC's current regulatory objectives and priorities are to simplify its regulations and reduce burden, particularly in the areas of premiums and reporting, enhance retirement security, and complete implementation of the Pension Protection Act of 2006 (PPA 2006).

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 "Improving Regulation and Regulatory Review" (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. The proposals are described below.

Title	RIN	Effect on Small Business
Reportable Events; Pension Protection Act of 2006	1212–AB06	Expected to reduce burden on small business.
Liability for Termination of Single-Employer Plans; Treatment of Substantial Cessation of Operations; ERISA section 4062(e).	1212–AB20	Expected to reduce burden on small business.
Premium Rates; Payment of Premiums; Reducing Regulatory Burden	1212–AB26	Expected to reduce burden on small business.
Termination of Multiemployer Plans; Duties of Plan Sponsor Following Mass Withdrawal; Mergers and Transfers Between Multiemployer Plans.	1212–AB25	Expected to reduce burden on small business.
Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets	1212–AA55	Undetermined.

Reportable events. PPA 2006 affected certain provisions in PBGC's reportable events regulation (part 4043), which requires employers to notify PBGC of certain plan or corporate events. In November 2009, PBGC published a proposed rule to conform the regulation to the PPA 2006 changes and make other changes.[1] In response to Executive Order 13563 and comments on the non-PPA 2006 provisions of the proposed rule, PBGC decided to re-propose the rule. PBGC is trying to take advantage of other existing reporting requirements and methods to avoid burdening companies and plans, possibly by expanding waivers and redefining events to reduce reporting. PBGC is also considering how to implement stakeholder suggestions that different reporting requirements should apply in circumstances where the risk to PBGC is low or compliance is especially burdensome. The draft proposed rule is currently under OMB review..

ERISA section 4062(e). The statutory provision requires reporting of, and liability for, certain substantial cessations of operations by employers that maintain single-employer plans. In August 2010, PBGC issued a proposed rule to provide guidance on the applicability and enforcement of section 4062(e).[2] In light of comments, PBGC is reconsidering its 2010 proposed rule. At the same time, PBGC is in the process of developing and implementing working criteria for cases involving financially strong companies. Historically, this requirement has been enforced regardless of the financial health of the plan sponsor. The business community argued that this imposed an onerous burden on many companies where there was little or no threat to the retirement security of their employees or the agency. After careful review, PBGC agreed. PBGC has announced a 4062(e) enforcement pilot program under which it will not enforce in the case of financially strong companies and small plans. PBGC has already issued some no-action letters to financially strong companies.

Premiums. Based on PBGC's regulatory review and in response to public comments, PBGC is developing a proposed rule to change filing deadlines and streamline valuation procedures for the payment of premiums to make PBGC's premium rules more effective and less burdensome, including for small plans (see *Small plan premium due date* below under Small Businesses). PBGC also proposes to expand premium payment penalty relief[3] and implement changes to premium rates resulting from the Moving Ahead for Progress in the 21st Century Act of 2012 (MAP–21) (see Moving Ahead for Progress in the 21st Century Act below).

Changes to selected multiemployer plan regulations. PBGC has reviewed selected aspects of its regulations on multiemployer plans:

- Termination of Multiemployer Plans (29 CFR part 4041A). When a multiemployer plan terminates, the plan must perform an annual valuation of the plan's assets and benefits. PBGC has reviewed the regulation to determine whether annual valuation requirements may be reduced for certain plans.
- Duties of plan sponsor following mass withdrawal (29 CFR part 4281). Terminated multiemployer plans that determine that they will be insolvent for a plan year must file a series of notices and updates to notices. These notice requirements can be detrimental to plan participants because they may use up assets that would be available to pay plan benefits.
- Mergers and transfers between multiemployer plans (29 CFR part

[1] 74 FR 61248 (Nov. 23, 2009), *www.pbgc.gov/Documents/E9-28056.pdf.*

[2] 75 FR 48283 (Aug. 10, 2010), *www.pbgc.gov/Documents/2010-19627.pdf.*

[3] See 76 FR 57082 (Sep. 15, 2011), *www.pbgc.gov/Documents/2011-23692.pdf* and 77 FR 6675 (Feb. 9, 2012), *www.pbgc.gov/Documents/2012-3054.pdf.*

4231). Multiemployer plans must file certain information with PBGC. Multiemployer plan mergers do not pose any increase in the risk of loss to PBGC or to plan participants. These filing requirements increase administrative costs to PBGC and plans and create an unnecessary burden in completing the merger.

PBGC is developing a proposed rule that would make changes to address these concerns.

PPA 2006 Implementation

Cash balance plans. PPA 2006 changed the rules for determining benefits in cash balance plans and other statutory hybrid plans. In October 2011, PBGC published a proposed rule implementing the changes in both PBGC-trusteed plans and in plans that close out in the private sector. This rule is on hold until Treasury issues final regulations.

Missing participants. Currently, PBGC's Missing Participants Program applies only to terminating single-employer defined benefit plans insured by PBGC. PPA 2006 expanded the program to cover single-employer plans sponsored by professional service employers with fewer than 25 employees, multiemployer defined benefit plans, and 401(k) and other defined contribution plans. PBGC is developing a proposed rule to implement the expansion and streamline the existing program.

Shutdown benefits. Under PPA 2006, the phase-in period for the guarantee of a benefit payable solely by reason of an "unpredictable contingent event," such as a plant shutdown, starts no earlier than the date of the shutdown or other unpredictable contingent event. PBGC published a proposed rule implementing this statutory change in March 2011[4] and received one comment.

Other Regulations

DC to DB plan rollovers. PBGC is developing a proposed rule to address title IV treatment of rollovers from defined contribution plans to defined benefit plans, including asset allocation and guarantee limits. This rule is part of PBGC's efforts to enhance retirement security by promoting lifetime income options and follows related Department of Treasury guidance.[5]

[4] 76 FR 13304 (Mar. 11, 2011), *www.pbgc.gov/Documents/2011-5696.pdf.*

[5] On February 21, 2012, the Internal Revenue Service of the Department of Treasury issued Rev. Rul. 2012–4, which clarified the qualification requirements under section 401(a) of the Internal Revenue Code for use of rollover amounts to purchase an additional annuity under a defined benefit plan.

ERISA section 4010. In response to comments, PBGC is reviewing its regulation on Annual Financial and Actuarial Information Reporting (part 4010) and the related e-filing application to consider ways of reducing reporting burden, without forgoing receipt of critical information. PBGC is considering waiving reporting for plans that must file 4010 information solely based on (1) the conditions for a statutory lien resulting from missed required contributions totaling over one million dollars being met, or (2) outstanding funding waivers totaling over one million dollars. Waiving such reporting would reduce the compliance and cost burden on plan sponsors; PBGC can obtain some information similar to that reported under section 4010 from other sources, such as reportable events filings. PBGC is also considering other changes to section 4010 reporting that would further reduce burden for financially sound companies, by taking into account company financial health and targeting reporting more closely to the risk of plan termination; such changes might require legislative action.

Moving Ahead for Progress in the 21st Century Act

Public Law 112–141, the Moving Ahead for Progress in the 21st Century Act (MAP–21), was signed into law on July 6, 2012. The new law limits the volatility of discount rates for funding single-employer plans (stabilization), increases PBGC premiums for both single-employer and multiemployer plans, and makes certain changes in PBGC governance.

PBGC has issued guidance on the effect of MAP–21 on premiums and 4010 reporting.[6] As noted above under *Premiums*, PBGC is revising its premium regulations to implement changes to premium rates resulting from MAP–21.

Small Businesses

PBGC takes into account the special needs and concerns of small businesses in making policy. A large percentage of the plans insured by PBGC are small or maintained by small employers. PBGC in considering several proposed rules that will focus on small businesses:

Small plan premium due date. The premium due date for plans with fewer than 100 participants is four months after year-end (April 30 for calendar year plans). PBGC has heard that some small plans with year-end valuation dates have difficulty meeting the filing deadline because such plans traditionally do not complete their actuarial valuation for funding purposes until after the premium due date. In light of this concern, PBGC has reviewed part 4007 to determine whether changes could be made that would enable small plans to streamline their premium valuation procedures and thereby reduce actuarial fees. Changes related to the small plan premium due date will be included in the proposed rule discussed above under Retrospective Review of Existing Regulations.

Missing participants. See *Missing participants* under PPA 2006 Implementation above. Expansion of the program will benefit small businesses closing out terminating plans.

[6] Technical Update 12–1: Effect of MAP–21 on PBGC Premiums (Aug. 28, 2012). Technical Update 12–2: Effect of MAP–21 on 4010 Reporting (Sept. 11, 2012).

Open Government and Public Participation

PBGC views public participation as very important to regulatory development and review. For example, PBGC's current efforts to reduce regulatory burden are in substantial part a response to public comments. Regulatory projects discussed above, such as reportable events, ERISA section 4062(e), and ERISA section 4010, highlight PBGC's customer-focused efforts to reduce regulatory burden.

PBGC's Regulatory Review Plan sets forth ways to expand opportunities for public participation in the regulatory process. For example, PBGC plans to hold public hearings as it develops major regulations, so that the agency has a better understanding of the needs and concerns of plan administrators and plan sponsors.

Further, PBGC plans to provide additional means for public involvement, including on-line town hall meetings, social media, and continuing opportunity for public comment on PBGC's Web site.

PBGC also invites comments on the Regulatory Review Plan on an on-going basis as we engage in the review process. Comments should be sent to *regs.comments@pbgc.gov.*

PBGC will continue to look for ways to further improve its regulations.

BILLING CODE 7709–01–P

U.S. SMALL BUSINESS ADMINISTRATION (SBA)

Statement of Regulatory Priorities

Overview

The mission of the U.S. Small Business Administration (SBA) is to maintain and strengthen the Nation's

economy by enabling the establishment and viability of small businesses and by assisting in economic recovery of communities after disasters. In carrying out this mission, SBA strives to improve the economic environment for small businesses, including those in areas that have significantly higher unemployment and lower income levels than the Nation's averages and those in traditionally underserved markets. The Agency serves as a guarantor of small business loans, and also provides management and technical assistance to existing or potential small business owners through various grants, cooperative agreements or contracts. This access to capital and other assistance provide a crucial foundation for those starting a new business, or growing an existing business and ultimately creating new jobs. SBA also provides direct financial assistance to homeowners, renters, and small business owners to help communities to rebuild in the aftermath of a disaster.

Reducing Burden on Small Businesses

SBA's regulatory policy reflects a commitment to developing regulations that reduce or eliminate the burden on the public, especially the Agency's core constituents—small businesses. SBA's regulatory process generally includes an assessment of the costs and benefits of the regulations as required by Executive Order 12866 "Regulatory Planning and Review," Executive Order 13563, Improving Regulations and Regulatory Review, and the Regulatory Flexibility Act. SBA's program offices are particularly invested in finding ways to reduce the burden imposed by the Agency's activities in its loan, innovation, and procurement programs. As a result, SBA is currently assessing or developing the following initiatives, which are expected to yield time and cost savings for impacted small businesses or entities:

• Single Electronic Lender Application for 7(a) Loan Programs.

SBA is developing a simplified, web-based process for submission of Section7(a) loans under for all approved SBA lenders. Extending this streamlined process to all lenders for this category of loans will help lower the cost of originating small dollar loans for many small businesses, reduce paperwork burden and improve underwriting efficiencies, thereby enabling lenders to originate more loans for small businesses.

• Uniform SBIR Portal for Information and Solicitations.

Until this past year there has not been a central place for applicants to browse open solicitations across all eleven participating agencies in the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs. The new SBIR.gov Web site now contains a central searchable database to find open solicitations. This saves applicants time in finding opportunities that fit the goals of their research and development work.

The reauthorization of the SBIR/STTR Programs in December 2011 brought a host of new data reporting requirements that pose new challenges for SBA's efforts to streamline time and cost burdens for small businesses. During the next couple of years SBA will focus on meeting new congressionally mandated reporting requirements, while streamlining data collection and preventing reporting duplication by small businesses. SBA's efforts to streamline administrative burden fall into three areas:

(i) *Company Registry*—The SBIR/STTR statute requires new reporting requirements regarding the ownership structure of small businesses. SBA will develop and deploy a company registry system for all SBIR and STTR applicants. SBA will develop a secure method of sharing this data with all other participating agencies that a company applies to in order to ensure that small businesses report this data only once. The new system is projected to be operational by January 2013.

(ii) *Application and Award Databases*—The new statute requires data reporting that is broader in scope and collected more frequently. SBA is assessing ways to leverage technology across participating agencies to reduce the administrative burden on small businesses of applying to the program.

(iii) *Commercialization Database*—The new SBIR/STTR statute also requires additional commercialization data from program awardees. SBA and DOD, together, are assessing ways to leverage and scale existing technology platforms to collect this data, while ensuring companies will not have to re-enter any data they have previously entered.

• Automated Credit Decision Model for 7(a) Loan Program.

For loans of less than $250,000, SBA is evaluating an optional credit scoring methodology to be used by SBA lender partners in their underwriting process, which could result in lowering the lenders' cost of delivering capital to borrowers and would likely expand their interest in making low dollar loans. This initiative may also attract additional lenders (e.g., small community banks, credit unions, and rural lenders) to become SBA partners and increase credit availability for small businesses.

• One Track Certification and Program Management System.

This system would allow the HUBZone and 8(a) programs to process applications, certifications and other program processes (e.g. protests, and annual reviews) electronically. This approach would reduce the amount of paperwork that a small business has to submit to SBA, and increase the efficiency of the program by allowing applicants to submit information common to both programs once rather than with each application. The planned initiative is projected to result in substantial maintenance cost savings. In addition to reducing waste, fraud and abuse, it will support three new programs and business processes currently handled manually. SBA estimates that this initiative will impact approximately 25 percent of all HUBZone participants that are also in the 8(a) program. During the later phases of this initiative, the system will be extended to other SBA contracting programs such as the Women-Owned Small Business, and Service-Disabled Veteran-Owned Small Business.

• Auto-Approve Disaster Loans Based on Credit Scores.

Private industry approves a substantial number of loans through credit scoring to reduce the cost of underwriting. The portfolio analysis that is being currently completed indicates that the performance of loans to borrowers with a higher FICO score have limited risk. Changing this process would allow SBA more flexibility to design a loan approval that is in line with current private sector practices and reduce the processing cost for lower dollar disaster loans. Parameters for this auto approval initiative are in development, and the agency is assessing which changes would be necessary to fully complete the process through the Disaster Credit Management System (DCMS), the electronic system used by SBA to process disaster loan applications.

Openness and Transparency

SBA promotes transparency, collaboration, and public participation in its rulemaking process. To that end, SBA routinely solicits comments on its regulations, even those that are not subject to the public notice and comment requirement under the Administrative Procedure Act. Where appropriate, SBA also conducts hearings, webinars, and other public events as part of its regulatory process. For example, during May and June 2012, SBA held public webinars and

roundtable discussions to solicit public feedback on the Agency's proposed implementation of the National Defense Authorization Act for Fiscal Year 2012 amendments to the ownership, control and affiliation rules for the SBIR and STTR Programs. These public discussions will not only help to shape the final rule but the development and implementation of other SBIR and STTR program changes as well.

Retrospective Review of Existing Regulations

SBA also promotes public participation in the retrospective review of its rules, as the agency seeks to determine which rules may be outmoded, ineffective, insufficient, or excessively burdensome, and which ones should be streamlined, expanded, or repealed. Pursuant to section 6 of Executive Order 13563 "Improving Regulation and Regulatory Review" (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in SBA's final retrospective review of regulations plan. The final agency plan can be found at *http://www.sba.gov/content/sba-final-plan-restropective-analysis-existing-rules-0.*

RIN	Rule Title	Small Business Burden Reduction
3245–AF45	Small Business Technology Transfer (STTR) Policy Directive	YES.
3245–AF84	Small Business Innovation Research (SBIR) Policy Directive	YES.
3245–AG04	504 and 7(a) Regulatory Enhancements	YES.
3245–AG25	Small Business Size Standards for Utilities	NO.
3245–AG36	Small Business Size Standards: Arts, Entertainment, and Recreation	NO.
3245–AG37	Small Business Size Standards: Construction	NO.
3245–AG43	Small Business Size Standards: Agriculture, Forestry, Fishing, and Hunting	NO.
3245–AG44	Small Business Size Standards: Mining, Quarrying, and Oil and Gas Extraction	NO.
3245–AG45	Small Business Size Standards: Finance and Insurance; Management of Companies and Enterprises	NO.
3245–AG46	Small Business Size Regulations, Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) Program.	YES.
3245–AG49	Small Business Size Standards for Wholesale Trade	NO.
3245–AG50	Small Business Size Standards for Manufacturing	NO.
3245–AG51	Small Business Size Standards for other industries with employee-based size standards not part of Manufacturing or Wholesale Trade.	NO.

Regulatory Framework

SBA FY 2011 to FY 2016 strategic plan serves as the foundation for the regulations that the Agency will develop during the next 12 months. This strategic plan proposes three primary strategic goals: (1) growing businesses and creating jobs; (2) building an SBA that meets the needs of today's and tomorrow's small businesses; and (3) serving as the voice for small business. In order to achieve these goals SBA will, among other objectives, focus on:

- Expanding access to capital through SBA's extensive lending network;
- Ensuring Federal contracting goals are met or exceeded by collaborating across the Federal Government to expand opportunities for small businesses and strengthen the integrity of the Federal contracting data and certification process;
- Promoting awareness among federal agencies, of the impact of regulatory enforcement and compliance efforts on small businesses and the importance of reducing burdens on such businesses;
- Strengthening SBA's relevance to high growth entrepreneurs and small businesses to more effectively drive innovation and job creation; and
- Mitigating risk and improving program oversight.

The regulations reported in SBA's semi-annual regulatory agenda and plan are intended to facilitate achievement of these goals and objectives. Over the next twelve months, SBA's highest regulatory priorities will include: (1) Implementing policy and procedural changes to the SBIR and STTR programs through the Policy Directives that provide guidance to the other SBIR/STTR federal agencies; (2) finalizing the Small Business Jobs Act amendments to the regulations governing multiple award contracts and small business set-asides; (3) implementing the Mentor-Protégé Programs, which were also authorized by the Small Business Jobs Act, for participants in the HUBZone, Women Owned Small Business (WOSB) Contracting, and Service-Disabled Veteran-Owned Small Business (SDVOSB) Programs; and (4) proposing amendments to regulations for the 504 and 7(a) loan programs.

(1) Small Business Innovation and Research (SBIR) Program (RIN: 3245–AF84):

The SBIR Policy Directive was listed in SBA's E.O. 13563 Retrospective Review Plan as one of the initial candidates for review. At that time, one of the reasons for the review was to address small business concerns regarding certain program guidelines, including the uncertainty regarding the SBIR data rights afforded to SBIR Awardees and the Federal Government. As a result of recent amendments to the program by the National Defense Reauthorization Act of 2012, one of SBA's priorities is issuance of a revised policy directive that simplifies and standardizes the proposal, selection, contracting, compliance, and audit procedures for the SBIR program to the extent practicable while allowing the SBIR agencies flexibility in the operation of their individual SBIR Programs. Wherever possible, SBA is reducing the paperwork and regulatory compliance burden on the small businesses that apply to and participate in the SBIR program while still meeting the statutory reporting and data collection requirements. For example, as identified above, SBA created a program data management system for collecting and storing information that will be utilized by all SBIR agencies, thus eliminating the need for SBIR applicants to submit the same data to multiple agencies.

(2) Small Business Technology Transfer (STTR) Program (RIN: 3245–AF45):

The STTR Policy Directive is also identified in the Retrospective Review Plan required by E.O. 13563. Many elements of the STTR program are designed and intended to be identical to those of the SBIR program. SBA is therefore issuing an updated STTR Policy Directive to maintain the appropriate consistency with the SBIR program, as described in the preceding paragraphs.

The revised SBIR and STTR Policy Directives are reducing confusion for both small businesses and the Federal agencies that make awards under the program, reducing the regulatory cost

burden, potentially increasing the number of SBIR and STTR solicitations, and leading to savings of administrative costs as a result of fewer informational inquiries and disputes.

(3) Multiple Award Contracts and Small Business Set-Asides (RIN: 3245–AG20):

SBA intends to implement authorities provided by section 1331 of the Small Business Jobs Act that would allow Federal agencies to set-aside a part or parts of multiple awards contracts for small business concerns; set-aside orders placed against multiple award contracts for small business concerns; and reserve one or more contract awards for small business concerns under full and open competition in certain circumstances. Allowing small businesses to gain access to multiple award contracts through prime contract awards or through set asides off the orders of the prime contracts should increase Federal contracting opportunities for the small businesses.

(4) Small Business Mentor-Protégé Programs (RIN: 3245–AG24):

SBA currently has a mentor-protégé program for the 8(a) Business Development Program that is intended to enhance the capabilities of the protégé and to improve its ability to successfully compete for Federal contracts. The Small Business Jobs Act authorized SBA to use this model to establish similar mentor-protégé programs for the Service Disabled Veteran Owned, HUBZone and Women-Owned Small Business Programs. During the next 12 months, one of SBA's priorities will be to issue regulations establishing these three newly authorized mentor-protégé programs. The various types of assistance that a mentor will be expected to provide to a protégé include technical and/or management assistance; financial assistance in the form of equity investment and/or loans; subcontracts and/or assistance in performing prime contracts with the Government in the form of joint venture arrangements.

(5) 504 and 7(a) Regulatory Enhancements (RIN: 3245–AG04)

SBA also plans to propose revised regulations to reinvigorate the Section 504 and Section 7(a) loan programs, which are both vital tools for creating and preserving American jobs. This rule is identified in SBA's Retrospective Review Plan required by Executive Order 13563. SBA proposes to strip away regulatory restrictions that detract from the 504 Loan Program's core job creation mission as well as the 7(a) Loan Program's positive job creation impact on the American economy. The revised rule will enhance job creation through increasing eligibility for loans under SBA's business loan programs, including its Microloan Program, and by modifying certain program participant requirements applicable to the 504 Loan Program. The major amendments that SBA is proposing include expanding eligibility for these programs by redefining the permitted affiliations for borrowers when determining the applicant's size, but balancing the expansion by requiring an affidavit as to ownership; eliminating the personal resources test; and changing the 9-month rule for the 504 Loan Program, and CDC operational and organizational requirements.

SBA

Proposed Rule Stage

1. 504 and 7(A) Regulatory Enhancements

Priority: Other Significant.
Legal Authority: 15 U.S.C. 695 *et seq.*
CFR Citation: 13 CFR part 120.
Legal Deadline: None.

Abstract: The 7(a) Loan Program and 504 Loan Program are SBA's two primary business loan programs authorized under the Small Business Act and the Small Business Investment Act of 1958, respectively. The 7(a) Loan Program's main purpose is to help eligible small businesses obtain credit when they cannot obtain "credit elsewhere." This program is also an important engine for job creation. On the other hand, the core mission of the 504 Loan Program is to provide long-term fixed asset financing to small businesses to facilitate the creation of jobs and local economic development. The purpose of this proposed rulemaking is to reinvigorate these programs as vital tools for creating and preserving American jobs. SBA proposes to strip away regulatory restrictions that detract from the 504 Loan Program's core job creation mission as well as the 7(a) Loan Program's positive job creation impact on the American economy. The proposed changes would enhance job creation through increasing eligibility for loans under SBA's business loan programs, including its Microloan Program, and by modifying certain program participant requirements applicable to these two programs. The major changes that SBA is proposing include changes relating to affiliation principles, the personal resources test, the 9-month rule for the 504 Loan Program, and CDC operational and organizational requirements.

Statement of Need: The U.S. Small Business Administration ("SBA") has determined that changing conditions in the American economy and persistent high levels of unemployment compel the agency to seek ways to improve access to its two flagship business lending programs: the 504 Loan Program and the 7(a) Loan Program. The purpose of this proposed rulemaking is to reinvigorate and improve delivery of these programs to create and preserve American jobs.

Summary of Legal Basis: The 504 Loan Program and 7(a) Loan Program are SBA's two primary business loan programs authorized under the Small Business Investment Act of 1958 and the Small Business Act, respectively. Under these Acts, SBA's Administrator has the authority and responsibility for establishing guidelines for optimum delivery of these two Programs.

Alternatives: With respect to the proposed changes to CDC Board of Director requirements, the Agency considered allowing CDC directors to operate with virtually no oversight or standards, relying on state non-profit corporation laws and state oversight to ensure proper Board performance. This idea was rejected after SBA's review of state oversight of non-profit directors and the applicable state law requirements indicated that they would not provide the parameters and oversight necessary for a Federal loan program that puts billions of taxpayer dollars at risk each year. Another "alternative" would be to eliminate even more regulatory burdens and the Agency enthusiastically encourages public comment and suggestions on how that can be done responsibly protecting the integrity of the programs and the taxpayer investment without increased waste, fraud and/or abuse.

Anticipated Cost and Benefits: The benefits of the proposed rule will include program enhancements to increase small business and lender participation in the program, and cost reduction of the 504 and 7(a) loan program to the federal government, participant lenders, and to the small business borrower. The goal of the proposed rule is to reinvigorate the business loan programs by eliminating unnecessary compliance burdens and loan eligibility restrictions. SBA estimates that the proposed rule will streamline the 504 and 7(a) loan applications resulting in an estimated 10% cost reduction to small business borrowers to participate in the 504 and 7(a) loan programs. Based on estimates using FY 12 loan approvals as a base, the annual savings to borrowers for both programs combined is estimated at

$700,000—$750,000 annually. SBA also estimates that the proposed rule changes will reduce agency loan review burden hours by 5%. Based on estimates using FY 12 loan approvals as a base, this burden reduction in loan review time combined for both the 504 and 7(a) loan programs is estimated at between $80,000 to $100,000 annually.

Risks: SBA does not anticipate increased risk to the 504 and 7(a) loan programs due to this proposed rule. SBA is confident that the rules will improve portfolio integrity and reach a more robust borrower that will reduce portfolio risk to SBA.

SBA also proposes more stringent corporate governance standards and higher insurance requirements for Certified Development Companies (CDC) to reduce risk to the SBA and the CDC. These corporate governance proposed rules place more emphasis on board oversight and responsibility on CDC boards and increase insurance requirements on CDC boards as well as requiring errors and omissions insurance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: Included in SBA's Retrospective Review under Executive Orders 13563 and 13610.

Agency Contact: John P. Kelley, Senior Advisor to the Associate Administrator, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–0067, *Fax:* 202 292–3844, *Email: patrick.kelley@sba.gov.*

RIN: 3245–AG04

SBA

2. Small Business Jobs Act: Small Business Mentor-Protégé Programs

Priority: Other Significant.

Legal Authority: Pub. L. 111–240; sec 1347

CFR Citation: 13 CFR part 124; 13 CFR part 125; 13 CFR part 126; 13 CFR part 127.

Legal Deadline: None.

Abstract: SBA currently has a mentor-protégé program for the 8(a) Business Development Program that is intended to enhance the capabilities of the protégé and to improve its ability to successfully compete for Federal contracts. The Small Business Jobs Act authorized SBA to use this model to establish similar mentor-protégé programs for the Service Disabled Veteran-Owned, HUBZone, and Women-Owned Small Federal Contract Business Programs. This authority is consistent with recommendations issued by an interagency task force created by President Obama on Federal Contracting Opportunities for Small Businesses. During the next 12 months, SBA will make it a priority to issue regulations establishing the three newly authorized mentor-protégé programs and set out the standards for participating as a mentor or protégé in each. As is the case with the current mentor-protégé program, the various forms of assistance that a mentor will be expected to provide to a protégé include technical and/or management assistance; financial assistance in the form of equity investment and/or loans; subcontracts; and/or assistance in performing prime contracts with the Government in the form of joint venture arrangements.

Statement of Need: The Small Business Jobs Act determined that the SBA-administered mentor-protégé program currently available to 8(a) BD participants is a valuable tool for all small business concerns and authorized SBA to establish mentor protégé programs for the HUBZone SBC, Service Disabled Veteran-Owned SBCs, and Women-Owned Small Business programs. This authority is consistent with recommendations issued by an interagency task force created by President Obama on Federal Contracting Opportunities for Small Businesses. Among other things, the task force recommended that mentor-protégé programs should be promoted through a new Government-wide framework to give small businesses the opportunity to develop under the wing of experienced large businesses in an expanded Federal procurement arena.

Summary of Legal Basis: The Small Business Jobs Act of 2010, Public Law No 111–240, section 1347(b)(3), authorizes SBA to establish mentor-protégé programs for HUBZone SBC, Service Disabled Veteran-Owned SBCs, and Women-Owned Small Business programs SBCs.

Alternatives: At this point, SBA believes that the best option for implementing the authority is to create a regulatory scheme that is similar to the existing mentor-protégé program.

Anticipated Cost and Benefits: SBA has not yet quantified the costs associated with this rule. However, program participants, particularly the protégés, would be able to leverage the mentoring opportunities as a form of business development assistance that could enhance their capabilities to successfully compete for contracts in and out of the Federal contracting arena. This assistance may include technical and/or management assistance; financial assistance in the form of equity investments and/or loans; subcontracts; and/or assistance in performing prime contracts with the Government in the form of joint venture arrangements.

Risks: None identified.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Dean R. Koppel, Assistant Director, Office of Policy and Research, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7322, *Fax:* 202 481–1540, *Email: dean.koppel@sba.gov.*

RIN: 3245–AG24

SBA

Final Rule Stage

3. Small Business Technology Transfer (STTR) Policy Directive

Priority: Other Significant.

Legal Authority: 15 U.S.C. 638 (p); Pub. L. 112–81, sec. 5001, *et seq.*

CFR Citation: None.

Legal Deadline: Final, Statutory, June 30, 2012, Sec. 5151 of the SBIR/STTR Reauthorization Act of 2011 (Reauthorization Act) requires SBA to issue amendments to conform the SBIR Policy Directive to the Reauthorization Act amendments.

Statutory requirement that proposed rule be published within 180 days of enactment.

Abstract: The amendments to the Small Business Technology Transfer (STTR) Policy Directive cover, in general: extension of the program through 2017; increase in percentage of extramural research and development budget reserved for program; annual adjustment of award guidelines for inflation; authority for SBIR awardees to receive STTR awards and vice versa; prevention of duplicate awards; requirements for agencies to allow business concerns owned by multiple venture capital operating companies, hedge funds or private equity firms to participate in the program; authority for small businesses to contract with

Federal laboratory and restrictions on advanced payment to laboratories; technical assistance amendments; commercialization readiness and commercialization readiness pilot for civilian agencies; additional annual report and data collection requirements; and funding for administration and oversight of programs.

Statement of Need: Updating the STTR Program Policy Directive is required by recent legislation (The National Defense Reauthorization Act of 2012—Pub. L. 112–81, sec. 5001, *et seq.*), which made many changes to the STTR program.

Summary of Legal Basis: The National Defense Reauthorization Act of 2012 (Pub. L. 112–81, sec. 5001, *et seq.*).

Alternatives: There are no alternatives. Updating the STTR Program Policy Directive is a statutory mandate outlined in the Reauthorization legislation.

Anticipated Cost and Benefits: Updating the STTR Program Policy Directive is essential to the implementation of the SBIR/STTR Reauthorization legislation. There have been a number of changes to the framework of the STTR program and the updated Policy Directive will provide guidance and uniformity to agencies overseeing STTR research activities, as well as to small businesses/research institutions looking to meet agency research needs.

There will be costs involved in implementing the SBIR/STTR Reauthorization through the Policy Directive. First, since there are numerous new or expanded responsibilities on both agency personnel and small businesses, there will be additional costs associated with the program. SBA is of the opinion that the additional costs are not burdensome and that the amendments to the program through the SBIR/STTR Reauthorization legislation will help generate expanded economic benefits to both agencies and small businesses/research institutions.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
Notice	08/06/12	77 FR 46855
Notice Effective	08/06/12	77 FR 46855
Comment Period End.	10/05/12	
Final Action	08/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Additional Information: Included in SBA's Retrospective Review under Executive Orders 13563 and 13610.

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Edsel M. Brown Jr., Assistant Director, Office of Innovation, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–6450, *Email:* *edsel.brown@sba.gov.*

Related RIN: Related to 3245–AF84, Related to 3245–AG46.

RIN: 3245–AF45

SBA

4. Small Business Innovation Research (SBIR) Program Policy Directive

Priority: Other Significant.

Legal Authority: 15 U.S.C. 638(j); Pub. L. 112–81, sec 5001, *et seq.*

CFR Citation: None.

Legal Deadline: Final, Statutory, June 30, 2012, Sec. 5151 of the SBIR/STTR Reauthorization Act of 2011 (Reauthorization Act) requires SBA issue amendments to conform the SBIR Policy Directive to the Reauthorization Act amendments.

Statutory requirement that proposed rule be published within 180 days of enactment.

Abstract: The amendments to the Small Business Innovation Research Policy Directive cover, in general: extension of the program through 2017; increase in percentage of extramural research and development budget reserved for program; annual adjustment of award guidelines for inflation; authority for SBIR awardees to receive STTR awards and vice versa; prevention of duplicate awards; requirements for agencies to allow business concerns owned by multiple venture capital operating companies, hedge funds or private equity firms to participate in the program; authority for small businesses to contract with Federal laboratory and restrictions on advanced payment to laboratories; technical assistance amendments; commercialization readiness and commercialization readiness pilot for civilian agencies; additional annual report and data collection requirements; and funding for administration and oversight of programs.

Statement of Need: Updating the SBIR Program Policy Directive is required by recent legislation (The National Defense Reauthorization Act of 2012—Pub. L. 112–81, sec. 5001, *et seq.*), which made many changes to the SBIR program.

Summary of Legal Basis: The National Defense Reauthorization Act of 2012 (Pub. L. 112–81, sec. 5001, *et seq.*).

Alternatives: There are no alternatives. Updating the SBIR Program Policy Directive is a statutory mandate outlined in the Reauthorization legislation.

Anticipated Cost and Benefits: Updating the SBIR Program Policy Directive is essential to the implementation of the SBIR/STTR Reauthorization legislation. There have been a number of changes to the framework of the SBIR program and the updated Policy Directive will provide guidance and uniformity to agencies overseeing SBIR research activities, as well as to small businesses looking to meet agency research needs.

There will be costs involved in implementing the SBIR/STTR Reauthorization through the Policy Directive. First of all since there are numerous new or expanded responsibilities on both agency personnel and small businesses (e.g. reporting), there will be additional costs associated with the program. SBA is of the opinion that the additional costs are not burdensome and that the amendments to the program through the SBIR/STTR Reauthorization legislation will help generate expanded economic benefits to both agencies and small businesses.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
Notice	08/06/12	77 FR 46806
Notice Effective	08/06/12	77 FR 46806
Comment Period End.	10/05/12	
Final Action	08/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Additional Information: Included in SBA's Retrospective Review under Executive Orders 13563 and 13610.

Agency Contact: Edsel M. Brown Jr., Assistant Director, Office of Innovation, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–6450, *Email:* *edsel.brown@sba.gov.*

Related RIN: Related to 3245–AF45, Related to 3245–AG46

RIN: 3245–AF84

SBA

5. Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation

Priority: Other Significant.

Legal Authority: Pub. L. 111–240, sec. 1311, 1312, 1313, 1331

CFR Citation: 13 CFR parts 121, 124 to 127, 134.

Legal Deadline: Final, Statutory, September 27, 2011, The Small Business

Jobs Act of 2010, Pub. L. No. 111–240, Sec. 1331, requires SBA to issue regulation implementing this provision within one year from date of enactment.

Abstract: The U.S. Small Business Administration (SBA) is issuing regulations that will establish guidance under which Federal agencies may set aside part of a multiple award contract for small business concerns, set aside orders placed against multiple award contracts for small business concerns, and reserve one or more awards for small business concerns under full and open competition for a multiple award contract. These regulations will apply to small businesses, including those small businesses eligible for SBA's socioeconomic programs. The regulations will also set forth a Governmentwide policy on bundling, which will address teams and joint ventures of small businesses and the requirement that each Federal agency must publish on its Web site the rationale for any bundled contract. In addition, the regulations will address contract consolidation and the limitations on the use of such consolidation in Federal procurement to include ensuring that the head of a Federal agency may not carry out a consolidated contract over $2 million unless the Senior Procurement Executive or Chief Acquisition Officer ensures that market research has been conducted and determines that the consolidation is necessary and justified.

Statement of Need: As agencies increasingly use multiple award contracts to acquire a wide range of products and services, many small businesses have lost federal contract opportunities. This rule will provide clear direction to contracting officers by authorizing small business set-asides in multiple-award contracts. Such action will in turn increase opportunities for small business to participate in the acquisition process.

Summary of Legal Basis: The Small Business Jobs Act of 2010, Public Law No. 111–240, section 1331, requires the SBA to issue regulations implementing this provision within one year from the date of enactment.

Alternatives: None—implements statute.

Anticipated Cost and Benefits: One of the primary goals of this rule is to increase small business participation in Federal prime contracting by providing agencies with the discretion to set aside orders under multiple award contracts for small business concerns and other socioeconomic categories. The 348,000 small businesses currently registered to conduct business with the federal government and those seeking to enter the federal contracting arena would benefit from, rather than be burdened by, this rule.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	05/16/12	77 FR 29130
NPRM Comment Period End.	07/16/12	
Final Rule	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Agency Contact: Dean R. Koppel, Assistant Director, Office of Policy and Research, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7322, *Fax:* 202 481–1540, *Email: dean.koppel@sba.gov.*

RIN: 3245–AG20

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION (SSA)

Statement of Regulatory Priorities

We administer the Retirement, Survivors, and Disability Insurance programs under title II of the Social Security Act (Act), the Supplemental Security Income (SSI) program under title XVI of the Act, and the Special Veterans Benefits program under title VIII of the Act. As directed by Congress, we also assist in administering portions of the Medicare program under title XVIII of the Act. Our regulations codify the requirements for eligibility and entitlement to benefits and our procedures for administering these programs. Generally, our regulations do not impose burdens on the private sector or on State or local governments, except for the States' disability determination services. We fully fund the disability determination services in advance or by way of reimbursement for necessary costs in making disability determinations.

The ten entries in our regulatory plan (plan) represent issues of major importance to the Agency. We describe the individual initiatives more fully in the attached plan.

Improving the Disability Process

Since the continued improvement of the disability program is of vital concern to us, we have initiatives in the plan addressing disability-related issues. They include:

Three proposed rules and four final rules updating the medical listings used to determine disability—evaluating neurological impairments, respiratory system disorders, hematological disorders, genitourinary disorders, mental disorders, visual disorders, and congenital disorders that affect multiple body systems. The revisions reflect our adjudicative experience and advances in medical knowledge, diagnosis, and treatment.

Enhance Public Service

We will revise our rules to establish a 12-month time limit for the withdrawal of an old-age benefits application. The final rules will permit only one withdrawal per lifetime.

We propose to revise our rules to maximize our capability to conduct hearings by video teleconferencing.

We will finalize portions of the rules we proposed in October 2007 that relate to appearing by telephone and the timeframe requirement for objecting to the time or place of a hearing. We expect that these rules will make the hearings process more efficient and continue to reduce our backlog.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 "Improving Regulation and Regulatory Review" (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in our final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan.* However, you can find more information about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. You can also find these rulemakings on Regulations.gov. The final agency plans can be found at: *http://www.socialsecurity.gov/open/regsreview/EO–13563-Final-Plan.html.*

RIN	Title	Expected to Significantly Reduce Burdens on Small Businesses
0960–AF35	Revised Medical Criteria for Evaluating Neurological Impairments	No.
0960–AF58	Revised Medical Criteria for Evaluating Respiratory System Disorders	No.
0960–AF69	Revised Medical Criteria for Evaluating Mental Disorders	No.
0960–AF88	Revised Medical Criteria for Evaluating Hematological Disorders	No.
0960–AG21	New Medical Criteria for Evaluating Language and Speech Disorders	No.
0960–AG28	Revised Medical Criteria for Evaluating Growth Impairments	No.
0960–AG38	Revised Medical Criteria for Evaluating Musculoskeletal Disorders	No.
0960–AG65	Revised Medical Criteria for Evaluating Digestive Disorders	No.
0960–AG71	Revised Medical Criteria for Evaluating Immune (HIV) System Disorders	No.
0960–AG74	Revised Medical Criteria for Evaluating Cardiovascular Disorders	No.
0960–AG91	Revised Medical Criteria for Evaluating Skin Disorders	No.
0960–AH03	Revised Medical Criteria for Evaluating Genitourinary Disorders	No.
0960–AH04	Revised Medical Criteria for Evaluating Congenital Disorders That Affect Multiple Body Systems	No.
0960–AH28	Revised Medical Criteria for Evaluating Visual Disorders	No.

SSA

Proposed Rule Stage

103. Revised Medical Criteria for Evaluating Neurological Impairments (806P)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 11.00 and 111.00, Neurological Impairments, of appendix 1 to subpart P of part 404 of our regulations describe neurological impairments that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These proposed regulations are necessary to update the listings for evaluating neurological impairments to reflect advances in medical knowledge, treatment, and methods of evaluating these impairments. The changes would ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings and continuing to use our current criteria. However, we believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating these types of impairments.

Anticipated Cost and Benefits: Estimated Savings—low.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	04/13/05	70 FR 19356.
ANPRM Comment Period End.	06/13/05	
NPRM	12/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Cheryl A. Williams, Director, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020.

Joshua B. Silverman, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 594–2128,

RIN: 0960–AF35

SSA

104. Revised Medical Criteria for Evaluating Respiratory System Disorders (859P)

Priority: Other Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 3.00 and 103.00, Respiratory System, of appendix 1 to subpart P of part 404 of our regulations describe respiratory system disorders that we consider severe enough to prevent an individual from doing any gainful activity or that cause marked and severe functional limitations for a child claiming SSI payments under title XVI. We are proposing to revise these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These proposed regulations are necessary to update the Respiratory System listings to reflect advances in medical knowledge, treatment, and methods of evaluating respiratory disorders. The changes would ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings and continuing to use our current criteria. However, we

believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating respiratory diseases and because of our adjudicative experience.

Anticipated Cost and Benefits: Estimated costs—low.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	04/13/05	70 FR 19358.
ANPRM Comment Period End.	06/13/05	
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Cheryl A. Williams, Director, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020.

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RIN: 0960–AF58

SSA

105. Revised Medical Criteria for Evaluating Hematological Disorders (974P)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 7.00 and 107.00, Hematological Disorders, of appendix 1 to subpart P of part 404 of our regulations, describe hematological disorders that we consider severe enough to prevent a person from performing any gainful activity or that cause marked and severe functional limitation for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These proposed regulations are necessary to update the hematological listings to reflect advances in medical knowledge, treatment, and methods of evaluating hematological disorders. The changes ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings or making only minor technical changes and continuing to use our current criteria. However, we believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating these types of impairments.

Anticipated Cost and Benefits: Estimated savings—low.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	05/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: www.regulations.gov.

Agency Contact: Cheryl A. Williams, Director, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020.

Helen Droddy, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1483.

RIN: 0960–AF88

SSA

106. Revised Medical Criteria for Evaluating Genitourinary Disorders (3565P)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 6.00 and 106.00, of appendix 1 to subpart P of part 404 of our regulations describe genitourinary disorders that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These proposed regulations are necessary to update the listings for evaluating neurological genitourinary disorders to reflect advances in medical knowledge, treatment, and methods of evaluating these impairments. The changes would ensure that determinations of disability have sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings and continuing to use our current criteria. However, we believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating genitourinary disorders and because of our adjudicative experience.

Anticipated Cost and Benefits: Estimated Savings—low.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	11/10/09	74 FR 57970
ANPRM Comment Period End.	01/11/10	
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: www.regulations.gov.

Agency Contact: Cheryl A. Williams, Director, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020.

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RIN: 0960–AH03

SSA

107. Hearings by Video Teleconferencing (VTC) (3728P)

Priority: Other Significant.

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR part 404; 20 CFR part 416.

Legal Deadline: None.

Abstract: We propose to revise our rules to protect the integrity of our programs and to address public concerns regarding the removal of an administrative law judge's name from the Notice of Hearing and other prehearing notices. To accomplish both objectives, these proposed rules state that we will provide an individual with notice that his or her hearing may be held by video teleconferencing and that he or she has an opportunity to object to appearing by video teleconferencing within 30 days of the notice. We have also made changes that allow us to determine that claimant will appear via video teleconferencing if a claimant changes residences while his or her request for hearing is pending. We anticipate these changes will increase the integrity of our programs with minimal impact on the public and result in more efficient administration of our program.

Statement of Need: These proposed rules would protect the integrity of our programs and address public concerns regarding the removal of an administrative law judge's name from the Notice of hearing and other prehearing notices.

Summary of Legal Basis: Administrative not required by statute or court order.

Alternatives: We believe that based on our current evidence there are no alternatives at this time.

Anticipated Cost and Benefits: Viewed in the context of the current business process, this regulation will not result in a change in the numbers of appeals or their distribution by type of hearing. The regulation, if it becomes final, should have no effect on program costs for OASDI or SSI in this current business context.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

URL for Public Comments: *www.regulations.gov.*

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RIN: 0960–AH37

SSA

Final Rule Stage

108. Revised Medical Criteria for Evaluating Mental Disorders (886F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 42 U.S.C. 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(h); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1; 20 CFR 404.1520a; 20 CFR 416.920a; 20 CFR 416.934.

Legal Deadline: None.

Abstract: Sections 12.00 and 112.00, Mental Disorders, of appendix 1 to subpart P of part 404 of our regulations describe those mental impairments that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We will revise the criteria in these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These regulations are necessary to update the listings for evaluating mental disorders to reflect advances in medical knowledge, treatment, and methods of evaluating these disorders. The changes will ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings or making only minor technical changes. However, we believe that these revisions are preferable because of the medical advances that have been made in treating and evaluating these types of disorders. We have not comprehensively revised the current listings in over 15 years. Medical advances in disability evaluation and treatment and our program experience make clear that the current listings do not reflect state-of-the-art medical knowledge and technology.

Anticipated Cost and Benefits: Savings estimates for fiscal years 2010 to 2018: (in millions of dollars) OASDI–315, SSI–370.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/03	68 FR 12639
ANPRM Comment Period End.	06/16/03	
NPRM	08/19/10	75 FR 51336
NPRM Comment Period End.	11/17/10	
NPRM	11/24/10	75 FR 71632
NPRM Comment Period End.	12/09/10	
Final Action	07/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: *www.regulations.gov.*

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RIN: 0960–AF69

SSA

109. Revised Medical Criteria for Evaluating Congenital Disorders That Affect Multiple Body Systems (3566F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i);

42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 10.00 and 110.00, of appendix 1 to subpart P of part 404 of our regulations describe impairments that affect multiple body systems that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These final regulations are necessary to update the multiple body systems listings to reflect advances in medical knowledge, treatment, and methods of evaluating these disorders. The changes will ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings and continuing to use our current criteria. However, we believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating these types of disorders and because of our adjudicative experience.

Anticipated Cost and Benefits: Estimated Savings—low.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	11/10/09	74 FR 57971
ANPRM Comment Period End.	01/11/10	
NPRM	10/25/11	76 FR 66006
NPRM Comment Period End.	12/27/11	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

Agency Contact: Cheryl A. Williams, Director, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020.

Joshua B. Silverman, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 594–2128.

RIN: 0960–AH04

SSA

110. Amendments to Regulations Regarding Withdrawals of Applications and Voluntary Suspension of Benefits (3573F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 402(i); 42 U.S.C. 402(j); 42 U.S.C. 402(o); 42 U.S.C. 402(p); 42 U.S.C. 402(r); 42 U.S.C. 403(a); 42 U.S.C. 403(b); 42 U.S.C. 405(a); 42 U.S.C. 416; 42 U.S.C. 416(i)(2); 42 U.S.C. 423; 42 U.S.C. 423(b); 42 U.S.C. 425; 42 U.S.C. 428(a) to 428(e); 42 U.S.C. 902(a)(5)

CFR Citation: 20 CFR 404.313; 20 CFR 404.640.

Legal Deadline: None.

Abstract: We will modify our regulations to establish a 12-month time limit for the withdrawal of an old age benefits application. We will also permit only one withdrawal per lifetime. These changes will limit the voluntary suspension of benefits only to those benefits disbursed in future months.

Statement of Need: We are under a clear congressional mandate to protect the Trust Funds. It is crucial that we change our current policies that have the effect of allowing beneficiaries to withdraw applications or suspend benefits and use benefits from the Trust Funds as something akin to an interest-free loan.

Summary of Legal Basis: Discretionary.

Alternatives: We believe that based on our current evidence there are no alternatives at this time.

Anticipated Cost and Benefits: The administrative effect of this final rule is negligible.

Risks: None.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/10	75 FR 76256
Interim Final Rule Effective.	12/08/10	
Interim Final Rule Comment Period End.	02/07/11	
Final Action	05/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Undetermined.

Agency Contact: Deidre Bemister, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, Baltimore, MD 21235–6401, *Phone:* 410 966–6223.

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RIN: 0960–AH07

SSA

111. Revised Medical Criteria for Evaluating Visual Disorders (3696F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 2.00 and 102.00, Special Senses and Speech, of appendix 1 to subpart P of our regulations describe visual, hearing, and speech disorders that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in the sections we use to evaluate visual disorders to ensure that medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These final regulations are necessary to update the visual disorders listings to reflect advances in medical knowledge, treatment, and methods of evaluating visual disorders. The changes will ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings and continuing to

use our current criteria. However, we believe that these revisions are preferable because of the medical advances that have been made in treating and evaluating visual disorders and because of our adjudicative experience.

Anticipated Cost and Benefits: Estimated Savings—low.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	02/13/12	77 FR 7549
NPRM Comment Period End.	04/13/12	
Final Action	12/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: *www.regulations.gov.*

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RIN: 0960–AH28

SSA

112. Amendments to the Rules on Determining Hearing Appearances and to the Rules on Objecting to the Time and Place of the Hearing (3401F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 401(j); 42 U.S.C. 404(f); 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 405(j); 42 U.S.C. 405(s); 42 U.S.C. 405 note; 42 U.S.C. 421; 42 U.S.C. 421 note; 42 U.S.C. 423(a) to 423(b); 42 U.S.C. 423(i); 42 U.S.C. 425; 42 U.S.C. 902(a)(5); 42 U.S.C. 902 note; 42 U.S.C. 1381; 42 U.S.C. 1381a; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.929; 20 CFR 404.936; 20 CFR 404.938; 20 CFR 404.950; 20 CFR 405.315; 20 CFR 416.1429; 20 CFR 416.1436; 20 CFR 416.1438; 20 CFR 416.1450.

Legal Deadline: None.

Abstract: These final rules are another step in our continuous efforts to handle workloads more effectively and efficiently. We are publishing final rules for portions of the rules we proposed in October 2007 that relate to appearing by telephone and the timeframe requirement for objecting to the time or place of the hearing. We expect these final rules will make the hearings process more efficient and help us continue to reduce the hearings backlog. In addition, we made some editorial changes to our regulations that do not alter the substance of the regulations or have any effect on the rights of the claimants or any other parties.

Statement of Need: This final rule is another step in our continual efforts to handle workloads more effectively and efficiently. We are publishing final rules for portions of the rules we proposed in October 2007 that relate to appearing by telephone and the time period provided for objecting to the time or place of the hearing. In addition, we made some editorial changes to our regulation that do not alter the substance of the regulations or have any effect on the rights of claimants or any other parties.

Summary of Legal Basis: Administrative not required by statute or court order.

Alternatives: We believe that based on our current evidence there are no alternatives at this time.

Anticipated Cost and Benefits: The remaining item regarding enabling Administrative Law Judges (ALJs) to specify telephone as the mode for conducting a hearing in extraordinary circumstances and the small modification in the time period for objecting to the time and place specified for the hearing should not have any significant effect on the timing or nature of ALJ decisions. Consequently, we do not expect the publication of this final rule to result in any negligible changes to OASDI or SSI benefit outlays. The administrative effect of this regulation is negligible (i.e., less than 25 workyears or $2 million annually).

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	10/29/07	72 FR 61218
NPRM Comment Period End.	12/28/07	
Final Action	06/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for Public Comments: *www.regulations.gov.*

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Related RIN: Previously reported as 0960–AG52.

RIN: 0960–AH40

BILLING CODE 4191–02–P

FALL 2012 STATEMENT OF REGULATORY PRIORITIES

CFPB Purposes and Functions

The Bureau of Consumer Financial Protection (CFPB) was established as an independent bureau of the Federal Reserve System by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376) (Dodd-Frank Act). Pursuant to the Dodd-Frank Act, the CFPB has rulemaking, supervisory, enforcement, and other authorities relating to consumer financial products and services. Among these are the consumer financial protection authorities that transferred to the CFPB from seven Federal agencies on the designated transfer date, July 21, 2011. These authorities include the ability to issue regulations under more than a dozen Federal consumer financial laws.

As provided in section 1021 of the Dodd-Frank Act, the purpose of the CFPB is to implement and enforce Federal consumer financial laws consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that such markets are fair, transparent, and competitive. The CFPB is authorized to exercise its authorities for the purpose of ensuring that:

(1) Consumers are provided with timely and understandable information to make responsible decisions about transactions involving consumer financial products and services;

(2) Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;

(3) Outdated, unnecessary, or unduly burdensome regulations concerning consumer financial products and

services are regularly identified and addressed in order to reduce unwarranted regulatory burdens;

(4) Federal consumer financial law is enforced consistently, without regard to status as a depository institution, in order to promote fair competition; and

(5) Markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

Immediate Regulatory Priorities

The CFPB is working on a wide range of initiatives to address issues in markets for consumer financial products and services that are not reflected in this notice because the Unified Agenda is limited to rulemaking activities. With regard to the exercise of its rulemaking authorities, as reflected in the CFPB's semiannual regulatory agenda, the CFPB's immediate focus continues to be on completing various mortgage-related rulemakings that are mandated by the Dodd-Frank Act. In addition, the CFPB is working on a number of procedural rules relating to the stand-up of the CFPB as an independent regulatory agency.

The semiannual regulatory agenda provides more detailed descriptions of individual rulemaking projects. The CFPB remains particularly focused on meeting the rulemaking deadlines set forth in Title XIV of the Dodd-Frank Act, in order to provide certainty to consumers, financial services providers, and the broader economy. Among the rules the CFPB is working to complete action on in 2013 are the following:

Mortgage Rules Implementing Title XIV Provisions of the Dodd-Frank Act:

- Finalizing a Board of Governors of the Federal Reserve System (Board) proposal, published in May, 2011, to implement Dodd-Frank Act requirements that creditors make a reasonable, good-faith determination at the time the loan is consummated that consumers have the ability to repay a loan. The Board's proposal amends Regulation Z to implement amendments to the Truth in Lending Act (TILA) made by the Dodd-Frank Act. Regulation Z currently prohibits a creditor from making a higher-priced mortgage loan without regard to the consumer's ability to repay the loan. The Board's proposal would implement statutory changes made by the Dodd-Frank Act that expand the scope of the ability to repay requirement to cover any consumer credit transaction secured by a dwelling (excluding an open-end credit plan, timeshare plan, reverse mortgage, or temporary loan). In addition, the proposal would establish standards for complying with the ability to repay requirement, including by making a "qualified mortgage." The proposal also implements the Dodd-Frank Act's limits on prepayment penalties. Finally, the proposal would require creditors to retain evidence of compliance with this rule for three years after a loan is consummated.
- Finalizing a Board proposal published in March 2011, implementing certain amendments to TILA made by the Dodd-Frank Act that lengthen the time for which a mandatory escrow account established for a higher-priced mortgage loan must be maintained. In addition, the Board's proposal would implement the Dodd Frank Act's disclosure requirements regarding escrow accounts. The Board's proposal also would exempt certain loans from the statute's escrow requirement, pursuant to authority in the Dodd-Frank Act. The primary exemption would apply to mortgage loans extended by creditors that operate predominantly in rural or underserved areas and meet certain other prerequisites.
- Finalizing CFPB proposals published in September 2012 to amend Regulation Z (TILA), and Regulation X (Real Estate Settlement Procedures Act (RESPA)), to implement Dodd-Frank Act provisions regarding mortgage loan servicing and other revisions. The CFPB's Regulation Z proposal would implement Dodd Frank Act sections addressing initial rate adjustment notices for adjustable-rate mortgages (ARMs), periodic statements for residential mortgage loans, and prompt crediting of mortgage payments and response to requests for payoff amounts. The proposed provisions would also amend current rules governing the scope, timing, content, and format of current disclosures to consumers occasioned by the interest rate adjustments of their variable-rate transactions. The CFPB's Regulation X proposal requests comment regarding proposed additions to Regulation X to address servicer obligations: (1) to correct errors asserted, and provide information requested, by mortgage loan borrowers; (2) to alert consumers to possible servicer imposition of force-placed insurance and ensure that a reasonable basis exists to charge for it; (3) to establish reasonable information management policies and procedures; (4) to provide information about mortgage loss mitigation options to delinquent borrowers; (5) to provide delinquent borrowers access to servicer personnel with continuity of contact about the borrower's mortgage loan account; and (6) to evaluate borrowers' complete applications for available loss mitigation options. The Regulation X proposal would also modify and streamline certain existing general and servicing-related provisions of Regulation X.
- Finalizing a CFPB proposal, published in September 2012, amending Regulation Z (TILA) to implement Dodd-Frank Act amendments to TILA on loan originator compensation, including a new additional restriction on the imposition of any upfront discount points, origination points, or fees on consumers under certain circumstances. In addition, the proposal implements additional requirements imposed by the Dodd-Frank Act concerning proper qualification and registration or licensing for loan originators. The proposal also implements Dodd-Frank Act restrictions on mandatory arbitration and the financing of certain credit insurance premiums. Finally, the proposal provides additional guidance and clarification under the existing regulation's provisions restricting loan originator compensation practices, including guidance on the application of those provisions to certain profit-sharing plans and the appropriate analysis of payments to loan originators based on factors that are not terms but that may act as proxies for a transaction's terms.
- Finalizing an interagency proposal on appraisal requirements for higher-risk mortgages. The CFPB is participating in interagency rulemaking processes with the Board, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Federal Housing Finance Agency (FHFA) to develop proposed regulations to implement amendments made by the Dodd-Frank Act to TILA and the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) concerning appraisals. In September 2012, the Board, CFPB, FDIC, FHFA, NCUA, and OCC published a proposed rule amending Regulation Z (TILA), to provide that, for mortgages with an annual percentage rate that exceeds the average prime offer rate by a specified percentage, creditors must obtain an appraisal or appraisals meeting certain specified standards, provide applicants with a notification regarding the use of the appraisals, and give applicants a copy of the written appraisals used.
- Finalizing a CFPB proposal, published in September 2012, to implement a Dodd-Frank amendment to the Equal Credit Opportunity Act (ECOA), concerning appraisals. In general, the CFPB's proposal revises Regulation B, which implements ECOA,

to require creditors to provide free copies of all written appraisals and valuations developed in connection with an application for a loan to be secured by a first lien on a dwelling. The proposal also would require creditors to notify applicants in writing of the right to receive a copy of each written appraisal or valuation at no additional cost.

• Finalizing a CFPB proposal published in August 2012 that would implement Dodd-Frank Act amendments to TILA that expand the types of mortgage loans that are subject to the protections of the Home Ownership and Equity Protection Act of 1994 (HOEPA), that revise and expand the triggers for coverage under HOEPA, and that impose additional restrictions on HOEPA mortgage loans, including a pre-loan counseling requirement. The CFPB's proposal would also implement other Dodd-Frank Act amendments to TILA and RESPA that impose certain other requirements related to homeownership counseling.

Completion of Other Pending Rulemakings:

Other priority rulemakings that the CFPB is working to complete in 2013 include the following:

• Finalizing CFPB proposed rules and forms that combine certain disclosures that consumers receive in connection with applying for and closing on a mortgage loan under TILA and RESPA. In August 2012, the CFPB published a proposal to amend Regulation X (RESPA) and Regulation Z (TILA) to establish new disclosure requirements and forms in Regulation Z for most closed-end consumer credit transactions secured by real property. In addition to combining the existing disclosure requirements and implementing new requirements in the Dodd-Frank Act, the CFPB's proposed rule provides extensive guidance regarding compliance with those requirements.

• A CFPB rulemaking to amend the ability to pay (ATP) provisions of Regulation Z (TILA) to address concerns that the current rule unduly limits the ability of spouses and partners not working outside the home to obtain credit cards based on spousal/partner income. In May 2011, the Board published a final rule that, among other things, amended the provisions of Regulation Z that implement the requirement in the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit Card Act) that card issuers consider a consumer's ability to pay before opening a new credit card account or increasing the credit limit on an existing account. These amendments expanded the pre-existing independence standard applicable to consumers under the age of 21 to all consumers, regardless of age. The proposal eliminates the independent ability to pay requirement for consumers and applicants age 21 or older and instead permits card issuers to consider income and assets to which the consumer or applicant has a reasonable expectation of access. The CFPB initiated this rulemaking through the issuance of a proposed rule in October 2012.

• Additional regulations governing international money transfers (remittances) under the Electronic Fund Transfer Act (EFTA), as amended by the Dodd-Frank Act. These regulations concern disclosures, error resolution procedures, and other topics. The Board published a proposal concerning these rules in May 2011, and in February 2012, and August, 2012 the CFPB published final rules implementing these EFTA provisions.

Additional Rulemakings

As the CFPB completes work on a number of pending rulemakings, it is in the process of analyzing and prioritizing additional projects. For instance, the CFPB expects to accelerate work on other rulemakings that are mandated under the Dodd-Frank Act, such as amendments to the Home Mortgage Disclosure Act (HMDA) to require creditors to collect and report certain additional lending data. The CFPB also expects to continue working on an interagency basis to complete rulemakings related to appraisals and implementation of the Expedited Funds Availability Act.

In addition, the CFPB anticipates further rulemaking with regard to its nonbank supervision program and "larger participants." In addition to its supervisory authority over nonbanks participating in certain markets enumerated in the Dodd-Frank Act, the CFPB may supervise "larger participants" in other markets for consumer financial products or services, as the CFPB defines by rule. The CFPB published its first "larger participant" rule, relating to consumer reporting, in July 2012. In October 2012, the CFPB published its second rule of this type, defining larger participants of a market for consumer debt collection. The CFPB anticipates publishing a notice of proposed rulemaking and a final rule in 2013, for the third in a series of larger participant rulemakings.

The CFPB is also assessing ways to fulfill its mission to reduce unwarranted regulatory burdens on industry. In December 2011, the CFPB issued a request for information on this topic seeking broad stakeholder input on potential projects to streamline, modernize, and harmonize regulations that it had inherited from other federal agencies. The notice suggested several possible projects, ranging from current requirements involving automated teller machine (ATM) physical disclosures, to paper annual privacy notices provided by financial institutions to consumers, to the provision of electronic disclosures to consumers. More broadly, the notice sought comment on ways to identify/prioritize projects, ways the CFPB could help facilitate implementation and compliance efforts, data on burdens, and ways to identify practical measures the CFPB could take to promote or remove obstacles to responsible innovation in consumer financial services markets. The CFPB received approximately 166 comments over a several month period, and has already begun to consider some of the suggestions received in the development of its rules.

For instance, streamlining, as discussed in the CFPB's December 2011 notice, was one consideration, among others, in the CFPB's rulemaking referenced above on the changes to the ability to pay provisions of Regulation Z with regard to the Credit Card Act. In addition, in the TILA–RESPA integrated disclosure proposed rule, referenced above, the CFPB solicited feedback on several items discussed in the CFPB's December 2011 streamlining request for information to determine the most effective method of addressing certain issues. For example, the CFPB solicited feedback on modifying the thresholds applicable to the definition of "creditor" in Regulation Z. The CFPB also believes that the HMDA rulemaking provides an opportunity to identify ways to reduce implementation burdens and will increase overall efficiency if it is synchronized with industry data standards and other regulatory initiatives. The CFPB is considering additional streamlining initiatives in 2013.

Finally, the CFPB is also in the process of assessing information gathered in the past year concerning a variety of consumer financial products and services besides mortgage loans to determine whether rulemakings are warranted to address other markets. In particular, the CFPB has issued a number of requests for information, an advance notice of proposed rulemaking, and congressionally mandated and other reports in the past year concerning a wide variety of markets and consumer financial issues. Other topics have come to the CFPB's attention in connection with enforcement actions by the CFPB

or other regulators. A sample of these issues and markets include:

Requests for Information

Request for Information on Consumer Financial Products and Services Offered to Servicemembers, 76 FR 54998 (September 6, 2011)
Requests for Information Regarding Private Education Loans and Private Educational Lenders, 76 FR 71329 (November 17, 2011)
Impacts of Overdraft Programs on Consumers, 77 FR12031 (February 28, 2012)
Request for Comment on Payday Lending Hearing Transcript, 77 FR 16817 (March 22, 2012)
Request for Information Regarding Scope, Methods, and Data Sources for Conducting Study of Pre-Dispute Arbitration Agreements, 77 FR 25148 (April 27, 2012)
Requests for Information Regarding Complaints From Private Education Loan Borrowers, 77 FR 35659 (June 14, 2012)
Requests for Information Regarding Senior Financial Exploitation, 77 FR 36491 (June 19, 2012)
Consumer Use of Reverse Mortgages, 77 FR 39222 (July 2, 2012)

Advance Notice of Proposed Rulemakings

Electronic Funds Transfer (Regulation E) (general purpose reloadable prepaid cards), 77 FR 30923, May 24, 2012

Reports

Fair Debt Collection Practices Act—CFPB Annual Report 2012 (March 20, 2012)
Reverse Mortgages, Report to Congress, June 28, 2012
Private Student Loans, August 29, 2012
Analysis of Differences between Consumer- and Creditor-Purchased Credit Scores, September 2012

In some cases, the CFPB expects to follow up on these earlier efforts through conducting additional research in 2013. For example, the CFPB's request for information relating to mandatory arbitration was designed to assist the CFPB in preparing to conduct a congressionally mandated study on the topic, which in turn may provide a basis under the Dodd-Frank Act for certain rulemaking activity. The CFPB also expects to publish studies and other reports to describe what it has learned on particular topics. In other cases, the CFPB may conclude that rulemaking activity is warranted based on the research and input that have been received to date. For example, the CFPB expects to publish a Notice of Proposed Rulemaking concerning general purpose reloadable prepaid cards, in follow up to its earlier Advanced Notice of Proposed Rulemaking. However, the CFPB is still determining the scope and timing of the proposal.

The CFPB expects to intensify its work in analyzing and prioritizing other potential rulemaking projects as it completes work on the January 2013 mortgage regulations and other pending projects described above and in the regulatory agenda. The CFPB anticipates updating its spring 2013 agenda to reflect the results of this process.

This Statement of Regulatory Priorities (Statement) supplements the semiannual regulatory agenda that is being published contemporaneously. The CFPB is submitting this Statement on a voluntary basis. It is also available from RegInfo.gov.

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Statement of Regulatory Priorities

The U.S. Consumer Product Safety Commission (the Commission) is charged with protecting the public from unreasonable risks of death and injury associated with consumer products. To achieve this goal, the Commission:

- Develops mandatory product safety standards or bans rules when other, less restrictive, efforts are inadequate to address a safety hazard, or where required by statute;
- Obtains repair, replacement, or refund of the purchase price for defective products that present a substantial product hazard;
- Develops information and education campaigns about the safety of consumer products;
- Directs staff to participate in the development or revision of voluntary product safety standards; and
- Follows congressional mandates to enact specific regulations.

Unless directed otherwise by congressional mandate, when deciding which of these approaches to take in any specific case, the Commission gathers and analyzes the best available data about the nature and extent of the risk presented by the product. The Commission's rules require the Commission to consider, among other factors, the following criteria when deciding the level of priority for any particular project:

- Frequency and severity of injury;
- Causality of injury;
- Chronic illness and future injuries;
- Costs and benefits of Commission action;
- Unforeseen nature of the risk;
- Vulnerability of the population at risk; and
- Probability of exposure to the hazard.

Significant Regulatory Actions

Currently, the Commission is considering one rule that would constitute a "significant regulatory action" under the definition of that term in Executive Order 12866:

1. Flammability Standard for Upholstered Furniture

Under section 4 of the Flammable Fabrics Act (FFA), the Commission may issue a flammability standard or other regulation for a product of interior furnishing if the Commission determines that such a standard is needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage. The Commission's regulatory proceeding could result in several actions, one of which could be the development of a mandatory standard requiring that upholstered furniture meet mandatory labeling requirements, resist ignition, or meet other performance criteria under test conditions specified in the standard.

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FEDERAL TRADE COMMISSION (FTC)

Statement of Regulatory and Deregulatory Priorities

I. Regulatory and Deregulatory Priorities

Background

The Federal Trade Commission ("FTC" or "Commission") is an independent agency charged by its enabling statute, the Federal Trade Commission Act, with protecting American consumers from "unfair methods of competition" and "unfair or deceptive acts or practices" in the marketplace. The Commission strives to ensure that consumers benefit from a vigorously competitive marketplace. The Commission's work is rooted in a belief that competition, based on truthful and non-misleading information about products and services, provides consumers the best choice of products and services at the lowest prices.

The Commission pursues its goal of promoting competition in the marketplace through two different, but complementary, approaches. Unfair or

deceptive acts or practices injure both consumers and honest competitors alike and undermine competitive markets. Through its consumer protection activities, the Commission seeks to ensure that consumers receive accurate, truthful, and non-misleading information in the marketplace. At the same time, for consumers to have a choice of products and services at competitive prices and quality, the marketplace must be free from anticompetitive business practices. Thus, the second part of the Commission's basic mission—antitrust enforcement—is to prohibit anticompetitive mergers or other anticompetitive business practices without unduly interfering with the legitimate activities of businesses. These two complementary missions make the Commission unique insofar as it is the Nation's only Federal agency to be given this combination of statutory authority to protect consumers.

The Commission is, first and foremost, a law enforcement agency. It pursues its mandate primarily through case-by-case enforcement of the Federal Trade Commission Act and other statutes. In addition, the Commission is also charged with the responsibility of issuing and enforcing regulations under a number of statutes. Pursuant to the FTC Act, the Commission currently has in place 16 trade regulation rules. Other examples include the regulations enforced pursuant to credit and financial statutes [1] and to energy laws.[2] The Commission also has adopted a number of voluntary industry guides. Most of the regulations and guides pertain to consumer protection matters and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions.

Commission Initiatives

The Commission protects consumers through a variety of tools, including both regulatory and non-regulatory approaches. It has encouraged industry self-regulation, developed a corporate leniency policy for certain rule violations, and established compliance partnerships where appropriate.

As detailed below, protecting consumer privacy, helping consumers in financial distress, promoting competition in health care and containing costs of prescription drugs, and using appropriate measures of enforcement, education, and public engagement to address evolving technology and innovation continue to be at the forefront of the Commission's consumer protection and competition programs. By subject area, the FTC discusses the major workshops, reports,[3] and initiatives it has pursued since the 2011 Regulatory Plan was published.

(a) *Protecting Consumer Privacy.* The Commission continues to raise the profile of privacy practices—online and off—through law enforcement, consumer education, and policy initiatives. FTC settlement orders against Facebook and Google resolved charges that these companies violated their privacy promises to consumers.[4] These two settlements showed that all companies big or small must abide by FTC orders against them and keep their privacy promises to consumers.

During 2011–2012, the Commission hosted a series of workshops to explore the privacy issues and challenges associated with 21st century technology and business practices to determine how best to protect consumer privacy while supporting beneficial uses of information and technological innovation. The facial recognition technologies workshop (December 2011) examined the benefits to consumers, as well as privacy and security concerns regarding current and possible future commercial uses of facial recognition technologies, and staff will make recommendations by the end of 2012 on best practices for companies that use these new technologies. Also, on May 30, 2012, the Commission held a workshop to consider the need for new guidance concerning advertising and privacy disclosures in today's online and mobile environments.

Additionally, the FTC's final report [5] (March 2012) on privacy adopted three principles proposed in the draft report (December 2010)—privacy by design, greater transparency, and more consumer choice—to help ensure consumer privacy and business innovation. The report continued to encourage businesses to improve their privacy practices through self-regulation, including a Do Not Track system, and noted some industry progress in this area. The report also identified areas such as large platforms, mobile, and data brokers for further attention in the coming year, and recommended that Congress consider legislation implementing basic privacy protections.

(b) *Help for Consumers in Financial Distress.* The FTC is vigilantly investigating and prosecuting "Last Dollar" Fraud from scammers who take advantage of the Nation's most financially fragile consumers through deceptive mortgage servicing practices, abusive debt collection tactics, bogus credit repair services, mortgage, tax and debt relief offers, and fraudulent job and business opportunity schemes. Historic levels of consumer debt, continued unemployment, and an unprecedented downturn in the housing and mortgage markets contributed to high rates of consumer bankruptcies and mortgage loan delinquency and foreclosure. Debt relief services proliferated after the financial crisis and a significant number of consumers hold debts they cannot pay.

The national mortgage crisis launched an industry of companies purporting, for a fee, to obtain mortgage loan modifications or other relief for consumers facing foreclosure. The Commission and other law enforcement have also taken action against mortgage companies that harm consumers through their advertising and servicing practices.

In recent years, debt buyers have become a significant part of the debt collection system. The Commission issued the compulsory process following its February 2009 report, based on an agency debt collection workshop, in which it found major problems in the flow of information among creditors, debt buyers, and collection agencies. In December 2009, the Commission issued compulsory information requests to nine of the Nation's largest debt buying [6] companies, requiring them to produce information about their practices in buying and selling consumer debt. These nine companies collectively purchased about 75 percent of the debt sold in the United States in 2008. The Commission issued the compulsory information requests to determine whether the practice of debt buying is

[1] For example, the Fair Credit Reporting Act (15 U.S.C. sections 1681 to 1681(u), as amended) and the Gramm-Leach-Bliley Act (Pub. L.106–102, 113 Stat. 1338, codified in relevant part at 15 U.S.C. sections 6801 to 6809 and sections 6821 to 6827, as amended).

[2] For example, the Energy Policy Act of 1992 (106 Stat. 2776, codified in scattered sections of the U.S. Code, particularly 42 U.S.C. section 6201 et seq. and the Energy Independence and Security Act of 2007 (EISA)).

[3] The FTC also prepares a number of annual and periodic reports on the statutes it administers. These are not discussed in this plan.

[4] See press releases at *http://ftc.gov/opa/2012/08/google.shtm* and *http://ftc.gov/opa/2012/08/facebook.shtm.*

[5] The report on "Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Businesses and Policymakers," (Mar. 2012) can be found at *http://ftc.gov/os/2012/03/120326privacyreport.pdf.*

[6] A debt buyer is any third-party company that purchases unpaid consumer debts from another creditor.

contributing to the information flow problems and, more generally, to obtain a better understanding of the role of debt buyers in the debt collection system. The Commission is using the information for a study of the debt buying industry and plans to report its findings by the end of 2012.

On April 28, 2011, the Commission held a workshop, "Debt Collection 2.0: Protecting Consumers as Technologies Change." The workshop addressed the impact of technological advances on the debt collection system, the resulting consumer protection concerns, and the need for responsive policy changes. Technologies discussed included the tools collectors use to locate consumers and their assets; changing modes of collector-consumer communications, such as mobile phones, auto-dialers, and electronic mail; the software that collectors use to manage information about consumers and debts; and collector use of social media applications. Commission staff is drafting a document highlighting the workshop's key findings and their policy implications.

(c) *Promoting Competition in Health Care.* The FTC continues to work to restrict anticompetitive settlements featuring payments by branded drug firms to a generic competitor to keep generic drugs off the market (so called, "pay for delay" agreements). It's a practice where the pharmaceutical industry wins, but consumers lose. The brand company protects its drug franchise, the generic competitor makes more money from the sweetheart deal than if it had entered the market and competed, and Consumers end up paying an estimated additional $3.5 billion annually because of these deals.[7] The Commission has a two-pronged approach to restricting pay-for-delay agreements: Active support for legislation to ban these harmful agreements—including proposed legislation that the Senate Judiciary Committee recently approved[8]—and Federal court challenges to invalidate individual agreements. The FTC is actively litigating to restrict pay-for-delay agreements,[9] including participating as an amicus in a landmark decision during July 2012 by an appellate court in the Third Circuit,[10] with jurisdiction over a significant number of U.S. pharmaceutical firms, which agreed with the Commission's position on pay-for-delay. However, solving this problem through the courts will take considerable time during which American consumers and governments will continue to pay high prices for prescription drugs. Therefore, even as the Commission fights against anticompetitive pay-for-delay settlements in the courts, the Commission continues to support a legislative solution to the problem.

Also in the health care arena, the FTC worked with the Department of Justice and other agencies, most notably the Centers for Medicare and Medicaid Services, to develop a Joint Statement of Antitrust Enforcement Policy for Accountable Care Organizations (ACOs).[11] Broadly speaking, the policy statement explains how the Agencies will enforce the antitrust laws with respect to ACOs. It creates a safety zone for certain ACOs that are highly unlikely to raise significant competitive concerns, and therefore will not be challenged by the Agencies under the antitrust laws, absent extraordinary circumstances. The statement also provides guidance for ACOs that do not fall within the safety zone.

We have sought where possible to be flexible in our approach. In response to feedback from providers and other stakeholders, we made some modifications to the proposed policy statement. For example, the entire final policy Statement (with the exception of voluntary review) applies to all collaborations among otherwise independent providers and provider groups that are eligible and intend, or have been approved, to participate in the Medicare Shared Savings Program. The policy statement no longer only applies to collaborations formed after March 23, 2010. We also expanded the rural exception, which allows rural ACOs to fall within the safety zone, under certain circumstances.

(d) *Food Marketing to Children.* After obtaining OMB approval, the Commission issued information requests on August 12, 2010, to 48 major food and beverage manufacturers, and quick-service restaurant companies about spending and marketing activities targeting children and adolescents, as well as nutritional information for food and beverage products that the companies market to these young consumers. The study will advance the Commission's understanding of how food industry promotional dollars targeted to children and adolescents are allocated, the types of activities and marketing techniques the food industry uses to market its products to children and adolescents, and the extent to which self-regulatory efforts are succeeding in improving the nutritional quality of foods advertised to children and adolescents. The Bureau of Consumer Protection is analyzing the data and preparing a report, which is expected to be released in late 2012.

(e) *Alcohol Advertising.* On February 1, 2012, OMB gave the Commission approval, under the Paperwork Reduction Act, to issue compulsory process orders to up to 14 alcohol companies. On April 16, 2012, the Commission issued the orders, seeking information on company brands, sales, and marketing expenses; compliance with advertising placement codes; and use of social media and other digital marketing.[12] The Commission staff estimates that the study will be completed, and a report issued, in spring 2013. The Commission also continues to promote the "We Don't Serve Teens" consumer education program, supporting the legal drinking age.[13]

(f) *Gasoline Prices.* Given the impact of energy prices on consumer budgets, the energy sector continues to be a major focus of FTC law enforcement and study. In November 2009, the FTC's Petroleum Market Manipulation Rule became final.[14] Our staff continues to examine all communications from the public about potential violations of this Rule, which prohibits manipulation in wholesale markets for crude oil, gasoline, and petroleum distillates. In June 2011, the FTC announced that it is using compulsory process to determine, among other things, whether firms at various stages of the oil industry are engaging in anticompetitive or manipulative conduct.[15] Other activities

[7] The report on "Pay-for-Delay: How Drug Company Pay-Offs Cost Consumers Billions" can be found at *http://www.ftc.gov/os/2010/01/100112payfordelayrpt.pdf.*

[8] S.27, "Preserve Access to Affordable Generics Act."

[9] *FTC v. Watson Pharm., Inc.*, No. 10–12729–DD (11th Cir. argued May 13, 2011); *FTC v. Cephalon, Inc.*, No. 2:08–CV–02141 (E.D. Pa. argued Oct. 21, 2009).

[10] *In re K-Dur Antitrust Litigation*, No. 10–2077, 2012 WL 2877662 (3d Cir. July 16, 2012).

[11] FTC & U.S. Department of Justice, *Statement of Antitrust Enforcement Policy Regarding Accountable Care Organizations Participating in the Medicare Shared Savings Program* (2011), available at *http://www.justice.gov/atr/public/health_care/276458.pdf.*

[12] A copy of the order, a list of the target companies, and the press release are available online at *http://www.ftc.gov/opa/2012/04/alcoholstudy.shtm.*

[13] More information can be found at *http://www.dontserveteens.gov/.*

[14] 16 CFR Part 317; See press release: "New FTC Rule Prohibits Petroleum Market Manipulation" (Aug. 6, 2009), available at *http://www.ftc.gov/opa/2009/08/mmr.shtm*; "FTC Issues Compliance Guide for Its Petroleum Market Manipulation Regulations," News Release (Nov. 13, 2009), available at *http://www.ftc.gov/opa/2009/11/mmr.shtm.*

[15] See press release: "Public Information Concerning the Federal Trade Commission

complement these efforts, including merger enforcement and an agreement with the Commodity Futures Trading Commission to share investigative information.

(g) *Financing of Motor Vehicles.* The Commission held a series of roundtable events [16] to gather information on possible consumer protection issues that may arise in the sale, lease, or financing of motor vehicles. For many consumers, buying or leasing a car is their most expensive financial transaction aside from owning a home. With prices averaging more than $28,000 for a new vehicle and $14,000 for a used vehicle from a dealer, most consumers seek to lease or finance the purchase of a new or used car. Financing obtained at a dealership may provide benefits for many consumers, such as convenience, special manufacturer-sponsored programs, access to a variety of banks and financial entities, or access to credit otherwise unavailable to a buyer. Dealer-arranged financing, however, can be a complicated, opaque process and could potentially involve unfair or deceptive practices.[17] One hundred comments were received and are being considered.

In spring 2011, the Commission issued final orders regarding five auto dealers (Billion Auto, Ramey Motors, Frank Myers AutoMaxx, Key Hyundai, and Hyundai of Milford). The orders settled charges that the dealers made deceptive claims that they would pay off the remaining balance on consumers' trade-ins, no matter what they owed. Instead, the dealers rolled the negative equity into the consumers' new vehicle loans or, regarding one dealer, required consumers to pay it out of pocket. The agency is continuing to monitor this industry and will identify other enforcement actions and initiatives, as appropriate, to protect consumers in the financing and leasing of motor vehicles.

(h) *Fraud Surveys.* The FTC's Bureau of Economics (BE) continues to conduct fraud surveys and related research on consumer susceptibility to fraud. For example, the FTC is conducting an exploratory study on consumer susceptibility to fraudulent and deceptive marketing. This research is intended to further the FTC's mission of protecting consumers from unfair and deceptive marketing. Data analysis has been completed and BE is drafting a staff report. BE is also surveying consumer experiences with consumer fraud. Data has been collected and is currently being analyzed. Neither study is intended to lead to enforcement actions; rather, study results may aid the FTC's efforts to better target its enforcement actions and consumer education initiatives, and improve future fraud surveys.

(i) *Protecting Consumers from Cross-Border Harm.* The FTC continues to protect American consumers from fraud by making greater use of the tools provided by the U.S. SAFE WEB Act. The FTC has used the Act to cooperate with its foreign law enforcement counterparts in investigations and enforcement actions involving Internet fraud and other technological abuses and deceptive schemes that victimize U.S. consumers. Given the success of the U.S. SAFE WEB Act, the Commission continues to recommend that Congress repeal the Act's 7-year sunset provision before it expires in 2013.

The FTC strives to promote sound approaches to common problems by building relationships with sister agencies around the world. The FTC and DOJ recently signed a landmark Memorandum of Understanding with China's competition agencies, and reaffirmed a set of best practices for use in U.S./European Union merger reviews. These efforts foster consistent outcomes in antitrust investigations, especially international mergers. For example, the FTC cooperated with 10 foreign jurisdictions to review Western Digital's proposed acquisition of Hitachi Global Storage Technologies and design remedies to resolve allegations that the deal would likely harm competition in the personal computer hard disk drive market.

The agency also continued its outreach to aid effective international cooperation by creating an online virtual university for competition authorities worldwide as part of the International Competition Network's Curriculum Project. In the last year, the FTC's technical assistance to foreign agencies included intensive training for the Competition Commission of India and for consumer protection agencies in Latin America.

In December 2011, the Commission urged the Internet Corporation for Assigned Names and Numbers (ICANN) to implement consumer protection safeguards before it dramatically expands the Internet domain name system.[18] The FTC warned that without additional protections, the rapid expansion in the number of generic top-level domain names will increase opportunities for consumer fraud.

(j) *Journalism and the Internet.* In 2009–2010, the FTC began a project to examine how the Internet has transformed the competitive dynamics of the news media industry. The Agency first held a series of exploratory workshops, seeking expert views and public comments on various aspects of the challenges and new opportunities facing the news industry. The Agency continues to analyze the issues discussed at those workshops and elsewhere, including the economics of journalism in a digital world, new business and non-profit models for journalism, and whether any changes to Government policies might be warranted. The Agency plans to release a report in late fall 2012.

(k) *Self-Regulatory and Compliance Initiatives with Industry.* The Commission continues to engage industry in compliance partnerships in the funeral and franchise industries. Specifically, the Commission's Funeral Rule Offender Program, conducted in partnership with the National Funeral Directors Association, is designed to educate funeral home operators found in violation of the requirements of the Funeral Rule, 16 CFR 453, so that they can meet the rule's disclosure requirements. Some 400 funeral homes have participated in the program since its inception in 1996. In addition, the Commission established the Franchise Rule Alternative Law Enforcement Program in partnership with the International Franchise Association (IFA), a nonprofit organization that represents both franchisors and franchisees. This program is designed to assist franchisors found to have a minor or technical violation of the Franchise Rule, 16 CFR 436, in complying with the rule. Violations involving fraud or other section 5 violations are not candidates for referral to the program. The IFA teaches the franchisor how to comply with the rule and monitors its business for a period of years. Where appropriate, the program offers franchisees the opportunity to mediate claims arising from the law violations. Since December 1998, 21 companies

Petroleum Industry Practices and Pricing Investigation" (June 20, 2011), available at *http://www.ftc.gov/opa/2011/09/gasprices.shtm.*

[16] The first event took place in Detroit, Michigan, on April 12, 2011. The FTC's second motor vehicle roundtable took place in San Antonio, Texas, on August 2–3, 2011. The FTC's third motor vehicle roundtable took place in Washington, DC, on November 17, 2011. Dates for future additional roundtables will be posted on the FTC Web site at *http://www.ftc.gov.*

[17] Participants in the FTC motor vehicle roundtable identified some examples of unfair and deceptive practices, including deceptive advertising by motor vehicle dealers regarding purchase, loan, or lease terms or costs, as well as add-on products and deceptive claims by auto warranty robocallers.

[18] See press release on "FTC Warns That Rapid Expansion of Internet Domain Name System Could Leave Consumers More Vulnerable to Online Fraud" (December 16, 2011), available at *http://www.ftc.gov/opa/2011/12/icann.shtm.*

have agreed to participate in the program.

Rulemakings and Studies Required by Statute

Congress has enacted laws requiring the Commission to undertake rulemakings and studies. This section discusses required rules and studies. The final actions section below describes actions taken on the required rulemakings and studies since the 2011 Regulatory Plan was published.

FACTA Rules. The Commission has already issued nearly all of the rules required by FACTA (Fair and Accurate Credit Transactions Act). These rules are codified in several parts of 16 CFR 600 *et seq.*, amending or supplementing regulations relating to the Fair Credit Reporting Act. The enforcement of the Red Flags Rule (or Identity Theft Rule), 16 CFR 681, was delayed by the Commission from its initial effective date of November 1, 2008, until January 1, 2011, pending clarification by Congress. The "Red Flag Program Clarification Act of 2010" (or the Act), Public Law No. 111–319, was signed into law on December 18, 2010. The Commission and the banking agencies expect to revise the Red Flags Rule to implement the Act by the end of 2012.

FACTA Studies. On March 27, 2009, the Commission issued compulsory information requests to the nine largest private providers of homeowner insurance in the Nation. The purpose was to help the FTC collect data for its study on the effects of credit-based scores in the homeowner insurance market, a study mandated by section 215 of the FACTA. During the summer of 2009, these nine insurers submitted responses to the Commission's requests. FTC staff has reviewed the large policy-level data files included in these submissions and has identified a sample set of data to be used for the study. The insurance companies then entered protracted negotiations with their vendor to ensure the security of delivering the data set to the FTC's own and separate vendor and then on to the Social Security Administration before returning the data to the FTC. Staff expects to prepare and submit the report to Congress during the summer of 2013. The data collection phase of the study should be completed by the end of fall, 2012. This study is not affected by the Consumer Financial Protection Act.

The FTC is also conducting a national study of the accuracy of consumer reports in connection as required under section 319 of the FACTA. This study is a follow-up to the Commission's two previous pilot studies that were undertaken to evaluate a potential design for a national study. Section 319 requires the FTC to study the accuracy and completeness of information in consumers' credit reports and to consider methods for improving the accuracy and completeness of such information. Section 319 of the Act also requires the Commission to issue a series of biennial reports to Congress over a period of 11 years.[19] A major report on the study is due by December 2012. This study is also not affected by the Consumer Financial Protection Act.

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (Appliance Labeling Rule), 16 CFR 305. Under direction from Congress to examine the effectiveness of light bulb labels, the FTC introduced a new "Lighting Facts" label in July 2010 for medium screw-base light bulbs. 75 FR 41696. On July 22, 2011, the Commission announced an NPRM seeking comment on expanding the "Lighting Facts" label coverage to additional bulb types and a specific test procedure for light-emitting diode (LED) bulbs. Staff anticipates sending a recommendation to the Commission by early 2013.

Regional Efficiency Standards—Section 306 of the EISA (Energy Independence and Security Act of 2007) directs that within 90 days of the Department of Energy (DOE) publishing a final rule establishing regional efficiency standards for furnaces, central air conditioners, and heat pumps, the FTC must undertake a rulemaking to determine the appropriate disclosures regarding conformance with such regional standards. The DOE's final rule became effective on October 25, 2011. The statutory deadline for the Commission to issue requirements for disclosures on residential heating and cooling equipment is 15 months after DOE issued their final efficiency standards. 76 FR 37408. Accordingly, on November 28, 2011, the Commission published an ANPRM seeking comment on disclosures to help consumers, distributors, contractors, and installers easily determine whether a specific furnace, central air conditioner, or heat pump meets the applicable new DOE efficiency standard for the region where it will be installed. 76 FR 72872. On June 6, 2012, the Commission published an NPRM seeking public comment on proposed changes to the EnergyGuide labels which would provide a U.S. map showing where the product can be installed legally, a simple format for efficiency ratings, and a link to an online energy cost calculator. The FTC also proposed requiring the label on manufacturers' Web sites, product packaging, and, as currently required, on the products themselves. The comment period closed on August 6, 2012, and the Commission expects to issue a final rule by January 2013.

Fur Rules. The Fur Products Labeling Act (Fur Act) requires covered furs and fur products to be labeled, invoiced, and advertised to show: (1) The name(s) of the animal that produced the fur(s); (2) where such is the case, that the fur is used fur or contains used fur; (3) where such is the case, that the fur is bleached, dyed, or otherwise artificially colored; and (4) the name of the country of origin of any imported furs used in the fur product. The implementing Fur Act rules (Fur Rules) are set forth at 16 CFR 301. In December 2010, Congress passed the Truth in Fur Labeling Act (the TFLA), which amends the Fur Act, by: (1) eliminating the Commission's discretion to exempt fur products of "relatively small quantity or value" from disclosure requirements; and (2) providing that the Fur Act will not apply to certain fur products "obtained * * * through trapping or hunting" and sold in "face to face transaction[s]." Public Law No. 111–113. The TFLA also directs the Commission to review and allow comment on the Fur Products Name Guide, 16 CFR 301.0 (Name Guide). On September 17, 2012, the Commission published a proposed amendment to the Fur Rules to update its Fur Products Name Guide, provide more labeling flexibility, incorporate recently enacted Truth in Fur Labeling Act provisions, and eliminate unnecessary requirements. The comment period closes on November 16, 2012. 77FR 57043. Staff anticipates the Commission will issue a final rule by April 2013.

Retrospective Review of Existing Regulations

In 1992, the Commission implemented a program to review its rules and guides regularly. The Commission's review program is patterned after provisions in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Under the Commission's program, rules have been reviewed on a 10-year schedule. For many rules, this has resulted in more frequent reviews than

[19] See Federal Trade Commission Reports to Congress under sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003; available at *http://www.ftc.gov/reports/FACTACT/FACTAct-Report_2006.pdf* (Dec. 2006 Report), *http://www.ftc.gov/opa/2008/12/factareport.shtm* (December 2008 Report) and *http://www.ftc.gov/os/2011/01/1101factareport.pdf* (December 2010 Report).

is generally required by section 610 of the Regulatory Flexibility Act. This program is also broader than the review contemplated under the Regulatory Flexibility Act, in that it provides the Commission with an ongoing systematic approach for seeking information about the costs and benefits of its rules and guides and whether there are changes that could minimize any adverse economic effects, not just a "significant economic impact upon a substantial number of small entities." 5 U.S.C. 610.

As part of its continuing 10-year review plan, the Commission examines the effect of rules and guides on small businesses and on the marketplace in general. These reviews may lead to the revision or rescission of rules and guides to ensure that the Commission's consumer protection and competition goals are achieved efficiently and at the least cost to business. In a number of instances, the Commission has determined that existing rules and guides were no longer necessary nor in the public interest. Most of the matters currently under review pertain to consumer protection and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions. Pursuant to this program, the Commission has rescinded 37 rules and guides promulgated under the FTC's general authority and updated dozens of others since the early 1990s.

In light of Executive Orders 13563 and 13579, the FTC continues to take a fresh look at its longstanding regulatory review process. The Commission is taking a number of steps to ease burdens on business and promote transparency in its regulatory review program:

- The Commission recently issued a revised 10-year review schedule (see next paragraph below) and is accelerating the review of a number of rules and guides in response to recent changes in technology and the marketplace. More than a third of the Commission's 66 rules and guides will be under review, or will have just been reviewed, by the end of 2012.
- The Commission continues to request and review public comments on the effectiveness of its regulatory review program and suggestions for its improvement.
- The FTC has launched a Web page at *http://www.ftc.gov/regreview* that serves as a one-stop shop for the public to obtain information and provide comments on individual rules and guides under review as well as the Commission's regulatory review program generally.

Pursuant to section 2 of Executive Order 13579 "Regulation and Independent Regulatory Agencies" (July 11, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the FTC's regulatory review plan. The table includes rulemakings that the Agency expects to issue in proposed or final form during the upcoming year. Each entry includes the title of the rulemaking subject to the Agency's retrospective analysis, the RIN and whether it is expected to reduce burdens on small businesses. The regulatory review plan can be found at: *www.ftc.gov*.

Rule	Regulatory Identifier Nos. (RIN)	Expected to Reduce Burdens on Small Business (Yes/No)
Trade Regulation Rule Concerning Cooling Off Period for Sales Made at Homes or at Certain Other Locations, 16 CFR 429.	3084–AB10	Yes.
Children's Online Privacy Protection Rule, 16 CFR 312	3084–AB20	No.

In addition, the Commission's 10-year periodic review schedule includes the following rules and guides (77 FR 22234, Apr. 13, 2012) for 2013:

(1) Telemarketing Sales Rule, 16 CFR 310,

(2) Preservation of Consumers' Claims and Defenses [Holder in Due Course Rule], 16 CFR 433,

(3) Regulations Under Section 4 of the Fair Packaging and Labeling Act (FPLA), 16 CFR 500 (part 500 Packaging and Labeling Regulation), and

(4) Exemptions From part 500 Packaging and Labeling Regulation Requirements (officially Exemptions From Requirements and Prohibitions under part 500), 16 CFR 501,

(5) Regulations Under Section 5(c) of the Fair Packaging and Labeling Act, 16 CFR part 502, and

(6) Statements of General Policy or Interpretation [under the Fair Packaging and Labeling Act], 16 CFR 503.

Furthermore, consistent with the goal of reducing unnecessary burdens under section 6 of Executive Order 13563, the Commission proposes to amend:

- The Appliance Labeling Rule, 16 CFR 305, to streamline Department of Energy and FTC reporting requirements for Regional Efficiency Standards; and
- The Alternative Fuel Rule, 16 CFR 309, to harmonize FTC and Environmental Protection Agency fuel economy labeling requirements for alternative fuel vehicles.

In particular, the Alternative Fuel Rule proposal is estimated to save industry approximately 35,000 hours in compliance time.[20] Please see the relevant sections under *Rulemakings and Studies Required by Statute* above (for Appliance Labeling Rule) and *Ongoing Rule and Guide Reviews* below (for Alternative Fuel Rule) for further information.

Ongoing Rule and Guide Reviews

The Commission is continuing review of a number of rules and guides, which are discussed below.

(a) Rules

Children's Online Privacy Protection Rule ("COPPA Rule"), 16 CFR 312. The COPPA Rule requires operators of Web sites and online service providers directed at children under 13 (operators), with certain exceptions, to obtain verifiable parental consent before collecting, using, or disclosing personal information from or about children under the age of 13. An operator must make reasonable efforts, in light of available technology, to ensure that the person providing consent is the child's parent. The Commission issued an ANPRM requesting comments on the Rule as part of the systematic regulatory review process. 75 FR 17089 (Apr. 5, 2010). The Commission held a public roundtable on the Rule on June 2, 2010, and the comment period, as extended, ended on July 12, 2010. On September 15, 2011, the Commission announced it was proposing modifications to the Rule in five areas to respond to changes in online technology, including in the mobile marketplace, and, where appropriate, to streamline the Rule: definitions, including the definitions of "personal information" and "collection," parental notice, parental consent mechanisms, confidentiality and security of children's personal information, and the role of self-

[20] *See* 77 FR 36423 and 36426.

regulatory "safe harbor" programs. 76 FR 59804. In addition, the Commission also proposed adding a new provision addressing data retention and deletion. The Commission received 350 comments.

In response to the comments and informed by its experience in enforcing and administering the COPPA Rule, the Commission issued a supplemental NPRM on August 6, 2012, to modernize the Rule to ensure that children's online privacy continues to be protected, as directed by Congress, as new online technologies evolve, and to clarify existing obligations for operators under the Rule. 77 FR 46643. The comment period, as extended, closed on September 24, 2012. Staff anticipates that the Commission will issue a final rule by the end of 2012.

Premerger Notification Rules and Report Form, 16 CFR Parts 801–803. On August 20, 2012, the Commission, in conjunction with the DOJ's Antitrust Division, announced they were seeking public comments on proposed changes to the premerger notification rules that could require companies in the pharmaceutical industry to report proposed acquisitions of exclusive patent rights to the FTC and the DOJ for antitrust review. 77 FR 50057 (Aug. 20, 2012). The proposed rulemaking clarifies when a transfer of exclusive rights to a patent in the pharmaceutical industry results in a potentially reportable asset acquisition under the Hart Scott Rodino (HSR) Act. The comment period closed on October 25, 2012. Staff anticipates that a final rule will be issued in late 2012 or early 2013.

Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles Rule ("Alternative Fuel Rule"), 16 CFR Part 309. The Alternative Fuel Rule, which became effective on November 20, 1995, and was last reviewed in 2004, requires disclosure of appropriate cost and benefit information to enable consumers to make reasonable purchasing choices and comparisons between non-liquid alternative fuels, as well as alternative-fueled vehicles. On June 19, 2012, following a review of the rule, [21] the Commission proposed to amend the rule to: (1) Consolidate the FTC's alternative fueled vehicle ("AFV") labels with new fuel economy labels required by the Environmental Protection Agency and the National Highway Traffic Safety Administration; and (2) eliminate the requirement for a separate AFV label for used vehicles. 77 FR 36423. The public comment period on these proposed amendments closed on August 17, 2012. Staff anticipates Commission action by December 2012.

Negative Option Rule, 16 CFR Part 425. The Negative Option Rule governs the operation of prenotification subscription plans. Under these plans, sellers ship merchandise automatically to their subscribers and bill them for the merchandise within a prescribed time. The rule protects consumers by requiring the disclosure of the terms of membership clearly and conspicuously and establishes procedures for administering the subscription plans. An ANPRM was published on May 14, 2009, 74 FR 22720, and the comment period closed on July 27, 2009. On August 7, 2009, the Commission reopened and extended the comment period until October 13, 2009. 74 FR 40121. Staff anticipates that the Commission will announce further action by October 2012.

Telemarketing Sales Rule (TSR), 16 CFR Part 308. TSR/Caller ID—The Commission issued an advance notice of proposed rulemaking on December 15, 2010, requesting public comment on provisions of the Telemarketing Sales Rule concerning caller identification services and disclosure of the identity of the seller or telemarketer responsible for telemarketing calls. 75 FR 78179. The Commission solicited comments on whether changes should be made to the TSR to reflect the current use and capabilities of Caller ID technologies. In particular, the Commission is interested in whether the TSR should be amended to better achieve the objectives of the Caller ID provisions—including enabling consumers and law enforcement to use Caller ID information to identify entities responsible for illegal telemarketing practices. The comment period closed on January 28, 2011. Staff is reviewing the comments and anticipates making a recommendation to the Commission by the end of 2012.

TSR/Anti-fraud Provisions—The Commission staff are also considering possible amendments to the TSR that would provide new or strengthen existing anti-fraud provisions, as well as make explicit certain other requirements in the TSR. Staff anticipates that the Commission will issue an NPRM by the end of 2012.

Mail or Telephone Order Merchandise Rule. The Mail Order Rule, 16 CFR 435, requires that, when sellers advertise merchandise, they must have a reasonable basis for stating or implying that they can ship within a certain time. On September 30, 2011, the Commission published a NPRM proposing to: Clarify that the Rule covers all orders placed over the Internet; revise the Rule to allow sellers to provide refunds and refund notices by any means at least as fast and reliable as first class mail; clarify sellers' obligations when buyers use payment systems not enumerated in the Rule; and require that refunds be made within seven working days for purchases made using third-party credit cards. 76 FR 60765. The comment period closed on December 14, 2011. Staff has reviewed the comments and anticipates Commission action by early 2013.

Used Car Rule. The Used Motor Vehicle Trade Regulation Rule ("Used Car Rule"), 16 CFR 455, sets out the general duties of a used vehicle dealer; requires that a completed Buyers Guide be posted at all times on the side window of each used car a dealer offers for sale; and mandates disclosure of whether the vehicle is covered by a dealer warranty and, if so, the type and duration of the warranty coverage, or whether the vehicle is being sold "as is—no warranty." The Commission published a notice seeking public comments on the effectiveness and impact of the rule. 73 FR 42285 (July 21, 2008). The notice sought comments on a range of issues including, among others, whether a bilingual Buyers Guide would be useful or practicable, as well as what form such a Buyers Guide should take. The notice also sought comments on possible changes to the Buyers Guide that reflect new warranty products, such as certified used car warranties, that have become increasingly popular since the rule was last reviewed. The comment period, as extended and then reopened, ended on June 15, 2009. Staff anticipates that the Commission's next **Federal Register** notice will be issued by the end of October 2012.

Consumer Warranty Rules, 16 CFR Parts 701–703. The Rule Governing the Disclosure of Written Consumer Product Warranty Terms and Conditions (Rule 701) establishes requirements for warrantors for disclosing the terms and conditions of written warranties on consumer products actually costing the consumer more than $15.00. The Rule Governing the Pre-Sale Availability of Written Warranty Terms, 16 CFR part 702 (Rule 702) requires sellers and warrantors to make the terms of a written warranty available to the consumer prior to sale. The Rule Governing Informal Dispute Settlement

[21] See Advance Notice of Proposed Rulemaking, 76 FR 31513 (June 1, 2011). Also, on June 1, 2011, the Commission postponed any amendments to its Guide Concerning Fuel Economy Advertising for New Automobiles upon completion of ongoing review by the Environmental Protection Agency and the National Highway Traffic Safety Administration of current fuel economy labeling requirements and the Commission's accelerated regulatory review of its own Alternative Fuel Rule. 76 FR 31467.

Procedures (IDSM) (Rule 703) establishes minimum requirements for those informal dispute settlement mechanisms that are incorporated by the warrantor into its consumer product warranty. By incorporating the IDSM into the warranty, the warrantor requires the consumer to use the IDSM before pursuing any legal remedies in court. On August 23, 2011, as part of its ongoing systematic review of all Federal Trade Commission rules and guides, the Commission requested comments on, among other things, the economic impact and benefits of these Rules, Guides, and Interpretations;[22] possible conflict between the Rules, Guides, and Interpretations and State, local, or other Federal laws or regulations; and the effect on the Rules, Guides, and Interpretations of any technological, economic, or other industry changes. 76 FR 52596. The comment period closed on October 24, 2011. Staff anticipates sending a recommendation to the Commission by December 2012.

Cooling-Off Rule. The Cooling-Off Rule requires that a consumer be given a 3-day right to cancel certain sales greater than $25.00 that occur at a place other than a seller's place of business. The rule also requires a seller to notify buyers orally of the right to cancel, to provide buyers with a dated receipt or copy of the contract containing the name and address of the seller and notice of cancellation rights, and to provide buyers with forms which buyers may use to cancel the contract. An ANPRM seeking comment was published on April 21, 2009. 74 FR 18170. The comment period, as extended, ended on September 25, 2009. 74 FR 36972 (Jul. 27, 2009). Staff prepared a recommendation for the Commission and anticipates publication of an NPRM by November 2012.

Unavailability Rule. The Unavailability Rule,16 CFR 424, states that it is a violation of section 5 of the Federal Trade Commission Act for retail stores of food, groceries, or other merchandise to advertise products for sale at a stated price if those stores do not have the advertised products in stock and readily available to customers during the effective period of the advertisement, unless the advertisement clearly discloses that supplies of the advertised products are limited or are available only at some outlets. This Rule is intended to benefit consumers by ensuring that advertised items are available, that advertising-induced purchasing trips are not fruitless, and that store prices accurately reflect the prices appearing in the ads. On August 12, 2011, the Commission announced an ANPRM and a request for comment on the Rule as part of its systematic periodic review of current rules. The comment period closed on October 19, 2011. Staff has reviewed the comments and expects to submit a recommendation to the Commission by the end of 2012.

(b) Guides

Guides for the Use of Environmental Marketing Claims (Green Guides), 16 CFR Part 260. After holding three public workshops, analyzing public comments, and studying consumer perceptions of certain environmental claims, the Commission announced on October 6, 2010, proposed revisions to the Green Guides to help marketers avoid making misleading environmental claims. The proposed changes are designed to update the Guides and make them easier for companies to understand and use. The changes to the Green Guides include new guidance on marketers' use of product certifications and seals of approval, "renewable energy" claims, "renewable materials" claims, and "carbon offset" claims. The comment period closed on December 10, 2010. On October 1, 2012, the Commission announced it was retaining the Guides with some revisions to help marketers avoid making misleading environmental claims. The changes update the Guides and make them easier for companies to understand and use, and include new guidance on marketers' use of product certifications and seals of approval, "renewable energy" claims, "renewable materials" claims, and "carbon offset" claims.

Vocational Schools Guides, 16 CFR 254. The Commission sought public comments on its Private Vocational and Distance Education Schools Guides, commonly known as the Vocational Schools Guides. 74 FR 37973 (July 30, 2009). Issued in 1972 and most recently amended in 1998 to add a provision addressing misrepresentations related to post-graduation employment, the guides advise businesses offering vocational training courses—either on the school's premises or through distance education, such as correspondence courses or the Internet—how to avoid unfair and deceptive practices in the advertising, marketing, or sale of their courses. The comment period closed on October 16, 2009. Staff is reviewing comments and anticipates sending a recommendation to the Commission by the end of 2012 proposing that the Guides be retained with some revisions.

Jewelry Guides, 16 CFR Part 23. The Commission sought public comments on its Guides for the Jewelry, Precious Metals, and Pewter Industries, commonly known as the Jewelry Guides. 77 FR 39202 (July 2, 2012). Since completing its last review of the Jewelry Guides in 1996, the Commission revised sections of the Guides and addressed other issues raised in petitions from jewelry trade associations. The Guides explain to businesses how to avoid making deceptive claims about precious metal, pewter, diamond, gemstone, and pearl products, and when they should make disclosures to avoid unfair or deceptive trade practices. The comment period initially set to close on August 27, 2012, was subsequently extended until September 28, 2012. Staff is currently reviewing comments and anticipates announcing a workshop by the end of 2012.

Used Auto Parts Guides, 16 CFR Part 20. The Commission sought public comments on its Guides for the Rebuilt, Reconditioned, and Other Used Automobile Parts Industry, commonly known as the Used Auto Parts Guides, which are designed to prevent the unfair or deceptive marketing of used motor vehicle parts and assemblies, such as engines and transmissions, containing used parts. 77 FR 29922 (May 21, 2012).

The Guides prohibit misrepresentations that a part is new or about the condition, extent of previous use, reconstruction, or repair of a part. Previously used parts must be clearly and conspicuously identified as such in advertising and packaging, and, if the part appears new, on the part itself. The comment period closed on August 3, 2012. Staff is evaluating comments and meeting with commenters, and anticipates making a recommendation to the Commission in early 2013.

Fred Meyer Guides, 16 CFR Part 240. As part of the periodic review process, staff anticipates that by the end of 2012 the Commission will seek public comment relating to whether there is a continuing need for or a need to amend its Guides for Advertising Allowances and Other Merchandising Payments and Services, commonly known as the Fred Meyer Guides, by the end of 2012. The Guides assist businesses in complying with sections 2(d) and 2(e) of the Robinson-Patman Act, which proscribe certain discriminations in the provision of promotional allowances and services to customers. Broadly put, the Guides provide that unlawful discrimination may be avoided by providing promotional allowances and services to customers on "proportionally equal terms."

[22] The **Federal Register** Notice also announced the review of the related Guides for the Advertising of Warranties and Guarantees, 16 CFR 239, and the Interpretations of Magnuson-Moss Warranty Act, 16 CFR 700.

Final Actions [23]

Since the publication of the 2011 Regulatory Plan, the Commission has issued the following final rules or taken other actions to terminate rulemaking proceedings.

Business Opportunity Rule, 16 CFR Part 437. The Commission published a final rule amending the Business Opportunity Rule on December 8, 2011. 76 FR 76816. The Rule was amended to broaden its scope to cover business opportunity sellers not covered by the interim Business Opportunity Rule, such as sellers of work-at-home opportunities, and to streamline and simplify the disclosures that sellers must provide to prospective purchasers. The final rule became effective on March 1, 2012. The final rule was based upon the comments received in response to an Advance Notice of Proposed Rulemaking (62 FR 9115, Feb. 28, 1997), an Initial Notice of Proposed Rulemaking (71 FR 19054, Apr. 12, 2006), a Revised Notice of Proposed Rulemaking (73 FR 16110, Mar. 26, 2008), a public workshop, a Staff Report (75 FR 68559, Nov. 8, 2010), and other information discussed in the **Federal Register** notice for the final rule.

Dodd-Frank Rule Rescissions. On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law No. 111–203. Title X of the Dodd-Frank Act transferred rulemaking authority under several provisions of the consumer financial protection laws to the Consumer Financial Protection Bureau (CFPB). These rules were republished by the CFPB and became effective on an interim final basis on December 30, 2011. As a result, the Federal Trade Commission rescinded the following rules on April 13, 2012 (77 FR 22200): Disclosure Requirements for Depository Institutions Lacking Federal Deposit Insurance (16 CFR 320); Mortgage Acts and Practices—Advertising Rule (16 CFR 321); Mortgage Assistance Relief Services Rule (16 CFR 322); [Identity Theft] Definitions (16 CFR 603); Free Annual File Disclosures Rule (16 CFR 610); Prohibition Against Circumventing Treatment as a Nationwide Consumer Reporting Agency (16 CFR 611); Duration of Active Duty Alerts (16 CFR 613); Appropriate Proof of Identity (16 CFR 614); and Procedures for State Application for Exemption from the Provisions of the [Federal Debt Collection Practices] Act (16 CFR 901).

[23] Other final actions can be found under *Rulemakings and Studies Required by Statute, supra.*

Summary

In both content and process, the FTC's ongoing and proposed regulatory actions are consistent with the President's priorities. The actions under consideration inform and protect consumers, while minimizing the regulatory burdens on businesses. The Commission will continue working toward these goals. The Commission's 10-year review program is patterned after provisions in the Regulatory Flexibility Act and complies with the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission's 10-year program also is consistent with section 5(a) of Executive Order 12866, which directs executive branch agencies to develop a plan to reevaluate periodically all of their significant existing regulations. 58 FR 51735 (Sept. 30, 1993). In addition, the final rules issued by the Commission continue to be consistent with the President's Statement of Regulatory Philosophy and Principles, Executive Order 12866, section 1(a), which directs agencies to promulgate only such regulations as are, *inter alia*, required by law or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public.

The Commission continues to identify and weigh the costs and benefits of proposed actions and possible alternative actions, and to receive the broadest practicable array of comment from affected consumers, businesses, and the public at large. In sum, the Commission's regulatory actions are aimed at efficiently and fairly promoting the ability of "private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people." Executive Order 12866, section 1.

II. Regulatory and Deregulatory Actions

The Commission has no proposed rules that would be a "significant regulatory action" under the definition in Executive Order 12866.[24] The Commission has no proposed rules that would have significant international impacts under the definition in Executive Order 13609. Also, there are no international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations under Executive Order 13609. Even though it will not be reportable under Executive Order 13609, the announcement on July 25, 2012, that the United States will participate in the Asia-Pacific Economic Cooperation's (APEC) Cross Border Privacy Rules (CBPR) system, with the FTC as the system's first privacy enforcement authority, is expected to enhance electronic commerce, facilitate trade and economic growth, and strengthen consumer privacy protections across the Asia Pacific region. The APEC privacy system is a self-regulatory initiative to enhance the protection of consumer data that moves between the United States and other APEC members through a voluntary but enforceable code of conduct implemented by participating businesses. This system is expected to enable participating companies in the United States and other APEC member economies to more efficiently exchange data in a secure manner and will enhance consumer data privacy by establishing a consistent level of protection and accountability in the APEC region. The CBPR system directly supports the President's National Export Initiative goal of doubling U.S. exports by the end of 2014 by decreasing regulatory barriers to trade and commerce, and creating more export opportunities for American companies, and more American jobs.

The United States plans to work with APEC to launch the system in late 2012 or early 2013.

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[24] Section 3(f) of Executive Order 12866 defines a regulatory action to be "significant" if it is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

NATIONAL INDIAN GAMING COMMISSION (NIGC)

Statement of Regulatory Priorities

In 1988, Congress adopted the Indian Gaming Regulatory Act (IGRA) (Pub. L. 100–497, 102 Stat. 2475) with a primary purpose of providing "a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments." IGRA established the National Indian Gaming Commission (NIGC or the Commission) to protect such gaming, amongst other things, as a means of generating tribal revenue.

At its core, Indian gaming is a function of sovereignty exercised by

tribal governments. In addition, the federal government maintains a government-to-government relationship with the tribes—a responsibility of the NIGC. Thus, while the agency is committed to strong regulation of Indian gaming, the Commission is equally committed to strengthening government-to-government relations by engaging in meaningful consultation with tribes to fulfill IGRA's intent. The NIGC's vision is to adhere to principles of good government, including transparency to promote agency accountability and fiscal responsibility, to operate consistently to ensure fairness and clarity in the administration of IGRA, and to respect the responsibilities of each sovereign in order to fully promote tribal economic development, self-sufficiency, and strong tribal governments. The NIGC is fully committed to working with tribes to ensure the integrity of the industry by exercising its regulatory responsibilities through technical assistance, compliance, and enforcement activities.

Retrospective Review of Existing Regulations

As an independent regulatory agency, the NIGC has been performing a retrospective review of its existing regulations well before Executive Order 13579 was issued on July 11, 2011. The NIGC, however, recognizes the importance of E.O. 13579 and its regulatory review is being conducted in the spirit of E.O. 13579, to identify those regulations that may be outmoded, ineffective, insufficient, or excessively burdensome and to modify, streamline, expand, or repeal them in accordance with input from the public. In addition, as required by Executive Order 13175, the Commission has been conducting government-to-government consultations with tribes regarding each regulation's relevancy, consistency in application, and limitations or barriers to implementation, based on the tribes' experiences. The consultation process is also intended to result in the identification of areas for improvement and needed amendments, if any, new regulations, and the possible repeal of outdated regulations.

The following Regulatory Identifier Numbers (RINs) have been identified as associated with the review:

RIN	Title
3141–AA15	Tribal Background Investigations and Licensing.
3141–AA27	Class II Minimum Internal Control Standards and Class II Minimum Technical Standards.
3141–AA32	Definition of Sole Propietary Interest.
3141–AA44	Self Regulation of Class II Gaming.
3141–AA47	Appeal Proceedings Before the Commission.
3141–AA48	Facility License Notifications, Renewals, and Submissions.
3141–AA49	Inspection and Access.
3141–AA50	Enforcement Regulations.
3141–AA53	Buy Indian Act Rule.
3141–AA54	Management Contracts.
3141–AA55	Class III Minimum Internal Control Standards.

More specifically, the NIGC recently issued final rules in the following areas: (i) Minimum internal control standards (MICS) and minimum technical standards for gaming equipment used in the play of Class II games, in order to respond to changing technologies in the industry and to ensure that the MICS and technical standards remain relevant and appropriate; (ii) appeals of the Chair's actions on ordinances, management contracts, notices of violations (NOV), civil fine assessments, and closure orders, in order to clarify the appeals process for the regulated community; (iii) facility licensing notifications, renewals, and submissions; (iv) monitoring and investigations; (v) enforcement, in order to provide for pre-enforcement procedures; and (vi) management contract regulations that reduce the scope of background investigations to be conducted on certain types of entities. The NIGC is also planning to issue final rules in the following areas: (i) Tribal background investigations and licensing, in order to streamline the process for submitting information to the NIGC; and (ii) requirements for obtaining a self-regulation certification for Class II gaming.

Finally, the NIGC is currently considering promulgating new regulations in the following areas: (i) Definition of the term "sole proprietary interest" with regard to the conduct of gaming on Indian lands, in order to reduce uncertainty surrounding the types of development, consulting, financing, and lease agreements tribes may enter into with regard to their gaming activities; (ii) granting Indian preference to qualified Indian-owned business when purchasing goods or services needed to carry out the Commission's duties; and (iii) Class III minimum internal control standards (MICS) to provide guidance to Tribes and states that may wish to refer to them. The NIGC anticipates that the ongoing consultations with regulated tribes will continue to play an important role in the development of the NIGC's rulemaking efforts.

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U.S. Nuclear Regulatory Commission's Fiscal Year 2012 Regulatory Plan

A. Statement of Regulatory Priorities

Under the authority of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, the U.S. Nuclear Regulatory Commission (NRC or the Commission) regulates the possession and use of source, byproduct, and special nuclear material. The NRC's regulatory mission is to license and regulate the Nation's civilian use of byproduct, source, and special nuclear materials, to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment. The NRC regulates the operation of nuclear power plants and fuel-cycle plants; the safeguarding of nuclear materials from theft and sabotage; the safe transport, storage, and disposal of radioactive materials and wastes; the decommissioning and safe release for other uses of licensed facilities that are no longer in operation; and the medical, industrial, and research applications of nuclear material. In addition, the NRC licenses the import and export of radioactive materials.

As part of its regulatory process, the NRC routinely conducts comprehensive regulatory analyses that examine the costs and benefits of contemplated regulations. The NRC has developed internal procedures and programs to ensure that it imposes only necessary requirements on its licensees and to

review existing regulations to determine whether the requirements imposed are still necessary.

B. Major Rules

The NRC's fiscal year (FY) 2012 Regulatory Plan includes the most significant rulemakings in FY 2012. The NRC anticipates publication of two major rules in FY 2012.

Revision of Fee Schedules and Fee Recovery, Fiscal Year 2012 (RIN 3150–AJ03)

The NRC will collect fees from its licensees and applicants to fulfill the statutory requirement to recover approximately 90 percent of its budget authority in FY 2012. This recovery does not include amounts appropriated for Waste Incidental to Reprocessing, and for generic homeland security activities (non-fee items). The NRC receives 10 percent of its budget authority from the general fund controlled by the U.S. Treasury each year to pay for the cost of agency activities that do not provide a direct benefit to NRC licensees, such as international assistance and Agreement State activities (as defined under Section 274 of the Atomic Energy Act of 1954, as amended).

Physical Protection of Byproduct Material (RIN 3150–AI12)

Through this rule, the NRC will amend the Commission's regulations to codify security requirements for the use of Category 1 and Category 2 quantities of radioactive material. The objective of this action is to ensure that effective security measures are in place to prevent the use of radioactive materials for malevolent purposes. The rule also addresses background investigations and access controls, enhanced security for use of, and transportation security for, Category 1 and Category 2 quantities of radioactive material. This rulemaking subsumes Regulation Identifier Number (RIN) 3150–AI56, "Requirements for Fingerprinting and Criminal History Record Checks for Unescorted Access to Radioactive Material and Other Property ([Title 10 of the *Code of Federal Regulations* (10 CFR)] Part 37)." Most of these requirements were previously imposed by the NRC and Agreement States in 2003–2007 using orders and other regulatory mechanisms.

C. Other Significant Rulemakings

The NRC's other significant rulemakings for FY 2013 and beyond are listed below. Some of these regulatory priorities are a result of recommendations from the Near-Term Task Force established by the NRC in 2011 to examine regulatory requirements, programs, processes, and implementation based on information from the Fukushima Dai-ichi site in Japan, following the March 11, 2011, earthquake and tsunami (*see* "Recommendations for Enhancing Reactor Safety in the 21st Century: The Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident" (NRC's Agencywide Documents Access and Management System Accession No. ML111861807, dated July 12, 2011)).

- Environmental Effect of Renewing the Operating License of a Nuclear Power Plant (RIN 3150–AI42)—The rule amends the Commission's regulations that provide the environmental protection requirements for renewing nuclear power plant operating licenses.
- Station Blackout (RIN 3150–AJ08)—(addresses Fukushima Dai-ichi Near-Term Task Force Recommendation 4). The advance notice of proposed rulemaking published on March 20, 2012 (77 FR 16175), solicits stakeholder feedback on proposed rulemaking activities to enhance the capability of nuclear power plants to maintain safety through a prolonged station blackout.
- Performance-Based Emergency Core Cooling System Acceptance Criteria (RIN 3150–AH42)—The proposed rule would replace prescriptive requirements with performance-based requirements, incorporate recent research findings, and expand applicability to all fuel designs and cladding materials.
- Strengthening and Integrating Onsite Emergency Response Capabilities (RIN 3150–AJ11)—(addresses Fukushima Dai-ichi Near-Term Task Force Recommendation 8). This advance notice of proposed rulemaking (77 FR 23161; April 18, 2012) solicits stakeholder feedback on regulations governing the integration and enhancement of requirements for onsite emergency response capabilities, and development of both new requirements and the supporting regulatory basis.
- Amendments and Medical Event Definitions (RIN 3150–AI26)—This proposed rule would amend the Commission's regulations that govern medical use of byproduct material related to reporting and notifications of medical events to clarify requirements for permanent implant brachytherapy.
- 10 CFR Part 26 Drug and Alcohol Testing (RIN 3150–AJ15)—This rule amends the drug testing requirements of 10 CFR Part 26, "Fitness-for-Duty Programs," to incorporate lessons learned from implementing the 2008 final rule, enhance the identification of new testing subversion methods, and require the evaluation and testing of semi-synthetic opiates, synthetic drugs and urine, and use of chemicals or multiple prescriptions that could result in a person being unfit for duty.
- Enhanced Weapons, Firearms Background Checks, and Security Event Notifications (RIN 3150–AI49)—The rule would implement the NRC's authority under the new section 161a of the Atomic Energy Act of 1954, as amended, and revise existing regulations governing security event notifications.
- Site-Specific Analysis (Disposal of Unique Waste Streams) (RIN 3150–AI92)—The proposed rule would amend the Commission's regulations to require operating and future low-level radioactive waste disposal facilities to conduct a performance assessment and an intruder assessment to demonstrate compliance with performance objectives in 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste," to enhance safe disposal of low-level radioactive waste.
- 10 CFR Part 26 Drug Testing—U.S. Department of Health and Human Services (HHS) Guidelines (RIN 3150–AI67)—The rule amends the Commission's regulations to selectively align drug testing requirements in 10 CFR Part 26 with Federal drug testing guidelines issued by HHS.
- Domestic Licensing of Source Material—Amendments and Integrated Safety Analysis (RIN 3150–AI50)—The rule would amend the Commission's regulations by adding additional requirements for licensees that possess significant quantities of uranium hexafluoride. The proposed amendment would require these licensees to conduct integrated safety analyses.
- Five Certificate of Compliance Rulemakings (RIN 3150–AJ10; RIN 3150–AJ12)—These rulemakings would allow a power reactor licensee to store spent fuel in approved cask designs under a general license.
- Waste Confidence Rule Update—The rule would update 10 CFR 51.23, "Temporary Storage of Spent Fuel after Cessation of Reactor Operation—Generic Determination of No Significant Environmental Impact," and the Commission's Waste Confidence Decision if the Commission determines that spent nuclear fuel and high-level waste could be safely stored onsite at nuclear power plants beyond 120 years.
- Spent Fuel Pool Make-Up (addresses Fukushima Dai-ichi Near-Term Task Force Recommendation 7)—The rule would modify regulations to enhance the reliability of spent fuel pool systems and equipment during a prolonged station blackout event. The rule would affect the regulations related

to instrumentation that provides information about the condition of the spent fuel pool and the capability for cooling and managing the inventory of water in the pool.

• Revision of Fee Schedules and Fee Recovery for FY 2013—The NRC will update its requirement to recover approximately 90 percent of its budget authority in FY 2013.

NRC

Proposed Rule Stage

1. Medical Use of Byproduct Material—Amendments/Medical Event Definition [NRC–2008–0071]

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 35.

Legal Deadline: None.

Abstract: The proposed rule would amend the Commission's regulations that govern medical use of byproduct material related to reporting and notifications of medical events to clarify requirements for permanent implant brachytherapy. The NRC is planning to merge this proposed rule with RIN 3150–AI63, Preceptor Attestation Requirements [NRC–2009–0175] as per Commission direction in the Staff Requirements Memorandum dated August 13, 2012, to SECY–12–0053.

Statement of Need: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to change the criteria for defining a medical event (ME) for permanent implant brachytherapy.

Several medical use events involving therapeutic use of byproduct material in 2003, as well as advice from the Advisory Committee on the Medical Use of Isotopes (ACMUI), prompted the reconsideration of the appropriateness and adequacy of the regulations regarding MEs and written directives (WDs).

A proposed rule was published in the **Federal Register** on August 6, 2008 (73 FR 45635), for public comment. Most of the 57 comment letters received primarily opposed parts of the rulemaking. During the fall of 2008, a substantial number of MEs involving permanent implant brachytherapy were reported to the NRC. Based on its evaluation of this information, including an independent analysis by an NRC medical consultant, the staff developed a re-proposed rule in SECY–10–0062, "Re-proposed Rule: Medical Use of Byproduct Material—Amendments/Medical Event Definitions," dated May 18, 2010, for Commission approval.

In SRM–SECY–10–0062, dated August 10, 2010, the Commission disapproved the staff's recommendation to publish the re-proposed rule. Instead, the Commission directed the staff to work closely with the ACMUI and the broader medical and stakeholder community to develop event definitions that will protect the interests of patients, allow physicians the flexibility to take actions that they deem medically necessary, while continuing to enable the agency to detect failures in process, procedure, and training, as well as any misapplication of byproduct materials by authorized users. Additionally, the staff was directed to hold a series of stakeholder workshops to discuss issues associated with the ME definition. The staff plans to expand this part 35 rulemaking to: modify preceptor attestation requirements, consider extending grandfathering to certain certified individuals (Ritenour petition PRM–35–20), and to consider other issues that have developed in implementation of the current regulations. The NRC intends to merge this proposed rule with RIN 3150–AI63, Preceptor Attestation Requirements (NRC–2009–0175).

Summary of Legal Basis: 42 U.S.C. 2201; 42 U.S.C. 5841.

Alternatives: As an alternative to the rulemaking, the NRC staff considered the "no-action" alternative. Under this option the NRC would not modify part 35, and the medical events would continue to be considered under dose-based criteria than the activity-based criteria for the permanent brachytherapy implants.

Anticipated Cost and Benefits: The NRC is in the process of preparing a regulatory analysis to support this rulemaking. The analysis examines the costs and benefits of the alternatives considered by the NRC. The analysis will be available as part of the rulemaking package.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/08	73 FR 8830
ANPRM Comment Period End.	02/26/08	
NPRM	08/06/08	73 FR 45635
NPRM Comment Period End.	10/20/08	
NPRM Comment Period Extended.	10/06/08	73 FR 58063
NPRM Comment Period End.	11/07/08	
Second NPRM	09/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

Agency Contact: Edward M. Lohr, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:* 301 415–0253, *Email:* *edward.lohr@nrc.gov.*

Related RIN: Merged with 3150–AI63.

RIN: 3150–AI26

NRC

2. Fitness-for-Duty (HHS Requirements) [NRC–2009–0225]

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 26.

Legal Deadline: None.

Abstract: The proposed rule would amend the Commission's regulations to enhance technical provisions associated with 10 CFR part 26 drug testing requirements and improve the alignment of these requirements with the guidance issued by the Department of Health and Human Services (HHS). The rule would enhance consistency with technical advances implemented in similar rules issued by the U.S. Departments of Transportation, Energy, and Defense. This rulemaking will align the NRC's drug testing provisions in 10 CFR part 26 with those of other Federal agencies.

Statement of Need: The need for rulemaking is to update and harmonize part 26 drug testing requirements with the 2008 HHS Guidelines. The final rule for part 26 published on March 31, 2008, incorporated select provisions in the proposed rule published in 2004 to amend the HHS Guidelines to improve, in part, specimen collection, drug testing, privacy considerations, and due process. On November 25, 2008, HHS published the final rule amending the HHS Guidelines to, in part, incorporate state-of-the-art drug testing methodologies, enhance drug testing methodologies, and improve the detection of illicit drug use or abuse within the Federal workplace. NRC finalized its part 26 rulemaking prior to HHS publishing the final rule revision to the HHS Guidelines in 2008. As a result, state-of-the-art drug testing provisions in the 2008 HHS Guidelines were not incorporated into the March 31, 2008, amendment of part 26. This resulted in three potentially adverse outcomes: (1) The substance detection

provisions required by part 26 are not equivalent to those in the 2008 HHS Guidelines; (2) The evaluation of drug testing results required by part 26 has diminished the potential to effectively afford due process to individuals and identify persons subverting the testing process; and, (3) Certain administrative requirements in part 26 are not consistent with the 2008 HHS Guidelines and result in a burden on affected licensees and other entities.

Summary of Legal Basis: The legal basis for the proposed action is 42 U.S.C. 2201, 42 U.S.C. 5841, and 10 CFR part 2, "Rules of Practice or Domestic Licensing Proceedings and Issuance of Orders," Subpart F, "Rulemaking."

Alternatives: As an alternative to the rulemaking, the NRC staff considered the "non-action" alternative. Without action the drug testing framework established by the NRC will not be as effective as can be in the identification of persons using the illegal drugs heroin, cocaine, or Ecstasy legal or misusing legal drugs such amphetamines who have access to NRC-licensed facilities; there will be a challenge to the NRC's regulatory Effectiveness Strategy because part 26 will be less effective than drug testing programs implemented by other Federal agencies; part 26 will be less effective at identifying persons desiring to subvert the drug testing process; and, due process afforded to individuals will be less effective for certain adulteration and validity test results.

Issuance of Regulatory Guidance—The NRC, with or without public and industry involvement, can issue regulatory guidance on an acceptable method to implement part 26 requirements. However, guidance in lieu of requirements would result in inconsistent implementation of drug testing, Medical Review Officer reviews, and due process afforded to individuals subject to part 26 drug testing, because guidance implementation by all affected entities is not mandatory. As a result, the issuance of guidance could result in disproportionate burden on affected entities and the effectiveness of the part 26 requirements could be more based on site-specific considerations such as finances and employer-labor negotiations rather than the safety- or security-significance of the activities being performed.

Anticipated Cost and Benefits: Anticipated costs are estimated to be minimal. FFD program (and site costs) will be the aggregate of licensee revision of FFD-program training, procedures, and policy; renegotiation of contracts already established with laboratories and reagent and blind sample suppliers; possible re-negotiation of collective bargaining agreements/provisions; and sundry other program changes. The estimated one-time cost per site is estimated at $20,000 and one-time cost of $1.5 million for the industry.

Anticipated benefits are substantial. The staff estimates that with effective implementation of the proposed amendment, affected entities will identify approximately 110–140 additional persons as being unfit for duty as a result of their misuse of legal substances or misuse of illegal substances. The removal of these individuals from the protected area of affected nuclear facilities and having access to special strategic nuclear material or sensitive information pending evaluation by a Medical Review Officer, Substance Abuse Expert, and licensee representative contributes directly to public health and safety. This contribution exists because when authorization is removed from these persons, these persons cannot challenge the defense-in-depth afforded by the NRC's regulations or cannot cause harm to themselves or others because they are impaired or exhibit diminished human performance.

Risks: The programmatic and litigative risks associated with implementation of the proposed action are minimal. The NRC staff has received substantial feedback from affected entities with no unresolved significant adverse comments. The general public has been invited to three public meetings and no substantial comments have been received. The HHS Guidelines are considered a National standard and implemented by about 118 Federal agencies and many private entities; therefore, the provisions have been vetted, implemented, and lessons learned have been dispositioned without generic issues being identified. The staff will evaluate all comments received on the proposed rule, solicit internal and external consensus, and incorporate changes to the proposed action as necessary. The establishment of drug testing provisions in safety sensitive work places/activities is well established and part 26 drug testing requirements are consistent with other Federal drug testing programs. The part 26 provisions have never been litigated. Litigation of the 2008 HHS Guidelines and guideline implementation by other Federal agencies has not adversely affected the Part 26 requirements. Provisions not covered by the Rule or proposed action would continue to be subject to employer-labor negotiation; however, resulting agreements would not be binding upon the NRC or adversely affect the effectiveness of the proposed action or current rule. A qualitative reduction in the defense-in-depth afforded at affected commercial nuclear power facilities would result if the proposed amendment is not implemented because the potential for individual impairment could result in challenges to safe and competent human performance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

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RIN: 3150–AI67

NRC

3. Disposal of Unique Waste Streams [NRC–2011–0012]

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 61.

Legal Deadline: None.

Abstract: The proposed rule would amend the Commission's regulations in 10 CFR part 61 to require new and revised site-specific analyses to ensure that waste streams that are significantly different in terms of radiological characteristics (e.g., half-life) from those considered in the current technical basis can continue to be disposed of safely and still meet the performance objectives. These changes would revise the existing site-specific analysis for protection of the general population to include a 20,000-year compliance period (i.e., performance assessment); add a new site-specific analysis for the protection of inadvertent intruders that would also include a 20,000-year compliance period and a dose limit (i.e., intruder assessment); add a new long-term-post-20,000 years-analysis for long-lived waste (i.e., long-term analyses); and revise the pre-closure analyses to include updates to the performance assessment, intruder assessment, and long-term analyses. The proposed rule would also include changes to the regulations to reduce ambiguity, facilitate implementation, and better align the requirements with current health and safety standards. This rule

would affect low-level radioactive waste (LLRW) disposal facilities that are regulated by the U.S. Nuclear Regulatory Commission (NRC) and the Agreement States.

Statement of Need: The NRC is proposing to amend its regulations to require low-level radioactive waste (LLRW) disposal facilities to conduct site-specific analyses to demonstrate compliance with the performance objectives. Although the NRC believes that part 61 is adequate to protect public health and safety, requiring a site-specific analysis to demonstrate compliance with the performance objectives would enhance the safe disposal of LLRW and would provide added assurance that waste streams not considered in the part 61 technical basis comply with the part 61 performance objectives. Further, these analyses would identify any additional measures that would be prudent to implement, and these amendments would improve the efficiency of the regulations by making changes to reduce ambiguity, facilitate implementation, and better align the requirements with the current and more modern health and safety regulations. This rulemaking would correct ambiguities and provide added assurance that LLRW disposal continues to meet the performance objectives in part 61.

Summary of Legal Basis: 42 U.S.C. 2201; 42 U.S.C. 5841.

Alternatives: As an alternative to the rulemaking, the NRC staff considered the "no-action" alternative. Under this option the NRC would not modify part 61, no long-term analyses would be required, no period of performance would be specified, and no intruder assessment would be required.

Anticipated Cost and Benefits: The NRC is in the process of preparing a regulatory analysis to support this rulemaking. The analysis examines the costs and benefits of the alternatives considered by the NRC. The analysis will be available as part of the rulemaking package.

Risks: Not conducting this rulemaking would allow the ambiguities in the part 61 regulations to continue and would not provide the added assurance that disposal of the waste streams not considered in the part 61 technical basis comply with the part 61 performance objectives.

Timetable:

Action	Date	FR Cite
Preliminary Proposed Rule Language.	05/03/11	76 FR 24831
Comment Period End.	06/18/11	
NPRM	09/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

Agency Contact: Andrew G. Carrera, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:* 301 415–1078, *Email: andrew.carrera@nrc.gov.*

RIN: 3150–AI92

NRC

4. Station Blackout Mitigation [NRC–2011–0299]

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 50.

Legal Deadline: None.

Abstract: The NRC published an Advance Notice of Proposed Rulemaking (ANPR) on March 20, 2012 (77 FR 16175), to seek public comments on potential changes to the Commission's regulations that address a condition known as station blackout (SBO). SBO involves the loss of all onsite and offsite alternating current (ac) power at a nuclear power plant. A central objective of this rulemaking would be to make generically applicable requirements previously imposed on licensees by EA–12–049 "Order Modifying Licenses with regard to Requirements for Mitigating Strategies for Beyond-Design-Basis External Events." This regulatory action is one of the near-term actions based on lessons-learned stemming from the March 2011, Fukushima Dai-ichi event in Japan.

Statement of Need: This rulemaking is intended to make, generically-applicable (by amending the Code of Federal Regulations), the requirements in Order EA–12–049, "Order Modifying Licenses with Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events" that were issued on March 12, 2012. The Order was issued in response to the events that occurred at the Fukushima Dai-ichi Nuclear Power Station on March 11, 2011 involving an earthquake and tsunami.

Summary of Legal Basis: The Order requirements were imposed on current power reactor licensees under 10 CFR 50.109(a)(4)(ii) as being required for adequate protection of public health and safety. The rulemaking would be making those order requirements generically-applicable, and it is not anticipated that this action would be imposing substantial additional requirements beyond what has been already imposed on power reactor licensees by order.

Alternatives: As an alternative to the rulemaking, the NRC staff considered the "non-action" alternative. This alternative would mean that the NRC would be required to issue orders or impose license conditions on each new reactor licensed to ensure that the requirements continue to be imposed on all power reactor licensees. This is not the optimal regulatory approach and not consistent with the NRC's principles of good regulation. The NRC sees benefit in pursuing a rulemaking that enables lessons-learned from implementation of EA–12–049 and external stakeholder feedback (through the public comment process) to be considered within the rulemaking to inform the requirements that are placed into the Code of Federal Regulations, which would then remove the need to issue orders or impose license conditions on each future reactor licensee.

Anticipated Cost and Benefits: The rulemaking is not anticipated to impose significant additional costs beyond those that are already being incurred due to implementation of EA–12–049. The benefits of this regulatory action cannot be quantified due to large uncertainties associated with beyond design basis external events, which make it impractical to estimate (with any reasonable accuracy) a benefit to public health and safety through the use of a quantitative metrics such as reduced core damage frequency or reduced large early releases frequency. The benefits, associated with these requirements (which impose requirements for licensees to develop, implement, and maintain strategies to mitigate beyond-design-basis external events) have been subjectively determined by the NRC to significantly enhance safety through in increased defense-in-depth.

Risks: The risks associated with beyond design basis external events cannot be measured with sufficient certainty to enable a quantitative measure of risk.

Timetable:

Action	Date	FR Cite
ANPRM	03/20/12	77 FR 16175
ANPRM Comment Period End.	05/04/12	
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: No.
Government Levels Affected: None.
Federalism: Undetermined.
Agency Contact: Timothy A. Reed, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555–0001, *Phone:* 301 415–1462, *Email:* *timothy.reed@nrc.gov.*
RIN: 3150–AJ08

NRC

5. • Revision of Fee Schedules: Fee Recovery for FY 2013 [NRC–2012–0211]

Priority: Economically Significant. Major under 5 U.S.C. 801.
Unfunded Mandates: Undetermined
Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841
CFR Citation: 10 CFR part 170; 10 CFR part 171.
Legal Deadline: NPRM, Statutory, September 30, 2013.

The Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, requires that the NRC recover approximately 90 percent of its budget authority in fiscal year (FY) 2013, less the amounts appropriated from the Nuclear Waste Fund, amounts appropriated for Waste Incidental to Reprocessing, and amounts appropriated for generic homeland security activities (non-fee items). The OBRA–90 requires that the fees for FY 2013 must be collected by September 30, 2013.

Abstract: The proposed rule would amend the Commission's licensing, inspection, and annual fees charged to its applicants and licensees. Based on the FY 2013 NRC budget sent to Congress, the NRC's required fee recovery amount for the FY 2013 budget is approximately $914.8 million. After accounting for carryover and billing adjustments, the total amount to be recovered through fees is approximately $906.2 million.

Statement of Need: This rulemaking will amend the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The amendments are necessary to recover approximately 90 percent of the NRC budget authority for FY 2013, less the amounts appropriated for non-fee items. The OBRA–90, as amended, requires that the NRC accomplish the 90 percent recovery through the assessment of fees. The NRC assesses two types of fees to recover its budget authority. License and inspection fees are assessed under the authority of the Independent Offices Appropriation Act of 1952 (IOAA) to recover the costs of providing individually identifiable services to specific applicants and licensees (10 CFR part 170). IOAA requires that the NRC recover the full cost to the NRC of all identifiable regulatory services that each applicant or licensee receives. The NRC recovers generic and other regulatory costs not recovered from fees imposed under 10 CFR part 170 through the assessment of annual fees under the authority of OBRA–90 (10 CFR part 171). Annual fee charges are consistent with the guidance in the Conference Committee Report on OBRA–90 that the NRC assess the annual charge under the principle that licensees who require the greatest expenditure of the Agency's resources should pay the greatest annual fee.

Summary of Legal Basis: The OBRA–90 requires that the fees for FY 2013 must be collected by September 30, 2013.

Alternatives: Because this action is mandated by statute and the fees must be assessed through rulemaking, the NRC did not consider alternatives to this action.

Anticipated Cost and Benefits: The cost to NRC licensees is approximately 90 percent of the NRC FY 2013 budget authority less the amounts appropriated for non-fee items. The dollar amount to be billed as fees to NRC applicants and licensees for FY 2013 is approximately $914.8 million.

Risks: Not applicable.
Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.
Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.
Government Levels Affected: Local, State.
Federalism: Undetermined.
Agency Contact: Arlette P. Howard, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555–0001, *Phone:* 301 415–1481, *Email:* *arlette.howard@nrc.gov.*
RIN: 3150–AJ19

NRC

Final Rule Stage

6. Physical Protection of Byproduct Material [NRC–2008–0120]

Priority: Economically Significant. Major under 5 U.S.C. 801.
Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841
CFR Citation: 10 CFR part 30; 10 CFR part 32; 10 CFR part 33; 10 CFR part 34; 10 CFR part 35; 10 CFR part 37; 10 CFR part 39; 10 CFR part 51; 10 CFR part 71; 10 CFR part 73.
Legal Deadline: None.

Abstract: The proposed rule would amend the Commission's regulations to put in place security requirements for the use of Category 1 and Category 2 quantities of radioactive material. The objective is to ensure that effective security measures are in place to prevent the dispersion of radioactive material for malevolent purposes. The proposed amendment would also address background investigations and access controls, enhanced security for use, and transportation security for Category 1 and Category 2 quantities of radioactive material. This rulemaking subsumes RIN 3150–AI56, "Requirements for Fingerprinting and Criminal History Record Checks for Unescorted Access to Radioactive Material and Other Property (part 37)."

Statement of Need: The objective of this rule is to provide reasonable assurance of preventing the theft or diversion of Category 1 and Category 2 quantities of radioactive material by establishing generally applicable security requirements similar to those previously imposed on certain licensees by the NRC orders. Although a security order is legally binding on the licensee receiving the order, a rule makes requirements generally applicable to all licensees. In addition, notice and comment rulemaking allows for public participation and is an open process. This rulemaking places the security requirements for use of Category 1 and Category 2 quantities of radioactive material into the regulations.

Summary of Legal Basis: Atomic Energy Act of 1954, as amended.

Alternatives: NRC could continue to regulate the security aspects for these facilities by Commission order. This alternative would not significantly reduce the burden as the majority of the cost is associated with the order requirements.

Anticipated Cost and Benefits: This final rule will result in maximum annual impact to the economy of approximately $17.9 million (using a 7 percent discount rate, annualizing the one-time costs over 20 years, and adding these "annualized" one-time costs to the annual costs) or $24.4 million (using a 3 percent discount rate). The Office of Management and Budget has indicated that the annual cost of the orders should be included in the annual impact to the economy calculation. The estimated

annual cost to the industry using the pre-order was $111.6 million. Therefore, this final rule is considered a major rule as defined by the Congressional Review Act.

The qualitative values of the rule are associated with safeguard and security considerations of the decreased risk of a security-related event, such as theft or diversion of radioactive material and subsequent use for unauthorized purposes. Increasing the security of high-risk radioactive material decreases this risk and increases the common defense and security of the Nation. Other qualitative values that are positively affected by the decreased risk of a security-related event include public and occupational health due to an accident or event and the risk of damage to on-site and off-site property. In addition, regulatory efficiency is enhanced by the rule.

Timetable:

Action	Date	FR Cite
NPRM	06/15/10	75 FR 33901
NPRM Comment Period End.	10/13/10	
NPRM Comment Period Extended.	10/08/10	75 FR 62330
NPRM Comment Period Extended End.	01/18/11	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

Government Levels Affected: Local, State.

Federalism: Undetermined.

Agency Contact: Merri L. Horn, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:* 301 415–8126, *Email:* *merri.horn@nrc.gov.*

RIN: 3150–AI12

NRC

7. Environmental Effect of Renewing the Operating License of a Nuclear Power Plant [NRC–2008–0608]

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 51.

Legal Deadline: None.

Abstract: The proposed rule would amend the Commission's regulations that provide the environmental protection requirements for renewing nuclear power plant operating licenses. The regulations require that licensees consider the impact that the licensing action could have on the human environment.

Statement of Need: The Nuclear Regulatory Commission (NRC) is amending its environmental protection regulations by updating the Commission's 1996 findings on the environmental effect of renewing the operating license of a nuclear power plant. The rule redefines the number and scope of the environmental impact issues which must be addressed by the NRC during license renewal environmental reviews. The rule also incorporates lessons learned and knowledge gained from license renewal environmental reviews conducted by the NRC since 1996.

Summary of Legal Basis: NRC's environmental protection regulations are in 10 CFR part 51, and implement section 102(2) of the National Environmental Policy Act of 1969 (NEPA).

Alternatives: The alternative to this rulemaking is to do nothing. The NRC would not amend certain provisions of 10 CFR part 51 relating to the renewal of nuclear power plant licensees, including Table B–1, "Summary of Findings on NEPA Issues for License Renewal of Nuclear Power Plants." The NRC would continue to rely on the findings set forth in the current Table B 1 when evaluating the scope and magnitude of environmental impacts of renewing the operating license for a nuclear power plant. This is not the optimal regulatory approach and not consistent with the NRC's principles of good regulation. The NRC sees benefit in pursuing a rulemaking that both updates and re-evaluates the potential environmental impacts arising from the renewal of an operating license for a nuclear power reactor for an additional twenty years. This rulemaking improves the efficiency of the license renewal process by identifying and assessing impacts that are expected to be generic (the same or similar) at all nuclear power plants (or plants with specific plant or site characteristics), and defining the number and scope of environmental impact issues that need to be addressed in plant-specific supplemental environmental impact statements. Lessons learned and knowledge gained during previous environmental reviews provided a significant source of new information for this rulemaking (including changes to Federal laws). For example, the rulemaking would now require applicants to evaluate the potential impact to groundwater quality from the discharge of radionuclides from plant systems, piping, and tanks.

Anticipated Cost and Benefits: A detailed regulatory analysis was published with the proposed rule, and can be accessed in ADAMS at ML090260568.

Risks: There are no safety risks associated with the environmental review for renewal of nuclear power plant operating licenses. The NRC has determined that the promulgation of this rulemaking is a procedural action as it pertains to the procedures for filing and reviewing applications for renewals of licenses.

Timetable:

Action	Date	FR Cite
NPRM	07/31/09	74 FR 38117
NPRM Comment Period End.	10/14/09	
NPRM Comment Period Extended.	10/07/09	74 FR 51522
NPRM Extended Comment Period End.	01/12/10	
Final Rule	02/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

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RIN: 3150–AI42

NRC

8. Domestic Licensing of Source Material—Amendments/Integrated Safety Analysis [NRC–2009–0079]

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 40; 10 CFR part 150.

Legal Deadline: None.

Abstract: The final rule will amend the Commission's regulations by adding additional requirements for licensees who possess significant quantities of uranium hexafluoride (UF6). The proposed amendments would require such licensees to conduct integrated safety analyses (ISAs) similar to the ISAs performed by 10 CFR part 70 licensees; set possession limits for UF6 for determining licensing authority NRC or Agreement States), and require the NRC to perform a backfit analysis under

specified circumstances. The proposed amendment would require applicants and licensees who possess or plan to possess significant amounts of UF6 to conduct an ISA and submit an ISA summary to the NRC. The ISA, which evaluates and categorizes the consequences of accidents at NRC licensed facilities, would address both the radiological and chemical hazards from licensed material and hazardous chemicals produced in the processing of licensed material. The NRC is also proposing new guidance on the implementation of the additional regulatory requirements for licensees that would be authorized under this rulemaking.

Statement of Need: Health and safety risks at fuel cycle facilities authorized to possess significant quantities of uranium hexafluoride are due to a combination of radiological and chemical hazards. These facilities not only handle radioactive source material, but also large volumes of hazardous chemicals that are involved in processing the nuclear material which has a significant potential for onsite and offsite consequences. Accidents at these facilities in the past have resulted in a death, serious harm to workers, and release of material offsite.

The rule would provide a risk-informed, performance-based regulatory structure that includes: (1) The identification of appropriate risk criteria and the level of protection needed to prevent or mitigate accidents that exceed such criteria; (2) the performance of a comprehensive, structured, integrated safety analysis, to identify potential accidents at the facility and the items relied on for safety; and (3) the implementation of measures to ensure that the items relied on for safety are available and reliable when needed. This will significantly reduce the risk of harm to workers, the public, and the environment.

Anticipated Cost and Benefits: The rule would result in an estimated of $2,120,000 implementation cost and estimated annual cost of $302,000 to industry. The benefit to workers and the public is an increase in the margin of safety at fuel cycle facilities authorized to possess significant quantities of uranium hexafluoride.

Timetable:

Action	Date	FR Cite
NPRM	05/17/11	76 FR 28336
NPRM Comment Period End.	08/01/11	
NPRM Comment Period Extended.	07/27/11	76 FR 44865
NPRM Extension Comment Period End.	09/09/11	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Edward M. Lohr, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:* 301 415–0253, *Email:* *edward.lohr@nrc.gov.*

RIN: 3150–AI50

NRC

9. List of Approved Spent Fuel Storage Casks—Transnuclear, Inc., Standardized Nuhoms® System, Revision 11 [NRC–2012–0020]

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 72.

Legal Deadline: None.

Abstract: The direct final rule would amend the Commission's regulations by revising the Transnuclear, Inc., Standardized NUHOMS® System to include Amendment No. 11 to the Certificate of Compliance (CoC). The direct final rule allows holders of power reactor operating licensees to store spent fuel in this approved cask system under a general license.

Statement of Need: On April 10, 2007, and as supplemented on August 23 and December 21, 2007, and June 12, 2008, and August 14, 2009, and August 5 and August 15, 2010, and February 25, 2011, Transnuclear, Inc. Standardized NUHOMS®, the holder of CoC No. 1004, submitted to the NRC a request to amend CoC No. 1004. Specifically, Transnuclear, Inc. Standardized NUHOMS® requested changes to: 1) add a new TC, the OS197L for use with the 32PT and 61BT dry shielded canisters (DSC); and 2) convert the CoC No. 1004 TSs to the format in NUREG–1745, "Standard Format and Content for Technical Specifications for 10 CFR Part 72 Cask Certificates of Compliance." The previously approved payloads and the corresponding TSs have been retained "as-is" in the new format of the proposed TSs, including tables and figures. In addition, this change removes the bases from the TSs and relocates the bases for the Limiting Conditions for Operation and Surveillance Requirements to UFSAR Chapter 10.

Summary of Legal Basis: This rule is limited to the changes contained in Amendment No. 11 to CoC No. 1004 and does not include other aspects of the NUHOMS System. The NRC is using the "direct final rule procedure" to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured.

Alternatives: The alternative to this action is to withhold approval of Amendment No. 11 and to require any 10 CFR Part 72 general licensee seeking to load spent nuclear fuel into Standardized NUHOMS® casks under the changes described in Amendment No. 11 to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, licensees who want to use the cask would have to submit, and the NRC would have to review, separate exemption requests. Each licensee seeking an exemption would prepare a request, including an environmental report. The NRC review would include an environmental assessment and safety evaluation. This would increase the administrative burden upon the NRC and the costs to each licensee.

Anticipated Cost and Benefits: This direct final rule is consistent with previous NRC actions. Further, as documented in the SER and the environmental assessment, the direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. For these reasons, the Commission concludes that preparation of a regulatory analysis is neither required nor appropriate.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

Agency Contact: Gregory Trussell, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:*

301 415–6445, *Email: gregory.trussell@nrc.gov.*

RIN: 3150–AJ10

NRC

10. List of Approved Spent Fuel Storage Casks—Holtec International, HI–Storm 100, Revision 9 [NRC–2012–0052]

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 72.

Legal Deadline: None.

Abstract: The direct final rule would amend the Commission's regulations by revising the Holtec International HI–STORM 100, dry cask storage system for storage of spent fuel under the new conditions specified in the revised Certificate of Compliance (COC). The direct final rule allows the holders of power reactor operating licenses to store spent fuel in this approved cask system under a general license.

Statement of Need: On September 10, 2010 (ML102570739), and as supplemented on October 1, 2010 (ML102780596), February 18 (ML110620186), and August 11 (ML11223A036) and November 14, 2011 (ML11320A185), Holtec International, the holder of CoC No. 1014, submitted a request to the NRC to amend CoC No. 1014. Specifically, Holtec International requested changes to: 1) broaden the subgrade requirements for the HI–STORM 100U part of the HI–STORM 100 cask storage system; and 2) update the thermal model and methodology for the HI–TRAC transfer cask from a two dimensional thermal-hydraulic model to a more accurate three dimensional model. Additionally, the following editorial changes are being made: CoC; Conditions, first sentence, "Conditioned" is changed to "Conditional"; Appendix A and Appendix A–100U; SR 3.1.1.3 is revised to be consistent with the changes made to Condition No. 3 in Amendment No. 8; Appendix A–100U; Table 3–1, "< 30" is corrected to "less than or equal to 30" to be consistent with Appendix A.

As documented in the SER, the NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that an acceptable safety margin is maintained. In addition, the NRC staff has determined that there continues to be reasonable assurance that public health and safety will be adequately protected.

This direct final rule revises the HI–STORM 100 cask system listing in 10 CFR 72.214 by adding Amendment No. 9 to CoC No. 1014. The amendment consists of the changes previously described, as set forth in the revised CoC and TSs. The revised TSs are identified in the SER. The amended HI–STORM 100 cask design, when used under the conditions specified in the CoC, the TSs, and the NRC's regulations, will meet the requirements of 10 CFR Part 72; thus, adequate protection of public health and safety will continue to be ensured. When this direct final rule becomes effective, persons who hold a general license under 10 CFR 72.210 may load spent nuclear fuel into HI–STORM 100 casks that meet the criteria of Amendment No. 9 to CoC No. 1014 under 10 CFR 72.212.

Summary of Legal Basis: This rule is limited to the changes contained in Amendment No. 9 to CoC No. 1014 and does not include other aspects of the Holtec International System. The NRC is using the "direct final rule procedure" to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured.

Alternatives: The alternative to this action is to withhold approval of Amendment No. 9 and to require any 10 CFR Part 72 general licensee seeking to load spent nuclear fuel into Holtec International HI–STORM 100 casks under the changes described in Amendment No. 9 to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, each interested 10 CFR Part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Anticipated Cost and Benefits: This direct final rule is consistent with previous NRC actions. Further, as documented in the SER and the environmental assessment, the direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. For these reasons, the Commission concludes that preparation of a regulatory analysis is neither required nor appropriate.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

Agency Contact: Gregory Trussell, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:* 301 415–6445, *Email: gregory.trussell@nrc.gov.*

RIN: 3150–AJ12

[FR Doc. 2012–31480 Filed 1–7–13; 8:45 am]

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Part III

Department of Agriculture

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE

Office of the Secretary

2 CFR Subtitle B, Ch. IV

5 CFR Ch. LXXIII

7 CFR Subtitle A; Subtitle B, Chs. I–XI, XIV–XVIII, XX, XXV–XXXVIII, XLII

9 CFR Chs. I, II and III

36 CFR Ch. II

48 CFR Ch. 4

Semiannual Regulatory Agenda, Fall 2012

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of significant and not significant regulations being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Orders (EO) 12866 "Regulatory Planning and Review," and 13563 "Improving Regulation and Regulatory Review." The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96–354. This agenda also identifies regulatory actions that are being reviewed in compliance with section 610(c) of the Regulatory Flexibility Act. We invite public comment on those actions as well as any regulation consistent with EO 13563.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

USDA's complete regulatory agenda is available online at *www.reginfo.gov.* Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), USDA's printed agenda entries include only:

(1) Rules that are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules identified for periodic review under section 610 of the Regulatory Flexibility Act.

For this edition of the USDA regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory Priorities are included in the Regulatory Plan, which appears in both the online regulatory agenda and in part II of the **Federal Register** that includes the abbreviated regulatory agenda.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action. For general comments or inquiries about the agenda, please contact Michael Poe, Office of Budget and Program Analysis, U.S. Department of Agriculture, Washington, DC 20250, (202) 720–3257.

Dated: October 22, 2012.

Michael Poe,

Chief, Legislative and Regulatory Staff.

AGRICULTURAL MARKETING SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
123	National Organic Program, Organic Pet Food Standards	0581–AD20
124	National Organic Program; Sunset Review (2012) for Sodium Nitrate	0581–AD22

AGRICULTURAL MARKETING SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
125	National Organic Program: Sunset Review for Nutrient Vitamins and Minerals	0581–AD17

AGRICULTURAL MARKETING SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
126	Wholesale Pork Reporting Program	0581–AD07
127	National Organic Program, Periodic Pesticide Residue Testing, NOP–10–0102	0581–AD10

FARM SERVICE AGENCY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
128	Farm Loan Programs, Clarification and Improvement	0560–AI14
129	Microloan Operating Loans	0560–AI17

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
130	Animal Welfare: Marine Mammals; Nonconsensus Language and Interactive Programs **(Rulemaking Resulting From a Section 610 Review)**.	0579–AB24

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—PROPOSED RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
131	Animal Welfare; Regulations and Standards for Birds	0579–AC02
132	Scrapie in Sheep and Goats	0579–AC92
133	Plant Pest Regulations; Update of General Provisions **(Reg Plan Seq No. 3)**	0579–AC98
134	Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts.	0579–AD10
135	Importation of Beef From a Region in Brazil	0579–AD41
136	Labeling Requirements for Firewood Moved Interstate	0579–AD49

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
137	Citrus Canker; Compensation for Certified Citrus Nursery Stock	0579–AC05
138	Introduction of Organisms and Products Altered or Produced Through Genetic Engineering	0579–AC31
139	Importation of Poultry and Poultry Products From Regions Affected With Highly Pathogenic Avian Influenza.	0579–AC36
140	Bovine Spongiform Encephalopathy; Importation of Bovines and Bovine Products	0579–AC68
141	Handling of Animals; Contingency Plans	0579–AC69
142	Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List; Amendments to the Select Agent and Toxin Regulations.	0579–AD09
143	Lacey Act Implementation Plan; Definitions for Exempt and Regulated Articles	0579–AD11
144	Animal Disease Traceability **(Reg Plan Seq No. 5)**	0579–AD24
145	Importation of Wood Packaging Material From Canada	0579–AD28
146	Citrus Canker, Citrus Greening, and Asian Citrus Psyllid; Interstate Movement of Regulated Nursery Stock.	0579–AD29
147	Treatment of Firewood and Spruce Logs Imported From Canada	0579–AD60

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
148	Importation of Fresh Pitaya Fruit From Central America Into the Continental United States	0579–AD40
149	Importation of Dracaena Plants From Costa Rica	0579–AD54

RURAL HOUSING SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
150	Guaranteed Single-Family Housing	0575–AC18

FOOD AND NUTRITION SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
151	National School Lunch and School Breakfast Programs: Nutrition Standards for All Foods Sold in School, as Required by the Healthy, Hunger-Free Kids Act of 2010 **(Reg Plan Seq No. 8)**.	0584–AE09
152	Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act of 2010.	0584–AE18
153	Enhancing Retailer Eligibility Standards in SNAP	0584–AE27

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

FOOD AND NUTRITION SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
154	Certification of Compliance With Meal Requirements for the National School Lunch Program Under the Healthy, Hunger-Free Kids Act of 2010.	0584–AE15

FOOD SAFETY AND INSPECTION SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
155	Performance Standards for the Production of Processed Meat and Poultry Products	0583–AC46
156	Descriptive Designation for Needle or Blade Tenderized (Mechanically Tenderized) Beef Products **(Reg Plan Seq No. 16)**.	0583–AD45

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

FOOD SAFETY AND INSPECTION SERVICE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
157	Mandatory Inspection of Catfish and Catfish Products	0583–AD36

FOREST SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
158	National Forest System Invasive Species Management Handbook	0596–AD05

FOREST SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
159	Land Management Planning Rule Policy	0596–AD06

OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
160	Designation of Biobased Items for Federal Procurement, Round 10	0599–AA16

OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
161	Designation of Biobased Items for Federal Procurement, Round 9	0599–AA15

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

Proposed Rule Stage

123. National Organic Program, Organic Pet Food Standards

Legal Authority: 7 U.S.C. 6501

Abstract: The National Organic Program (NOP) is establishing national standards governing the marketing of organically produced agricultural products. In 2004, the National Organic Standards Board (NOSB) initiated the development of organic pet food standards, which had not been incorporated into the NOP regulations, by forming a task force which included pet food manufacturers, organic consultants, etc. Collectively, these experts drafted organic pet food standards consistent with the Organic Foods Production Act of 1990, Food and Drug Administration requirements, and the Association of American Feed Control Officials (AAFCO) Model Regulations for Pet and Specialty Pet Food. The AAFCO regulations are scientifically-based regulations for voluntary adoption by State jurisdictions to ensure the safety, quality and effectiveness of feed. In November 2008, the NOSB approval a final recommendation for organic pet food standards incorporating the provisions drafted by the pet food task force.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	
Final Action	06/00/14	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Melissa R. Bailey, Director, Standards Division, Department of Agriculture, Agricultural Marketing Service, 14th & Independence Avenue SW., Rm. 2646—South Building, Washington, DC 20250, *Phone:* 202 720–3252, *Fax:* 202 205–7808, *Email: melissa.bailey@usda.gov.*

RIN: 0581–AD20

124. National Organic Program; Sunset Review (2012) for Sodium Nitrate

Legal Authority: 7 U.S.C. 6501

Abstract: This action proposes to amend the listing for sodium nitrate on the National List of Allowed and Prohibited Substances as part of the 2012 Sunset Review process. Consistent with the recommendation from the National Organic Standards Board, this amendment would prohibit the use of

the substance in its entirety from organic crop production.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Melissa R. Bailey, Director, Standards Division, Department of Agriculture, Agricultural Marketing Service, 14th & Independence Avenue SW., Rm. 2646—South Building, Washington, DC 20250, *Phone:* 202 720–3252, *Fax:* 202 205–7808, *Email: melissa.bailey@usda.gov.*

RIN: 0581–AD22

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

Final Rule Stage

125. National Organic Program: Sunset Review For Nutrient Vitamins and Minerals

Legal Authority: 7 U.S.C. 6501

Abstract: This action renews the listing for nutrient vitamins and minerals on the National List of Allowed and Prohibited Substances (National List) as part of the 2012 Sunset Review process. Consistent with the recommendation from the National Organic Standards Board (NOSB), this action ensures that the U.S. organic industry can continue using vitamins and minerals in organic products (e.g., the addition of Vitamin A and D in organic milk, the addition of B vitamins in organic cereal). Under this action, the status quo will remain in effect such that nutrients currently used in organic products can continue to be used until the Agricultural Marketing Service (AMS) addresses any changes in their allowance through a final rule.

Timetable:

Action	Date	FR Cite
NPRM	01/12/12	77 FR 1980
NPRM Comment Period End.	03/12/12	
Interim Final Rule	09/27/12	77 FR 59287
Final Action	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Melissa R. Bailey, Director, Standards Division, Department of Agriculture, Agricultural Marketing Service, 14th & Independence Avenue SW., Rm. 2646–South Building, Washington, DC 20250, *Phone:* 202 720–3252, *Fax:* 202 205–7808, *Email: melissa.bailey@usda.gov.*

RIN: 0581–AD17

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

Completed Actions

126. Wholesale Pork Reporting Program

Legal Authority: 7 U.S.C. 1635 to 1636

Abstract: On September 15, 2010, Congress passed the Mandatory Price Reporting Act of 2010 reauthorizing Livestock Mandatory Reporting for 5 years and adding a provision for mandatory reporting of wholesale pork cuts. The Act was signed by the President on September 28, 2010. Congress directed the Secretary to engage in negotiated rulemaking to make required regulatory changes for mandatory wholesale pork reporting. Further, Congress required that the negotiated rulemaking committee include representatives from (i) organizations representing swine producers; (ii) organizations representing packers of pork, processors of pork, retailers of pork, and buyers of wholesale pork; (iii) the Department of Agriculture; and (iv) interested parties that participate in swine or pork production.

Completed:

Reason	Date	FR Cite
Final Action	08/22/12	77 FR 50561
Final Action Effective.	01/07/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael P. Lynch, *Phone:* 202 720–6231.

RIN: 0581–AD07

127. National Organic Program, Periodic Pesticide Residue Testing, NOP–10–0102

Legal Authority: 7 U.S.C. 6501

Abstract: Under the Organic Foods Production Act (OFPA) of 1990, the National Organic Program is authorized to require pre-harvest residue testing for products sold or labeled as organic. This requirement is promulgated in section 205.670(b) of the NOP regulations which provides that the Secretary, state programs, and certifying agents may require pre-harvest or post-harvest testing of organic products when there is reason to believe that the product has come into contact with a prohibited substance or has been produced using excluded methods.

Based on recommendations from a March 2010 OIG audit, the NOP published a proposed rule that would amend regulations such that certifying agents would be required to conduct periodic testing of agricultural products that are to be sold, labeled or represented as "100 percent organic, organic," or "made with organic (specified ingredients or food group(s))". Specifically, the proposed rule specified that certifying agents would be required, on an annual basis, to randomly sample and test agricultural products from a minimum of 5 percent of the operations they certify.

Completed:

Reason	Date	FR Cite
Final Action	11/09/12	77 FR 67239
Final Action Effective.	01/01/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Melissa R. Bailey, *Phone:* 202 720–3252, *Fax:* 202 205–7808, *Email: melissa.bailey@usda.gov.*

RIN: 0581–AD10

DEPARTMENT OF AGRICULTURE (USDA)

Farm Service Agency (FSA)

Final Rule Stage

128. Farm Loan Programs, Clarification and Improvement

Legal Authority: 5 U.S.C. 301; 7 U.S.C. 1989

Abstract: The rule will amend Farm Loan Programs (FLP) regulations for loan servicing including the following areas:

—Real estate appraisals;

—Lease, subordination, and disposition of security; and

—Conservation contracts.

FSA is also making technical and conforming amendments. The amendments are technical corrections, clarifications, and procedural improvements that will allow FSA to further streamline normal servicing activities and reduce burden on borrowers while still protecting the loan security.

Timetable:

Action	Date	FR Cite
NPRM	04/13/12	77 FR 22444
NPRM Comment Period End.	06/12/12	
Final Action	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

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–AI14

129. Microloan Operating Loans

Legal Authority: 7 U.S.C. 1946; 5 U.S.C. 301; 7 U.S.C. 1989

Abstract: The rule will establish a new small loan category within the existing direct Operating Loan Program regulations. The microloan program is expected to serve the unique operating needs of very small family farm operations. The intended effect is to make the Operating Loan Program more widely available and attractive to smaller operators through reduced application requirements, more timely application processing, and added flexibility in meeting the managerial ability eligibility requirement.

Timetable:

Action	Date	FR Cite
NPRM	05/25/12	77 FR 31220
NPRM Comment Period End.	07/24/12	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

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–AI17

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Proposed Rule Stage

130. Animal Welfare: Marine Mammals; Nonconsensus Language and Interactive Programs (Rulemaking Resulting From a Section 610 Review)

Legal Authority: 7 U.S.C. 2131 to 2159

Abstract: The U.S. Department of Agriculture regulates the humane handling, care, treatment, and transportation of certain marine mammals under the Animal Welfare Act. The present standards for these animals have been in effect since 1979 and amended in 1984. During this time, advances have been made and new information has been developed with regard to the housing and care of marine mammals. This rulemaking addresses marine mammal standards on which consensus was not reached during negotiated rulemaking conducted between September 1995 and July 1996. These actions appear necessary to ensure that the minimum standards for the humane handling, care, treatment, and transportation of marine mammals in captivity are based on current general, industry, and scientific knowledge and experience.

Timetable:

Action	Date	FR Cite
ANPRM	05/30/02	67 FR 37731
ANPRM Comment Period End.	07/29/02	
NPRM	01/00/13	
NPRM Comment Period End.	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Barbara Kohn, Senior Staff Veterinarian, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 84, Riverdale, MD 20737–1234, *Phone:* 301 851–3751.

RIN: 0579–AB24

131. Animal Welfare; Regulations and Standards for Birds

Legal Authority: 7 U.S.C. 2131 to 2159

Abstract: APHIS intends to establish standards for the humane handling, care, treatment, and transportation of birds other than birds bred for use in research.

Timetable:

Action	Date	FR Cite
NPRM	11/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Johanna Briscoe, Veterinary Medical Officer and Avian Specialist, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 84, Riverdale, MD 20737–1234, *Phone:* 301 851–3726.

RIN: 0579–AC02

132. Scrapie in Sheep and Goats

Legal Authority: 7 U.S.C. 8301 to 8317

Abstract: This rulemaking would amend the scrapie regulations by changing the risk groups and categories established for individual animals and for flocks. It would simplify, reduce, or remove certain recordkeeping requirements. This action would provide designated scrapie epidemiologists with more alternatives and flexibility when testing animals in order to determine flock designations under the regulations. It would also make the identification and recordkeeping requirements for goat owners consistent with those for sheep owners. These changes would affect sheep and goat producers and State governments.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	
NPRM Comment Period End.	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Diane Sutton, National Scrapie Program Coordinator, Ruminant Health Programs, NCAHP, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 43, Riverdale, MD 20737–1235, *Phone:* 301 851–3509.

RIN: 0579–AC92

133. Plant Pest Regulations; Update of General Provisions

Regulatory Plan: This entry is Seq. No. 3 in part II of this issue of the **Federal Register**.

RIN: 0579–AC98

134. Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 1622; 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; 31 U.S.C. 9701

Abstract: This rulemaking would amend the bovine spongiform encephalopathy (BSE) and scrapie regulations regarding the importation of live sheep, goats, and wild ruminants and their embryos, semen, products, and byproducts. The proposed scrapie revisions regarding the importation of sheep, goats, and susceptible wild ruminants for other than immediate slaughter are similar to those recommended by the World Organization for Animal Health in restricting the importation of such animals to those from scrapie-free regions or certified scrapie-free flocks.

Timetable:

Action	Date	FR Cite
NPRM	05/00/13	

Action	Date	FR Cite
NPRM Comment Period End.	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Betzaida Lopez, Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737–1231, *Phone:* 301 851–3364.

RIN: 0579–AD10

135. Importation of Beef From a Region in Brazil

Legal Authority: 7 U.S.C. 450; 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; 31 U.S.C. 9701

Abstract: This rulemaking would amend the regulations governing the importation of certain animals, meat, and other animal products by allowing, under certain conditions, the importation of fresh (chilled or frozen) beef from a region in Brazil (the States of Bahia, Distrito Federal, Espirito Santo, Goias, Mato Grosso, Mato Grosso do Sul, Minas Gerais, Parana, Rio Grande do Sul, Rio de Janeiro, Rondonia, Sao Paulo, Sergipe, and Tocantis). Based on the evidence in a recent risk assessment, we have determined that fresh (chilled or frozen) beef can be safely imported from those Brazilian States provided certain conditions are met. This action would provide for the importation of beef from the designated region in Brazil into the United States while continuing to protect the United States against the introduction of foot-and-mouth disease.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	
NPRM Comment Period End.	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Silvia Kreindel, Senior Staff Veterinarian, Regionalization Evaluation Services Staff, NCIE, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737–1231, *Phone:* 301 851–3313.

RIN: 0579–AD41

136. Labeling Requirements for Firewood Moved Interstate

Legal Authority: 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786

Abstract: Currently, the movement of firewood in interstate commerce is largely unregulated. However, this movement can be a pathway for numerous plant pests. Accordingly, this rule proposes requirements that would aid in preventing the further dissemination of plant pests within the United States through the interstate movement of firewood.

Timetable:

Action	Date	FR Cite
NPRM	08/00/13	
NPRM Comment Period End.	10/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Paul Chaloux, National Program Manager, Emergency and Domestic Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 137, Riverdale, MD 20737–1236, *Phone:* 301 851–2064.

RIN: 0579–AD49

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Final Rule Stage

137. Citrus Canker; Compensation for Certified Citrus Nursery Stock

Legal Authority: 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786

Abstract: This action follows a rulemaking that established provisions under which eligible commercial citrus nurseries may, subject to the availability of appropriated funds, receive payments for certified citrus nursery stock destroyed to eradicate or control citrus canker. The payment of these funds is necessary in order to reduce the economic effects on affected commercial citrus nurseries that have had certified citrus nursery stock destroyed to control citrus canker.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/08/06	71 FR 33168
Interim Final Rule Effective.	06/08/06	
Interim Final Rule Comment Period End.	08/07/06	
Final Action	11/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lynn E. Goldner, National Program Manager, Emergency and Domestic Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 160, Riverdale, MD 20737–1231, *Phone:* 301 851–2286.

RIN: 0579–AC05

138. Introduction of Organisms and Products Altered or Produced Through Genetic Engineering

Legal Authority: 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 31 U.S.C. 9701

Abstract: This rulemaking will revise the regulations regarding the importation, interstate movement, and environmental release of certain genetically engineered organisms and update the regulations in response to advances in genetic science and technology and our accumulated experience in implementing the current regulations. This rule will affect persons involved in the importation, interstate movement, or release into the environment of genetically engineered plants and certain other genetically engineered organisms.

Timetable:

Action	Date	FR Cite
Notice of Intent to Prepare an Environmental Impact Statement.	01/23/04	69 FR 3271
Comment Period End.	03/23/04	
Notice of Availability of Draft Environmental Impact Statement.	07/17/07	72 FR 39021
Comment Period End.	09/11/07	
NPRM	10/09/08	73 FR 60007
NPRM Comment Period End.	11/24/08	
Correction	11/10/08	73 FR 66563
NPRM Comment Period Reopened.	01/16/09	74 FR 2907
NPRM Comment Period End.	03/17/09	
NPRM; Notice of Public Scoping Session.	03/11/09	74 FR 10517
NPRM Comment Period Reopened.	04/13/09	74 FR 16797
NPRM Comment Period End.	06/29/09	
Final Rule	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Andrea Huberty, Branch Chief, Regulatory and Environmental Analysis, BRS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700

River Road, Unit 146, Riverdale, MD 20737–1236, *Phone:* 301 851–3880.

RIN: 0579–AC31

139. Importation of Poultry and Poultry Products From Regions Affected With Highly Pathogenic Avian Influenza

Legal Authority: 7 U.S.C. 1622; 7 U.S.C. 8301 to 8317; 21 U.S.C. 136 and 136a

Abstract: This rulemaking will amend the regulations concerning the importation of animals and animal products to prohibit or restrict the importation of birds, poultry, and bird and poultry products from regions that have reported the presence in commercial birds or poultry of highly pathogenic avian influenza other than subtype H5N1. This action will supplement existing prohibitions and restrictions on articles from regions that have reported the presence of Newcastle disease or highly pathogenic avian influenza subtype H5N1.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/24/11	76 FR 4046
Interim Final Rule Comment Period End.	03/25/11	
Interim Final Rule Comment Period Reopened.	05/03/11	76 FR 24793
Interim Final Rule Comment Period Reopened End.	05/18/11	
Interim Final Rule Comment Period Reopened.	06/12/12	77 FR 34783
Interim Final Rule Comment Period Reopened End.	07/12/12	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Javier Vargas, Case Manager, National Center for Import and Export, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 38, Riverdale, MD 20737–1231, *Phone:* 301 851–3300.

RIN: 0579–AC36

140. Bovine Spongiform Encephalopathy; Importation of Bovines and Bovine Products

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 1622; 7 U.S.C. 7701 to 7772; 7 U.S.C. 8301 to 8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701

Abstract: This rulemaking will amend the regulations regarding the importation of bovines and bovine products. This rulemaking will also address public comments received in response to a September 2008 request for comments regarding certain provisions of an APHIS January 2005 final rule.

Timetable:

Action	Date	FR Cite
NPRM	03/16/12	77 FR 15848
NPRM Comment Period End.	05/15/12	
NPRM Comment Period Reopened.	05/21/12	77 FR 29914
NPRM Comment Period End.	06/14/12	
Final Action	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Betzaida Lopez, Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737–1231, *Phone:* 301 851–3364.

Christopher Robinson, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 40, Riverdale, MD 20737–1231, *Phone:* 301 851–3300.

RIN: 0579–AC68

141. Handling of Animals; Contingency Plans

Legal Authority: 7 U.S.C. 2131 to 2159

Abstract: This rulemaking will amend the Animal Welfare Act regulations to add requirements for contingency planning and training of personnel by research facilities and by dealers, exhibitors, intermediate handlers, and carriers. This action will heighten the awareness of licensees and registrants regarding their responsibilities and help ensure a timely and appropriate response should an emergency or disaster occur.

Timetable:

Action	Date	FR Cite
NPRM	10/23/08	73 FR 63085
NPRM Comment Period End.	12/22/08	
NPRM Comment Period Extended.	12/19/08	73 FR 77554
NPRM Comment Period Extended End.	02/20/09	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jeanie Lin, National Emergency Programs Manager, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 920 Main Campus Dr., Suite 200, Raleigh, NC 27606, *Phone:* 919 855–7097.

RIN: 0579–AC69

142. Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List; Amendments to the Select Agent and Toxin Regulations

Legal Authority: 7 U.S.C. 8401

Abstract: In accordance with the Agricultural Bioterrorism Protection Act of 2002, we are amending and republishing the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products. The Act requires the biennial review and republication of the list of select agents and toxins and the revision of the list as necessary. This action implements the findings of the third biennial review of the list. In addition, we are reorganizing the list of select agents and toxins based on the relative potential of each select agent or toxin to be misused to adversely affect human, plant, or animal health. Such tiering of the list allows for the optimization of security measures for those select agents or toxins that present the greatest risk of deliberate misuse with the most significant potential for mass casualties or devastating effects to the economy, critical infrastructure, or public confidence. We are also making a number of amendments to the regulations, including the addition of definitions and clarification of language concerning security, training, biosafety, biocontainment, and incident response. These changes will increase the usability of the select agent regulations as well as provide for enhanced program oversight.

Timetable:

Action	Date	FR Cite
ANPRM	07/29/10	75 FR 44724
ANPRM Comment Period End.	08/30/10	
NPRM	10/03/11	76 FR 61228
NPRM Comment Period End.	12/02/11	
NPRM Comment Period Extended.	12/15/11	76 FR 77914
NPRM Comment Period Extended End.	01/17/12	
Final Rule	10/05/12	77 FR 61056
Final Rule Effective.	12/04/12	
Remaining Provisions of Final Rule Effective.	04/03/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles L. Divan, Branch Chief, Agriculture Select Agent Program, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 2, Riverdale, MD 20737–1231, *Phone:* 301 851–2219.

RIN: 0579–AD09

143. Lacey Act Implementation Plan; Definitions for Exempt and Regulated Articles

Legal Authority: 16 U.S.C. 3371 *et seq.*

Abstract: In response to recent amendments to the Lacey Act, we are establishing definitions for the terms "common cultivar" and "common food crop" and several related terms. The amendments to the Act expanded its protections to a broader range of plant species, extended its reach to encompass products, including timber, that derive from illegally harvested plants, and require that importers submit a declaration at the time of importation for certain plants and plant products. Common cultivars and common food crops are among the categorical exemptions to the provisions of the Act. The Act does not define the terms "common cultivar" and "common food crop" but instead gives authority to the U.S. Department of Agriculture and the U.S. Department of the Interior to define these terms by regulation. Our definitions specify which plants and plant products will be subject to the provisions of the Act, including the declaration requirement.

Timetable:

Action	Date	FR Cite
NPRM	08/04/10	75 FR 46859
NPRM Comment Period End.	10/04/10	
Extension of Comment Period.	10/29/10	75 FR 66699
Extension of Comment Period End.	11/29/10	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: George Balady, Senior Staff Officer, Quarantine Policy Analysis and Support, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 60, Riverdale, MD 20737–1231, *Phone:* 301 851–2240.

RIN: 0579–AD11

144. Animal Disease Traceability

Regulatory Plan: This entry is Seq. No. 5 in part II of this issue of the **Federal Register.**

RIN: 0579–AD24

145. Importation of Wood Packaging Material From Canada

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

Abstract: This rulemaking will amend the regulations for the importation of unmanufactured wood articles to remove the exemption that allows wood packaging material from Canada to enter the United States without first meeting the treatment and marking requirements of the regulations that apply to wood packaging material from all other countries. This action is necessary in order to prevent the dissemination and spread of pests via wood packaging material from Canada.

Timetable:

Action	Date	FR Cite
NPRM	12/02/10	75 FR 75157
NPRM Comment Period End.	01/31/11	
Final Rule	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Tyrone Jones, Trade Director, Forestry Products, Phytosanitary Issues Management, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 140, Riverdale, MD 20737–1231, *Phone:* 301 851–2344.

RIN: 0579–AD28

146. Citrus Canker, Citrus Greening, and Asian Citrus Psyllid; Interstate Movement of Regulated Nursery Stock

Legal Authority: 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786

Abstract: This rulemaking will amend the regulations governing the interstate movement of regulated articles from areas quarantined for citrus canker, citrus greening, and/or Asian citrus psyllid (ACP) to allow the movement of regulated nursery stock under a certificate to any area within the United States. In order to be eligible to move regulated nursery stock, a nursery must enter into a compliance agreement with APHIS that specifies the conditions under which the nursery stock must be grown, maintained, and shipped. It will also amend the regulations that allow the movement of regulated nursery stock from an area quarantined for ACP, but not for citrus greening, to amend the existing regulatory requirements for the issuance of limited permits for the interstate movement of the nursery stock. We are making these changes on an immediate basis in order to provide nursery stock producers in areas quarantined for citrus canker, citrus greening, or ACP with the ability to ship regulated nursery stock to markets within the United States that would otherwise be unavailable to them due to the prohibitions and restrictions contained in the regulations while continuing to provide adequate safeguards to prevent the spread of the three pests into currently unaffected areas of the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/27/11	76 FR 23449
Interim Final Rule Effective.	04/27/11	
Interim Final Rule Comment Period End.	06/27/11	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Deborah McPartlan, Emergency and Domestic Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 160, Riverdale, MD 20737–1238, *Phone:* 301 851–2191.

RIN: 0579–AD29

147. Treatment of Firewood and Spruce Logs Imported From Canada

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

Abstract: This rulemaking will amend the regulations to require firewood of all species imported from Canada, including treated lumber (furniture scraps) sold as kindling, and all spruce logs imported from Nova Scotia to be heat-treated and to be accompanied by either a certificate of treatment or an attached commercial treatment label. This action is necessary to prevent the artificial spread of pests including emerald ash borer, Asian longhorned beetle, gypsy moth, European spruce bark beetle, and brown spruce longhorn beetle to noninfested areas of the United States and to prevent further introductions of these pests into the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Tyrone Jones, Trade Director, Forestry Products,

Phytosanitary Issues Management, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 140, Riverdale, MD 20737–1231, *Phone:* 301 851–2344.

RIN: 0579–AD60

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Completed Actions

148. • Importation of Fresh Pitaya Fruit From Central America Into the Continental United States

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

Abstract: This rulemaking amends the fruits and vegetables regulations to allow the importation of fresh pitaya fruit from Central America into the continental United States. As a condition of entry, the pitaya fruit must be produced in accordance with a systems approach that includes requirements for monitoring and oversight, establishment of pest-free places of production, and procedures for packing the pitaya fruit. This action will allow for the importation of pitaya fruit from Central America into the continental United States while continuing to provide protection against the introduction of plant pests.

Timetable:

Action	Date	FR Cite
NPRM	05/24/11	76 FR 30036
NPRM Comment Period End.	07/25/11	
Final Rule	04/16/12	77 FR 22465
Final Rule Effective.	05/16/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David Lamb, Import Specialist, Regulatory Coordination and Compliance, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 133, Riverdale, MD 20737–1236, *Phone:* 301 851–2103.

RIN: 0579–AD40

149. • Importation of Dracaena Plants From Costa Rica

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

Abstract: This rulemaking amends the plants for planting regulations to provide conditions for the importation into the continental United States of Dracaena spp. plants from Costa Rica. These conditions will apply to plants less than 460 mm in length, which are currently allowed to be imported, and will also allow for the importation of plants over 460 mm and up to 1,371.6 mm in length, which are currently prohibited. As a condition of entry, Dracaena spp. plants from Costa Rica will have to be produced in accordance with integrated pest risk management measures that will include requirements for registration of place of production and packinghouses, a pest management plan, inspection for quarantine pests, sanitation, and traceability from place of production through the packing and export facility and to the port of entry into the United States. All Dracaena spp. plants from Costa Rica will also be required to be accompanied by a phytosanitary certificate with an additional declaration stating that all conditions for the importation of the plants have been met and that the consignment of plants has been inspected and found free of quarantine pests. This action will allow for the importation of oversized Dracaena spp. plants from Costa Rica into the United States while continuing to provide protection against the introduction of quarantine pests.

Timetable:

Action	Date	FR Cite
NPRM	11/01/11	76 FR 67379
NPRM Comment Period End.	01/03/12	
Final Rule	06/26/12	77 FR 37997
Final Rule Effective.	07/26/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Aley, Senior Import Specialist, Plants for Planting Policy, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 136, Riverdale, MD 20737–1231, *Phone:* 301 851–2130.

RIN: 0579–AD54.

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE (USDA)

Rural Housing Service (RHS)

Final Rule Stage

150. Guaranteed Single-Family Housing

Legal Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480

Abstract: The Guaranteed Single-Family Housing Loan Program is taking the proposed action to implement authorities granted the Secretary of the USDA, in section 102 of the Supplemental Appropriations Act, 2010 (Pub. L. 111–212, July 29, 2010) to collect from the lender an annual fee not to exceed 0.5 percent of the outstanding principal balance of the loan for the life of the loan. The intent of the annual fee is to make the SFHGLP subsidy neutral when used in conjunction with the one-time guarantee fee, thus eliminating the need for taxpayer support of the program.

Timetable:

Action	Date	FR Cite
NPRM	10/28/11	76 FR 66860
NPRM Comment Period End.	12/27/11	
Final Action	04/00/13	
Final Action Effective.	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cathy Glover, Senior Loan Specialist, Department of Agriculture, Rural Housing Service, 1400 Independence Avenue SW., STOP 0784, Washington, DC 02050–0784, *Phone:* 202 720–1460, *Email: cathy.glover@wdc.usda.gov.*

RIN: 0575–AC18

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE (USDA)

Food and Nutrition Service (FNS)

Proposed Rule Stage

151. National School Lunch and School Breakfast Programs: Nutrition Standards for All Foods Sold in School, as Required by the Healthy, Hunger-Free Kids Act of 2010

Regulatory Plan: This entry is Seq. No. 8 in part II of this issue of the **Federal Register**.

RIN: 0584–AE09

152. Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act of 2010

Legal Authority: Pub. L. 111–296

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.

Timetable:

Action	Date	FR Cite
NPRM	05/00/13	
NPRM Comment Period End.	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James F. Herbert, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 10th Floor, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 305–2572, *Email: james.herbert@fns.usda.gov.*

RIN: 0584–AE18

153. Enhancing Retailer Eligibility Standards in SNAP

Legal Authority: sec 3, U.S.C. 2012; sec 9, U.S.C. 2018

Abstract: This rulemaking will address the criteria used to authorize redemption of SNAP benefits (especially by restaurant-type operations).

Timetable:

Action	Date	FR Cite
NPRM	05/00/13	
NPRM Comment Period End.	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James F. Herbert, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 10th Floor, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 305–2572, *Email: james.herbert@fns.usda.gov.*

RIN: 0584–AE27

DEPARTMENT OF AGRICULTURE (USDA)

Food and Nutrition Service (FNS)

Final Rule Stage

154. Certification of Compliance With Meal Requirements for the National School Lunch Program Under the Healthy, Hunger-Free Kids Act of 2010

Legal Authority: Pub. L. 111–296

Abstract: This rule codifies section 201 of the Healthy, Hunger-Free Kids Act (Pub. L. 111–296) under 7 CFR part 210 directing the Secretary to provide, additional 6 cents per lunch, adjusted annually for changes in the Consumer Price Index, for schools that are certified to be in compliance with the interim/final regulation, "Nutrition Standards in the National School Lunch and Breakfast Programs," (77 FR 4088, January 26, 2012). This rule establishes the compliance standards that State agencies will use to certify schools that are eligible to receive the rate increase.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective.	07/01/12	
Interim Final Rule Comment Period End.	07/26/12	
Final Action	09/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James F. Herbert, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 10th Floor, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 305–2572, *Email: james.herbert@fns.usda.gov.*

RIN: 0584–AE15

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE (USDA)

Food Safety and Inspection Service (FSIS)

Proposed Rule Stage

155. Performance Standards for the Production of Processed Meat and Poultry Products

Legal Authority: 21 U.S.C. 451 *et seq.;* 21 U.S.C. 601 *et seq.*

Abstract: FSIS is proposing to establish pathogen reduction performance standards for all ready-to-eat (RTE) and partially heat-treated meat and poultry products. The performance standards spell out the objective level of pathogen reduction that establishments must meet during their operations in order to produce safe products, but allow the use of customized, plant-specific processing procedures other than those prescribed in their earlier regulations. With HACCP, food safety performance standards give establishments the incentive and flexibility to adopt innovative, science-based food safety processing procedures and controls, while providing objective, measurable standards that can be verified by Agency inspectional oversight. This set of performance standards will include and be consistent with standards already in place for certain ready-to-eat meat and poultry products.

Timetable:

Action	Date	FR Cite
NPRM	02/27/01	66 FR 12590
NPRM Comment Period End.	05/29/01	
NPRM Comment Period Extended.	07/03/01	66 FR 35112
NPRM Comment Period Extended End.	09/10/01	
Interim Final Rule	06/06/03	68 FR 34208
Interim Final Rule Effective.	10/06/03	
Interim Final Rule Comment Period End.	01/31/05	
NPRM Comment Period Reopened.	03/24/05	70 FR 15017
NPRM Comment Period Reopened End.	05/09/05	
Affirmation of Interim Final Rule and Supplemental Proposed Rule.	09/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Rachel Edelstein, Acting Assistant Administrator, Office of Policy and Program Development, Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW., 351–E JWB, Washington, DC 20250, *Phone:* 202 205–0495, *Fax:* 202 720–2025, *Email: rachel.edelstein@fsis.usda.gov.*

RIN: 0583–AC46

156. Descriptive Designation for Needle or Blade Tenderized (Mechanically Tenderized) Beef Products

Regulatory Plan: This entry is Seq. No. 16 in part II of this issue of the **Federal Register**.

RIN: 0583–AD45

DEPARTMENT OF AGRICULTURE (USDA)

Food Safety and Inspection Service (FSIS)

Long-Term Actions

157. Mandatory Inspection of Catfish and Catfish Products

Legal Authority: 21 U.S.C. 601 *et seq.;* Pub. L. 110–249, sec 11016

Abstract: The Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246, sec. 11016), known as the 2008 Farm Bill, amended the Federal Meat Inspection Act (FMIA) to make catfish an amenable species under the FMIA. Amenable species must be inspected, so this rule will define inspection requirements for catfish. The regulations

will define "catfish" and the scope of coverage of the regulations to apply to establishments that process farm-raised species of catfish and to catfish and catfish products. The regulations will take into account the conditions under which the catfish are raised and transported to a processing establishment.

Timetable:

Action	Date	FR Cite
NPRM	02/24/11	76 FR 10433
NPRM Comment Period End.	06/24/11	
Final Action	To Be Determined.	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Rachel Edelstein, *Phone:* 202 205–0495, *Fax:* 202 720–2025, *Email: rachel.edelstein@fsis.usda.gov.*

RIN: 0583–AD36

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Proposed Rule Stage

158. National Forest System Invasive Species Management Handbook

Legal Authority: Not Yet Determined

Abstract: Management activities to address the threats and impacts of invasive species across the National Forest System are guided by a general, broad policy articulated in the proposed Forest Service Manual 2900 (NFS Invasive Species Management). FSM 2900 is currently in proposed directive process and being reviewed by OMB. However, the specific requirements, standards, criteria, rules, and guidelines for NFS invasive species management operations are not detailed in FSM 2900 and need to be provided through an accompanying handbook issued through the Directives system. Therefore, this action to develop a proposed handbook, tiering from FSM 2900, to provide this necessary set of requirements, standards, criteria, and other operational guidance for invasive species management on National Forests and Grasslands.

Timetable:

Action	Date	FR Cite
Proposed Rule	05/00/13	

Regulatory Flexibility Analysis Required: No.

Agency Contact: LaRenda C. King, Assistant Director, Directives and Regulations, Department of Agriculture, Forest Service, ATTN: ORMS, D&R Branch, 1400 Independence Avenue, Washington, DC 20250–0003, *Phone:* 202 205–6560, *Email: larendacking@fs.fed.us.*

RIN: 0596–AD05

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Final Rule Stage

159. Land Management Planning Rule Policy

Legal Authority: 5 U.S.C. 302; 16 U.S.C. 1604; 16 U.S.C. 1613

Abstract: Background: Describe what the current directives require or allow, and what the problem is.

The Forest Service is promulgating a new land management planning regulation at 36 CFR part 219 (RIN 0596–AC94). A proposed land management planning rule was published for public comment February 14, 2011 (70 FR 8480). The agency intends to issue interim directives to implement the new planning rule shortly after publishing the final rule in the **Federal Register** around the end of calendar year 2011. An interim directive is an issuance that modifies previous direction or establishes new direction for a period of up to 18 months. Release of the interim directives will include a 60-day public comment period. The current directives implement the provisions of the 2000 planning rule that is being replaced by the new rule.

Proposed Action: Briefly describe the action you wish to take.

The US Forest Service is proposing to amend the Forest Service Manual (FSM) 1900—Planning and Forest Service Handbook (FSH) 1909.12—Land Management Planning Handbook. Within the FSM 1900, the agency proposes to change the Zero Code and Chapter 1920—Land Management Planning. Direction would be revised to implement the new planning rule.

Specifics: List the exact regulatory language that this directive will modify, and describe, generally, how this will be changed or what will be added. Use bullets.

* FSM 1905—Definitions. Amend definitions to include those in the planning rule.

* FSM 1920—Land Management Planning. Amend the entire chapter to implement the rule.

* FSH 1909.12—Land Management Planning Handbook. Amend the entire handbook to implement the rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/13	

Regulatory Flexibility Analysis Required: No.

Agency Contact: LaRenda C. King, Assistant Director, Directives and Regulations, Department of Agriculture, Forest Service, ATTN: ORMS, D&R Branch, 1400 Independence Avenue, Washington, DC 20250–0003, *Phone:* 202 205–6560, *Email: larendacking@fs.fed.us.*

RIN: 0596–AD06

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE (USDA)

Office of Procurement and Property Management (OPPM)

Proposed Rule Stage

160. Designation of Biobased Items for Federal Procurement, Round 10

Legal Authority: Pub. L. 110–246

Abstract: Designates for preferred procurement: Adhesives; aircraft and boat cleaners; automotive care products; body care products-body powders; engine crankcase oil; exterior paints and coatings; facial care products; gasoline fuel additives; hair removal-depilatory products; metal cleaners and corrosion removers; microbial cleaning products; paint removers; paper products; sanitary tissues; water turbine bearing oils; and asphalt roofing materials—low slope.

Timetable:

Action	Date	FR Cite
NPRM	12/05/12	77 FR 72653
NPRM Comment Period End.	02/04/13	
Final Rule	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

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–AA16

DEPARTMENT OF AGRICULTURE (USDA)

Office of Procurement and Property Management (OPPM)

Completed Actions

161. Designation of Biobased Items for Federal Procurement, Round 9

Legal Authority: Pub. L. 110–246

Abstract: Designates for preferred procurement: Agricultural spray adjuvants; animal cleaning products; aquaculture products; deodorants; dethatcher products; fuel conditioners; leather, vinyl, and rubber care products; lotions and moisturizers; shaving products; specialty precision cleaners and solvents; sun care products; and wastewater systems coatings.

Completed:

Reason	Date	FR Cite
NPRM	06/05/12	77 FR 33270
Final Rule	11/19/12	77 FR 69381
Final Rule Effective.	12/19/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ron Buckhalt, *Phone:* 202 205–4008, *Fax:* 202 720–8972, *Email:* *ronb.buckhalt@dm.usda.gov.*

RIN: 0599–AA15

[FR Doc. 2012–31486 Filed 1–7–13; 8:45 am]

BILLING CODE 3410–98–P

FEDERAL REGISTER

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Part IV

Department of Commerce

Semiannual Regulatory Agenda

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, and XI

19 CFR Ch. III

37 CFR Chs. I, IV, and V

48 CFR Ch. 13

50 CFR Chs. II, III, IV, and VI

Fall 2012 Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: Semiannual regulatory agenda.

SUMMARY: In compliance with Executive Order 12866, entitled "Regulatory Planning and Review," and the Regulatory Flexibility Act, as amended, the Department of Commerce (Commerce), in the spring and fall of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the spring 2012 agenda. The purpose of the agenda is to provide information to the public on regulations that are currently under review, being proposed, or issued by Commerce. The agenda is intended to facilitate comments and views by interested members of the public.

Commerce's fall 2012 regulatory agenda includes regulatory activities that are expected to be conducted during the period October 1, 2012 through September 30, 2013.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Asha Mathew, Chief Counsel for Regulation, Office of the Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230, telephone: 202–482–3151.

SUPPLEMENTARY INFORMATION: Commerce hereby publishes its fall 2012 Unified Agenda of Federal Regulatory and Deregulatory Actions pursuant to Executive Order 12866 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of June 13, 2012, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the fall 2012 Unified Agenda. The Regulatory Flexibility Act requires agencies to publish, in the spring and fall of each year, a regulatory flexibility agenda that contains a brief description of the subject of any rule likely to have a significant economic impact on a substantial number of small entities, and a list that identifies those entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

In this edition of Commerce's regulatory agenda, a list of the most important significant regulatory actions and a Statement of Regulatory Priorities are included in the Regulatory Plan, which appears in both the online Unified Agenda and in part II of the issue of the **Federal Register** that includes the Unified Agenda.

In addition, beginning with the fall 2007 edition, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at *www.reginfo.gov,* in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act, Commerce's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, Commerce's entire Regulatory Plan will continue to be printed in the **Federal Register**.

Within Commerce, the Office of the Secretary and various operating units may issue regulations. These operating units, the National Oceanic and Atmospheric Administration (NOAA), the Bureau of Industry and Security, and the Patent and Trademark Office, issue the greatest share of Commerce's regulations.

A large number of regulatory actions reported in the Agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of NMFS' programs, an "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (the Act) governs the management of fisheries within the Exclusive Economic Zone of the United States (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries that require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing may be conducted in a fishery in which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

Commerce's fall 2012 regulatory agenda follows.

Cameron F. Kerry,

General Counsel.

INTERNATIONAL TRADE ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
162	Modification of Regulations Regarding the Definition of Factual Information and Time Limits for Submission of Factual Information.	0625–AA91

INTERNATIONAL TRADE ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
163	Commercial Availability of Fabric and Yarn	0625–AA59

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
164	Generic Amendment 4 for to Fishery Management Plans in the Gulf of Mexico: Fixed Petroleum Platforms and Artificial Reefs as Essential Fish Habitat.	0648–BC47
165	Amendment 28 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region.	0648–BC63

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
166	Fishery Management Plan for Regulating Offshore Marine Aquaculture in the Gulf of Mexico	0648–AS65
167	American Lobster Fishery; Fishing Effort Control Measures to Complement Interstate Lobster Management Recommendations by the Atlantic States Marine Fisheries Commission.	0648–AT31
168	Amendment 3 to the Spiny Dogfish Fishery Management Plan	0648–AY12
169	Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan	0648–AY26
170	Fisheries in the Western Pacific; Pelagic Fisheries; Purse Seine Fishing with Fish Aggregation Devices	0648–AY36
171	Amendment 5 to the Atlantic Herring Fishery Management Plan	0648–AY47
172	Amendment to Recover the Administrative Costs of Processing Permit Applications	0648–AY81
173	Amendment 22 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region.	0648–BA53
174	Amendment 21 to the Snapper-Grouper Fishery Management Plan of the South Atlantic Region	0648–BA59
175	Amendment 6 to the Golden Crab Fishery Management Plan of the South Atlantic	0648–BA60
176	Implement the 2010 Shark Conservation Act Provisions and Other Regulations in the Atlantic Smoothhound Shark Fishery.	0648–BB02
177	Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Trawl Rationalization Program; Cost Recovery Program.	0648–BB17
178	Amendment 18B to the Snapper Grouper Fishery Management Plan of the South Atlantic Region	0648–BB58
179	Amendment 89 to the GOA FMP Area Closures for Chionoecetes Bairdi Crab Protection in Gulf of Alaska Groundfish Fisheries.	0648–BB76
180	Amendment to the Vessel Ownership Requirements of the Individual Fishing Quota (IFQ) Program for Fixed-Gear Pacific halibut and Sablefish Fisheries in and off of Alaska.	0648–BB78
181	Pacific Coast Groundfish Trawl Rationalization Program Reconsideration of Allocation of Whiting (Raw 2)	0648–BC01
182	Framework Adjustment 5 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan	0648–BC08
183	Generic Amendment to Several Fishery Management Plans in the Gulf of Mexico and South Atlantic Regions to Modify Federally-Permitted Seafood Dealer Reporting Requirements.	0648–BC12
184	Amendment 4 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands: Parrotfish Size Limits.	0648–BC20
185	Comprehensive Ecosystem Based Amendment 3	0648–BC22
186	Amendment 42 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs	0648–BC25
187	Framework Adjustment to the Northeast Multispecies Fishery Management Plan for 2013–2014 Annual Catch Limits (ACLs) and Other Management Measures.	0648–BC27
188	Amendment 43 to the FMP for BSAI King and Tanner Crabs and Amendment 103 to the FMP for Groundfish of the BSAI.	0648–BC34
189	Amendment 38 to the Fishery Management Plan for Reef Fish Resources in the Gulf of Mexico	0648–BC37
190	Amendment 4 to the U.S. Caribbean Coral FMP: Seagrass Management	0648–BC38
191	Amendment 95 to the Fishery Management Plan for Groundfish of the Gulf of Alaska	0648–BC39
192	2013 Atlantic Mackerel, Squid, and Butterfish Fishery Specifications and Management Measures	0648–BC40
193	Management Measures for Pacific Bluefin Tuna in the Eastern Pacific Ocean	0648–BC44
194	Proposed Rule; Regulatory Amendment to Implement an Exempted Fishery for the Spiny Dogfish Fishery Off Cape Cod, MA.	0648–BC50
195	Framework Action to Set the Annual Catch Limit and Optionally the Annual Catch Target for the Gulf of Mexico Vermilion Snapper Stock.	0648–BC51
196	Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region	0648–BC58

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—PROPOSED RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
197	Regulatory Amendment 15 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region **(Section 610 Review)**.	0648–BC60
198	Framework Action to set the 2013 Gag Recreational Fishing Season & Bag Limit & Modify the February-March Shallow-Water Grouper Closed Season.	0648–BC64
199	Marine Mammal Protection Act Permit Regulation Revisions	0648–AV82
200	Reduce Sea Turtle Bycatch in Atlantic Trawl Fisheries	0648–AY61
201	Reduce the Threat of Ship Collisions with North Atlantic Right Whales	0648–BB20
202	Endangered and Threatened Species: Designation of Critical Habitat for Threatened Lower Columbia River Coho Salmon and Puget Sound Steelhead.	0648–BB30
203	Amendment and Updates to the Bottlenose Dolphin Take Reduction Plan	0648–BB37

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
204	Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) Environmental Review Procedure.	0648–AV53
205	Addendum IV to the Weakfish Interstate Management Plan—Bycatch Trip Limit	0648–AY41
206	Atlantic Highly Migratory Species; Vessel Monitoring Systems	0648–BA64
207	Atlantic Highly Migratory Species Electronic Dealer Reporting Requirements	0648–BA75
208	To Establish a Voluntary Fishing Capacity Reduction Program in the Longline Catcher Processor Subsector of the Bering Sea and Aleutian Islands Management Area Non-Pollock Groundfish Fishery.	0648–BB06
209	Framework Adjustment 47 to the Northeast Multispecies Fishery Management Plan	0648–BB62
210	Gulf of Mexico Reef Fish Amendment 34: Commercial Reef Fish Permit Requirements and Crew Size on Dual-Permitted Vessels.	0648–BB72
211	2012 Gulf of Mexico Gray Triggerfish Annual Catch Limits and Annual Catch Targets for the Commercial and Recreational Sectors; and In-Season Accountability Measures for the Recreational Sector.	0648–BB90
212	Amendment 35 to the Reef Fish Fishery Management Plan Addressing Changes to the Greater Amberjack Rebuilding Plan and Adjustments to the Stock Annual Catch Limit in the Gulf of Mexico.	0648–BB97
213	Framework Adjustment 6 to the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan	0648–BB99
214	Georges Bank Yellowtail Flounder Emergency Action to Provide a Partial Exemption From Accountability Measures to the Atlantic Scallop Fishery.	0648–BC33
215	Interim Final Rule for 2012 Butterfish Specifications	0648–BC57
216	Emergency Rule for a Temporary Action to Adjust the Commercial ACL for Yellowtail Snapper in the South Atlantic Snapper-Grouper Fishery.	0648–BC59
217	Emergency Rule to set the 2012 Annual Catch Limit tor the Gulf of Mexico Vermilion Snapper Stock	0648–BC65
218	False Killer Whale Take Reduction Plan **(Section 610 Review)**	0648–BA30
219	Revision of Hawaiian Monk Seal Critical Habitat	0648–BA81
220	Mandatory Use of Turtle Excluder Devices (TEDs) in Skimmer Trawls, Pusher-Head Trawls, and Wing Nets (Butterfly Trawls).	0648–BC10

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
221	Marine Mammal Protection Act Stranding Regulation Revisions	0648–AW22
222	Amendment 6 to the Monkfish Fishery Management Plan	0648–BA50
223	Development of Island-Specific Fishery Management Plans (FMPs) in the Caribbean: Transition from Species-Specific FMPs to Island-Specific FMPs.	0648–BC17

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
224	Allowable Modifications to the Turtle Excluder Device Requirements	0648–AW93
225	Revoke Inactive Quota Share and Annual Individual Fishing Quota from a Holder of Quota Share Under the Pacific Halibut and Sablefish Fixed Gear Individual Fishing Quota Program.	0648–AX91
226	Generic Amendment for Annual Catch Limits	0648–AY22
227	Comprehensive Annual Catch Limits Amendment to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region.	0648–AY73
228	Amendment 20A to the Snapper Grouper Fishery Management Plan of the South Atlantic Region	0648–AY74
229	Amendment 24 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region.	0648–BA52
230	Regulatory Amendment 11 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region.	0648–BB10

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—COMPLETED ACTIONS—Continued

Sequence No.	Title	Regulation Identifier No.
231	Amendment 93 to Implement Chinook Salmon Prohibited Species Catch Limits in the Gulf of Alaska Pollock Fishery.	0648–BB24
232	Implementation of Comprehensive Ecosystem Based Amendment 2	0648–BB26
233	Emergency Rule to Increase the 2011 Catch Limits for the Northeast Skate Complex	0648–BB32
234	Rule to Delay the Effective Date of Atlantic Smoothhound Management Measures	0648–BB43
235	Amendment 11 to the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and South Atlantic.	0648–BB44
236	Framework Adjustment 23 to the Atlantic Sea Scallop Fishery Management Plan	0648–BB51
237	2012 Pacific Halibut Fisheries; Catch Sharing Plan	0648–BB68
238	2012–2013 Specifications for the Northeast Skate Complex	0648–BB83
239	2012 Tribal Fishery for Pacific Whiting	0648–BB85
240	Regulatory Amendment to Revise Fall Recreational Closed Season and Set Annual Catch Limit for Red Snapper.	0648–BB91
241	Atlantic Highly Migratory Species; Silky Shark Management Measures	0648–BB96
242	2012 Summer Flounder, Scup, and Black Sea Bass Recreational Harvest Measures	0648–BC07
243	Temporary Rule Through Emergency Action to Allow Harvest of Red Snapper in the South Atlantic Region in 2012.	0648–BC32
244	Revisions to the Turtle Excluder Device Requirements	0648–AV04
245	Amendment to Regulations Under the Bottlenose Dolphin Take Reduction Plan	0648–BA34

PATENT AND TRADEMARK OFFICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
246	Setting and Adjusting Patent Fees	0651–AC54

PATENT AND TRADEMARK OFFICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
247	Changes to Implement the Supplemental Examination Provisions of the Leahy-Smith Amenca Invents Act and to Revise Reexamination Fees.	0651–AC69
248	Rules of Practice for Trials Before the Patent Trial and Appeal Board and Judicial Review of Patent Trial and Appeal Board Decisions.	0651–AC70
249	Changes to Implement Inter Partes Review Proceedings	0651–AC71
250	Changes to Implement Derivation Proceedings	0651–AC74
251	Transitional Program for Covered Business Method Patents—Definition for Technological Invention	0651–AC75

DEPARTMENT OF COMMERCE (DOC)

International Trade Administration (ITA)

Final Rule Stage

162. Modification of Regulations Regarding the Definition of Factual Information and Time Limits for Submission of Factual Information

Legal Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.*; 19 U.S.C. 3538.

Abstract: This rule will modify the definition of factual information for the purposes of antidumping and countervailing duty proceedings, and it will modify the time limits for submission of factual information in such proceedings.

Timetable:

Action	Date	FR Cite
NPRM	07/10/12	77 FR 40534
NPRM Comment Period End.	08/24/12	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Vannatta, Policy Analyst, Department of Commerce, International Trade Administration, 1401 Constitution Ave NW., Washington, DC 20230, *Phone:* 202 482–4036, *Email:* *charles.vannatta@trade.gov.*

RIN: 0625–AA91

DEPARTMENT OF COMMERCE (DOC)

International Trade Administration (ITA)

Long-Term Actions

163. Commercial Availability of Fabric and Yarn

Legal Authority: EO 13191; Pub. L. 106–200, sec 112(b)(5)(B); Pub. L. 106–200, sec 211; Pub. L. 107–210, sec 3103

Abstract: This rule implements certain provisions of the Trade and Development Act of 2000 (the Act). Title I of the Act (the African Growth and Opportunity Act or AGOA), title II of the Act (the United States-Caribbean Basin Trade Partnership Act or CBTPA), and title XXXI of the Trade Act of 2002 (the Andean Trade Promotion and Drug Eradication Act or ATPDEA) provide for quota- and duty-free treatment for qualifying apparel products from designated beneficiary countries. AGOA and CBTPA authorize quota- and duty-

free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more designated beneficiary countries from yarn or fabric that is not formed in the United States or a beneficiary country, provided it has been determined that such yarn or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President has delegated to the Committee for the Implementation of Textile Agreements (the Committee), which is chaired by the Department of Commerce, the authority to determine whether yarn or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA, the ATPDEA, and the CBTPA, and has authorized the Committee to extend quota- and duty-free treatment to apparel of such yarn or fabric. The rule provides the procedure for interested parties to submit a request alleging that a yarn or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner, the procedure for public comments, and relevant factors that will be considered in the Committee's determination. The rule also outlines the factors to be considered by the Committee in extending quota- and duty-free treatment.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined.	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Janet Heinzen, *Phone:* 202 482–4006, *Email: janet_heinzen@ita.doc.gov.*

RIN: 0625–AA59

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Prerule Stage

National Marine Fisheries Service

164. • Generic Amendment 4 for to Fishery Management Plans in the Gulf of Mexico: Fixed Petroleum Platforms and Artificial Reefs as Essential Fish Habitat

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The Gulf of Mexico Fishery Management Council (Gulf Council) is concerned about the effect that the Removal of structures serving as artificial reef habitat may have on reef fish fisheries in the Gulf of Mexico. An abundance of individuals of managed reef fish species have come to associate with these structures over the past several decades. Fisheries, both recreational and commercial, have come to utilize these platforms as sites to catch these fish and the habitat provided by these structures may be necessary to support viable fish populations and associated fisheries. Artificial reefs are inhabited by a number of federally managed species and may provide important habitat necessary to fish for spawning, breeding, feeding or growth to maturity. The purpose of this action is to consider the role of this habitat as essential fish habitat (EFH) in accordance with the regulations at 50 CFR part 600 subpart J. This generic amendment is intended to modify seven of the Council's FMPs through the modification of the Generic Essential Fish Habitat Amendment. These include FMPs for: Reef Fish Resources, Coastal Migratory Pelagics, Shrimp, Stone Crab, Coral and Coral Reef Resources, Spiny Lobster, and Red Drum. Currently, there are no oil and gas structures in any U.S. waters designated as EFH, and the Gulf Council has not previously identified artificial structures as a separate habitat type for EFH identification purposes or included them in their definition of "hard bottoms." In order for the National Marine Fisheries Service to approve the Gulf Council's proposal to designate oil and gas structures as EFH, the Gulf Council must demonstrate, using the best available scientific information, the necessary linkage of the habitat functions to major life history stages of species managed under the Magnuson-Stevens Act in accordance with the EFH regulations.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC47

165. • Amendment 28 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region

Legal Authority: 16 U.S.C. 1801

Abstract: A limited red snapper fishing season was established in 2012 through an emergency action under the Magnuson-Stevens Fishery Conservation and Management Act. The South Atlantic Fishery Management Council (Council) determined that some directed harvest could be allowed without compromising the rebuilding of the red snapper stock to target levels, and they saw the limited harvest as an opportunity to collect additional data on red snapper. Through Amendment 28, the Council intends to establish a process that would allow this type of limited harvest for red snapper in 2013 and in the future, depending on the projected mortalities (landings and discards) for the current fishing year and the amount of harvest from the previous year. The proposed actions would benefit fishermen and fishing communities that utilize the red snapper portion of the snapper grouper fishery.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC63

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Proposed Rule Stage

National Marine Fisheries Service

166. Fishery Management Plan for Regulating Offshore Marine Aquaculture in the Gulf of Mexico

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The purpose of this fishery management plan (FMP) is to develop a regional permitting process for regulating and promoting environmentally sound and economically sustainable aquaculture in the Gulf of Mexico (Gulf) exclusive economic zone. This FMP consists of ten actions, each with an associated range of management alternatives, which would facilitate the permitting of an estimated 5 to 20 offshore aquaculture operations in the Gulf over the next 10 years, with an estimated annual production of up to 64 million

pounds. By establishing a regional permitting process for aquaculture, the Gulf of Mexico Fishery Management Council will be positioned to achieve their primary goal of increasing maximum sustainable yield and optimum yield of federal fisheries in the Gulf by supplementing harvest of wild caught species with cultured product.

Timetable:

Action	Date	FR Cite
Notice of Availability.	06/04/09	74 FR 26829
NOA Comment Period End.	08/03/09	
NPRM	03/00/13	
Final Action	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–AS65

167. American Lobster Fishery; Fishing Effort Control Measures to Complement Interstate Lobster Management Recommendations by the Atlantic States Marine Fisheries Commission

Legal Authority: 16 U.S.C. 5101 *et seq.*

Abstract: The National Marine Fisheries Service plans to revise the Federal American lobster regulations for the Exclusive Economic Zone (EEZ) associated with effort control measures as recommended for Federal implementation by the Atlantic States Marine Fisheries Commission (ASFMC) and as outlined in the Interstate Fishery Management Plan (ISFMP) for American Lobster. This action will evaluate effort control measures in certain Lobster Conservation Management Areas including: limits on future access based on historic participation criteria; procedures to allow trap transfers among qualifiers and impose a trap reduction or conservation tax on any trap transfers; and a trap reduction schedule to meet the goals of the ISFMP.

Timetable:

Action	Date	FR Cite
ANPRM	05/10/05	70 FR 24495
ANPRM Comment Period End.	06/09/05	
Notice of Public Meeting.	05/03/10	75 FR 23245
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930, *Phone:* 978 281–9200, *Fax:* 978 281–9117, *Email: pat.kurkul@noaa.gov.*

RIN: 0648–AT31

168. Amendment 3 to the Spiny Dogfish Fishery Management Plan

Legal Authority: 16 U.S.C. 1801

Abstract: The New England and Mid-Atlantic Fishery Management Councils (Councils) are preparing, in cooperation with NMFS, an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act to assess potential effects on the human environment of alternative measures to address several issues regarding the Spiny Dogfish Fishery Management Plan (FMP). Issues that may be addressed include: initiating a Research Set-Aside provision; specifying the spiny dogfish quota and/or possession limits by sex; adding a recreational fishery to the FMP; identifying commercial quota allocation alternatives; and establishing a limited access fishery.

Timetable:

Action	Date	FR Cite
Notice of Intent to prepare an Environmental Impact Statement.	08/05/09	74 FR 30963
Notice of Intent	08/05/09	74 FR 39063
Comment Period End.	09/04/09	
Notice of Intent	05/13/10	75 FR 26920
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930, *Phone:* 978 281–9200, *Fax:* 978 281–9117, *Email: pat.kurkul@noaa.gov.*

RIN: 0648–AY12

169. Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The purpose of Amendment 14 is to consider catch shares in the Loligo and Illex fisheries and monitoring/mitigation for river herring bycatch in mackerel, squid and butterfish (MSB) fisheries.

Timetable:

Action	Date	FR Cite
Notice of Intent	06/09/10	75 FR 32745
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930, *Phone:* 978 281–9200, *Fax:* 978 281–9117, *Email: pat.kurkul@noaa.gov.*

RIN: 0648–AY26

170. Fisheries in the Western Pacific; Pelagic Fisheries; Purse Seine Fishing With Fish Aggregation Devices

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The Western Pacific Council is amending the Pelagics Fishery Ecosystem Plan (FEP) to (1) Define fish aggregating devices (FADs) as purposefully-deployed or instrumented floating objects; (2) require FADs to be registered; and (3) prohibit purse seine fishing using FADs in the US EEZ of the western Pacific. The objective of this action is to appropriately balance the needs and concerns of the western Pacific pelagic fishing fleets and associated fishing communities with the conservation of tuna stocks in the western Pacific.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alvin Katekaru, Assistant Regional Administrator, Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Honolulu, HI 96814, *Phone:* 808 944–2207, *Fax:* 808 973–2941, *Email: alvin.katekaru@noaa.gov.*

RIN: 0648–AY36

171. Amendment 5 to the Atlantic Herring Fishery Management Plan

Legal Authority: 16 U.S.C. 1801

Abstract: Amendment 5 to the Atlantic Herring Fishery Management Plan will consider: catch monitoring programs; interactions with river herring; access by herring midwater trawl vessels in groundfish closed areas; and interactions with the mackerel fishery.

Timetable:

Action	Date	FR Cite
Supplemental Notice of Intent.	12/28/09	74 FR 68576
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930, *Phone:* 978 281–9200, *Fax:* 978 281–9117, *Email: pat.kurkul@noaa.gov.*

RIN: 0648–AY47

172. Amendment To Recover the Administrative Costs of Processing Permit Applications

Legal Authority: 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 1853; 16 U.S.C. 1854; 16 U.S.C. 3631 *et seq.*; 16 U.S.C. 773 *et seq.*; Pub. L. 108–447

Abstract: This action amends the fishery management plans of the North Pacific Fishery Management Council and revises federal regulations at 50 CFR part 679 to recover the administrative costs of processing applications for permits required under those plans.

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	
Final Rule	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Robert D. Mecum, Deputy Acting Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, Room 420, 709 West Ninth Street, Juneau, AK 99802, *Phone:* 907 586–7221, *Fax:* 907 586–7249, *Email: robert.mecum@noaa.gov.*

RIN: 0648–AY81

173. Amendment 22 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The purpose of the amendment is to establish a long-term red snapper fishery management program in the South Atlantic to optimize yield and rebuild the stock, while minimizing socioeconomic impacts. More specifically, these alternatives will consider the elimination of harvest restrictions on red snapper as the stock increases in biomass.

Timetable:

Action	Date	FR Cite
Notice of Intent	01/03/11	76 FR 101
Notice of Intent Comment Period End.	02/14/11	
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petershurg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BA53

174. Amendment 21 to the Snapper-Grouper Fishery Management Plan of the South Atlantic Region

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: Amendment 21 examines measures to limit participation in the snapper grouper fishery including endorsements, trip limits, and catch share programs.

Timetable:

Action	Date	FR Cite
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BA59

175. Amendment 6 to the Golden Crab Fishery Management Plan of the South Atlantic

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: Golden Crab Amendment 6 examines alternatives for a catch share program to limit participation in the golden crab fishery.

Timetable:

Action	Date	FR Cite
Notice of Intent	01/03/11	76 FR 98
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BA60

176. Implement the 2010 Shark Conservation Act Provisions and Other Regulations in the Atlantic Smoothhound Shark Fishery

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: This rule considers changes in the Atlantic shark fishery to comply with the 2010 Shark Conservation Act. Additionally, the rule reexamines the overall smoothhound shark quota based upon updated catch data and will implement measures, as needed, to comply with the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Margo Schulze-Haugen, Supervisory Fish Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–0234, *Fax:* 301 713–1917, *Email: margo.schulze-haugen@noaa.gov.*

RIN: 0648–BB02

177. Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Trawl Rationalization Program; Cost Recovery Program

Legal Authority: 16 U.S.C. 1853

Abstract: This rulemaking would implement a Cost Recovery Program for the Pacific Coast Groundfish Trawl Rationalization Program (TRAT). In accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) 16 U.S.C. 1853a MSA 303A(d)(2), the Secretary of Commerce is authorized to collect a fee to recover the actual costs directly related to the management, data collection, and enforcement of any limited access privilege program (LAPP), up to 3% of the ex-vessel value of the fish harvested under the LAPP. The Pacific Fishery Management Council (Council) recommended and NMFS approved Amendment 20 to the Pacific Coast Groundfish Fishery Management Plan (FMP) in 2010, which acknowledged the MSA requirement for a Cost Recovery Program (Appendix E to the FMP). NMFS implemented most of the Trawl Rationalization Program in January 2011 with notice that the design and implementation of a Cost Recovery Program would follow.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Frank Lockhart, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115, *Phone:* 206 526–6142, *Fax:* 206 526–6736, *Email: frank.lockhart@noaa.gov.*

RIN: 0648–BB17

178. Amendment 18B to the Snapper Grouper Fishery Management Plan of the South Atlantic Region

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: Amendment 18B to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region may: limit participation in the golden tilefish portion of the Snapper Grouper fishery; establish initial eligibility requirements for a golden tilefish longline endorsement; establish an appeals process; allocate commercial golden tilefish quota among gear groups; allow for transferability of golden tilefish endorsements; adjust the golden tilefish fishing year; modify the golden tilefish fishing limits; and establish trip limits for fishermen who do not receive a golden tilefish longline endorsement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BB58

179. Amendment 89 to the GOA FMP Area Closures for Chionoecetes Bairdi Crab Protection in Gulf of Alaska Groundfish Fisheries

Legal Authority: 16 U.S.C. 1540; 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 3631 *et seq.;* 16 U.S.C. 773 *et seq.;* Pub. L. 105–277; Pub. L. 106–31

Abstract: This action, Amendment 89 to the GOA FMP Area Closures for Chionoecetes bairdi, will provide crab protection in Gulf of Alaska Groundfish Fisheries. This action would close a portion of Marmot Bay, northeast of Kodiak Island, to the use of pot and trawl gear (with the exception of pelagic gear used to target pollock) in groundfish fisheries year-round and require additional observer coverage (100 percent for trawl vessels and 30 percent for pot vessels), in two areas east of Kodiak Island: the Chiniak Gully and State of Alaska Statistical Area 525702. This action is necessary to protect stocks of Tanner crab near Kodiak Islands from the effects of using non-pelagic trawl and pot gear used to target groundfish in Marmot Bay and to provide improved estimates of the incidental catch of Tanner crab in two areas east of Kodiak Island by vessels using non-pelagic trawl and pot gear and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska. The intended effect of this action is to conserve and manage the fisheries resources in the GOA in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

Timetable:

Action	Date	FR Cite
Proposed Rule	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov.*

RIN: 0648–BB76

180. Amendment to the Vessel Ownership Requirements of the Individual Fishing Quota (IFQ) Program for Fixed-Gear Pacific Halibut and Sablefish Fisheries in and Off of Alaska

Legal Authority: 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 3631 *et seq.;* 16 U.S.C. 773 *et seq.;* Pub. L. 108–447

Abstract: This action amends the vessel ownership requirements of the Individual Fishing Quota (IFQ) Program for fixed-gear Pacific halibut and sablefish fisheries in and off of Alaska. This action requires initial recipients of certain classes of quota share to have held a minimum of 20 percent ownership interest in the vessel for at least 12 consecutive months prior to the submission of an application to hire a master for the purposes of fishing an IFQ permit. This action also temporarily exempts from the 12-month ownership requirement an initial recipient whose vessel has been totally lost, as by sinking or fire, or so damaged that the vessel would require at least 60 days of shipyard time to be repaired. This action is necessary to maintain a predominantly owner-operated fishery.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov.*

RIN: 0648–BB78

181. Pacific Coast Groundfish Trawl Rationalization Program Reconsideration of Allocation of Whiting (RAW 2)

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: On February 21, 2012, Judge Henderson issued the remedy order in *Pacific Dawn, LLC* v. *Bryson*, No. C10–4829 TEH (N.D. Cal.). The Order remands the regulations addressing the initial allocation of whiting for the shorebased individual fishing quota (IFQ) fishery and the at-sea mothership fishery of the Pacific Coast Groundfish Trawl Rationalization Program (program) "for further consideration" consistent with the court's December 22, 2011 summary judgment ruling, the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and all other governing law. Further, the Order requires that the National Marine Fisheries Service (NMFS) implement revised regulations before the 2013 Pacific whiting fishing season begins on April 1, 2013. This action would implement revised regulations, as appropriate, including a reallocation of whiting and potentially some related species. This action may include a Paperwork Reduction Act package to clear application forms, and any other necessary documentation.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/12	77 FR 20337
Proposed Rule	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Frank Lockhart, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand

Point Way NE., Seattle, WA 98115, *Phone:* 206 526–6142, *Fax:* 206 526–6736, *Email: frank.lockhart@noaa.gov.*

RIN: 0648–BC01

182. Framework Adjustment 5 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: This action will expand the list of marine surveyors allowed to complete a fish hold volume certification for vessels issued a Tier 1 or Tier 2 limited access mackerel permit. Currently only individuals credentialed as marine surveyors by the Society of Marine Surveyors (SAMS) or the National Association of Marine Surveyors (NAMS) are allowed to complete fish hold measurements for such vessels.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	
Final Action	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Daniel Morris, Acting Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9311, *Email: daniel.morris@noaa.gov.*

RIN: 0648–BC08

183. Generic Amendment to Several Fishery Management Plans in the Gulf of Mexico and South Atlantic Regions To Modify Federally-Permitted Seafood Dealer Reporting Requirements

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The purpose of this generic amendment is to change the current reporting requirements for those individuals or organizations that purchase species contained in fishery management plans managed hy the Gulf of Mexico and South Atlantic Fishery Management Councils. Changes are proposed to the method/frequency of dealer reporting and the species that must he reported. To ensure landings of managed fish stocks are below annual catch limits, improvements are needed to the accuracy, completeness, consistency, and timeliness of data submitted by federally-permitted seafood dealers. This action will aid in achieving the optimum yield from each fishery while reducing (1) undue socioeconomic harm to dealers and fishermen and (2) administrative burdens to fishery agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC12

184. • Amendment 4 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands: Parrotfish Size Limits

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: At the December 2011 Council meeting, the Caribbean Fishery Management Council decided to amend the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands to address size limits for parrotfish. These proposed regulations would allow juvenile parrotfish to mature into reproductively active females, and have a chance to spawn prior to harvest. Reproductively active females are a necessary component of a healthy, sustainable population.

Timetable:

Action	Date	FR Cite
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC20

185. • Comprehensive Ecosystem Based Amendment 3

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: Actions in Comprehensive Ecosystem-Based Amendment 3 (CE–BA 3) address improvements in data collection methods in the South Atlantic. Measures include improvements in data collection methods in commercial, for-hire, and recreational fisheries.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC22

186. • Amendment 42 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs

Legal Authority: 16 U.S.C. 1801 *et seq.;* Pub. L. 109–241; Pub. L. 109–479

Abstract: NMFS proposes regulations to implement Amendment 42 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). Amendment 42 revises the economic data reports (EDR) for catcher vessels, catcher/processors, shoreside processors, and stationary floating processors that are submitted annually by participants in the Bering Sea and Aleutian Islands Crab Rationalization Program (CR Program). These revisions are proposed through a general description in regulation of the collection of data, and a detailed description for data collected for approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This action is necessary to prevent redundancy, increase consistent reporting across respondents, and reduce excessive costs associated with the data collection. This proposed action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the FMP.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	
Final Action	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov.*

RIN: 0648–BC25

187. • Framework Adjustment to the Northeast Multispecies Fishery Management Plan for 2013–2014 Annual Catch Limits (ACLS) and Other Management Measures

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: This framework adjustment to the Northeast Multispecies Fishery Management Plan, likely to be enumerated Framework Adjustment 48, would set specifications (i.e., catch allowances and management measures designed to ensure those allowances are not exceeded) for fishing year (FY) 2013, 2014, and possibly 2015. This action would also adopt total allowable catches (TACs) for the U.S./Canada Management Area, consisting with the U.S./Canada Resource Sharing Understanding. In addition, the framework adjustment may revise the status determination criteria for the Gulf of Maine and Georges bank cod stocks and white hake. The action will likely include comprehensive modifications to the operations of sectors in the Northeast, designed to improve efficiency, monitoring, and catch accounting. The New England Fishery Management Council is expected to take final action on the measures to be included in the action in November 2012.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Ruccio, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9104, *Email: michael.ruccio@noaa.gov.*

RIN: 0648–BC27

188. • Amendment 43 to the FMP for BSAI King and Tanner Crabs and Amendment 103 to the FMP for Groundfish of the BSAI

Legal Authority: 16 U.S.C. 1801

Abstract: Amendment 43 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs revises the current rebuilding plan for Pribilof Islands blue king crab (PIBKC) and Amendment 103 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area would implement groundfish fishing restrictions. A no-trawl Pribilof Islands Habitat Conservation Zone (PIHCZ) was established in 1995 and the directed fishery for PIBKC has been closed since 1999. A rebuilding plan was implemented in 2003; however, PIBKC remains overfished and the current rebuilding plan has not achieved adequate progress toward rebuilding the stock by 2014. The proposed rule would close the PIHCZ to all Pacific cod pot fishing in addition to the current trawl prohibition. This measure would help support PIBKC rebuilding and prevent exceeding the overfishing limit of PIBKC by minimizing to the extent practical PIBKC bycatch in the groundfish fisheries.

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov.*

RIN: 0648–BC34

189. • Amendment 38 to the Fishery Management Plan for Reef Fish Resources in the Gulf of Mexico

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: Amendment 38 consists of two management actions. The first action would revise post-season accountability measures for shallow-water grouper species. Currently, the accountability measures include in-season closures, post-season adjustments to the length of the recreational fishing season, and overage adjustments for overfished grouper stocks. This action modifies the specific post-season accountability measure that reduces the length of the recreational season for all shallow-water grouper in the year following a year in which the annual catch limit (ACL) for gag or red grouper is exceeded. The modified accountability measure would reduce the recreational season only for the species that exceeded its ACL. The second action would modify the reef fish framework procedure. The addition of accountability measures to the list of items that can be changed through the standard framework procedure would allow for faster implementation of measures designed to maintain harvest at or below the ACL. Additionally, more general language would be added to the framework to accommodate future changes in naming of the Councils advisory committees and panels.

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC37

190. • Amendment 4 to the U.S. Caribbean Coral FMP: Seagrass Management

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: NOAA Fisheries and the Caribbean Fishery Management Council propose Amendment 4 to address the Magnuson-Stevens Fishery Conservation and Management Act requirement to establish annual catch limits (ACLs) and accountability measures (AMs) for seagrass species in the Corals and Reef Associated Plants and Invertebrates Fishery Management Plan (Coral FMP). ACLs and AMs were not established for seagrass in the 2011 Comprehensive Annual Catch Limit Amendment.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC38

191. • Amendment 95 to the Fishery Management Plan for Groundfish of the Gulf of Alaska

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: This action implements Amendment 95 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). This action modifies halibut prohibited species catch (PSC) management in the Gulf of Alaska (GOA) to (1) Establish the GOA halibut PSC limits in federal regulation; (2) reduce the GOA halibut PSC limits for the trawl, hook and line catcher/processor and catcher vessel sectors, and the hook and line demersal shelf rockfish fishery in the Southeast

Outside District; and (3) allow two additional options for vessels to better maintain groundfish harvest while achieving the halibut PSC reduction of this action. This action is necessary to reduce halibut bycatch in the GOA. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov.*

RIN: 0648–BC39

192. • 2013 Atlantic Mackerel, Squid, and Butterfish Fishery Specifications and Management Measures

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: These specifications are for the 2013 fishing year for Atlantic mackerel, squid, and butterfish (MSB). Regulations governing these fisheries require NMFS to publish specifications for the upcoming fishing year and to provide an opportunity for puhlic comment. The intent of this action is to fulfill this requirement and to promote the development and conservation of the MSB resources.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lindsey Feldman, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 675–2179.

RIN: 0648–BC40

193. • Management Measures for Pacific Bluefin Tuna in the Eastern Pacific Ocean

Legal Authority: 16 U.S.C. 951–961 *et seq.*

Abstract: At its annual meeting, the Inter-American Tropical Tuna Commission (IATTC) adopted Resolution C–12–09, Conservation and Management Measure for Bluefin Tuna in the Eastern Pacific Ocean. This rule will implement that resolution for U.S. commercial fishing in the Eastern Pacific Ocean for 2012 and 2013 by preventing further commercial retention of bluefin tuna after (1) the commercial catches of bluefin tuna by the international fleet reaches 10,000 metric tons; (2) the commercial catch of bluefin tuna by the international fleet reaches 5,600 metric tons during the year 2012. Notwithstanding these restrictions, the United States commercial fishery may take a catch of up to 500 metric tons of pacific bluefin tuna in 2012 and 2013. The pacific bluefin commercial catch limitations are not expected to result in a closure of the United States fishery because catches from recent years have not reached the 500 metric ton limit. The last time the United States exceeded 500 metric tons was in 1998.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	
Final Action	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mark Helvey, Assistant Regional Administrator for Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Boulevard, Long Beach, CA 90802, *Phone:* 562 980–4040, *Fax:* 562 980–4047, *Email: mark.helvey@noaa.gov.*

RIN: 0648–BC44

194. • Proposed Rule; Regulatory Amendment To Implement an Exempted Fishery for the Spiny Dogfish Fishery Off Cape Cod, MA

Legal Authority: sec 303(b)(6) of the Magnuson-Stevens Fishery Conservation and Management Act

Abstract: NMFS proposes to modify the regulations implementing the Northeast (NE) Multispecies Fishery Management Plan (FMP) to allow vessels to fish with gillnet and longline gear from June through December and with handline gear from June through August in a portion of inshore Georges Bank (GB) each year, outside of the requirements of the NE multispecies fishery. This action would allow vessels to harvest spiny dogfish and other non-groundfish species in a manner that is consistent with the bycatch reduction objectives of the FMP.

Timetable:

Action	Date	FR Cite
Proposed Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Travis Ford, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9233.

RIN: 0648–BC50

195. • Framework Action To Set the Annual Catch Limit and Optionally the Annual Catch Target for the Gulf of Mexico Vermilion Snapper Stock

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The current vermilion snapper annual catch limit (ACL) is 3.42 million pounds (mp). A 2011 stock assessment indicates vermilion snapper are not overfished or undergoing overfishing. Based on the assessment, the Gulf of Mexico Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) has recommended an acceptable biological catch level much higher than the current ACL (> 1 mp). This framework action evaluates different options for setting the ACL and (optionally) an annual catch target consistent with the SSC's recommendation while minimizing the risk of overfishing. The Council has requested a subsequent emergency rule that will increase the 2012 ACL to avoid a closure of the vermilion snapper component of the Gulf of Mexico reef fish fishery.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC51

196. • Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region

Legal Authority: Magnuson Stevens Act

Abstract: Shrimp Amendment 9 would streamline the process by which States request concurrent closures of Federal waters to protect overwintering shrimp species. The amendment would also update the Bmsy proxy for pink shrimp.

Timetable:

Action	Date	FR Cite
Proposed Rule	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 3370, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC58

197. • Regulatory Amendment 15 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Section 610 Review)

Legal Authority: 16 U.S.C. 1801

Abstract: The regulatory amendment contains the following two actions: (1) Modify the current yellowtail snapper ABCs and ACLs according to a new stock assessment. In addition, consider changes to the January 1 commercial start date and consider establishing a commercial spawning season closure in order to promote beneficial biological effects to the yellowtail snapper population by protecting fish during spawning periods. Actions are intended to also promote beneficial socioeconomic effects to fishermen and fishing communities that utilize the yellowtail portion of the snapper grouper fishery by increasing the probability of a year-round fishery and minimizing the probability of closures during peak harvest times. (2) Modify the existing commercial AM for gag grouper in order to reduce adverse socioeconomic effects to fishermen and fishing communities that utilize the shallow water grouper portion of the snapper grouper fishery.

Timetable:

Action	Date	FR Cite
Proposed Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC60

198. • Framework Action To Set the 2013 Gag Recreational Fishing Season & Bag Limit & Modify the February–March Shallow-Water Grouper Closed Season

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: Gulf of Mexico gag is overfished and the stock currently in a rebuilding plan The rebuilding plan is scheduled to increase the recreational annual catch target from 1.031 to 1.287 million pounds in 2013. The current recreational gag season is July 1 to October 31 and was designed to limit the harvest to the 2012 recreational annual catch target of 1.031 million pounds while providing the longest possible recreational season. One purpose of this framework action is to establish a 2013 gag recreational fishing season consistent with 1.287 million pound annual catch target, but to modify the season opening to provide greater socioeconomic benefits to the recreational community. Moving the season to a time when there is greater fishing effort will reduce the number of days available to fish. To counteract this, this framework action also considers setting a one fish bag limit for gag rather than 2 fish. The current recreational shallow-water grouper closed season of February 1 through March 31 was developed partly to protect gag spawning aggregations. However, because a separate recreational gag season has been developed as part of the gag rebuilding plan and other shallow-water grouper stocks are considered healthy, the utility of the shallow-water grouper closure has been questioned. Therefore, a second purpose of this framework action is to evaluate the shallow-water grouper recreational closure to see if it should be modified or eliminated. The underlying need for this action is estahlished by the Magnuson-Stevens Fishery Conservation and Management Act which requires NOAA Fisheries Service and regional fishery management councils to prevent overfishing, and achieve, on a continuing basis, the optimum yield from federally managed fish stocks.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC64

199. Marine Mammal Protection Act Permit Regulation Revisions

Legal Authority: 16 U.S.C. 1374

Abstract: The National Marine Fisheries Service (NMFS) is considering changes to its implementing regulations (50 CFR 216) governing the issuance of permits for scientific research and enhancement activities under section 104 of the Marine Mammal Protection Act and is soliciting public comment to better inform the process. NMFS intends to streamline and clarify general permitting requirements and requirements for scientific research and enhancement permits, simplify procedures for transferring marine mammal parts, possibly apply the General Authorization (GA) to research activities involving Level A harassment of non-endangered marine mammals, and implement a "permit application cycle" for application submission and processing of all marine mammal permits. NMFS intends to write regulations for marine mammal photography permits and is considering whether this activity should be covered by the GA.

Timetable:

Action	Date	FR Cite
ANPRM	09/13/07	72 FR 52339
ANPRM Comment Period Extended.	10/15/07	72 FR 58279
ANPRM Comment Period End.	11/13/07	72 FR 52339
ANPRM Comment Period End.	12/13/07	72 FR 58279
NPRM	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Helen Golde, Department of Commerce, National Oceanic and Atmospheric Administration, Marine Sanctuaries Division, 1305 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400, *Email: helen.golde@noaa.gov.*

RIN: 0648–AV82

200. Reduce Sea Turtle Bycatch in Atlantic Trawl Fisheries

Legal Authority: 16 U.S.C. 1531 *et seq.*

Abstract: NMFS is initiating a rulemaking action to reduce injury and mortality to endangered and threatened sea turtles resulting from incidental take, or bycatch, in trawl fisheries in the Atlantic waters. NMFS will likely address the size of the turtle excluder device (TED) escape opening currently

required in the summer flounder trawl fishery, the definition of a summer flounder trawler, and the use of TEDs in this fishery; the use of TEDs in the croaker and weakfish flynet, whelk, Atlantic sea scallop, and calico scallop trawl fisheries of the Atlantic Ocean; and new seasonal and temporal boundaries for TED requirements. In addition, this rule will address the definition of the Gulf Area applicable to the shrimp trawl fishery in the southeast Atlantic and Gulf of Mexico. The purpose of the rule is to aid in the protection and recovery of listed sea turtle populations by reducing mortality in trawl fisheries through the use of TEDs.

Timetable:

Action	Date	FR Cite
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Helen Golde, Department of Commerce, National Oceanic and Atmospheric Administration, Marine Sanctuaries Division, 1305 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400, *Email: helen.golde@noaa.gov.*

RIN: 0648–AY61

201. Reduce the Threat of Ship Collisions With North Atlantic Right Whales

Legal Authority: 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 1531 *et seq.*

Abstract: NMFS may renew a requirement currently contained in vessel speed restrictions designed to reduce the likelihood of vessel collisions with North Atlantic right whales. The regulations require speed restrictions of no more than 10 knots applying to all vessels 65 ft (19.8 m) or greater in overall length in certain locations and at certain times of the year along the east coast of the U.S. Atlantic seaboard. The rule is currently set to expire December 9, 2013. NMFS seeks public comment on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Helen Golde, Department of Commerce, National Oceanic and Atmospheric Administration, Marine Sanctuaries Division, 1305 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400, *Email: helen.golde@noaa.gov.*

RIN: 0648–BB20

202. Endangered and Threatened Species: Designation of Critical Habitat for Threatened Lower Columbia River Coho Salmon and Puget Sound Steelhead

Legal Authority: 16 U.S.C. 1531–1544

Abstract: We, the National Marine Fisheries Service, are proposing critical habitat designations for lower Columbia River coho salmon and Puget Sound steelhead, currently listed as threatened species under the Endangered Species Act. The areas under consideration include watersheds in the lower Columbia River basin in southwest Washington and northwest Oregon, as well as watersheds in Puget Sound and the Strait of Juan de Fuca in Washington. This rulemaking identifies the areas proposed for designation and solicits comments regarding them as well as the supporting economic, biological, and policy analyses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James H. Lecky, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2332, *Fax:* 301 427–2520, *Email: jim.lecky@noaa.gov.*

RIN: 0648–BB30

203. Amendment and Updates to the Bottlenose Dolphin Take Reduction Plan

Legal Authority: 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 1531 *et seq.*

Abstract: Serious injury and mortality of the Western North Atlantic bottlenose dolphin stocks incidental to Category I and II fisheries continue at levels potentially exceeding Potential Biological Removal (PBR) levels, requiring additional management measures under the Bottlenose Dolphin Take Reduction Plan (BDTRP). This action amends the BDTRP to reduce serious injury and mortality of bottlenose dolphins in the Virginia pound net fishery (Category II). The need for the action is to ensure the BDTRP meets its MMPA mandated short- and long-term goals. NMFS examined a number of management measures, including consensus recommendations from the Bottlenose Dolphin Take Reduction Team, designed to reduce the incidental mortality or serious injury of bottlenose dolphins taken in the Virginia pound net fishery to below PBR.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	
Final Action	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Melissa Andersen, Fishery Biologist, Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2322, *Fax:* 301 713–2521, *Email: melissa.andersen@noaa.gov.*

RIN: 0648–BB37

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Final Rule Stage

National Marine Fisheries Service

204. Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) Environmental Review Procedure

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: Section 107 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) (Pub. L. 109–479) requires NOAA Fisheries to revise and update agency procedures for complying with the National Environmental Policy Act (NEPA) in context of fishery management actions. It further requires that NOAA Fisheries consult with the Council on Environmental Quality (CEQ) and the Regional Fishery Management Councils (Councils), and involve the public in the development of the revised procedures. The MSRA provides that the resulting procedures will be the sole environmental impact assessment procedure for fishery management actions, and that they must conform to the timelines for review and approval of fishery management plans and plan amendments. They must also integrate applicable environmental analytical procedures, including the timeframes for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments and other actions taken or approved pursuant to this Act in order

to provide for timely, clear and concise analysis that is useful to decision makers and the public, reduce extraneous paperwork, and effectively involve the public. This rule revises and updates the NMFS procedures for complying with NEPA in the context of fishery management actions developed pursuant to MSRA.

Timetable:

Action	Date	FR Cite
NPRM	05/14/08	73 FR 27998
NPRM Comment Period End.	06/13/08	
Final Action	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Steve Leathery, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2239, *Email: steve.leathery@noaa.gov.*

RIN: 0648–AV53

205. Addendum IV to the Weakfish Interstate Management Plan—Bycatch Trip Limit

Legal Authority: 16 U.S.C. 5101

Abstract: NMFS proposes regulations that would modify management restrictions in the Federal weakfish fishery in a manner consistent with the Commission's Weakfish Management Board's (Board) approved Addendum IV to Amendment 4 to the ISFMP for Weakfish. In short, the proposed change would decrease the incidental catch allowance for weakfish in the EEZ in non-directed fisheries using smaller mesh sizes, from 150 pounds to no more than 100 pounds per day or trip, whichever is longer in duration. In addition, it would impose a one fish possession limit on recreational fishers.

Timetable:

Action	Date	FR Cite
NPRM	05/12/10	75 FR 26703
NPRM Comment Period End.	06/11/10	
NPRM Comment Period Re–opened.	06/16/10	75 FR 34092
Comment Period End.	06/30/10	
Final Action	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alan Risenhoover, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13362, 1315 East-West Highway, Silver Spring, MD 20910 *Phone:* 301 713–2334, *Fax:* 301 713–0596, *Email: alan.risenhoover@noaa.gov.*

RIN: 0648–AY41

206. Atlantic Highly Migratory Species; Vessel Monitoring Systems

Legal Authority: 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 971 *et seq.*

Abstract: The National Marine Fisheries Service (NMFS) will require replacement of currently required Mobile Transmitting Unit (MTU) VMS units with Enhanced Mobile Transmitting Unit (E–MTU) VMS units in Atlantic Highly Migratory Species (HMS) fisheries, implement a declaration system that requires vessels to declare target fishery and gear type(s) possessed on board, and require that a qualified marine electrician install all E–MTU VMS units. This rulemaking removes dated MTU VMS units from service in Atlantic HMS fisheries, makes Atlantic HMS VMS requirements consistent with other VMS monitored Atlantic fisheries, provides the National Oceanic and Atmospheric Administration Office of Law Enforcement (NMFS) with enhanced communication with HMS vessels at sea, and could increase the level of safety at sea for HMS fishery participants. This rule affects all HMS pelagic longline (PLL), bottom longline (BLL), and shark gillnet fishermen who are currently required to have VMS onboard their vessels.

Timetable:

Action	Date	FR Cite
NPRM	06/21/11	76 FR 36071
NPRM Correction	06/29/11	76 FR 38107
Notice of Additional Public Meetings.	07/01/11	76 FR 38598
NPRM Comment Period End.	08/01/11	
Final Rule	12/02/11	76 FR 75492
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Margo Schulze-Haugen, Supervisory Fish Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–0234, *Fax:* 301 713–1917, *Email: margo.schulze-haugen@noaa.gov.*

RIN: 0648–BA64

207. Atlantic Highly Migratory Species Electronic Dealer Reporting Requirements

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: This rulemaking requires all federally-permitted Atlantic Highly Migratory Species (HMS) dealers to report commercially-caught HMS (i.e., Atlantic sharks, tunas, and swordfish) to the National Marine Fisheries Service (NMFS) through an electronic reporting system. In addition, this rulemaking clarifies that a dealer is only authorized to buy commercially-caught HMS if the dealer reports have been submitted to NMFS in a timely manner. Any delinquent reports need to be submitted and accepted before a dealer can buy commercially-caught HMS. Finally, this rulemaking requires that all commercially harvested HMS caught by federally-permitted fishermen be offloaded to federally-permitted and certified HMS dealers, who must report the associated catch to NMFS. These measures are necessary to ensure timely and accurate reporting, which is critical for quota monitoring and management of HMS.

Timetable:

Action	Date	FR Cite
NPRM	06/28/11	76 FR 37750
NPRM Comment Period End.	08/12/11	
Final Rule	08/08/12	77 FR 47303
Correction	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Margo Schulze-Haugen, Supervisory Fish Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–0234, *Fax:* 301 713–1917, *Email: margo.schulze-haugen@noaa.gov.*

RIN: 0648–BA75

208. To Establish a Voluntary Fishing Capacity Reduction Program in the Longline Catcher Processor Subsector of the Bering Sea and Aleutian Islands Management Area Non-Pollock Groundfish Fishery

Legal Authority: 16 U.S.C. 1279; 46 U.S.C. 1279; Pub. L. 108–199; Pub. L. 108–447

Abstract: This action establishes a second fishing capacity reduction program in the longline catcher processor subsector of the Bering Sea/Aleutian Islands non-pollock groundfish fishery. The maximum reduction cost is $2,700,000, funded by a loan to be repaid by landing fees for those participants remaining in the fishery. The program makes payments for relinquishing all Federal fishing licenses and permits. Participating fishing vessels can never again fish

anywhere in the world and must remain U.S. flagged. Reducing capacity will increase post-reduction harvesters' productivity, financially stabilize the fishery, and help conserve and manage non-pollock groundfish.

Timetable:

Action	Date	FR Cite
NPRM	07/30/12	77 FR 44572
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Gary C. Reisner, Director, Office of Management and Budget, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2259, *Fax:* 301 713–1464, *Email: gary.reisner@noaa.gov.*

RIN: 0648–BB06

209. Framework Adjustment 47 to the Northeast Multispecies Fishery Management Plan

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: Framework Adjustment 47 to the Northeast Multispecies Fishery Management Plan (FW 47) would set specifications for fishing years (FY) 2012 through 2014. FY 2012 specifications for 12 stocks last assessed in 2008 would be those previously specified in FW 44 and FW 45. No specifications for these stocks would be made for FY 2013–FY 2014. For stocks recently assessed, or assessed with an index-based assessment, specifications would be set for FY 2012–FY 2014. FW 47 would also adopt total allowable catches (TACs) for the U.S./Canada Management Area, consistent with the U.S./Canada Resource Sharing Understanding. In addition, FW 47 would revise the status determination criteria for the three winter flounder stocks and Gulf of Maine cod. FW 47 would also modify management measures for Southern New England/Mid-Atlantic winter flounder as well as modify accountability measures for five stocks. FW 47 would modify restrictions on yellowtail flounder catch by the scallop fishery in the Georges Bank (GB) access areas, modify the administration of the scallop fishery yellowtail flounder catch limits, and create a mechanism to re-estimate the expected GB yellowtail flounder catch by scallop vessels mid fishing year.

Timetable:

Action	Date	FR Cite
Proposed Rule	03/27/12	77 FR 18176
Final Action	05/02/12	77 FR 26104
Interim Final Rule	06/25/12	77 FR 37816
Final Action	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Daniel Morris, Acting Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9311, *Email: daniel.morris@noaa.gov.*

RIN: 0648–BB62

210. Gulf of Mexico Reef Fish Amendment 34: Commercial Reef Fish Permit Requirements and Crew Size on Dual-Permitted Vessels

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The purpose for this amendment is to modify or eliminate income qualification requirements for the renewal of commercial permits and to address maximum crew size regulations for dual-permitted vessels when fishing commercially in order to consider the safety issues associated with spearfishing under the maximum crew size rule. The need for this amendment is derived from National Standards 8 and 10. Standard 8 states that, "Conservation and management measures shall, consistent with the conservation requirements of the Magnuson-Stevens Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to: (1) Provide for the sustained participation of such communities." Standard 10 states that, "Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea. Fishing is an inherently dangerous occupation where not all hazardous situations can be foreseen or avoided. The standard directs Councils to reduce that risk in crafting their management measures, so long as they can meet the other national standards and the legal and practical requirements of conservation and management."

Timetable:

Action	Date	FR Cite
Notice of Availability.	07/10/12	77 FR 40561
NPRM	07/18/12	77 FR 42251
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BB72

211. 2012 Gulf of Mexico Gray Triggerfish Annual Catch Limits and Annual Catch Targets for the Commercial and Recreational Sectors; and In-Season Accountability Measures for the Recreational Sector

Legal Authority: 16 U.S.C. 1801

Abstract: At their February 2012 meeting, the Gulf of Mexico Fishery Management Council (Council) requested NOAA Fisheries Service implement an interim rule under procedures of the Magnuson-Stevens Act. The Gulf of Mexico gray triggerfish stock was determined to be overfished and undergoing overfishing based on the results of the 2011 update stock assessment. In addition, the assessment indicated the stock was not recovering at a level consistent with the stock rebuilding plan. The Council is currently developing Amendment 37 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico to address these issues. However, management measures proposed in this amendment will not be ready for implementation in the near future. The interim rule sets the commercial and recreational annual catch limits and annual catch targets to reduce overfishing and would establish an in-season accountability measure to close the recreational sector when the annual catch target is projected to be caught.

Timetable:

Action	Date	FR Cite
Final Rule	05/14/12	77 FR 28308
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BB90

212. Amendment 35 to the Reef Fish Fishery Management Plan Addressing Changes to the Greater Amberjack Rebuilding Plan and Adjustments to the Stock Annual Catch Limit in the Gulf of Mexico

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The purpose of this amendment is to adjust the greater amberjack rebuilding plan in response to results from the 2011 Update Assessment and subsequent Scientific and Statistical Committee review and recommendations for acceptable biological catch (ABC). Following review of the 2011 Update Assessment the Scientific and Statistical Committee recommended an ABC of 1,780,000 pounds whole weight (ww). The need for this amendment is that the current Stock ACL (equivalent to the total allowable catch (TAC)) of 1,871,000 pounds ww established in Amendment 30A exceeds the ABC recommendation. Further rationale for the need of this amendment is based on a section 600.310(g)(3) of the National Standard 1 annual catch limit (ACL) and accountability measure (AM) guidelines (NS1) which states, "If catch exceeds the ACL for a given stock or stock complex more than once in the last four years, the system of ACLs and AMs should be re-evaluated, and modified if necessary, to improve its performance and effectiveness." The greater amberjack Stock ACL has been exceeded twice in the last three years; therefore, this document includes a range of draft alternatives for adjusting the Stock ACL (equivalent to TAC), as well as subsequent recreational and commercial management measures to improve effectiveness of the Stock ACL and benefits to the greater amberjack stock in the Gulf of Mexico.

Timetable:

Action	Date	FR Cite
Notice of Availability.	07/03/12	77 FR 39460
NPRM	07/19/12	77 FR 42476
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BB97

213. Framework Adjustment 6 to the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: This framework adjustment clarifies the Mid-Atlantic Fishery Management Councils (Council) risk policy, which is used hy the Scientific and Statistical Committee (SSC) in conjunction with acceptable biological catch (ABC) control rules. The risk policy ensures that the Council's preferred tolerance for risk of overfishing (40 percent or lower) is addressed in the ABC development and recommendation process. The regulations that implement the Council's risk policy went into effect on October 31, 2011, as part of the Council's Omnibus Amendment to implement annual catch limits and accountability measures. One component of the risk policy states that, "If an overfishing limit (OFL) cannot be determined from the stock assessment, or if a proxy is not provided by the SSC during the ABC recommendation process, ABC levels may not be increased until such time that an OFL has been identified." This was designed to prevent catch levels from being increased when there are no criteria availahle to determine if overfishing will occur in the upcoming fishing year. Following one of the first applications of the risk policy for the 2012 fishing year (2012 butterfish specifications), the Council found that there are limited circumstances in which the SSC may have the scientific justification for recommending that the ABC he increased for stocks without an OFL without resulting in an unacceptahly high risk of overfishing. This framework alters the risk policy by outlining the specific circumstances under which the SSC may recommend an ABC increase in the absence of an OFL.

Timetable:

Action	Date	FR Cite
NPRM	06/28/12	77 FR 38566
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Aja Szumylo, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9195, *Email: aja.szumylo@noaa.gov.*

RIN: 0648–BB99

214. • Georges Bank Yellowtail Flounder Emergency Action To Provide a Partial Exemption From Accountability Measures to the Atlantic Scallop Fishery

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: This action, requested by the New England Fishery Management Council, exempts the Atlantic sea scallop fishery from any accountability measure specified by the fishery management plan for catch of Georges Bank yellowtail flounder exceeding the revised sub-annual catch limit (ACL) of 156.9 mt up to the initial sub-ACL level of 307.5 mt. The emergency rule is needed to respond to an unanticipated situation. The scallop Georges Bank yellowtail flounder sub-ACL was adjusted downward based on a projection of catch which indicated the scallop fleet would take much less than 307.5 mt. This revision process is outlined in regulation and may be performed at any time in the fishing year; however, such an adjustment is typically contemplated late in the fishing year when a large amount of yellowtail flounder catch in the scallop fishery data is available. The revision occurred earlier in the fishing year than anticipated by the scallop fleet in an effort to provide an immediate, greater harvest opportunity to the groundfish fishery. This revision modified the scallop sub-ACL by 49 percent and as a result, scallop fishing practices may require substantive change to ensure the sub-ACL is not exceeded. If accountability is maintained at the adjusted, lower sub-ACL there is a higher likelihood that a Georges Bank yellowtail flounder overage by the scallop fleet could occur resulting in accountability measures with substantial implications for the upcoming 2013 scallop fishing year. By exempting the scallop fleet from accountability measures at the lower, revised 156.9 mt sub-ACL but maintaining accountability at the 307.5 mt level initially set for the fishing year, there remains a need for the scallop fleet to mitigate yellowtail flounder catch but to do so within the context of the initial level established for the fishing year. There is also accountability at the fishery level that remains unchanged by this action.

Timetable:

Action	Date	FR Cite
NPRM	10/01/12	77 FR 59883
NPRM Comment Period End.	10/31/12	
Final Action	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Ruccio, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9104, *Email: michael.ruccio@noaa.gov.*

RIN: 0648–BC33

215. • Interim Final Rule for 2012 Butterfish Specifications

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The Mid-Atlantic Fishery Management Council (Council) met on September 14, 2012, in response to public comments that the current 2012 acceptable biological catch (ABC) for butterfish (3,622 mt) is too conservative, and that the butterfish mortality cap on the longfin squid fishery derived from this ABC may close the longfin squid fishery. There has been anecdotal evidence of unusually high longfin squid abundance this fishing year, and the Council is concerned that closing the longfin squid fishery early would result in economic harm due to forgone harvest. The Council requested that its Scientific and Statistical Committee (SSC) reconsider its 2012 butterfish ABC recommendation in light of its higher (8,400 mt) butterfish ABC recommendation for 2013. The SSC revised their 2012 butterfish ABC recommendation to 4,200 mt and noted that the additional mortality at the end of the 2012 fishing year should not result in overfishing of the butterfish resource. Accordingly, the Council recommended an increase of the butterfish ABC to 4,200 mt for the remainder of the 2012 fishing year, a decrease of the butterfish quota to 872 mt, and an increase of the butterfish mortality cap to 3,165 mt. NMFS will implement this action through an interim final rule, with publication as soon as possible.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Aja Szumylo, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9195, *Email: aja.szumylo@noaa.gov.*

RIN: 0648–BC57

216. • Emergency Rule for a Temporary Action To Adjust the Commercial ACL for Yellowtail Snapper in the South Atlantic Snapper-Grouper Fishery

Legal Authority: Magnuson Stevens Act

Abstract: This temporary rule for an emergency action would adjust the commercial ACL for yellowtail snapper according to a new stock assessment recently completed by the State of Florida. This rule would allow snapper-grouper fishermen in the South Atlantic to continue to harvest yellowtail snapper until the new ACL has been met.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC59

217. • Emergency Rule To Set the 2012 Annual Catch Limit for the Gulf of Mexico Vermilion Snapper Stock

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The current vermilion snapper annual catch limit (ACL) is 3.42 million pounds (mp). A 2011 stock assessment indicates vermilion snapper are not overfished or undergoing overfishing. Based on the assessment, the Gulf of Mexico Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) has recommended an acceptable biological catch level much higher than the current ACL (> 1 mp). The Gulf of Mexico Fishery Management Council (Council) requested NOAA Fisheries Service to promulgate an emergency rule to increase the vermilion snapper ACL. Landing projections for 2012 indicate the current ACL may be caught before the end of the 2012 fishing year (December 31). If the ACL is met, accountability measures would close vermilion snapper fishing for the remainder of the 2012 fishing year. Therefore, the Council asked for an emergency rule to increase the ACL to 4.19 mp. This new limit is consistent with the management advice from the Council's SSC.

Timetable:

Action	Date	FR Cite
Final Action—Emergency Rule.	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC65

218. False Killer Whale Take Reduction Plan (Section 610 Review)

Legal Authority: 16 U.S.C. 1361 *et seq.*

Abstract: NMFS is undertaking rulemaking to implement a False Killer Whale Take Reduction Plan (FKWTRP). The FKWTRP is based on consensus recommendations submitted by the False Killer Whale Take Reduction Team (FKWTRT). This action is necessary because current serious injury and mortality rates of the Hawaii Pelagic stock of false killer whales incidental to the Category I Hawaii-based deep-set (tuna target) longline fishery and Category II Hawaii-based shallow-set (swordfish target) fishery are above the stock's potential biological removal (PBR) level, and therefore inconsistent with the short-term goal of the Marine Mammal Protection Act (MMPA). Additionally, serious injury and mortality rates of the Hawaii Insular stock and Palmyra Atoll stocks of false killer whales incidental to the Hawaii-based deep-set longline fishery are above insignificant levels approaching a zero mortality and serious injury rate, and therefore inconsistent with the long-term goal of the MMPA. The FKWTRP is intended to meet the statutory mandates and requirements of the MMPA through both regulatory and non-regulatory measures, and research and data collection priorities.

Timetable:

Action	Date	FR Cite
NPRM	07/18/11	76 FR 42082
NPRM Comment Period Ends.	10/17/11	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Helen Golde, Department of Commerce, National Oceanic and Atmospheric Administration, Marine Sanctuaries Division, 1305 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400, *Email: helen.golde@noaa.gov.*

RIN: 0648–BA30

219. Revision of Hawaiian Monk Seal Critical Habitat

Legal Authority: 16 U.S.C. 1533

Abstract: On July 9, 2008, NMFS received a petition from the Center for Biological Diversity, Kahea, and the Ocean Conservancy to revise the Hawaiian monk seal critical habitat designation by adding the following areas in the main Hawaiian Islands (MHI): key beach areas, sand spits and islets, including all beach crest

vegetation to its deepest extent inland, lagoon waters, inner reef waters, and ocean waters out to a depth of 200 m. In addition, the Petitioners requested that designated critical habitat in the NWHI be extended to include Sand Island at Midway, as well as ocean waters out to a depth of 500 meters. On October 3, 2008, NMFS announced in the 90-day finding that the petition presented substantial scientific information indicating that a revision to the current critical habitat designation may be warranted. On June 12, 2009, in the 12-month finding, NMFS announced that a revision to critical habitat is warranted, on account of new information available regarding habitat use by the Hawaiian monk seal, and announced our intention to proceed towards a proposed rule. This rule describes the critical habitat designation, including supporting information on Hawaiian monk seal biology, distribution, and habitat use, and the methods used to develop the proposed revision to Hawaiian monk seal critical habitat.

Timetable:

Action	Date	FR Cite
NPRM	06/02/11	76 FR 32026
Notice of Public Meetings.	07/14/11	76 FR 41446
Other	06/25/12	77 FR 37867
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dwayne Meadows, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8467, *Email: dwayne.meadows@noaa.gov.*

RIN: 0648–BA81

220. Mandatory Use of Turtle Excluder Devices (TEDs) in Skimmer Trawls, Pusher-Head Trawls, and Wing Nets (Butterfly Trawls)

Legal Authority: 16 U.S.C. 1533

Abstract: NMFS is proposing to withdraw the alternative tow time restriction at 50 CFR 223.206(d)(2)(ii)(A)(3), and require all skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) rigged for fishing to use turtle excluder devices (TEDs) in their nets.

Timetable:

Action	Date	FR Cite
NPRM	05/10/12	77 FR 27411
Proposed Rule Correction.	05/18/12	77 FR 29586
Miami Public Hearing.	06/22/12	77 FR 37647
Port Orange Public Hearing.	06/27/12	77 FR 38266
Final Action	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC10

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Long-Term Actions

National Marine Fisheries Service

221. Marine Mammal Protection Act Stranding Regulation Revisions

Legal Authority: 16 U.S.C. 1379; 16 U.S.C. 1382; 16 U.S.C. 1421

Abstract: The National Marine Fisheries Service (NMFS) is considering changes to its implementing regulations (50 CFR 216) governing the taking of stranded marine mammals under section 109(h), section 112(c), and title IV of the Marine Mammal Protection Act and is soliciting public comment to better inform the process. NMFS intends to clarify the requirements and procedures for responding to stranded marine mammals and for determining the disposition of rehabilitated marine mammals, which includes the procedures for the placement of non-releasable animals and for authorizing the retention of releasable rehabilitated marine mammals for scientific research, enhancement, or public display. This action will be analyzed under the National Environmental Policy Act with an Environmental Assessment.

Timetable:

Action	Date	FR Cite
ANPRM	01/31/08	73 FR 5786
ANPRM	01/31/08	73 FR 5786
ANPRM Comment Period Extended.	03/28/08	73 FR 16617
NPRM	12/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Helen Golde, *Phone:* 301 427–8400, *Email: helen.golde@noaa.gov.*

RIN: 0648–AW22

222. Amendment 6 to the Monkfish Fishery Management Plan

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The purpose of Amendment 6 to the Monkfish FMP is to consider developing a catch share management program for this fishery. This would very likely also involve the development of a referendum for such a program, as required under the Magnuson-Stevens Fishery Conservation and Management Act.

Timetable:

Action	Date	FR Cite
Notice of Intent to Prepare an EIS.	11/30/10	75 FR 74005
NPRM	01/00/14	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Patricia A. Kurkul, *Phone:* 978 281–9200, *Fax:* 978 281–9117, *Email: pat.kurkul@noaa.gov.*

RIN: 0648–BA50

223. • Development of Island-Specific Fishery Management Plans (FMPs) in the Caribbean: Transition From Species-Specific FMPs to Island-Specific FMPs

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: NOAA Fisheries and the Caribbean Fishery Management Council will develop island-specific FMPs to account for differences among the U.S. Caribbean Islands of Puerto Rico and the U.S. Virgin Islands with respect to culture, markets, gear, and seafood preferences. The development of these customized FMPs will recognize the unique attributes of each of the U.S. Caribbean Islands.

Timetable:

Action	Date	FR Cite
NPRM	06/00/14	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC17

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Completed Actions

224. Allowable Modifications to the Turtle Excluder Device Requirements

Legal Authority: 16 U.S.C. 1531 *et seq.*

Abstract: NMFS revises the Turtle Excluder Device (TED) requirements to allow new materials and modifications to existing approved TED designs. Specifically, allowable modifications include the use of flat bar, box pipe, and oval pipe for use in currently-approved TED grids; an increase in mesh size on escape flaps from 1⅝ inches to 2 inches; the use of the Boone single straight cut and triangular escape openings; specifications on the use of TED grid brace bars; and the use of the Chauvin Shrimp Kicker to improve shrimp retention.

Timetable:

Action	Date	FR Cite
NPRM	09/02/10	75 FR 53925
NPRM Comment Period End.	10/18/10	
NPRM	03/16/12	77 FR 15701
Final Action	05/21/12	77 FR 29905
Final Action	08/13/12	77 FR 48106

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Helen Golde, Department of Commerce, National Oceanic and Atmospheric Administration, Marine Sanctuaries Division, 1305 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400, *Email: helen.golde@noaa.gov.*

RIN: 0648–AW93

225. Revoke Inactive Quota Share and Annual Individual Fishing Quota From a Holder of Quota Share Under the Pacific Halibut and Sablefish Fixed Gear Individual Fishing Quota Program

Legal Authority: 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 773

Abstract: This action amends existing commercial fishing regulations for the fixed-gear Pacific Halibut and sablefish individual fishing quota program at 50 CFR 679. The amendment revokes inactive quota share unless the quota share permit holder affirmatively notices NMFS in writing within 60 days of the agency's preliminary determination of inactivity that they choose to (a) Retain the inactive IFQ quota share, (b) activate the quota share through transfer or by fishing, or (c) appeal the preliminary determination. Quota share that is not activated through this process and is revoked would be proportionally distributed to the quota share pool. This regulatory revision is based on the recommendations of the North Pacific Fishery Management Council in June 2006 and again in February 2009. Amending the regulations will improve the efficiency of the Pacific Halibut and Sablefish IFQ program and augment operational flexibility of participating fisherman.

Timetable:

Action	Date	FR Cite
NPRM	08/23/10	75 FR 51741
Final Action	05/18/12	77 FR 29556
Final Action Effective.	06/18/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Robert D. Mecum, Deputy Acting Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, Room 420, 709 West Ninth Street, Juneau, AK 99802, *Phone:* 907 586–7221, *Fax:* 907 586–7249, *Email: robert.mecum@noaa.gov.*

RIN: 0648–AX91

226. Generic Amendment for Annual Catch Limits

Legal Authority: 16 U.S.C. 1801.

Abstract: The generic amendment modifies five of the Gulf of Mexico Fishery Management Council's Fishery Management Plans (FMPs). These include FMPs for Reef Fish Resources, Shrimp, Stone Crab, Coral and Coral Reef Resources, and Red Drum. NMFS and the Council developed these Annual Catch Limits (ACLs) in co-operation with the Scientific and Statistical Committee and the Southeast Fisheries Science Center. NMFS, in collaboration with the Council, also developed a Draft Environmental Impact Statement to evaluate alternatives and actions for the ACLs. Some examples of these actions include: establishing sector specific ACLs, selecting levels of risk associated with species yields, considering removal or withdrawal of species from FMPs, and delegating species or species assemblages to state regulators.

Timetable:

Action	Date	FR Cite
Notice of Intent	08/04/09	74 FR 47206
Notice of Availability.	09/26/11	76 FR 59373
NPRM	10/25/11	76 FR 66021
Final Rule	12/29/11	76 FR 82044
Final Action—Final Rule Correction.	04/20/12	77 FR 23632

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–AY22

227. Comprehensive Annual Catch Limits Amendment to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: This amendment establishes Annual Catch Limits (ACLs) and Accountability Measures (AMs) for species not undergoing overfishing, including management measures to reduce the probability that catches will exceed the stocks' ACLs pursuant to reauthorized Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requirements. Actions include removal of species from the South Atlantic Snapper Grouper Fishery Management Unit; designating some Snapper Grouper species as ecosystem component species; considering multi-species groupings for specifying ACLs, ACTs, and AMs; specifying allocations among the commercial, recreational, and for-hire sectors for species not undergoing overfishing; and modifying management measures to limit total mortality to the ACL.

Timetable:

Action	Date	FR Cite
Notice of Availability.	10/20/11	76 FR 65153
NPRM	12/01/11	76 FR 74757
Amended Proposed Rule.	12/30/11	76 FR 82664
Final Rule	03/16/12	77 FR 15916
Final Rule Effective.	04/16/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–AY73

228. Amendment 20A to the Snapper Grouper Fishery Management Plan of the South Atlantic Region

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: Amendment 20A to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region consists of regulatory actions that focus on modifications to the wreckfish individual transferable quota (ITQ) program. The proposed actions would: (1) Define and revert inactive wreckfish shares; (2) redistribute reverted shares to active shareholders; (3) define a cap on the number of shares one entity may own; and (4) establish an appeals process for share redistribution.

Timetable:

Action	Date	FR Cite
Notice of Availability.	01/12/12	77 FR 1908
NPRM	03/30/12	77 FR 19165
NPRM Comment Period End.	04/30/12	
Final Action	09/26/12	77 FR 59129
Final Action Effective.	10/26/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–AY74

229. Amendment 24 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The purpose of the amendment is to implement a rebuilding plan for red grouper in the South Atlantic that would specify annual catch targets and annual catch limits by sector. NMFS notified the Council of the stock status on June 9, 2010; the Magnuson-Stevens Act specifies that measures must be implemented within two years of notification.

Timetable:

Action	Date	FR Cite
Notice of Intent	01/03/11	76 FR 99
Notice of Intent Comment Period End.	02/14/11	
NPRM	03/30/12	77 FR 19169
NPRM Comment Period End.	04/30/12	
Final Action	06/11/12	77 FR 34254
Final Action Effective.	07/11/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BA52

230. Regulatory Amendment 11 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region

Legal Authority: 16 U.S.C. 1801

Abstract: The purpose of the amendment is to modify regulations pertaining to the deepwater species in order to reduce the socio-economic effects expected from the regulations in amendment 17B to the Snapper-Grouper FMP while maintaining or increasing the biological protection to speckled hind and warsaw grouper in the South Atlantic.

Timetable:

Action	Date	FR Cite
NPRM	12/20/11	76 FR 78879
NPRM Comment Period End.	01/19/12	
Final Action	05/10/12	77 FR 27374

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BB10

231. Amendment 93 To Implement Chinook Salmon Prohibited Species Catch Limits in the Gulf of Alaska Pollock Fishery

Legal Authority: 118 Stat 110; 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 3631 *et seq.;* 16 U.S.C. 773 *et seq.;* Pub. L. 108–199

Abstract: This action limits Chinook salmon prohibited species catch (PSC) and increases monitoring in the Gulf of Alaska (GOA) pollock fishery. A 25,000 lb Chinook salmon PSC annual limit is apportioned between the GOA Central and Western Regulatory Areas, with a 18,316 lb Chinook salmon PSC limit in the Central Regulatory Area and a 6,684 lb Chinook salmon PSC limit in the Western Regulatory Area. If the PSC limit is reached in a regulatory area that pollock fishery would be close. To provide better information on the quantity and source of salmon incidentally caught in the pollock fishery, this action also would increases observer coverage on vessels less than sixty feet in length overall and require full of salmon.

Timetable:

Action	Date	FR Cite
Notice of Availability.	11/23/11	76 FR 72384
NPRM	12/14/11	76 FR 77757
NPRM Comment Period End.	01/30/12	
Final Rule	07/20/12	77 FR 42629

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov.*

RIN: 0648–BB24

232. Implementation of Comprehensive Ecosystem Based Amendment 2

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: This Comprehensive Ecosystem-Based Amendment 2 specifies the annual catch limit (ACL) for octocorals in the South Atlantic region. The South Atlantic Council is modifying the fishery management unit (FMU) for octocorals under the Fishery Management Plan for Coral, Coral Reefs, Live/Hardbottom Habitats of the South Atlantic Region (Coral FMP) to specify that octocorals are included in the exclusive economic zone off of North Carolina, South Carolina, and Georgia. As a result of reducing the management unit for octocorals, the South Atlantic Council is also considering an action to set the ACL at zero. CE–BA 2 amends the Snapper Grouper FMP and FMP for the Coastal Migratory Pelagic Resources in the Atlantic and Gulf of Mexico to require that harvest (with the use of all non-prohibited fishing gear) and possession of snapper grouper and coastal migratory pelagic managed species in South Carolina SMZs be limited to the recreational bag limit. An action to modify sea turtle and smalltooth sawfish release gear requirements for the snapper grouper fishery is also included in CE–BA 2. This action amends the Council FMPs as needed to designate new or modify existing EFH and EFH–HAPCs.

Timetable:

Action	Date	FR Cite
Notice of Availability.	09/26/11	76 FR 59371
NPRM	11/08/11	76 FR 69230
Final Rule	12/30/11	76 FR 82183
Final Rule Correction.	01/30/12	77 FR 4495
Final Action Effective.	01/30/12	
Final Action; Correction.	05/18/12	77 FR 29555

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BB26

233. Emergency Rule To Increase the 2011 Catch Limits for the Northeast Skate Complex

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The temporary emergency rule increases the skate complex acceptable biological catch (ABC), annual catch limit (ACL), annual catch target (ACT), and annual total allowable landings (TALs) consistent with best available scientific information, and the procedures contained in the Northeast Skate Complex Fishery Management Plan. The Council requested the emergency action after receiving a new recommendation for ABC from the Scientific and Statistical Committee in June 2011. The action is needed to extend the fishing season for the directed skate fisheries, and help avoid the economic impacts of a potential fishery closure before the end of the fishing year.

Timetable:

Action	Date	FR Cite
NPRM	08/30/11	76 FR 53872
NPRM Comment Period End.	09/14/11	
Temporary Rule	10/28/11	76 FR 66856

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930, *Phone:* 978 281–9200, *Fax:* 978 281–9117, *Email: pat.kurkul@noaa.gov.*

RIN: 0648–BB32

234. Rule To Delay the Effective Date of Atlantic Smoothhound Management Measures

Legal Authority: 16 U.S.C. 1801

Abstract: NMFS is delaying the effective date of smoothhound management measures implemented in the Final Rule for Amendment 3 to the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP)(June 1, 2010). This action is necessary to ensure recent legislation, namely the 2010 Shark Conservation Act, is fully considered and to allow time for a section 7 consultation under the Endangered Species Act (ESA) to be completed. NMFS expects that the smoothhound management measures will become effective upon the effective date of the rule implementing the Shark Conservation Act smooth dogfish measures or following completion of the section 7 Biological Opinion, whichever is later.

Timetable:

Action	Date	FR Cite
Final Action	11/10/11	76 FR 70064
Final Action Effective.	12/12/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Margo Schulze-Haugen, Supervisory Fish Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–0234, *Fax:* 301 713–1917, *Email: margo.schulze-haugen@noaa.gov.*

RIN: 0648–BB43

235. Amendment 11 to the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and South Atlantic

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: The Supplemental Environmental Impact Statement analyzes the impacts of a range of alternatives for two potential management actions for the spiny lobster fishery, including establishment of trap line marking requirements and closed areas to protect Acropora coral species. These actions were originally included in Amendment 10 to the FMP; however, the Councils chose to take no action at that time to allow for additional stakeholder input.

Timetable:

Action	Date	FR Cite
Notice of Intent	09/19/11	76 FR 57957
Notice of Availability.	04/27/12	77 FR 25116
NPRM	05/15/12	77 FR 28560
Final Action	07/27/12	77 FR 44168

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BB44

236. Framework Adjustment 23 to the Atlantic Sea Scallop Fishery Management Plan

Legal Authority: 16 U.S.C. 1801

Abstract: The purpose of Framework 23 is to address four specific issues identified by the public and the Council to improve the overall effectiveness of the Scallop FMP. The need is to develop measures to minimize impacts on sea turtles through the requirement of a turtle deflector dredge; improve the effectiveness of the accountability measures adopted under Scallop Amendment 15 for the yellowtail flounder sub annual catch limit; consider specific changes to the general category Northern Gulf of Maine management program to address potential inconsistencies, and to consider modifications to the vessel monitoring system to improve fleet operations.

Timetable:

Action	Date	FR Cite
Proposed Rule	01/03/12	77 FR 52
Final Action	04/06/12	77 FR 20728
Final Action Effective.	05/07/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930, *Phone:* 978 281–9200, *Fax:* 978 281–9117, *Email: pat.kurkul@noaa.gov.*

RIN: 0648–BB51

237. 2012 Pacific Halibut Fisheries; Catch Sharing Plan

Legal Authority: 16 U.S.C. 773 *et seq.*

Abstract: Each year, the Pacific Fishery Management Council (Council) reviews and receives public comment on its Pacific Halibut Catch Sharing Plan (Plan) to determine whether revisions are needed to achieve management objectives for any of the

West Coast halibut fisheries. Washington treaty tribes that fish for halibut hold a directed commercial fishery and a ceremonial and subsistence fishery off the Washington coast. Non-treaty fishers operating off the coasts of Washington, Oregon, and California participate in one of three separate commercial fisheries, and/or in one or more of the six separate recreational fisheries for halibut. For 2012 and beyond, the Council has recommended minor changes to the portion of the Plan covering the sport fisheries for the Washington South Coast Area, the Columbia River subarea and the Oregon Central Coast Subarea. The changes to Washington South coast subarea include a slight modification in the opening day, the changes to the Columbia River subarea include an adjustment to the state contributions to the subarea allocation, and finally the changes to the Oregon Central Coast subarea include revisions to the allocation to the nearshore portion of this subarea and an adjustment to how quota may be moved inseason between the spring, summer, and nearshore fisheries within this subarea. These recommended changes to the Plan are implemented through the annual regulations. The annual regulations also include the 2012 halibut quota for the West Coast fisheries as recommended by the International Pacific Halibut Commission.

Timetable:

Action	Date	FR Cite
NPRM	02/03/12	77 FR 5473
Final Action	03/22/12	77 FR 16740

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Frank Lockhart, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115, *Phone:* 206 526–6142, *Fax:* 206 526–6736, *Email: frank.lockhart@noaa.gov.*

RIN: 0648–BB68

238. 2012–2013 Specifications for the Northeast Skate Complex

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: This action specifies for the Northeast Skate Complex fishery an annual catch limit (ACL), annual catch target, total allowable landings, and possession limits for the 2012–2013 fishing years. It also makes minor modifications to overfishing definitions and fishery monitoring. These measures are based upon the recommendations of the New England Fishery Management Council, reflecting the best available scientific information on the status of the skate stocks. Recent increases in the biomass of winter and little skates support increases in catch limits and quotas. The ACL (50,435 mt) represents a 23-percent increase from 2010 levels (41,080 mt). The measures are largely consistent with the skate catch levels implemented by Secretarial emergency action during the 2011 fishing year. Maintaining the catch limits at these higher levels is expected to continue positive economic impacts for the fishery, while simultaneously meeting the conservation objectives of the Northeast Skate Complex Fishery Management Plan.

Timetable:

Action	Date	FR Cite
NPRM	02/22/12	77 FR 10643
NPRM Comment Period End.	03/23/12	
Final Action	04/27/12	77 FR 25097
Final Action Effective.	05/01/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Daniel Morris, Acting Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9311, *Email: daniel.morris@noaa.gov.*

RIN: 0648–BB83

239. 2012 Tribal Fishery for Pacific Whiting

Legal Authority: 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 773 *et seq.*

Abstract: NMFS issues this rule for the 2012 Pacific whiting fishery under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP), the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the Pacific Whiting Act of 2006. This rule establishes a tribal allocation of 17.5 percent of the U.S. total allowable catch (TAC) for 2012. The regulations also establish a process for reapportionment of unused tribal allocation of Pacific whiting to the non-tribal fisheries.

Timetable:

Action	Date	FR Cite
NPRM	02/22/12	77 FR 10466
NPRM Comment Period End.	03/23/12	
Final Action	05/15/12	77 FR 28497

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Frank Lockhart, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115, *Phone:* 206 526–6142, *Fax:* 206 526–6736, *Email: frank.lockhart@noaa.gov.*

RIN: 0648–BB85

240. Regulatory Amendment To Revise Fall Recreational Closed Season and Set Annual Catch Limit for Red Snapper

Legal Authority: 16 U.S.C. 1801

Abstract: The actions in this amendment revise the fixed recreational red snapper closed season of October 1–December 31, and set the 2012 and 2013 annual catch limit (ACL) for the red snapper fishery in the Gulf of Mexico. The previous regulations limit the ability to achieve optimum yield for the recreational sector due to restrictive season timing and fixed closure dates which limit the ability to reopen the recreational season through normal rulemaking. This regulation gives the National Marine Fisheries Service (NMFS) and the Gulf of Mexico Fishery Management Council (Council) more flexibility to manage the red snapper recreational fishing season. Providing management mechanisms with more flexibility would increase the likelihood of achieving optimum yield and, in turn, benefit the social and economic environments while reducing the burden on the administrative environment. Results from the red snapper update assessment in 2009 and the recent update indicate that the red snapper stock is no longer undergoing overfishing and that annual catch limits can be increased. Management measures considered in this amendment adjust the red snapper annual catch limit for 2012 and for 2013. Increases in 2013 would be contingent on the annual catch limit in 2012 not being exceeded.

Timetable:

Action	Date	FR Cite
NPRM	04/12/12	77 FR 21955
NPRM Comment Period End.	04/27/12	
Final Action	05/30/12	77 FR 31734
Final Action Effective.	06/29/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BB91

241. Atlantic Highly Migratory Species; Silky Shark Management Measures

Legal Authority: 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 971 *et seq.*

Abstract: This action implements Recommendation 11–08, which was adopted at the 2011 annual meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT), consistent with both the Magnuson-Stevens Conservation and Management Act and the Atlantic Tunas Convention Act. Recommendation 11–08 prohibits the retention, transshipping, or landing of silky sharks (Carcharhinus falciformis) caught in association with ICCAT fisheries.

Timetable:

Action	Date	FR Cite
NPRM	06/22/12	77 FR 37647
NPRM Comment Period End.	07/23/12	
Final Action	10/04/12	77 FR 60632
Final Action Effective.	11/05/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Margo Schulze-Haugen, Supervisory Fish Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–0234, *Fax:* 301 713–1917, *Email: margo.schulze-haugen@noaa.gov.*

RIN: 0648–BB96

242. 2012 Summer Flounder, Scup, and Black Sea Bass Recreational Harvest Measures

Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: This rulemaking implements management measures to achieve recreational harvest limits for the 2012 summer flounder, scup, and black sea bass recreational fisheries. Recreational management measures include recreational possession limits, minimum fish sizes, and seasonal closures.

Timetable:

Action	Date	FR Cite
NPRM	04/30/12	77 FR 25394
Final Action	05/23/12	77 FR 30427

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Daniel Morris, Acting Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9311, *Email: daniel.morris@noaa.gov.*

RIN: 0648–BC07

243. • Temporary Rule Through Emergency Action To Allow Harvest of Red Snapper in the South Atlantic Region in 2012

Legal Authority: 16 U.S.C. 1801

Abstract: In a letter dated June 19, 2012, the Council requested NOAA Fisheries Service to allow harvest and possession of red snapper in 2012 through emergency regulations. At their June 11–15, 2012, meeting, the Council reviewed new information in the form of red snapper rebuilding projections, 2012 acceptable biological catch levels, and 2012 discard mortality levels. After accounting for the 2012 discard mortalities, the Council determined that directed harvest could be allowed without compromising the rebuilding of the stock to target levels. The Council decided to send the request for emergency regulation by a 12 to 1 vote. As outlined in the letter, the Councils request is centered around the following items: (1) Red snapper annual catch limit (ACL) of 13,067 fish; (2) recreational ACL of 9,399 fish; (3) commercial ACL of 3,668 fish or 20,818 pounds gutted weight; (4) for the recreational sector, three-day weekend openings of which the number of weekends would be determined hy the agency and the opening dates would be subject to modification based on weather conditions; (5) for the commercial sector, seven-day mini-season increments subject to the remaining quota; (6) open the seasons as soon as possible; (7) recreational bag limit of one fish per person per day with no size limit; and (8) commercial 50-pound trip limit with no size limit.

Timetable:

Action	Date	FR Cite
Final Action	08/28/12	77 FR 51939

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov.*

RIN: 0648–BC32

244. Revisions to the Turtle Excluder Device Requirements

Legal Authority: 16 U.S.C. 1533

Abstract: With this action, the National Marine Fisheries Service (NMFS) announces that it is considering technical changes to the requirements for turtle excluder devices (TEDs), and to solicit public comment. Specifically, NMFS would modify the size of the TED escape opening currently required in the summer flounder fishery; require the use of TEDs in the whelk, calico scallop, and Mid-Atlantic scallop trawl fisheries; require the use of TEDs in flynets; and move the current northern boundary of the Summer Flounder Fishery-Sea Turtle Protection Area off Cape Charles, Virginia, to a point farther north.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/07	72 FR 7382
ANPRM Comment Period End.	03/19/07	
Final Action—ANPRM Comment Period Extended.	03/19/07	72 FR 12749

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Helen Golde, Department of Commerce, National Oceanic and Atmospheric Administration, Marine Sanctuaries Division, 1305 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400, *Email: helen.golde@noaa.gov.*

RIN: 0648–AV04

245. Amendment to Regulations Under the Bottlenose Dolphin Take Reduction Plan

Legal Authority: 16 U.S.C. 1361 *et seq.*

Abstract: Serious injury and mortality of the Western North Atlantic bottlenose dolphin stocks incidental to Category I and II fisheries continue at levels potentially exceeding Potential Biological Removal (PBR) levels, requiring additional management measures under the Bottlenose Dolphin Take Reduction Plan (BDTRP). Therefore, the this action amends the BDTRP to reduce serious injury and mortality of bottlenose dolphins in the Virginia pound net fishery (Category II) and mid-Atlantic gillnet fishery (Category I) in North Carolina, specifically, the spiny dogfish fishery. The need for this action is to ensure the BDTRP meets its MMPA mandated short and long-term goals. NMFS will examine a number of management measures, including consensus recommendations from the Bottlenose Dolphin Take Reduction Team, designed to reduce the incidental mortality or serious injury of bottlenose dolphins taken in both the Virginia pound net fishery and spiny dogfish fishery in North Carolina to below PBR,

as well as other updates supporting the objectives of the BDTRP.

Timetable:

Action	Date	FR Cite
NPRM	04/12/12	77 FR 21946
NPRM Comment Period End.	05/14/12	
Final Action	07/31/12	77 FR 45268
Final Action Effective.	08/30/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kristy Long, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13738, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2322, *Fax:* 301 427–2522, *Email: kristy.long@noaa.gov.*

RIN: 0648–BA34

DEPARTMENT OF COMMERCE (DOC)

Patent and Trademark Office (PTO)

Final Rule Stage

246. Setting and Adjusting Patent Fees

Legal Authority: 35 U.S.C. 119; 35 U.S.C. 120; 35 U.S.C. 132(b); 35 U.S.C. 376; 35 U.S.C. 41; Pub. L. 109–383; Pub. L. 110–116; Pub. L. 110–137; Pub. L. 110–149; Pub. L. 110–161; Pub. L. 110–5; Pub. L. 110–92; Pub. L. 112–29

Abstract: The United States Patent and Trademark Office (Office) takes this action in accordance with the Leahy-Smith American Invents Act to set and adjust certain patent fee amounts to provide the Office with a sufficient amount of aggregate revenue to recover its aggregate cost of patent operations. This action also helps the Office implement a sustainable funding model, reduce the current patent application backlog, decrease patent pendency, improve patent quality, and upgrade the Office's patent business information technology capability and infrastructure.

Timetable:

Action	Date	FR Cite
NPRM	09/06/12	77 FR 55028
NPRM Comment Period End.	11/05/12	
Final Rule	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Gilda Lee, Economist, Department of Commerce, Patent and Trademark Office, 600 Dulany Street, P.O. Box 1450, Alexandria, VA 22313–1450, *Phone:* 571 272–8698, *Email: gilda.lee@uspto.gov.*

RIN: 0651–AC54

DEPARTMENT OF COMMERCE (DOC)

Patent and Trademark Office (PTO)

Completed Actions

247. Changes To Implement the Supplemental Examination Provisions of the Leahy-Smith America Invents Act and To Revise Reexamination Fees

Legal Authority: 125 Stat 283; 125 Stat 319; 35 U.S.C. 2(b)(2); Pub. L. 112–29

Abstract: The United States Patent and Trademark Office (Office) is amending the rules of practice in patent cases to implement the supplemental examination provisions of the Leahy-Smith America Invents Act (AIA). The supplemental examination provisions permit a patent owner to request supplemental examination of a patent by the Office to consider, reconsider, or correct information believed to be relevant to the patent. The Office is also adjusting the fee for filing a request for ex parte reexamination and setting a fee for petitions filed in reexamination proceedings to more accurately reflect the cost of these processes.

Timetable:

Action	Date	FR Cite
NPRM	01/25/12	77 FR 3666
NPRM Comment Period End.	03/26/12	
Final Rule	08/14/12	77 FR 48828
Final Rule Effective.	09/16/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Raul Tamayo, Department of Commerce, Patent and Trademark Office, 600 Dulaney Street, P.O. Box 1450, Alexandria, VA 22313, *Phone:* 571 272–7728, *Email: raul.tamayo@uspto.gov.*

RIN: 0651–AC69

248. Rules of Practice for Trials Before the Patent Trial and Appeal Board and Judicial Review of Patent Trial and Appeal Board Decisions

Legal Authority: 125 Stat 284; 125 Stat 289; 125 Stat 290; 125 Stat 299–313; 125 Stat 329–331 (2011); 35 U.S.C. 135; 35 U.S.C. 2(b)(2); 35 U.S.C. 21; 35 U.S.C. 23; 35 U.S.C. 311–319; 35 U.S.C. 321–329; 35 U.S.C. 41; 35 U.S.C. 6; Pub. L. 112–29

Abstract: The United States Patent and Trademark Office (Office) amends the rules of practice to add new parts 42 and 90 to implement the inter partes, post grant, and covered business method review of patents and derivation provisions of the Leahy-Smith America Invents Act (LSAIA). The review provisions permit a third party to request review of a patent by the Office. The derivation provisions permit a patent applicant to file a petition seeking to institute a derivation proceeding with another party's application or patent.

Timetable:

Action	Date	FR Cite
NPRM	02/09/12	77 FR 6879
NPRM Comment Period End.	04/09/12	
Final Rule	08/14/12	77 FR 48612
Final Rule Effective.	09/16/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Tierney, Lead Administrative Patent Judge, Department of Commerce, Patent and Trademark Office, 600 Dulany Street, P.O. Box 1450, Alexandria, VA 22313–1450, *Phone:* 571 272–9797, *Fax:* 571 273–0053, *Email: michael.tierney@uspto.gov.*

RIN: 0651–AC70

249. Changes To Implement Inter Partes Review Proceedings

Legal Authority: 125 Stat 284; 125 Stat 299–313; 125 Stat 329–331; 31 U.S.C. 311–319; 35 U.S.C. 2(b)(2); 35 U.S.C. 21; 35 U.S.C. 23; 35 U.S.C. 329–331; 35 U.S.C. 41; 35 U.S.C. 6; Pub. L. 112–29 sections 6, 18

Abstract: The United States Patent and Trademark Office (Office or USPTO) is revising the rules of practice to implement the provisions of the Leahy-Smith America Invents Act (AIA) that create the new inter partes review proceeding, post-grant review proceeding, and transitional post-grant review proceeding for covered business method patents, to be conducted before the Patent Trial and Appeal Board (Board). These provisions of the AIA will take effect on September 16, 2012, one year after the date of enactment.

Timetable:

Action	Date	FR Cite
NPRM	02/10/12	77 FR 7041
NPRM Comment Period End.	04/10/12	
Final Rule	08/14/12	77 FR 48680
Final Rule Effective.	09/16/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Tierney, Lead Administrative Patent Judge,

Department of Commerce, Patent and Trademark Office, 600 Dulany Street, P.O. Box 1450, Alexandria, VA 22313–1450, *Phone:* 571 272–9797, *Fax:* 571 273–0053, *Email:* *michael.tierney@uspto.gov.*

RIN: 0651–AC71

250. Changes To Implement Derivation Proceedings

Legal Authority: 125 Stat 284; 125 Stat 289–90 (2011); 35 U.S.C. 135; 35 U.S.C. 2(b)(2); 35 U.S.C. 21; 35 U.S.C. 23; 35 U.S.C. 41; 35 U.S.C. 6; Pub. L. 112–29, sec 3(i)

Abstract: The United States Patent and Trademark Office (Office) amends the rules of practice to implement the derivation provisions of the Leahy-Smith America Invents Act (LSAIA). The derivation provisions permit a patent applicant to file a petition seeking to institute a derivation proceeding with another party's application or patent.

Timetable:

Action	Date	FR Cite
NPRM	02/10/12	77 FR 7028
NPRM Comment Period End.	04/10/12	
Finall Rule	09/11/12	77 FR 56068
Final Rule Effective.	03/16/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Tierney, Lead Administrative Patent Judge, Department of Commerce, Patent and Trademark Office, 600 Dulany Street, P.O. Box 1450, Alexandria, VA 22313–1450, *Phone:* 571 272–9797, *Fax:* 571 273–0053, *Email:* *michael.tierney@uspto.gov.*

RIN: 0651–AC74

251. Transitional Program for Covered Business Method Patents—Definition for Technological Invention

Legal Authority: 125 Stat 284; 125 Stat 329–331 (2011); 35 U.S.C. 2(b)(2); 35 U.S.C. 21; 35 U.S.C. 23; 35 U.S.C. 321–329; 35 U.S.C. 41; 35 U.S.C. 6; Pub. L. 112–29

Abstract: The United States Patent and Trademark Office (Office) implements the provision of the Leahy-Smith America Invents Act that requires the Office to issue regulations for determining whether a patent is for a technological invention in a transitional post-grant review proceeding for covered business method patents.

Timetable:

Action	Date	FR Cite
NPRM	02/10/12	77 FR 7095
NPRM Comment Period End.	04/10/12	
Final Rule	08/14/12	77 FR 48734
Final Rule Effective.	09/16/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Tierney, Lead Administrative Patent Judge, Department of Commerce, Patent and Trademark Office, 600 Dulany Street, P.O. Box 1450, Alexandria, VA 22313–1450, *Phone:* 571 272–9797, *Fax:* 571 273–0053, *Email:* *michael.tierney@uspto.gov.*

RIN: 0651–AC75

[FR Doc. 2012–31489 Filed 1–7–13; 8:45 am]

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Part V

Department of Defense

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

48 CFR Ch. II

Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Defense (DoD).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Defense (DoD) is publishing this semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under Executive Order 12866 "Regulatory Planning and Review." This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under the Executive Order and other regulatory guidance. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of Executive Order 12866. Although most DoD issuances listed in the agenda are of limited public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process. 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**.

This agenda updates the report published on January 20, 2012, and includes regulations expected to be issued and under review over the next 12 months. The next agenda is scheduled to be published in the spring of 2013. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

Starting with the fall 2007 edition, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at *www.reginfo.gov*, in a format that offers users the ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Department of Defense's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's agenda requirements. Additional information on these entries is in the Unified Agenda available online.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Ms. Patricia Toppings, telephone 571–372–0485, or write to Executive Services Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155, or email: *patricia.toppings@whs.mil*.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301–1600, or call 703–697–2714.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Ms. Morgan Park, telephone 571–372–0489, or write to Executive Services Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155, or email: *morgan.park@whs.mil*.

For general information on Office of the Secretary agenda items, which are procurement-related, contact Mr. Manuel Quinones, telephone 571–372–6088 or write to Defense Acquisition Regulations Directorate, 4800 Mark Center Drive, Suite 15D07–2, Alexandria, VA 22350, or email: *manuel.quinones@osd.mil*.

For general information on Department of the Army regulations, contact Ms. Brenda Bowen, telephone 703–428–6173, or write to the U.S. Army Records Management and Declassification Agency, ATTN: AAHS–RDR–C, Casey Building, Room 102, 7701 Telegraph Road, Alexandria, VA 22315–3860, or email: *brenda.s.bowen.civ@mail.mil*.

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. Chip Smith, telephone 703–693–3644, or write to Office of the Deputy Assistant Secretary of the Army (Policy and Legislation), 108 Army Pentagon, Room 2E569, Washington, DC 20310–0108, or email: *chip.smith@hqda.army.mil*.

For general information on Department of the Navy regulations, contact LCDR Catherine Chiapetta, telephone 703–614–7408, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE., Suite 3000, Washington, DC 20374–5066, or email: *catherine.chiapetta@navy.mil*.

For general information on Department of the Air Force regulations, contact Bao-Anh Trinh, telephone 703–695–6608/6605, or write to Department of the Air Force, SAF/A6PP, 1800 Air Force Pentagon, Washington, DC 20330–1800, or email: *bao-anh.trinh@pentagon.af.mil*.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions is composed of the regulatory status reports, including procurement-related regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army and Navy. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of Executive Order 12866 and involve water resource projects and regulation of activities in waters of the United States.

DoD issuances range from DoD directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement directives). The OSD agenda section contains the primary directives under which DoD components promulgate their implementing regulations.

In addition, this agenda, although published under the reporting requirements of Executive Order 12866, continues to be the DoD single-source reporting vehicle, which identifies issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;

b. Paperwork Reduction Act of 1995;

c. Unfunded Mandates Reform Act of 1995.

Those DoD issuances, which are directly applicable under these statutes,

will be identified in the agenda and their action status indicated. Generally, the regulatory status reports in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in the regulatory status reports. Although sensitive to the needs of the public, as well as regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

Dated: October 17, 2012.

Michael L. Rhodes,

Director, Administration and Management.

DEFENSE ACQUISITION REGULATIONS COUNCIL—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
252	Safeguarding Unclassified DoD Information (DFARS Case 2011–D039)	0750–AG47

DEFENSE ACQUISITION REGULATIONS COUNCIL—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
253	Government Support Contractor Access to Technical Data (DFARS Case 2009–D031)	0750–AG95
254	Proposal Adequacy Checklist (DFARS Case 2011–D042)	0750–AH47
255	Ownership of Offeror (DFARS Case 2011–D044)	0750–AH58

DEFENSE ACQUISITION REGULATIONS COUNCIL—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
256	Reporting of Government-Furnished Property (DFARS Case 2012–D001)	0750–AG83

OFFICE OF ASSISTANT SECRETARY FOR HEALTH AFFAIRS—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
257	TRICARE; Reimbursement of Sole Community Hospitals **(Reg Plan Seq No. 27)**	0720–AB41

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Proposed Rule Stage

252. Safeguarding Unclassified DOD Information (DFARS Case 2011–D039)

Legal Authority: 41 U.S.C. 1303

Abstract: This rule proposes 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. This rule addresses the safeguarding requirements specified in Executive Order 13556, Controlled Unclassified Information. The purpose of this proposed DFARS rule is 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 certain events that affect DoD information existing in or traveling through contractor unclassified information systems. DoD published an Advance Notice of proposed Rulemaking (ANPRM) 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. The ANPRM addressed basic and enhanced safeguarding procedures for the protection of DoD information. DoD estimates that the rule will apply to approximately 76 percent of the small businesses that will be required to provide protection of DoD information at an enhanced level. DoD invited comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

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	

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

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

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Final Rule Stage

253. Government Support Contractor Access to Technical Data (DFARS Case 2009–D031)

Legal Authority: Pub. L. 111–84; 41 U.S.C. 1303

Abstract: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 821 of the National Defense Authorization Act for Fiscal Year 2010. Section 821 authorizes certain types of Government support contractors to have access to proprietary technical data belonging to prime contractors and other third parties, provided that the owner of the technical data may require the support contractor to sign a non-disclosure agreement. These nondisclosure agreements, having certain restrictions and legal or equitable remedies, protect the owner of the technical data against disclosure of confidential information. Additionally, this rule implements a third statutory exception to the prohibition on release of privately developed data outside the Government. This new statutory exception allows a "covered Government support contractor" access to, and use of, any technical data delivered under a contract for the sole purpose of furnishing independent and impartial advice or technical assistance directly to the Government in support of the Government's management and oversight of the program or effort to which such technical data relates.

The rule also provides a definition of "covered Government support contractor" as contractor under a contract, whose primary purpose is to furnish independent and impartial advice or technical assistance directly to the Government in support of the Government's management and oversight of a program or effort. A "covered Government support contractor" must meet certain criteria identified in the rule and provide certain assurances to the Government to protect the proprietary and nonpublic nature of the technical data furnished to the covered Government support contractor, to include signing a non-disclosure agreement.

The rule affects small businesses that are Government support contractors that need access to proprietary technical data belonging to prime contractors and other third parties. The impact of this rule on small business is not expected to be significant because the non-disclosure agreement is not likely to have a significant cost or administrative impact.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/02/11	76 FR 11363
Interim Final Rule Effective Date.	03/02/11	
Interim Final Rule Comment Period End.	05/02/11	
Final Action	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

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–AG95

254. Proposal Adequacy Checklist (DFARS Case 2011–D042)

Legal Authority: 41 U.S.C. 1303.

Abstract: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add a checklist for DoD contractors to complete under solicitations that require submission of certified cost or pricing data and the Contracting Officer chooses to use the associated provision. This rule supports one of DoD's Better Buying Power initiatives. The purpose of the Proposal Adequacy Checklist and associated solicitation provision is to ensure offerors submit thorough, accurate, and complete proposals. This rule is not expected to have a significant economic impact on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	12/02/11	76 FR 75512
NPRM Comment Period End.	01/21/12	
Final Action	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

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–AH47

255. Ownership of Offeror (DFARS Case 2011–D044)

Legal Authority: 41 U.S.C. 1303.

Abstract: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add a solicitation provision to require offerors to identify their highest-level owner, immediate owner, and entity with controlling interest in the offeror. The Commercial And Government Entity (CAGE) code and legal name of that business provide the ability to identify owners of offerors. DoD does not anticipate this rule will have a significant impact on small business.

Timetable:

Action	Date	FR Cite
NPRM	07/24/12	77 FR 43474
NPRM Comment Period End.	09/24/12	
Final Action	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

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–AH58

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Completed Actions

256. Reporting of Government-Furnished Property (DFARS Case 2012–D001)

Legal Authority: 41 U.S.C. 1303

Abstract: DoD amended the Defense Federal Acquisition Regulation Supplement (DFARS)to revise and standardize reporting requirements for Government-furnished property to include items uniquely and non-uniquely identified. The objective of the rule is to improve the accountability and control of DoD assets. The revisions modify and standardize contractor Government property reporting requirements. This rule alters the requirements of the current clause, which requires Defense contractors to report (primarily) Government-

furnished equipment items valued at $5,000 or more, to a new requirement to report all serially managed Government-furnished property regardless of unit acquisition cost. The clause at 252.211–7007, is being renamed as "Reporting of Government-Furnished Property," and is being revised to expand definitions, and provide guidance on reporting of GFP. This clause applies to commercial contracts that have GFP and reporting applicability, and is added to the list of solicitation provisions and contract clauses applicable to the acquisition of commercial items at DFARS 212.301. Additionally, the clause at 252.251–7000 is being revised to require electronic receipts of property obtained from Government supply sources. DoD estimates that approximately one-fourth of all contractors in possession of Government-furnished property are small business. All DoD contractors in possession of Government property will be equally affected by the revision in reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/22/10	75 FR 80426
NPRM Comment Period Extended.	02/18/11	76 FR 9527
Public Meeting	03/18/11	76 FR 11190
NPRM Comment Period End.	04/08/11	
Second NPRM	10/19/11	76 FR 64885
Second NPRM Comment Period End.	12/19/11	
Final Action	08/29/12	77 FR 52254
Final Action Effective.	08/29/12	

Regulatory Flexibility Analysis Required: Yes.

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–AG83

DEPARTMENT OF DEFENSE (DOD)

Office of Assistant Secretary for Health Affairs (DODOASHA)

Final Rule Stage

257. Tricare; Reimbursement of Sole Community Hospitals

Regulatory Plan: This entry is Seq. No. 27 in part II of this issue of the **Federal Register**.

RIN: 0720–AB41

[FR Doc. 2012–31491 Filed 1–7–13; 8:45 am]

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FEDERAL REGISTER

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Part VI

Department of Education

Semiannual Regulatory Agenda

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, Department of Education.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulatory and deregulatory actions. The agenda is issued under the authority of section 4(b) of Executive Order 12866 "Regulatory Planning and Review." The purpose of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about regulatory actions we plan to take.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the agency contact listed for the regulations. Other questions or comments on this agenda should be directed to LaTanya Cannady, Program Specialist or Hilary Malawer, Deputy Assistant General Counsel, Division of Regulatory Services, Office of the General Counsel, Department of Education, Room 6C131, 400 Maryland Avenue SW., Washington, DC 20202–2241; telephone: (202) 401–9676 (LaTanya Cannady) or (202) 401–6148 (Hilary Malawer). Individuals who use a telecommunications device for the deaf (TDD) or a text telephone (TTY) may call the Federal Relay Service (FRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 4(b) of Executive Order 12866, dated September 30, 1993, requires the Department of Education (ED) to publish, at a time and in a manner specified by the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, an agenda of all regulations under development or review. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires ED to publish, in October and April of each year, a regulatory flexibility agenda.

The regulatory flexibility agenda may be combined with any other agenda that satisfies the statutory requirements (5 U.S.C. 605(a)). In compliance with the Executive Order and the Regulatory Flexibility Act, the Secretary publishes this agenda.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation to any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract that includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(6)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at ED from whom a reader can obtain additional information regarding the planned action.

In accordance with ED's Principles for Regulating listed in its regulatory plan (77 FR 7940, published February 13, 2012), ED is committed to regulations that improve the quality of services to its customers. ED will regulate only if absolutely necessary and then in the most flexible, most equitable, least burdensome way possible.

Interested members of the public are invited to comment on any of the items listed in this agenda that they believe are not consistent with the Principles for Regulating. Members of the public are also invited to comment on any uncompleted actions in this agenda that ED plans to review under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610) to determine their economic impact on small entities. ED has determined that none of the uncompleted actions in this agenda require review under section 610.

This publication does not impose any binding obligation on ED with regard to any specific item in the agenda. ED may elect not to pursue any of the regulatory actions listed here, and regulatory action in addition to the items listed is not precluded. Dates of future regulatory actions are subject to revision in subsequent agendas.

Electronic Access to This Document

The entire Unified Agenda is published electronically and is available online at *www.reginfo.gov.*

Philip Rosenfelt,

Deputy General Counsel, delegated the authority to perform the functions and duties of the General Counsel.

OFFICE OF POSTSECONDARY EDUCATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
258	Federal Pell Grant Program	1840–AD11

DEPARTMENT OF EDUCATION (ED)

Office of Postsecondary Education (OPE)

Final Rule Stage

258. Federal Pell Grant Program

Legal Authority: Pub. L. 112–10

Abstract: The final regulations amend part 690 to implement changes to the Higher Education Act of 1965, as amended (HEA). Specifically, the regulations are amended to reflect the changes in the HEA that eliminate student eligibility for two Pell Grants in an award year.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/02/12	77 FR 25893
Interim Final Rule Comment Period End.	06/18/12	
Final Action	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jacquelyn Butler, Office of Postsecondary Education, Department of Education, Room 8053, 1990 K Street NW., Washington, DC 20006–8502, *Phone:* 202 502–7890, *Email: jacquelyn.butler@ed.gov.*

RIN: 1840–AD11

[FR Doc. 2012–31494 Filed 1–7–13; 8:45 am]

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FEDERAL REGISTER

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Part VII

Department of Energy

Semiannual Regulatory Agenda

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Semiannual Regulatory Agenda

AGENCY: Department of Energy.

ACTION: Notice of semiannual regulatory agenda.

SUMMARY: The Department of Energy (DOE) has prepared and is making available its portion of the semiannual Unified Agenda of Federal Regulatory and Deregulatory Actions (Agenda), including its Regulatory Plan (Plan), pursuant to Executive Order 12866, "Regulatory Planning and Review," and the Regulatory Flexibility Act.

SUPPLEMENTARY INFORMATION: The Agenda is a government-wide compilation of upcoming and ongoing regulatory activity, including a brief description of each rulemaking and a timetable for action. The Agenda also includes a list of regulatory actions completed since publication of the last Agenda. The Department of Energy's portion of the Agenda includes regulatory actions called for by the Energy Policy Act of 2005, the Energy Independence and Security Act of 2007, and programmatic needs of DOE offices.

The Internet is the basic means for disseminating the Agenda and providing users the ability to obtain information from the Agenda database. DOE's entire Fall 2012 Agenda can be accessed online by going to: *www.reginfo.gov*. Agenda entries reflect the status of activities as of approximately December 30, 2012.

Publication in the **Federal Register** is mandated by the Regulatory Flexibility Act (5 U.S.C. 602) only for Agenda entries that require either a regulatory flexibility analysis or periodic review under section 610 of that Act. DOE's regulatory flexibility agenda is made up of six rulemakings setting either energy efficiency standards or test procedures for the following products:

Battery chargers and external power supplies (energy efficiency standards)
Commercial Refrigeration Equipment (energy efficiency standards)
Distribution Transformers (energy efficiency standards)
Residential clothes washers (energy efficiency standards)
Residential refrigerators, refrigerator-freezers, and freezers (test procedures)
Walk-in coolers and freezers (energy efficiency standards)

The Plan appears in both the online Agenda and the **Federal Register** and includes the most important of DOE's significant regulatory actions and a Statement of Regulatory and Deregulatory Priorities.

Gregory H. Woods,
General Counsel.

ENERGY EFFICIENCY AND RENEWABLE ENERGY—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
259	Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers **(Reg Plan Seq No. 30)**	1904–AB86
260	Energy Conservation Standards for Commercial Refrigeration Equipment	1904–AC19

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

ENERGY EFFICIENCY AND RENEWABLE ENERGY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
261	Energy Efficiency Standards for Battery Chargers and External Power Supplies **(Reg Plan Seq No. 31)**	1904–AB57
262	Energy Efficiency Standards for Distribution Transformers **(Reg Plan Seq No. 32)**	1904–AC04
263	Test Procedures for Residential Refrigerators, Refrigerator-Freezers, and Freezers	1904–AC76

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

ENERGY EFFICIENCY AND RENEWABLE ENERGY—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
264	Energy Conservation Standards for Residential Clothes Washers	1904–AB90

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Proposed Rule Stage

259. Energy Conservation Standards for Walk-in Coolers and Walk-in Freezers

Regulatory Plan: This entry is Seq. No. 30 in part II of this issue of the **Federal Register**.

RIN: 1904–AB86

260. Energy Conservation Standards for Commercial Refrigeration Equipment

Legal Authority: 42 U.S.C. 6313(c)(5)

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.

Timetable:

Action	Date	FR Cite
Notice: Public Meeting, Framework Document Availability.	05/06/10	75 FR 24824
Comment Period End.	06/07/10	

Action	Date	FR Cite
Notice: Public Meeting, Data Availability.	03/30/11	76 FR 17573
Comment Period End.	05/16/11	
NPRM	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

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

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Final Rule Stage

261. Energy Efficiency Standards for Battery Chargers and External Power Supplies

Regulatory Plan: This entry is Seq. No. 31 in part II of this issue of the **Federal Register**.

RIN: 1904–AB57

262. Energy Efficiency Standards for Distribution Transformers

Regulatory Plan: This entry is Seq. No. 32 in part II of this issue of the **Federal Register**.

RIN: 1904–AC04

263. • Test Procedures for Residential Refrigerators, Refrigerator-Freezers, and Freezers

Legal Authority: 42 U.S.C. 6293(b)(2)

Abstract: DOE is conducting a rulemaking to amend the existing test procedures for residential refrigerators, refrigerator-freezers, and freezers in order to provide a test for measuring ice maker energy use and to address other matters that were raised during the previous test procedure rulemaking for these products.

Timetable:

Action	Date	FR Cite
Final Action	03/00/13	
NPRM	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lucas Adin, Project Manager, EE–2J, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 287–1317, *Email: lucas.adin@ee.doe.gov.*

RIN: 1904–AC76

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Completed Actions

264. Energy Conservation Standards for Residential Clothes Washers

Legal Authority: 42 U.S.C. 6295(g)(9)

Abstract: This rulemaking will implement a provision in the Energy Independence and Security Act of 2007 that amended the Energy Policy and Conservation Act to require the Secretary of Energy to publish by December 31, 2011, a final rule determining whether to amend energy conservation standards for residential clothes washers, with any amended standards applicable to clothes washers manufactured on or after January 1, 2015.

Completed:

Reason	Date	FR Cite
Direct Final Rule	05/31/12	77 FR 32308
NPRM	05/31/12	77 FR 32381
Direct Final Rule Comment Period End.	09/18/12	
Direct Final Rule Effective.	09/28/12	
Final Action	10/01/12	77 FR 59719

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Stephen Witkowski, *Phone:* 202 586–7463, *Email: stephen.witkowski@ee.doe.gov.*

RIN: 1904–AB90

[FR Doc. 2012–31497 Filed 1–7–13; 8:45 am]

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FEDERAL REGISTER

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Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Ch. I

25 CFR Ch. V

42 CFR Chs. I, II, III, IV and V

45 CFR Subtitle A; Subtitle B, Chs. II, III, and XIII

Regulatory Agenda

AGENCY: Office of the Secretary, HHS.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: The Regulatory Flexibility Act of 1980 and Executive Order 12866 require the Department semiannually to issue an inventory of rulemaking actions under development to provide the public a summary of forthcoming regulatory actions. This information will help the public more effectively participate in the Department's regulatory activity, and the Department welcomes comments on any aspect of this agenda.

FOR FURTHER INFORMATION CONTACT: Jennifer M. Cannistra, Executive Secretary, Department of Health and Human Services, Washington, DC 20201.

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (HHS) is the Federal Government's principal agency for protecting the health of all Americans and providing essential human services, especially for those who are least able to help themselves. The mission of HHS is to enhance the health and well-being of Americans by providing for effective health and human services and by fostering sound, sustained advances in the sciences underlying medicine, public health, and social services. This agenda presents the rulemaking activities that the Department expects to undertake in the foreseeable future to advance this mission. The agenda furthers several Departmental goals, including strengthening health care; advancing scientific knowledge and innovation; advancing the health, safety, and well-being of the American people; increasing efficiency, transparency, and accountability of HHS programs; and strengthening the Nation's health and human services infrastructure and workforce.

The purpose of the agenda is to encourage more effective public participation in the regulatory process. HHS is currently furthering this goal by engaging in a Department-wide effort to identify ways to make the rulemaking process more accessible to the general public. This effort is in response to President Obama's January 18, 2011, Executive Order 13563, "Improving Regulation and Regulatory Review," which requires ongoing retrospective review of current agency regulations and encourages Federal agencies to develop balanced regulations through a process that "allows for public participation and an open exchange of ideas." HHS's efforts include continuing to update its main regulatory Web site to highlight useful information for the public, such as HHS rules currently open for public comment, and actively encouraging meaningful public participation in retrospective review and rulemaking through education and outreach.

The rulemaking abstracts included in this paper issue of the **Federal Register** only cover, as required by the Regulatory Flexibility Act of 1980, those prospective HHS rulemakings likely to have a significant economic impact on a substantial number of small entities. The Department's complete Regulatory Agenda is accessible online at *www.reginfo.gov* in an interactive format that offers users enhanced capabilities to obtain information from the agenda's database.

Dated: August 30, 2012.

Jennifer M. Cannistra,

Executive Secretary to the Department.

Substance Abuse and Mental Health Services Administration—Completed Actions

Sequence No.	Title	Regulation Identifier No.
265	Opioid Drugs in Maintenance or Detoxification Treatment of Opiate Addiction **(Completion of a Section 610 Review).**	0930–AA14

Centers for Disease Control and Prevention—Proposed Rule Stage

Sequence No.	Title	Regulation Identifier No.
266	Establishment of Minimum Standards for Birth Certificates	0920–AA46

Food and Drug Administration—Prerule Stage

Sequence No.	Title	Regulation Identifier No.
267	Over-the-Counter (OTC) Drug Review—Sunscreen Products	0910–AF43

Food and Drug Administration—Proposed Rule Stage

Sequence No.	Title	Regulation Identifier No.
268	Food Labeling; Revision of the Nutrition and Supplement Facts Labels	0910–AF22
269	Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed in One Eating Occasion; Dual Column Labeling; and Modifying the Reference Amounts Customarily Consumed.	0910–AF23
270	Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products	0910–AF31
271	Over-the-Counter (OTC) Drug Review—Internal Analgesic Products	0910–AF36
272	Over-the-Counter (OTC) Drug Review—Topical Antimicrobial Drug Products	0910–AF69

FOOD AND DRUG ADMINISTRATION—PROPOSED RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
273	Laser Products; Amendment to Performance Standard	0910–AF87
274	Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals **(Reg Plan Seq No. 33)**.	0910–AG10
275	Over-the-Counter (OTC) Drug Review—Pediatric Dosing for Cough/Cold Products	0910–AG12
276	Electronic Distribution of Prescribing Information for Human Drugs Including Biological Products	0910–AG18
277	Produce Safety Regulation **(Reg Plan Seq No. 34)**	0910–AG35
278	Hazard Analysis and Risk-Based Preventive Controls **(Reg Plan Seq No. 35)**	0910–AG36
279	"Tobacco Products" Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act.	0910–AG38
280	General Hospital and Personal Use Devices: Issuance of Draft Special Controls Guidance for Infusion Pumps.	0910–AG54
281	Requirements for the Testing and Reporting of Tobacco Product Constituents, Ingredients, and Additives	0910–AG59
282	Amendments to the Current Good Manufacturing Practice Regulations for Finished Pharmaceuticals—Components.	0910–AG70
283	Use of Symbols in Labeling	0910–AG74
284	Requirements for the Submission of Data Needed to Calculate User Fees for Manufacturers and Importers of Tobacco Products.	0910–AG81
285	Food Labeling: Hard Candies and Breath Mints	0910–AG82
286	Food Labeling: Serving Sizes; Reference Amounts for Candies	0910–AG83

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

FOOD AND DRUG ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
287	Infant Formula: Current Good Manufacturing Practices; Quality Control Procedures; Notification Requirements; Records and Reports; and Quality Factors.	0910–AF27
288	Over-the-Counter (OTC) Drug Review—Cough/Cold (Combination) Products	0910–AF33
289	Unique Device Identification **(Reg Plan Seq No. 39)**	0910–AG31
290	Food Labeling: Nutrition Labeling for Food Sold in Vending Machines **(Reg Plan Seq No. 40)**	0910–AG56
291	Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments **(Reg Plan Seq No. 41)**.	0910–AG57

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

FOOD AND DRUG ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
292	Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures **(Section 610 Review)**.	0910–AG14

FOOD AND DRUG ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
293	Electronic Submission of Data From Studies Evaluating Human Drugs and Biologics	0910–AC52

CENTERS FOR MEDICARE & MEDICAID SERVICES—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
294	Emergency Preparedness Requirements for Medicare Participating Providers and Suppliers (CMS–3178–P) **(Section 610 Review)**.	0938–AO91
295	Changes to the Hospital Inpatient and Long-Term Care Prospective Payment System for FY 2014 (CMS–1599–P) **(Reg Plan Seq No. 45)**.	0938–AR53
296	Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2014 (CMS–1601–P) **(Reg Plan Seq No. 46)**.	0938–AR54
297	Revisions to Payment Policies Under the Physician Fee Schedule and Medicare Part B for CY 2014 (CMS–1600–P) **(Reg Plan Seq No. 47)**.	0938–AR56
298	Prospective Payment System for Federally Qualified Health Centers (FQHCs) (CMS–1443–P) **(Section 610 Review) (Reg Plan Seq No. 48)**.	0938–AR62

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

CENTERS FOR MEDICARE & MEDICAID SERVICES—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
299	Covered Outpatient Drugs (CMS–2345–F) **(Section 610 Review)**	0938–AQ41

CENTERS FOR MEDICARE & MEDICAID SERVICES—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
300	Transparency Reports and Reporting of Physician Ownership of Investment Interests (CMS–5060–F)	0938–AR33

CENTERS FOR MEDICARE & MEDICAID SERVICES—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
301	Administrative Simplification: Standard Unique Identifier for Health Plans and ICD–10 Compliance Date Delay (CMS–0040–F) **(Completion of a Section 610 Review)**.	0938–AQ13
302	Medicare and Medicaid Electronic Health Record Incentive Program—Stage 2 (CMS–0044–F)	0938–AQ84
303	Proposed Changes to Hospital OPPS and CY 2013 Payment Rates; ASC Payment System and CY 2013 Payment Rates (CMS–1589–FC) **(Completion of a Section 610 Review)**.	0938–AR10
304	Revisions to Payment Policies Under the Physician Fee Schedule and Part B for CY 2013 (CMS–1590–FC) **(Completion of a Section 610 Review)**.	0938–AR11
305	Changes to the Hospital Inpatient and Long-Term Care Prospective Payment Systems for FY 2013 (CMS–1588–F) **(Completion of a Section 610 Review)**.	0938–AR12
306	Home Health Prospective Payment System Rate for CY 2013 (CMS–1358–F) **(Completion of a Section 610 Review)**.	0938–AR18

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Substance Abuse and Mental Health Services Administration (SAMHSA)

Completed Actions

265. Opioid Drugs in Maintenance or Detoxification Treatment of Opiate Addiction (Completion of a Section 610 Review)

Legal Authority: 21 U.S.C. 823 (9); 42 U.S.C. 257a; 42 U.S.C. 290aa(d); 42 U.S.C. 290dd–2; 42 U.S.C. 300x–23; 42 U.S.C. 300x–27(a); 42 U.S.C. 300y–11

Abstract: This rule would amend the Federal opioid treatment program regulations. It would modify the dispensing requirements for buprenorphine and buprenorphine combination products that are approved by the Food and Drug Administration (FDA) for opioid dependence and used in federally certified and registered opioid treatment programs. In particular, this rule would allow opioid treatment programs more flexibility in dispensing take-home supplies of buprenorphine after the assessment and documentation of patients' responsibility and stability to receive opioid addiction treatment medication.

Timetable:

Action	Date	FR Cite
NPRM	06/19/09	74 FR 29153
NPRM Comment Period End.	08/18/09	
Final Action	12/06/12	77 FR 72752

Regulatory Flexibility Analysis Required: No.

Agency Contact: Nicholas Reuter, Supervising Public Health Advisor, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Suite 2–1063, One Choke Cherry Road, Rockville, MD 20857 *Phone:* 240 276–2716, *Email:* *nicholas.reuter@samhsa.hhs.gov.*

RIN: 0930–AA14

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Disease Control and Prevention (CDC)

Proposed Rule Stage

266. Establishment of Minimum Standards for Birth Certificates

Legal Authority: 42 U.S.C. 264

Abstract: This proposed rule establishes minimum standards to improve security related to the use of birth certificates by Federal agencies for official purposes.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Rothwell, Director, Division of Vital Statistics, Department of Health and Human Services, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 7311, M, Hyattsville, MD 20782, *Phone:* 301 458–4555.

RIN: 0920–AA46

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Food and Drug Administration (FDA)

Prerule Stage

267. Over-the-Counter (OTC) Drug Review—Sunscreen Products

Legal Authority: 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The first of the future actions

will address the safety of sunscreen active ingredients. The second of the future actions will address active ingredients reviewed under time and extent applications.

Timetable:

Action	Date	FR Cite
ANPRM (Sunscreen and Insect Repellent).	02/22/07	72 FR 7941
ANPRM Comment Period End.	05/23/07	
NPRM (UVA/UVB).	08/27/07	72 FR 49070
NPRM Comment Period End.	12/26/07	
Final Action (UVA/UVB).	06/17/11	76 FR 35620
NPRM (Effectiveness).	06/17/11	76 FR 35672
NPRM (Effectiveness) Comment Period End.	09/15/11	
ANPRM (Dosage Forms).	06/17/11	76 FR 35669
ANPRM (Dosage Forms) Comment Period End.	09/15/11	
ANPRM (Safety)	07/00/13	
NPRM (Time and Extent Applications).	09/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David Eng, Regulatory Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5487, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–2773, *Fax:* 301 796–9899, *Email: david.eng@fda.hhs.gov.*

RIN: 0910–AF43

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Food and Drug Administration (FDA)

Proposed Rule Stage

268. Food Labeling; Revision of the Nutrition and Supplement Facts Labels

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371

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.

Timetable:

Action	Date	FR Cite
ANPRM	07/11/03	68 FR 41507
ANPRM Comment Period End.	10/09/03	
ANPRM	04/04/05	70 FR 17008
ANPRM Comment Period End.	06/20/05	
ANPRM	11/02/07	72 FR 62149
ANPRM Comment Period End.	01/31/08	
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

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

269. Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed in One Eating Occasion; Dual Column Labeling; and Modifying the Reference Amounts Customarily Consumed

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371

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 and providing for dual-column labeling, which would provide nutrition information per serving and per container, for certain containers.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/05	70 FR 17010
ANPRM Comment Period End.	06/20/05	
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

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

270. Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products

Legal Authority: 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371

Abstract: FDA will be proposing a rule to add the common cold indication to certain over-the-counter (OTC) antihistamine active ingredients. This proposed rule is the result of collaboration under the U.S.-Canada Regulatory Cooperation Council (RCC). The objectives of the RCC monograph alignment working group are to conduct a pilot program to develop aligned monograph elements for a selected over-the-counter (OTC) drug category (e.g., aligned directions, warnings, indications, and conditions of use) and subsequently, develop recommendations to determine the feasibility of an ongoing mechanism for alignment in review and adoption of these OTC drug monograph elements.

Timetable:

Action	Date	FR Cite
Reopening of Administrative Record.	08/25/00	65 FR 51780
Comment Period End.	11/24/00	
NPRM (Amendment) (Common Cold).	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mary Chung, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5488, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–0260, *Fax:* 301 796–9899, *Email: mary.chung@fda.hhs.gov.*

RIN: 0910–AF31

271. Over-the-Counter (OTC) Drug Review—Internal Analgesic Products

Legal Authority: 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 379e

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The first action addresses

acetaminophen safety. The second action addresses products marketed for children under 2 years old and weight- and age-based dosing for children's products.

Timetable:

Action	Date	FR Cite
NPRM (Amendment) (Required Warnings and Other Labeling).	12/26/06	71 FR 77314
NPRM Comment Period End.	05/25/07	
Final Action (Required Warnings and Other Labeling).	04/29/09	74 FR 19385
Final Action (Correction).	06/30/09	74 FR 31177
Final Action (Technical Amendment).	11/25/09	74 FR 61512
NPRM (Amendment) (Acetaminophen).	08/00/13	
NPRM (Amendment) (Pediatric).	12/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mary Chung, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5488, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–0260, *Fax:* 301 796–9899, *Email: mary.chung@fda.hhs.gov.*

RIN: 0910–AF36

272. Over-the-Counter (OTC) Drug Review—Topical Antimicrobial Drug Products

Legal Authority: 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The first action addresses consumer hand wash products. The second action addresses consumer leave-on antiseptic products.

Timetable:

Action	Date	FR Cite
NPRM (Healthcare).	06/17/94	59 FR 31402
Comment Period End.	12/15/95	
NPRM (Consumer Hand Wash Products).	02/00/13	
NPRM (Consumer Leave-on Products).	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David Eng, Regulatory Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5487, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–2773, *Fax:* 301 796–9899, *Email: david.eng@fda.hhs.gov.*

RIN: 0910–AF69

273. Laser Products: Amendment to Performance Standard

Legal Authority: 21 U.S.C. 360hh to 360ss; 21 U.S.C. 371; 21 U.S.C. 393

Abstract: FDA is proposing to amend the performance standard for laser products to achieve closer harmonization between the current standard and the International Electrotechnical Commission (IEC) standard for laser products and medical laser products. The proposed amendment is intended to update FDA's performance standard to reflect advancements in technology.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nancy Pirt, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, WO 66, Room 4438, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–6248, *Fax:* 301 847–8145, *Email: nancy.pirt@fda.hhs.gov.*

RIN: 0910–AF87

274. Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals

Regulatory Plan: This entry is Seq. No. 33 in part II of this issue of the **Federal Register**.

RIN: 0910–AG10

275. Over-the-Counter (OTC) Drug Review—Pediatric Dosing for Cough/Cold Products

Legal Authority: 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action will propose changes to the final monograph to address safety and efficacy issues associated with pediatric cough and cold products.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mary Chung, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5488, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–0260, *Fax:* 301 796–9899, *Email: mary.chung@fda.hhs.gov.*

RIN: 0910–AG12

276. Electronic Distribution of Prescribing Information for Human Drugs Including Biological Products

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351; 21 U.S.C. 352; 21 U.S.C. 353; 21 U.S.C. 355; 21 U.S.C. 358; 21 U.S.C. 360; 21 U.S.C. 360b; 21 U.S.C. 360gg to 360ss; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 379e; 42 U.S.C. 216; 42 U.S.C. 241; 42 U.S.C. 262; 42 U.S.C. 264

Abstract: This rule would require electronic package inserts for human drug and biological prescription products with limited exceptions, in lieu of paper, which is currently used. These inserts contain prescribing information intended for healthcare practitioners. This would ensure that the information accompanying the product is the most up-to-date information regarding important safety and efficacy issues about these products.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Megan Clark-Velez, Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy, WO 32, Room 4249, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–9301, *Email: megan.clark@fda.hhs.gov.*

RIN: 0910–AG18

277. Produce Safety Regulation

Regulatory Plan: This entry is Seq. No. 34 in part II of this issue of the **Federal Register**.

RIN: 0910–AG35

278. Hazard Analysis and Risk-Based Preventive Controls

Regulatory Plan: This entry is Seq. No. 35 in part II of this issue of the **Federal Register**.

RIN: 0910–AG36

279. "Tobacco Products" Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act

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

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.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

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

280. General Hospital and Personal Use Devices: Issuance of Draft Special Controls Guidance for Infusion Pumps

Legal Authority: 21 U.S.C. 351; 21 U.S.C. 360; 21 U.S.C. 360c; 21 U.S.C. 360e; 21 U.S.C. 360j; 21 U.S.C. 371

Abstract: FDA is proposing to amend the classification of infusion pumps from class II (performance standards) to class II (special controls). FDA is taking this action to provide reasonable assurance of the safety and effectiveness of these devices.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nancy Pirt, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, WO 66, Room 4438, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–6248, *Fax:* 301 847–8145, *Email: nancy.pirt@fda.hhs.gov.*

RIN: 0910–AG54

281. Requirements for the Testing and Reporting of Tobacco Product Constituents, Ingredients, and Additives

Legal Authority: 21 U.S.C. 301 *et seq.*, 21 U.S.C. 387, The Family Smoking Prevention and Tobacco Control Act

Abstract: The Federal Food, Drug, and Cosmetic Act, as amended by the Family Smoking Prevention and Tobacco Control Act, requires the Food and Drug Administration to promulgate regulations that require the testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, that the agency determines should be tested to protect the public health.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	
NPRM Comment Period End.	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Carol Drew, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, 9200 Corporate Boulevard, Room 240 H, Rockville, MD 20850, *Phone:* 877 287–1373, *Fax:* 240 276–3904, *Email: carol.drew@fda.hhs.gov.*

RIN: 0910–AG59

282. Amendments to the Current Good Manufacturing Practice Regulations for Finished Pharmaceuticals—Components

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 351; 21 U.S.C. 352; 21 U.S.C. 355; 21 U.S.C. 360b; 21 U.S.C. 371; 21 U.S.C. 374; 42 U.S.C. 262; 42 U.S.C. 264

Abstract: This rule proposes to amend regulations regarding the control over components used in manufacturing finished pharmaceuticals.

Timetable:

Action	Date	FR Cite
NPRM	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brian Hasselbalch, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 51, Room 4364, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–3279, *Email: brian.hasselbalch@fda.hhs.gov.*

Paula Katz, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 51, Room 1320, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–6972, *Email: paula.katz@fda.hhs.gov.*

RIN: 0910–AG70

283. Use of Symbols in Labeling

Legal Authority: Sec 502(c) of the Food Drug and Cosmetic Act (FD&C Act), 21 U.S.C. 352(c); sec 514(c) of FD&C Act, 21 U.S.C. 360d(c), enacted by the Food and Drug Modernization Act of 1997 (FDAMA)

Abstract: The purpose of this proposed rule is to implement section 502(c) of the FD&C Act and to revise 21 CFR 801.15 (prominence of required label statements) using the authority under section 514(c) of the FD&C Act to allow for the inclusion of certain standardized symbols recognized by FDA for use on the labeling of medical devices. If this proposed rule is finalized, certain symbols in compliance with International Standards Organization (ISO) Standard 15223 may be used in medical device labeling with explanatory text or symbols glossary with accompanying labeling, as may other standardized symbols in the future when adopted by a national or international standards development organization and if recognized by FDA guidance or other regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mary Follette Story, Human Factors and Accessible Medical Technology Specialist, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, Room 2553, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–1456, *Email: molly.story@fda.hhs.gov.*

RIN: 0910–AG74

284. Requirements for the Submission of Data Needed To Calculate User Fees for Manufacturers and Importers of Tobacco Products

Legal Authority: 21 U.S.C. 371; 21 U.S.C. 387s; PL111–31

Abstract: FDA is proposing to require manufacturers and importers of tobacco products to submit certain market share data to FDA. USDA currently collects such data, but its program sunsets at the end of September 2014 and USDA will cease collection of this information. . FDA is taking this action so that it may continue to calculate market share percentages needed to compute user fees.

Timetable:

Action	Date	FR Cite
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Annette L. Marthaler, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, 9200 Corporate Boulevard, Room 340K, Rockville, MD 20850, *Phone:* 877 287–1373, *Fax:* 240 276–3904, *Email: annette.marthaler@fda.hhs.gov.*

RIN: 0910–AG81

285. Food Labeling: Hard Candies and Breath Mints

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371

Abstract: FDA is proposing to change the nutrition label serving size for breath mints to one mint. FDA is taking this action in response to comments received on an advance notice of proposed rulemaking published in 2005.

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 67775
NPRM Comment Period End.	03/16/98	
ANPRM	04/05/05	70 FR 17010
ANPRM Comment Period End.	06/20/05	
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mark Kantor, Nutritionist, Department of Health and Human Services, Food and Drug Administration, 5100 Paint Branch Parkway, HFS–830, College Park, MD 20740, *Phone:* 240 402–1450, *Fax:* 301 436–1191, *Email: mark.kantor@fda.hhs.gov.*

RIN: 0910–AG82

286. Food Labeling: Serving Sizes; Reference Amounts for Candies

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371

Abstract: FDA is proposing to change its serving size regulations to provide updated Reference Amounts Customarily Consumed for candies. FDA is taking this action in response to comments received on an advance notice of proposed rulemaking published in 2005.

Timetable:

Action	Date	FR Cite
NPRM	01/08/98	63 FR 1078
NPRM Comment Period End.	02/09/98	
ANPRM	04/05/05	70 FR 17010
ANPRM Comment Period End.	06/20/05	
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mark Kantor, Nutritionist, Department of Health and Human Services, Food and Drug Administration, 5100 Paint Branch Parkway, HFS–830, College Park, MD 20740, *Phone:* 240 402–1450, *Fax:* 301 436–1191, *Email: mark.kantor@fda.hhs.gov.*

RIN: 0910–AG83

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Food and Drug Administration (FDA)

Final Rule Stage

287. Infant Formula: Current Good Manufacturing Practices; Quality Control Procedures; Notification Requirements; Records and Reports; and Quality Factors

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 342; 21 U.S.C. 350a; 21 U.S.C. 371

Abstract: The Food and Drug Administration (FDA) is revising its infant formula regulations in 21 CFR parts 106 and 107 to establish requirements for current good manufacturing practices (CGMP), including audits; to establish requirements for quality factors; and to amend FDA's quality control procedures, notification, and record and reporting requirements for infant formula. FDA is taking this action to improve the protection of infants who consume infant formula products.

Timetable:

Action	Date	FR Cite
NPRM	07/09/96	61 FR 36154
NPRM Comment Period End.	12/06/96	
NPRM Comment Period Re-opened.	04/28/03	68 FR 22341
NPRM Comment Period Extended.	06/27/03	68 FR 38247
NPRM Comment Period End.	08/26/03	
NPRM Comment Period Re-opened.	08/01/06	71 FR 43392
NPRM Comment Period End.	09/15/06	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Benson Silverman, Staff Director, Infant Formula and Medical Foods, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS–850), 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–1459, *Email: benson.silverman@fda.hhs.gov.*

RIN: 0910–AF27

288. Over-the-Counter (OTC) Drug Review—Cough/Cold (Combination) Products

Legal Authority: 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355, 21 U.S.C. 360; 21 U.S.C. 371

Abstract: The OTC drug review establishes conditions under which

OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action addresses cough/cold drug products containing an oral bronchodilator (ephedrine and its salts) in combination with any expectorant or any oral nasal decongestant.

Timetable:

Action	Date	FR Cite
NPRM (Amendment).	07/13/05	70 FR 40232
NPRM Comment Period End.	11/10/05	
Final Action (Technical Amendment).	03/19/07	72 FR 12730
Final Action	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mary Chung, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5488, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–0260, *Fax:* 301 796–9899, *Email: mary.chung@fda.hhs.gov.*

RIN: 0910–AF33

289. Unique Device Identification

Regulatory Plan: This entry is Seq. No. 39 in part II of this issue of the **Federal Register**.

RIN: 0910–AG31

290. Food Labeling: Nutrition Labeling for Food Sold in Vending Machines

Regulatory Plan: This entry is Seq. No. 40 in part II of this issue of the **Federal Register**.

RIN: 0910–AG56

291. Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments

Regulatory Plan: This entry is Seq. No. 41 in part II of this issue of the **Federal Register**.

RIN: 0910–AG57

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Food and Drug Administration (FDA)

Long-Term Actions

292. Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures (Section 610 Review)

Legal Authority: 21 U.S.C. 331; 21 U.S.C. 333; 21 U.S.C. 351 to 353; 21 U.S.C. 360; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 381

Abstract: FDA is currently reviewing regulations promulgated under the Prescription Drug Marketing Act (PDMA). FDA is undertaking this review to determine whether the regulations should be changed or rescinded to minimize adverse impacts on a substantial number of small entities. FDA has extended again the completion date by 1 year and will complete the review by December 2013.

Timetable:

Action	Date	FR Cite
Begin Review of Current Regulation.	11/24/08	
End Review of Current Regulation.	12/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Howard Muller, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 51, Room 6234, 10903 New Hampshire Avenue, Silver Spring, MD 20993–0002, *Phone:* 301 796–3601, *Fax:* 301 847–8440, *Email: pdma610(c)review@fda.hhs.gov.*

RIN: 0910–AG14

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Food and Drug Administration (FDA)

Completed Actions

293. Electronic Submission of Data From Studies Evaluating Human Drugs and Biologics

Legal Authority: 21 U.S.C. 355; 21 U.S.C. 371; 42 U.S.C. 262

Abstract: The Food and Drug Administration is proposing to amend the regulations governing the format in which clinical study data and bioequivalence data are required to be submitted for new drug applications (NDAs), biological license applications (BLAs), and abbreviated new drug applications (ANDAs). The proposal would revise our regulations to require that data submitted for NDAs, BLAs, and ANDAs, and their supplements and amendments, be provided in an electronic format that FDA can process, review, and archive.

Timetable:

Action	Date	FR Cite
Withdrawn	08/01/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Martha Nguyen, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 51, Room 6352, 10903 New Hampshire Avenue, Silver Spring, MD 20993–0002, *Phone:* 301 796–3471, *Fax:* 301 847–8440, *Email: martha.nguyen@fda.hhs.gov.*

RIN: 0910–AC52

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Medicare & Medicaid Services (CMS)

Proposed Rule Stage

294. Emergency Preparedness Requirements for Medicare Participating Providers and Suppliers (CMS–3178–P) (Section 610 Review)

Legal Authority: 42 U.S.C. 1821; 42 U.S.C. 1861(ff)(3)(B)(i)(ii); 42 U.S.C. 1913(c)(1) *et al.*

Abstract: This rule proposes emergency preparedness requirements for Medicare and Medicaid participating providers and suppliers to ensure that they adequately plan for both natural and man-made disasters and coordinate with Federal, state, tribal, regional and local emergency preparedness systems. This rule will ensure providers and suppliers are adequately prepared to meet the needs of patients, residents, clients, and participants during disasters and emergency situations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Janice Graham, Health Insurance Specialist, Clincal Standards Group, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Office of

Clincial Standards and Quality, Mail Stop S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244–1850, *Phone:* 410 786–8020, *Email: janice.grahan@cms.hhs.gov.*

RIN: 0938–AO91

295. • Changes to the Hospital Inpatient and Long-Term Care Prospective Payment System for FY 2014 (CMS–1599–P)

Regulatory Plan: This entry is Seq. No. 45 in part II of this issue of the **Federal Register.**

RIN: 0938–AR53

296. • Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2014 (CMS–1601–P)

Regulatory Plan: This entry is Seq. No. 46 in part II of this issue of the **Federal Register.**

RIN: 0938–AR54

297. • Revisions to Payment Policies Under the Physician Fee Schedule and Medicare Part B for CY 2014 (CMS–1600–P)

Regulatory Plan: This entry is Seq. No. 47 in part II of this issue of the **Federal Register.**

RIN: 0938–AR56

298. • Prospective Payment System for Federally Qualified Health Centers (FQHCS) (CMS–1443–P) (Section 610 Review)

Regulatory Plan: This entry is Seq. No. 48 in part II of this issue of the **Federal Register.**

RIN: 0938–AR62

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Medicare & Medicaid Services (CMS)

Final Rule Stage

299. Covered Outpatient Drugs (CMS–2345–F) (Section 610 Review)

Legal Authority: Pub. L. 111– 48, secs 2501, 2503, 3301(d)(2); Pub. L. 111–152, sec 1206; Pub. L. 111–8, sec 221

Abstract: This final rule revises requirements pertaining to Medicaid reimbursement for covered outpatient drugs to implement provisions of the Affordable Care Act. This rule also revises other requirements related to covered outpatient drugs, including key aspects of Medicaid coverage, payment, and the drug rebate program.

Timetable:

Action	Date	FR Cite
NPRM	02/02/12	77 FR 5318
NPRM Comment Period End.	04/02/12	
Final Action	08/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Wendy Tuttle, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicaid and State Operations, Mail Stop S2–14–26, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–8690, *Email: wendy.tuttle@cms.hhs.gov.*

RIN: 0938–AQ41

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Medicare & Medicaid Services (CMS)

Long-Term Actions

300. Transparency Reports and Reporting of Physician Ownership of Investment Interests (CMS–5060–F)

Legal Authority: Pub. L. 111–148, sec 6002

Abstract: This final rule requires applicable manufacturers of drugs, devices, biologicals, or medical supplies covered by Medicare, Medicaid, or CHIP to annually report to the Secretary certain payments or transfers of value provided to physicians or teaching hospitals (covered recipients). In addition, applicable manufacturers and applicable group purchasing organizations (GPOs) are required to annually report certain physician ownership or investment interests.

Timetable:

Action	Date	FR Cite
NPRM	12/19/11	76 FR 78742
NPRM Comment Period End.	02/17/12	
Final Action	12/00/14	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Niall Brennan, Director, Policy and Data Analysis Group, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 202 690–6627, *Email: niall.brennan@cms.hhs.gov.*

RIN: 0938–AR33

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Medicare & Medicaid Services (CMS)

Completed Actions

301. Administrative Simplification: Standard Unique Identifier for Health Plans and ICD–10 Compliance Date Delay (CMS–0040–F) (Completion of a Section 610 Review)

Legal Authority: Pub. L. 111–148, sec 1104

Abstract: This rule implements provisions of the Affordable Care Act of 2010 under Administrative Simplification that establish a unique health plan identifier. This health plan identifier will be used to identify health plans in HIPAA standard transactions. The rule also finalizes a delay to comply with ICD–10.

Timetable:

Action	Date	FR Cite
NPRM	04/17/12	77 FR 22950
NPRM Comment Period End.	05/17/12	
Final Action	09/05/12	77 FR 54664

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Christine Stahlecker, Acting Director, Administrative Simplification Group, Office of E-Health Standards and Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop S2–26–17, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–6405, *Email: christine.stahlecker@cms.hhs.gov.*

RIN: 0938–AQ13

302. Medicare and Medicaid Electronic Health Record Incentive Program—Stage 2 (CMS–0044–F)

Legal Authority: Pub. L. 111–5 secs 4101, 4102, and 4202

Abstract: The final rule expands the criteria for meaningful use established for Stage 1 to advance the use of certified EHR technology by eligible professionals, eligible hospitals and critical access hospitals (CAHs). This rule is economically significant. The rule establishes the requirements for Stage 2, which encourages the use of continuous quality improvement at the point of care, and the exchange of information in the most structured format possible. For example, the electronic transmission of orders entered using computerized provider order entry, and the electronic transmission of diagnostic test results.

Timetable:

Action	Date	FR Cite
NPRM	03/07/12	77 FR 13698
NPRM Comment Period End.	05/07/12	
Final Action	09/04/12	77 FR 53967

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Elizabeth Holland, Director, Health Initiatives Group/Office of E-Health Standards and Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop S2–26–17, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–1309, *Email: elizabeth.holland@cms.hhs.gov.*

RIN: 0938–AQ84

303. Proposed Changes to Hospital OPPS and CY 2013 Payment Rates; ASC Payment System and CY 2013 Payment Rates (CMS–1589–FC) (Completion of a Section 610 Review)

Legal Authority: Sec 1833 of the Social Security Act

Abstract: This final rule revises the Medicare hospital outpatient prospective payment system to implement applicable statutory requirements and changes arising from our continuing experience with this system. The rule also describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule implements changes to the Ambulatory Surgical Center Payment System list of services and rates.

Timetable:

Action	Date	FR Cite
NPRM	07/30/12	77 FR 45061
NPRM Comment Period End.	09/04/12	
Final Action	11/15/12	77 FR 68210

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marjorie Baldo, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare Management, 7500 Security Boulevard, C4–03–06, Baltimore, MD 21244, *Phone:* 410 786–4617, *Email: marjorie.baldo@cms.hhs.gov.*

RIN: 0938–AR10

304. Revisions to Payment Policies Under the Physician Fee Schedule and Part B for CY 2013 (CMS–1590–FC) (Completion of a Section 610 Review)

Legal Authority: Social Security Act, secs 1102, 1871, 1848

Abstract: This annual final rule revises payment polices under the physician fee schedule, as well as other policy changes to payment under Part B. These changes are applicable to services furnished on or after January 1.

Timetable:

Action	Date	FR Cite
NPRM	07/30/12	77 FR 44721
NPRM Comment Period End.	09/04/12	
Final Action	11/16/12	77 FR 68892

Regulatory Flexihility Analysis Required: Yes.

Agency Contact: Christina Ritter, Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C4–03–06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–4636, *Email: christina.ritter@cms.hhs.gov.*

RIN: 0938–AR11

305. Changes to the Hospital Inpatient and Long-Term Care Prospective Payment Systems for FY 2013 (CMS–1588–F) (Completion of a Section 610 Review)

Legal Authority: Sec 1886(d) of the Social Security Act, Pub. L. 111–148, secs 3025, 5506, 3005

Abstract: This annual final rule revises the Medicare hospital inpatient and long-term care hospital prospective payment systems for operating and capital-related costs. This rule implements changes arising from our continuing experience with these systems.

Timetable:

Action	Date	FR Cite
NPRM	05/11/12	77 FR 27870
NPRM Comment Period End.	06/25/12	
Final Action	08/31/12	77 FR 53257

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brian Slater, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C4–07–07, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–5229, *Email: brian.slater@cms.hhs.gov.*

RIN: 0938–AR12

306. Home Health Prospective Payment System Rate for CY 2013 (CMS–1358–F) (Completion of a Section 610 Review)

Legal Authority: Social Security Act, secs 1102 and 1871; 42 U.S.C. 1302 and 42 U.S.C. 1395(hh); Social Security Act, sec 1895; 42 U.S.C. 1395(fff)

Abstract: This final rule updates the 60-day national episode rate based on the applicable home health market basket update and case-mix adjustment. It also updates the national per-visit rates used to calculate low utilization payment adjustments (LUPAs) and outlier payments under the Medicare prospective payment system for home health agencies. These changes are applicable to services furnished on or after January 1.

Timetable:

Action	Date	FR Cite
NPRM	07/13/12	77 FR 41547
NPRM Comment Period End.	09/04/12	
Final Action	11/08/12	77 FR 67068

Regulatory Flexibility Analysis Required: No.

Agency Contact: Hillary Loeffler, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mailstop C5–08–28, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–0456, *Email: hillary.loeffler@cms.hhs.gov.*

RIN: 0938–AR18

[FR Doc. 2012–31671 Filed 1–7–13; 8:45 am]

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Part IX

Department of Homeland Security

Semiannual Regulatory Agenda

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Chs. I and II

[DHS Docket No. OGC–RP–04–001]

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, DHS.

ACTION: Semiannual regulatory agenda.

SUMMARY: This regulatory agenda is a semiannual summary of all current and projected rulemakings, existing regulations, and completed actions of the Department of Homeland Security (DHS) and its components. This agenda provides the public with information about DHS's regulatory activity. DHS expects that this information will enable the public to be more aware of, and effectively participate in, the Department's regulatory activity. DHS invites the public to submit comments on any aspect of this agenda.

FOR FURTHER INFORMATION CONTACT:

General

Please direct general comments and inquiries on the agenda to the Regulatory Affairs Law Division, U.S. Department of Homeland Security, Office of the General Counsel, 245 Murray Lane, Mail Stop 0485, Washington, DC 20528–0485.

Specific

Please direct specific comments and inquiries on individual regulatory actions identified in this agenda to the individual listed in the summary of the regulation as the point of contact for that regulation.

SUPPLEMENTARY INFORMATION: DHS provides this notice pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, Sep. 19, 1980) and Executive Order 12866 "Regulatory Planning and Review" (Sep. 30, 1993) as incorporated in Executive Order 13563 "Improving Regulation & Regulatory Review" (Jan. 18, 2011), which require the Department to publish a semiannual agenda of regulations. The regulatory agenda is a summary of all current and projected rulemakings, as well as actions completed since the publication of the last regulatory agenda for the Department. DHS's last semiannual regulatory agenda was published on February 13, 2012, at 77 FR 7960.

Beginning in fall 2007, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at *www.reginfo.gov*.

As part of the Unified Agenda, Federal agencies are also required to prepare a Regulatory Plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year. As in past years, for fall editions of the Unified Agenda, the entire Regulatory Plan and agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act, are printed in the **Federal Register**.

The Regulatory Flexibility Act (5 U.S.C. 602) requires Federal agencies to publish their regulatory flexibility agenda in the **Federal Register**. A regulatory flexibility agenda shall contain, among other things, "a brief description of the subject area of any rule which is likely to have a significant economic impact on a substantial number of small entities." DHS's printed agenda entries include regulatory actions that are in the Department's regulatory flexibility agenda. Printing of these entries is limited to fields that contain information required by the agenda provisions of the Regulatory Flexibility Act. Additional information on these entries is available in the Unified Agenda published on the Internet.

The semiannual agenda of the Department conforms to the Unified Agenda format developed by the Regulatory Information Service Center.

Dated: October 19, 2012.

Christina E. McDonald,

Associate General Counsel for Regulatory Affairs.

OFFICE OF THE SECRETARY—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
307	Ammonium Nitrate Security Program	1601–AA52
308	Homeland Security Acquisition Regulation, Subcontractor Labor Hour Rates Under Time and Materials Contracts.	1601–AA65

U.S. CITIZENSHIP AND IMMIGRATION SERVICES—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
309	Administrative Appeals Office: Procedural Reforms To Improve Efficiency	1615–AB98

U.S. CITIZENSHIP AND IMMIGRATION SERVICES—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
310	Registration Requirement for Petitioners Seeking To File H–1B Petitions on Behalf of Aliens Subject to Numerical Limitations.	1615–AB71

U.S. COAST GUARD—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
311	Numbering of Undocumented Barges	1625–AA14
312	Updates to Maritime Security	1625–AB38

U.S. Coast Guard—Proposed Rule Stage—Continued

Sequence No.	Title	Regulation Identifier No.
313	Lifesaving Devices on Uninspected Vessels **(Section 610 Review)**	1625–AB83

U.S. Coast Guard—Final Rule Stage

Sequence No.	Title	Regulation Identifier No.
314	Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978 **(Reg Plan Seq No. 59)**	1625–AA16
315	Commercial Fishing Industry Vessels	1625–AA77
316	Nontank Vessel Response Plans and Other Vessel Response Plan Requirements	1625–AB27
317	Commercial Fishing Vessels—Implementation of 2010 Legislation	1625–AB85

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. Coast Guard—Long-Term Actions

Sequence No.	Title	Regulation Identifier No.
318	Marine Transportation-Related Facility Response Plans for Hazardous Substances	1625–AA12
319	Tank Vessel Response Plans for Hazardous Substances	1625–AA13
320	Inspection of Towing Vessels	1625–AB06
321	MARPOL Annex 1 Update	1625–AB57

U.S. Customs and Border Protection—Final Rule Stage

Sequence No.	Title	Regulation Identifier No.
322	Importer Security Filing and Additional Carrier Requirements	1651–AA70

Transportation Security Administration—Proposed Rule Stage

Sequence No.	Title	Regulation Identifier No.
323	General Aviation Security and Other Aircraft Operator Security	1652–AA53

Transportation Security Administration—Final Rule Stage

Sequence No.	Title	Regulation Identifier No.
324	Aircraft Repair Station Secunty **(Reg Plan Seq No. 66)**	1652–AA38

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. Immigration and Customs Enforcement—Proposed Rule Stage

Sequence No.	Title	Regulation Identifier No.
325	Standards To Prevent, Detect and Respond to Sexual Abuse and Assault in Confinement Facilities **(Section 610 Revlew) (Reg Plan Seq No. 68)**.	1653–AA65

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

DEPARTMENT OF HOMELAND SECURITY (DHS)

Office of the Secretary (OS)

Long-Term Actions

307. Ammonium Nitrate Security Program

Legal Authority: 2008 Consolidated Appropriations Act, sec 563, subtitle J—Secure Handling of Ammonium Nitrate, Pub. L. 110–161

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."

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	12/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jon MacLaren, Ammonium Nitrate Program Manager, 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

308. Homeland Security Acquisition Regulation, Subcontractor Labor Hour Rates Under Time and Materials Contracts

Legal Authority: 5 U.S.C. 301; 5 U.S.C. 302; 41 U.S.C. 418b(a); 41 U.S.C. 418b(b); 41 U.S.C. 414; 48 CFR part 1, subpart 1.3; DHS Delegation Number 0700

Abstract: The Department of Homeland Security (DHS) is proposing to amend its Homeland Security Acquisition Regulation (HSAR) parts 3016 and 3052 to require DHS contracts for time and material or labor hours (T&M/LH) to include separate labor hour rates for subcontractors and a description of the method that will be used to record and bill for labor hours for both contractors and subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	08/21/12	77 FR 50449
NPRM Comment Period End.	10/22/12	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jeremy F. Olson, Senior Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Washington, DC 20528, *Phone:* 202 447–5197, *Fox:* 202 447–5310, *Emoil:* *jerry.olson@hq.dhs.gov.*

RIN: 1601–AA65

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Citizenship and Immigration Services (USCIS)

Proposed Rule Stage

309. Administrative Appeals Office: Procedural Reforms To Improve Efficiency

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

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.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

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, *Emoil:* *william.k.renwick@uscis.dhs.gov.*

RIN: 1615–AB98

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Citizenship and Immigration Services (USCIS)

Long-Term Actions

310. Registration Requirement for Petitioners Seeking To File H–1B Petitions on Behalf of Aliens Subject to Numerical Limitations

Legal Authority: 8 U.S.C. 1184(g)

Abstract: The Department of Homeland Security will finalize its regulations governing petitions filed on behalf of alien workers subject to annual numerical limitations. This rule proposes to establish an electronic registration program for petitions subject to numerical limitations for the H–1B nonimmigrant classification. This action is necessary because the demand for H–1B specialty occupation workers by U.S. companies may exceed the numerical limitation. This rule is intended to allow USCIS to more efficiently manage the intake and lottery process for these H–1B petitions.

Timetable:

Action	Date	FR Cite
NPRM	03/03/11	76 FR 11686
NPRM Comment Period End.	05/02/11	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Susan Arroyo, Chief of Staff, Service Center Operations, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 202 272–1094, *Fax:* 202 272–1543, *Email:* *susan.k.orroyo@uscis.dhs.gov.*

RIN: 1615–AB71

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coost Guard (USCG)

Proposed Rule Stage

311. Numbering of Undocumented Barges

Legal Authority: 46 U.S.C. 12301

Abstract: Title 46 U.S.C. 12301, as amended by the Abandoned Barge Act of 1992, requires that all undocumented barges of more than 100 gross tons

operating on the navigable waters of the United States be numbered. This rulemaking would establish a numbering system for these barges. The numbering of undocumented barges will allow identification of owners of barges found abandoned. This rulemaking supports the Coast Guard's broad role and responsibility of maritime stewardship.

Timetable:

Action	Date	FR Cite
Request for Comments.	10/18/94	59 FR 52646
Comment Period End.	01/17/95	
ANPRM	07/06/98	63 FR 36384
ANPRM Comment Period End.	11/03/98	
NPRM	01/11/01	66 FR 2385
NPRM Comment Period End.	04/11/01	
NPRM Reopening of Comment Period.	08/12/04	69 FR 49844
NPRM Reopening Comment Period End.	11/10/04	
Supplemental NPRM.	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Denise Harmon, Project Manager, Department of Homeland Security, U.S. Coast Guard, National Vessel Documentation Center, 792 T.J. Jackson Drive, Falling Waters, WV 25419, *Phone:* 304 271–2506.

RIN: 1625–AA14

312. Updates to Maritime Security

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; 3 CFR 1988 Comp p 585; 33 CFR 1.05–1; 33 CFR 6.04–11; 33 CFR 6.14; 33 CFR 6.16; 33 CFR 6.19; DHS Delegation No 0170.1

Abstract: The Coast Guard proposes certain additions, changes, and amendments to 33 CFR, subchapter H. Subchapter H is comprised of parts 101 through 106. Subchapter H implements the major provisions of the Maritime Transportation Security Act of 2002. This rulemaking is the first major revision to subchapter H. The proposed changes would further the goals of domestic compliance and international cooperation by incorporating requirements from legislation implemented since the original publication of these regulations, such as the SAFE Port Act, and including international standards such as STCW security training. This rulemaking has international interest because of the close relationship between subchapter H and the International Ship and Port Security Code (ISPS).

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: LCDR Loan O'Brien, Project Manager, Department of Homeland Security, U.S. Coast Guard, Commandant, (CG–FAC–2), 2100 Second Street SW., STOP 7581, Washington, DC 20593–7581, *Phone:* 202 372–1133, *Email:* *loan.t.o'brien@uscg.mil.*

RIN: 1625–AB38

313. Lifesaving Devices on Uninspected Vessels (Section 610 Review)

Legal Authority: Pub. L. 111–281; 33 U.S.C. 1903(b); 46 U.S.C. 3306; 46 U.S.C. 4102; 46 U.S.C. 4302; Department of Homeland Security Delegation No. 0170.1

Abstract: Section 619 of the 2010 Coast Guard Authorization Act, (Act) (Pub. L. 111–281) amends title 46, United States Code (U.S.C.) 4102(b), and directs the Coast Guard to require the installation, maintenance, and use of life preservers and other lifesaving devices for individuals on uninspected vessels. Currently, uninspected commercial barges not carrying passengers for hire do not meet this mandate. This proposed rule would fulfill that statutory mandate by changing 46 CFR 25.25 and several associated tables by removing the exemption from existing regulations for uninspected commercial barges not carrying passengers for hire and prescribe regulations requiring the installation, maintenance, and use of lifesaving devices to enhance the safety of persons working aboard these vessels.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Agency Contact: Martin L. Jackson, Project Manager, Department of Homeland Security, U.S. Coast Guard, Commandant (CG–ENG–4), 2100 2nd Street SW., STOP 7126, Washington, DC 20593–7126, *Phone:* 202 372–1391, *Email:* *martin.l.jackson@uscg.mil.*

RIN: 1625–AB83

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coast Guard (USCG)

Final Rule Stage

314. Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978

Regulatory Plan: This entry is Seq. No. 59 in part II of this issue of the **Federal Register**.

RIN: 1625–AA16

315. Commercial Fishing Industry Vessels

Legal Authority: 46 U.S.C. 4502(a) to 4502(d); 46 U.S.C. 4505 and 4506; 46 U.S.C. 6104; 46 U.S.C. 10603; DHS Delegation No. 0170.1(92)

Abstract: This proposed rule would have amended commercial fishing industry vessel requirements to enhance maritime safety. Commercial fishing is one of the most dangerous industries in America. The Commercial Fishing Industry Vessel Safety Act of 1988 (the Act, codified in 46 U.S.C. chapter 45) gives the Coast Guard regulatory authority to improve the safety of vessels operating in that industry. Although significant reductions in industry deaths were recorded after the Coast Guard issued its initial rules under the Act in 1991, we believe more deaths and serious injury can be avoided through compliance with new regulations in the following areas: Vessel stability and watertight integrity, vessel maintenance and safety equipment including crew immersion suits, crew training and drills, and improved documentation of regulatory compliance. This regulatory project was opened in 2002 to consider regulatory changes to improve safety in the commercial fishing industry, which remains one of the most hazardous occupations in the United States. The Coast Guard is now intending to withdraw this rulemaking, subject to public comment on why it should remain open, in light of the 2010 adoption by Congress of new legislation that provides the Coast Guard with important new regulatory authority over commercial fishing safety. Withdrawal of this project will help the Coast Guard focus its regulatory efforts on timely regulatory implementation of its 2010 statutory authority, which will be done under a separate RIN (1625–AB85).

Timetable:

Action	Date	FR Cite
ANPRM	03/31/08	73 FR 16815

Action	Date	FR Cite
ANPRM Comment Period End.	12/15/08	
Notice of Withdrawal.	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jack Kemerer, Project Manager, CG–5433, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593, *Phone:* 202 372–1249, *Email: jack.a.kemerer@uscg.mil.*

RIN: 1625–AA77

316. Nontank Vessel Response Plans and Other Vessel Response Plan Requirements

Legal Authority: 3 U.S.C. 301 to 303; 33 U.S.C. 1223; 33 U.S.C. 1231; 33 U.S.C. 3121; 33 U.S.C. 1903; 33 U.S.C. 1908; 46 U.S.C. 6101

Abstract: This rulemaking would establish regulations requiring owners or operators of nontank vessels to prepare and submit oil spill response plans. The Federal Water Pollution Control Act defines nontank vessels as self-propelled vessels of 400 gross tons or greater that operate on the navigable waters of the United States, carry oil of any kind as fuel for main propulsion, and are not tank vessels. The NPRM proposed to specify the content of a response plan, and among other issues, address the requirement to plan for responding to a worst case discharge and a substantial threat of such a discharge. Additionally, the NPRM proposed to update International Shipboard Oil Pollution Emergency Plan (SOPEP) requirements that apply to certain nontank vessels and tank vessels. Finally, the NPRM proposed to require vessel owners and operators to submit their vessel response plan control number as part of the notice of arrival information. This project supports the Coast Guard's broad roles and responsibilities of maritime stewardship.

Timetable:

Action	Date	FR Cite
NPRM	08/31/09	74 FR 44970
Public Meeting	09/25/09	74 FR 48891
NPRM Comment Period End.	11/30/09	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mr. Timothy M. Brown, Project Manager, Office of Commercial Vessel Compliance (CG–CVC–1), Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., Stop 7581, Washington, DC 20593–7581, *Phone:* 202 372–7581, *Email: timothy.m.brown@uscg.mil.*

RIN: 1625–AB27

317. Commercial Fishing Vessels—Implementation of 2010 Legislation

Legal Authority: Pub. L. 111–281; title VI (Marine Safety)

Abstract: The Coast Guard is implementing those requirements of a 2010 statute that pertain to uninspected commercial fishing industry vessels and that took effect upon enactment of the statute but that, to be implemented, require amendments to Coast Guard regulations affecting those vessels. The applicability of the regulations is being changed, and new requirements are being added to safety training, equipment, vessel examinations, vessel safety standards, the documentation of maintenance, and the termination of unsafe operations. This rulemaking promotes the Coast Guard strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jack Kemerer, Project Manager, CG–5433, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593, *Phone:* 202 372–1249, *Email: jack.a.kemerer@uscg.mil.*

RIN: 1625–AB85

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coast Guard (USCG)

Long-Term Actions

318. Marine Transportation-Related Facility Response Plans for Hazardous Substances

Legal Authority: 33 U.S.C. 1321(j); Pub. L. 101–380; Pub. L. 108–293

Abstract: This project would implement provisions of the Oil, Pollution Act of 1990 (OPA 90) that require an owner or operator of a marine transportation-related facility transferring bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to marine transportation-related facilities that, because of their location, could cause harm to the environment by discharging a hazardous substance into or on the navigable waters or adjoining shoreline. A separate rulemaking, under RIN 1625–AA13, was developed in tandem with this rulemaking and addresses hazardous substances response plan requirements for tank vessels. This project supports the Coast Guard's broad roles and responsibilities of maritime safety and maritime stewardship by reducing the consequence of pollution incidents. This action is considered significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public Hearings.	07/03/96	61 FR 34775
ANPRM Comment Period End.	09/03/96	
NPRM	03/31/00	65 FR 17416
NPRM Comment Period End.	06/29/00	
Notice To Reopen Comment Period.	02/17/11	76 FR 9276
Comment Period Reopen End.	05/18/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: CDR Michael Roldan, Project Manager, CG–521, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593–7126, *Phone:* 202 372–1420, *Email: luis.m.roldan@uscg.mil.*

RIN: 1625–AA12

319. Tank Vessel Response Plans for Hazardous Substances

Legal Authority: 33 U.S.C. 1231; 33 U.S.C. 1321(j); Pub. L. 101–380; Pub. L. 108–293

Abstract: This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a tank vessel carrying bulk hazardous substances to develop and submit to the Coast Guard a response plan and operate in accordance with an approved response plan. The regulations would apply to vessels operating on the navigable waters or within the Exclusive Economic Zone (EEZ) of the United States that carry bulk hazardous substances. Additionally, this project would update shipboard marine pollution emergency plans for noxious liquid substance (SMPEP–NLS) requirements that apply to certain nontank vessels and tank vessels. A separate rulemaking, under RIN 1625–AA12, would address hazardous substances response plan requirements for marine transportation-related facilities. This project supports the

Coast Guard's broad roles and responsibilities of maritime safety and maritime stewardship by reducing the consequences of pollution incidents.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public Hearings.	07/03/96	61 FR 34775
ANPRM Comment Period End.	09/03/96	
NPRM	03/22/99	64 FR 13734
Notice of Public Hearing.	06/15/99	64 FR 31994
NPRM Comment Period Extended.	06/15/99	
NPRM Comment Period End.	06/21/99	
NPRM Extended Comment Period End.	08/30/99	
Notice To Reopen Comment Period.	02/17/11	76 FR 9276
Comment Period End.	05/18/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Raymond Martin, Project Manager CG–5225, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593–7126, *Phone:* 202 372–1449, *Email: raymond.w.martin@uscg.mil.*

RIN: 1625–AA13

320. Inspection of Towing Vessels

Legal Authority: 46 U.S.C. 3103; 46 U.S.C. 3301; 46 U.S.C. 3306; 46 U.S.C. 3308; 46 U.S.C. 3316; 46 U.S.C. 3703; 46 U.S.C. 8104; 46 U.S.C. 8904; DHS Delegation No. 0170.1

Abstract: This rulemaking would implement a program of inspection for certification of towing vessels, which were previously uninspected. It would prescribe standards for safety management systems and third-party auditors and surveyors, along with standards for construction, operation, vessel systems, safety equipment, and recordkeeping.

Timetable:

Action	Date	FR Cite
NPRM	08/11/11	76 FR 49976
Notice of Public Meetings.	09/09/11	76 FR 55847
NPRM Comment Period End.	12/09/11	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Patrick Mannion, Project Manager, CG–5222, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593–7126, *Phone:* 202 372–1439, *Email: patrick.j.mannion@uscg.mil.*

RIN: 1625–AB06

321. MARPOL Annex 1 Update

Legal Authority: 33 U.S.C. 1902; 46 U.S.C. 3306

Abstract: In this rulemaking, the Coast Guard would amend the regulations in subchapter O (Pollution) of title 33 of the CFR, including regulations on vessels carrying oil, oil pollution prevention, oil transfer operations, and rules for marine environmental protection regarding oil tank vessels, to reflect changes to international oil pollution standards adopted since 2004. Additionally, this regulation would update shipping regulations in title 46 to require Material Safety Data Sheets, in accordance with international agreements, to protect the safety of mariners at sea.

Timetable:

Action	Date	FR Cite
NPRM	04/09/12	77 FR 21360
NPRM Comment Period End.	07/26/12	
Comment Period Extended.	09/07/12	77 FR 43741
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Scott Hartley, Program Manager CG–OES–2, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593–7126, *Phone:* 202 372–1437, *Email: scott.e.hartley@uscg.mil.*

RIN: 1625–AB57

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Customs and Border Protection (USCBP)

Final Rule Stage

322. Importer Security Filing and Additional Carrier Requirements

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

Abstract: This interim final rule implements the provisions of section 203 of the Security and Accountability for Every Port Act of 2006. It amended 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 identify high-risk shipments to prevent smuggling and insure cargo safety and security. Under the rule, importers and carriers must submit specified information to CBP before the cargo is brought into the United States by vessel. This advance information improves CBP's risk assessment and targeting capabilities, assists CBP in increasing the security of the global trading system, and facilitates the prompt release of legitimate cargo following its arrival in the United States. The interim final rule requested comments on those required data elements for which CBP provided certain flexibilities for compliance and on the revised costs and benefits and Regulatory Flexibility Analysis. CBP plans to issue a final rule after CBP completes a structured review of the flexibilities and analyzes the comments.

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	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

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

DEPARTMENT OF HOMELAND SECURITY (DHS)

Transportation Security Administration (TSA)

Proposed Rule Stage

323. General Aviation Security and Other Aircraft Operator Security

Legal Authority: 6 U.S.C. 469; 18 U.S.C. 842; 18 U.S.C. 845; 46 U.S.C. 70102 to 70106; 46 U.S.C. 70117; 49 U.S.C. 114; 49 U.S.C. 114(f)(3); 49 U.S.C. 5103; 49 U.S.C. 5103a; 49 U.S.C. 40113; 49 U.S.C. 44901 to 44907; 49 U.S.C. 44913 to 44914; 49 U.S.C. 44916 to 44918; 49 U.S.C. 44932; 49 U.S.C. 44935 to 44936; 49 U.S.C. 44942; 49 U.S.C. 46105

Abstract: On October 30, 2008 (73 FR 64790), the Transportation Security Administration (TSA) issued a Notice of Proposed Rulemaking (NPRM), proposing to amend current aviation transportation security regulations to enhance the security of general aviation by expanding the scope of current requirements, and by adding new requirements for certain large aircraft operators and airports serving those aircraft.

TSA also proposed that all aircraft operations, including corporate and private charter operations, with aircraft having a maximum certificated takeoff weight (MTOW) above 12,500 pounds (large aircraft) be required to adopt a large aircraft security program. TSA also proposed to require certain airports that serve large aircraft to adopt security programs.

After considering comments received on the NPRM and sponsoring public meetings with stakeholders, TSA decided to revise the original proposal to tailor security requirements to the general aviation industry. TSA is preparing a supplemental NPRM (SNPRM), which will include a comment period for public comments. TSA is considering the following proposed provisions in the SNPRM: (1) The type of aircraft subject to TSA regulation; (2) compliance oversight; (3) watch list matching of passengers; (4) prohibited items; (5) scope of the background check requirements and the procedures used to implement the requirement; and (6) other issues. Additionally, in the SNPRM, TSA plans to propose security measures for foreign aircraft operators commensurate with measures for U.S. operators.

Timetable:

Action	Date	FR Cite
NPRM	10/30/08	73 FR 64790
NPRM Comment Period End.	12/29/08	
Notice—NPRM Comment Period Extended.	11/25/08	73 FR 71590
NPRM Extended Comment Period End.	02/27/09	
Notice—Public Meetings; Requests for Comments.	12/18/08	73 FR 77045
Supplemental NPRM.	08/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kerwin Wilson, Acting Assistant General Manager, General Aviation Security, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, TSA–28, HQ, E, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–3788, *Email: kerwin.wilson@tsa.dhs.gov.*

Dominick S. Caridi, Director, Regulatory and Economic Analysis, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, TSA–28, HQ, E10–419N, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–2952, *Fax:* 703 603–0404, *Email: dominick.caridi@tsa.dhs.gov.*

Denise Daniels, Attorney, Regulations and Security Standards Division, Department of Homeland Security, Transportation Security Administration, Office of the Chief Counsel, TSA–2, HQ, E12–127S, 601 South 12th Street, Arlington, VA 20598–6002, *Phone:* 571 227–3443, *Fax:* 571 227–1381, *Email: denise.daniels@tsa.dhs.gov.*

RIN: 1652–AA53

DEPARTMENT OF HOMELAND SECURITY (DHS)

Transportation Security Administration (TSA)

Final Rule Stage

324. Aircraft Repair Station Security

Regulatory Plan: This entry is Seq. No. 66 in part II of this issue of the **Federal Register**.

RIN: 1652–AA38

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Immigration and Customs Enforcement (USICE)

Proposed Rule Stage

325. • Standards To Prevent, Detect and Respond to Sexual Abuse and Assault in Confinement Facilities (Section 610 Review)

Regulatory Plan: This entry is Seq. No. 68 in part II of this issue of the **Federal Register**.

RIN: 1653–AA65

[FR Doc. 2012–31672 Filed 1–7–13; 8:45 am]
BILLING CODE 9110–9B–P

FEDERAL REGISTER

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Part X

Department of the Interior

Semiannual Regulatory Agenda

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

50 CFR Chs. I and IV

Semiannual Regulatory Agenda

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between fall 2012 and spring 2013. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

ADDRESSES: Unless otherwise indicated, all agency contacts are located at the Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: You should direct all comments and inquiries about these rules to the appropriate agency contact. You should direct general comments relating to the agenda to the Office of Executive Secretariat and regulatory Affairs, Department of the Interior, at the address above or at 202–208–3181.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that we have issued or expect to issue and of currently effective rules that we have scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. We have specifically identified in the agenda rules that will have such effects.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda. The Department's Statement of Regulatory Priorities is included in the Plan.

Mark Lawyer,

Federal Register Liaison Officer.

UNITED STATES FISH AND WILDLIFE SERVICE—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
326	National Wildlife Refuge System; Oil and Gas Regulations	1018–AX36

NATIONAL PARK SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
327	Winter Use—Yellowstone National Park	1024–AE10

BUREAU OF OCEAN ENERGY MANAGEMENT—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
328	Revised Requirements for Well Plugging and Platform Decommissioning	1010–AD61

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
329	Stream Protection Rule	1029–AC63

DEPARTMENT OF THE INTERIOR (DOI)

United States Fish and Wildlife Service (FWS)

Prerule Stage

326. National Wildlife Refuge System; Oil and Gas Regulations

Legal Authority: 16 U.S.C. 668dd–ee; 42 U.S.C. 7401 *et seq.;* 16 U.S.C. 1131 to 1136; 40 CFR 51.300 to 51.309

Abstract: We propose regulations that ensure that all operators conducting oil or gas operations within a National Wildlife Refuge System unit do so in a manner as to prevent or minimize damage to National Wildlife Refuge System resources, visitor values, and management objectives. FWS does not intend these regulations to result in a taking of a property Interest, but rather to impose reasonable controls on operations that affect federally owned or controlled lands and/or waters.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Scott Covington, Refuge Energy Program Coordinator, Department of the Interior, United States Fish and Wildlife Service, National Wildlife Refuge System, 4401 North Fairfax Drive, Arlington, VA 22203, *Phone:* 703 358–2427, *Email: scott_covington@fws.gov.*

Paul Steblein, Refuge Program Specialist, Department of the Interior, United States Fish and Wildlife Service, Suite 670, 4401 North Fairfax Drive, Arlington, VA 22203, *Phone:* 703 358–2678, *Fax:* 703 358–1929, *Email: paul_steblein@fws.gov.*

RIN: 1018–AX36

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR (DOI)

National Park Service (NPS)

Final Rule Stage

327. Winter Use—Yellowstone National Park

Legal Authority: 16 U.S.C. 1; 16 U.S.C. 3; 16 U.S.C. 9a

Abstract: The park has managed winter use with an interim rule that only authorized snowmobile and snowcoach use through the end of the 2011–2012 winter season. This new rule would extend the interim regulations for one more year in order to allow the National Park Service time to develop a long-term regulation.

Timetable:

Action	Date	FR Cite
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Russ Wilson, Chief Regulations and Special Park Uses, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240, *Phone:* 202 208–4206, *Email: russ_wilson@nps.gov.*

RIN: 1024–AE10

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Ocean Energy Management (BOEM)

Completed Actions

328. Revised Requirements for Well Plugging and Platform Decommissioning

Legal Authority: 31 U.S.C. 9701; 43 U.S.C. 1334

Abstract: This rule would establish timely submission requirements for decommissioning and abandonment plans, and establish deadlines for decommissioning permits. The rule would also implement timeframes and clarify requirements for plugging and abandonment of idle wells and decommissioning idle facilities.

Completed:

Reason	Date	FR Cite
Withdrawn	10/18/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amy White, *Phone:* 703 787–1665, *Fax:* 703 787–1555, *Email: amy.white@bsee.gov.*

RIN: 1010–AD61

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Proposed Rule Stage

329. Stream Protection Rule

Legal Authority: 30 U.S.C. 1201 *et seq.*

Abstract: On August 12, 2009, the U.S. District Court for the District of Columbia denied the Government's request that the court vacate and remand the Excess Spoil/Stream Buffer Zone rule published on December 12, 2008. Therefore, the Department intends to initiate notice and comment rulemaking to address issues arising from previous rulemakings. The agency also intends to prepare a new environmental impact statement.

Timetable:

Action	Date	FR Cite
ANPRM	11/30/09	74 FR 62664
ANPRM Comment Period End.	12/30/09	
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dennis Rice, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240, *Phone:* 202 208–2829, *Email: drice@osmre.gov.*

RIN: 1029–AC63

[FR Doc. 2012–31498 Filed 1–7–13; 8:45 am]

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FEDERAL REGISTER

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Part XI

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Internet has become the means for disseminating the entirety of the Department of Labor's semiannual regulatory agenda. However, the Regulatory Flexibility Act requires publication of a regulatory flexibility agenda in the **Federal Register**. This **Federal Register** Notice contains the regulatory flexibility agenda. In addition, the Department's Regulatory Plan, a subset of the Department's regulatory agenda, is being published in the **Federal Register**. The Regulatory Plan contains a statement of the Department's regulatory priorities and the regulatory actions the Department wants to highlight as its most important and significant.

FOR FURTHER INFORMATION CONTACT: Kathleen Franks, Director, Office of Regulatory Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–2312, Washington, DC 20210; (202) 693–5959.

Note: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12866 requires the semiannual publication of an agenda of regulations that contains a listing of all the regulations the Department of Labor expects to have under active consideration for promulgation, proposal, or review during the coming one-year period. The entirety of the Department's semiannual agenda is available online at *www.reginfo.gov*.

On January 18, 2011 the President issued Executive Order (E.O.) 13563, titled Improving Regulation and Regulatory Review. The Department of Labor's fall 2011 Regulatory Agenda aims to achieve more efficient and less burdensome regulation through our renewed commitment to conduct retrospective reviews of regulations.

The Regulatory Flexibility Act (5 U.S.C. 602) requires DOL to publish in the **Federal Register** a regulatory flexibility agenda. The Department's Regulatory Flexibility Agenda published with this notice includes only those rules on its semiannual agenda that are likely to have a significant economic impact on a substantial number of small entities; and those rules identified for periodic review in keeping with the requirements of section 610 of the Regulatory Flexibility Act. Thus, the regulatory flexibility agenda is a subset of the Department's semiannual regulatory agenda. At this time, there is only one item, listed below, on the Department's Regulatory Flexibility Agenda.

Occupational Safety and Health Administration

Bloodborne Pathogens (RIN 1218–AC34)

In addition, the Department's Regulatory Plan, also a subset of the Department's regulatory agenda, is being published in the **Federal Register**. The Regulatory Plan contains a statement of the Department's regulatory priorities and the regulatory actions the Department wants to highlight as its most important and significant.

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved, and are invited to participate in and comment on the review or development of the regulations listed on the Department's agenda.

Hilda L. Solis,

Secretary of Labor.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
330	Filings Required of Multiple Employer Welfare Arrangements and Certain Other Entities That Offer or Provide Coverage for Medical Care to the Employees of Two or More Employers.	1210–AB51

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
331	Occupational Exposure to Crystalline Silica	1218–AB70
332	Occupational Exposure to Beryllium	1218–AB76
333	Bloodborne Pathogens **(Section 610 Review)**	1218–AC34

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
334	Confined Spaces in Construction	1218–AB47
335	Electric Power Transmission and Distribution; Electrical Protective Equipment	1218–AB67

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
336	Occupational Exposure to Food Flavorings Containing Diacetyl and Diacetyl Substitutes	1218–AC33

DEPARTMENT OF LABOR (DOL)

Employee Benefits Security Administration (EBSA)

Long-Term Actions

330. Filings Required of Multiple Employer Welfare Arrangements and Certain Other Entities That Offer or Provide Coverage for Medical Care to the Employees of Two or More Employers

Legal Authority: Sec 6606 of the Patient Protection and Affordable Care Act; Pub. L. 111–148; 124 Stat 119 (2010)

Abstract: This is a proposed rule under title I of the Employee Retirement Income Security Act (ERISA) that, upon adoption, would implement reporting requirements for multiple employer welfare arrangements (MEWAs) and certain other entities that offer or provide health benefits for employees of two or more employers. The proposal amends existing reporting rules to incorporate new requirements enacted as part of the Patient Protection and Affordable Care Act (Affordable Care Act) and to more clearly address the reporting obligations of MEWAs that are ERISA plans.

Timetable:

Action	Date	FR Cite
NPRM	12/06/11	76 FR 76222
NPRM Comment Period End.	03/05/12	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amy J. Turner, Senior Advisor, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N–5653, Washington, DC 20210, *Phone:* 202 693–8335, *Fax:* 202 219–1942.

RIN: 1210–AB51

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

331. Occupational Exposure to Crystalline Silica

Legal Authority: 29 U.S.C. 655(b); 29 U.S.C. 657

Abstract: Crystalline silica is a significant component of the earth's crust, and many workers in a wide range of industries are exposed to it, usually in the form of respirable quartz or, less frequently, cristobalite. Chronic silicosis is a uniquely occupational disease resulting from exposure of employees over long periods of time (10 years or more). Exposure to high levels of respirable crystalline silica causes acute or accelerated forms of silicosis that are ultimately fatal. The current OSHA permissible exposure limit (PEL) for general industry is based on a formula proposed by the American Conference of Governmental Industrial Hygienists (ACGIH) in 1968 (PEL = 10 mg/cubic meter/(% silica + 2), as respirable dust). The current PEL for construction and shipyards (derived from ACGIH's 1970 Threshold Limit Value) is based on particle counting technology, which is considered obsolete. NIOSH and ACGIH recommend 50 $\mu g/m^3$ and 25 $\mu g/m^3$ exposure limits, respectively, for respirable crystalline silica.

Both industry and worker groups have recognized that a comprehensive standard for crystalline silica is needed to provide for exposure monitoring, medical surveillance, and worker training. ASTM International has published recommended standards for addressing the hazards of crystalline silica. The Building Construction Trades Department of the AFL–CIO has also developed a recommended comprehensive program standard. These standards include provisions for methods of compliance, exposure monitoring, training, and medical surveillance.

Timetable:

Action	Date	FR Cite
Completed SBREFA Report.	12/19/03	
Initiated Peer Review of Health Effects and Risk Assessment.	05/22/09	
Completed Peer Review.	01/24/10	
NPRM	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, Room N–3718, FP Building, 200 Constitution Avenue NW., Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email:* *dougherty.dorothy@dol.gov.*

RIN: 1218–AB70

332. Occupational Exposure to Beryllium

Legal Authority: 29 U.S.C. 655(b); 29 U.S.C. 657

Abstract: In 1999 and 2001, OSHA was petitioned to issue an emergency temporary standard by the United Steel Workers (formerly the Paper Allied-Industrial, Chemical, and Energy Workers Union), Public Citizen Health Research Group, and others. The Agency denied the petitions but stated its intent to begin data gathering to collect needed information on beryllium's toxicity, risks, and patterns of usage. On November 26, 2002, OSHA published a Request for Information (RFI) (67 FR 70707) to solicit information pertinent to occupational exposure to beryllium, including: current exposures to beryllium; the relationship between exposure to beryllium and the development of adverse health effects; exposure assessment and monitoring methods; exposure control methods; and medical surveillance. In addition, the Agency conducted field surveys of selected worksites to assess current exposures and control methods being used to reduce employee exposures to beryllium. OSHA convened a Small Business Advocacy Review Panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and completed the SBREFA Report in January 2008. OSHA also completed a

scientific peer review of its draft risk assessment.

Timetable:

Action	Date	FR Cite
Request for Information.	11/26/02	67 FR 70707
Request For Information Comment Period End.	02/24/03	
SBREFA Report Completed.	01/23/08	
Initiated Peer Review of Health Effects and Risk Assessment.	03/22/10	
Complete Peer Review.	11/19/10	
NPRM	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, Room N–3718, FP Building, 200 Constitution Avenue NW., Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: dougherty.dorothy@dol.gov.*

RIN: 1218–AB76

333. Bloodborne Pathogens (Section 610 Review)

Legal Authority: 5 U.S.C. 533; 5 U.S.C. 610; 29 U.S.C. 655(b)

Abstract: OSHA will undertake a review of the Bloodborne Pathogen Standard (29 CFR 1910.1030) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for the rule; whether the rule overlaps, duplicates, or conflicts with other Federal, State or local regulations; and the degree to which technology, economic conditions, or other factors may have changed since the rule was evaluated.

Timetable:

Action	Date	FR Cite
Begin Review	10/22/09	
Request for Comments Published.	05/14/10	75 FR 27237
Comment Period End.	08/12/10	
End Review and Issue Findings.	05/00/13	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Diana Cortez, Acting Director, Directorate of Evaluation and Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3641, FP Buildiing, Washington, DC 20210, *Phone:* 202 693–2400, *Fax:* 202 693–1641.

RIN: 1218–AC34

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Final Rule Stage

334. Confined Spaces in Construction

Legal Authority: 29 U.S.C. 655(b); 40 U.S.C. 333

Abstract: In 1993, OSHA issued a rule to protect employees who enter confined spaces while engaged in general industry work (29 CFR 1910.146). This standard has not been extended to cover employees entering confined spaces while engaged in construction work because of unique characteristics of construction worksites. Pursuant to discussions with the United Steel Workers of America that led to a settlement agreement regarding the general industry standard, OSHA agreed to issue a proposed rule to protect construction workers in confined spaces.

Timetable:

Action	Date	FR Cite
SBREFA Panel Report.	11/24/03	
NPRM	11/28/07	72 FR 67351
NPRM Comment Period End.	01/28/08	
NPRM Comment Period Extended.	02/28/08	73 FR 3893
Public Hearing	07/22/08	
Close Record	10/23/08	
Final Rule	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jim Maddux, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N–3468, FP Building, 200 Constitution Avenue NW., Washington, DC 20210, *Phone:* 202 693–2020, *Fax:* 202 693–1689, *Email: maddux.jim@dol.gov.*

RIN: 1218–AB47

335. Electric Power Transmission and Distribution; Electrical Protective Equipment

Legal Authority: 29 U.S.C. 655(b); 40 U.S.C. 333

Abstract: Electrical hazards are a major cause of occupational death in the United States. The annual fatality rate for power line workers is about 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is nearly 40 years old. OSHA has developed a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline the standard. OSHA also intends to amend the corresponding standard for general industry so that requirements for work performed during the maintenance of electric power transmission and distribution installations are the same as those for similar work in construction. In addition, OSHA will be revising a few miscellaneous general industry requirements primarily affecting electric transmission and distribution work, including provisions on electrical protective equipment and foot protection. This rulemaking also addresses fall protection in aerial lifts for work on power generation, transmission, and distribution installations. OSHA published an NPRM on June 15, 2005. A public hearing was held from March 6 through March 14, 2006. OSHA reopened the record to gather additional information on minimum approach distances for specific ranges of voltages. The record was reopened a second time to allow more time for comment and to gather information on minimum approach distances for all voltages and on the newly revised Institute of Electrical and Electronics Engineers consensus standard. Additionally, a public hearing was held on October 28, 2009.

Timetable:

Action	Date	FR Cite
SBREFA Report	06/30/03	
NPRM	06/15/05	70 FR 34821
NPRM Comment Period End.	10/13/05	
Comment Period Extended to 01/11/2006.	10/12/05	70 FR 59290
Public Hearing To Be Held 03/06/2006.	10/12/05	70 FR 59290
Posthearing Comment Period End.	07/14/06	
Reopen Record	10/22/08	73 FR 62942
Comment Period End.	11/21/08	
Close Record	11/21/08	
Second Reopening Record.	09/14/09	74 FR 46958
Comment Period End.	10/15/09	
Public Hearings	10/28/09	

Action	Date	FR Cite
Posthearing Comment Period End.	02/10/10	
Final Rule	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, Room N–3718, FP Building, 200 Constitution Avenue NW., Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: dougherty.dorothy@dol.gov.*

RIN: 1218–AB67

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Long-Term Actions

336. Occupational Exposure to Food Flavorings Containing Diacetyl and Diacetyl Substitutes

Legal Authority: 29 U.S.C. 655(b); 29 U.S.C. 657

Abstract: On July 26, 2006, the United Food and Commercial Workers International Union (UFCW) and the International Brotherhood of Teamsters (IBT) petitioned DOL for an Emergency Temporary Standard (ETS) for all employees exposed to diacetyl, a major component in artificial butter flavoring. Diacetyl and a number of other volatile organic compounds are used to manufacture artificial butter food flavorings. These food flavorings are used by various food manufacturers in a multitude of food products, including microwave popcorn, certain bakery goods, and some snack foods. Evidence indicates that exposure to flavorings containing diacetyl is associated with adverse effects on the respiratory system, including bronchiolitis obliterans, a debilitating and potentially fatal lung disease. OSHA denied the petition on September 25, 2007, but has initiated 6(b) rulemaking. OSHA published an Advance Notice of Proposed Rulemaking (ANPRM) on January 21, 2009, but withdrew the ANPRM on March 17, 2009, in order to facilitate timely development of a standard. The Agency subsequently initiated review of the draft proposed standard in accordance with the Small Business Regulatory Enforcement Fairness Act (SBREFA). The SBREFA Panel Report was completed on July 2, 2009. NIOSH is currently developing a criteria document on occupational exposure to diacetyl. The criteria document will also address exposure to 2,3-pentanedione, a chemical that is structurally similar to diacetyl and has been used as a substitute for diacetyl in some applications. It will include an assessment of the effects of exposure as well as quantitative risk assessment. OSHA intends to rely on these portions of the criteria document for the health effects analysis and quantitative risk assessment for the Agency's diacetyl rulemaking.

Timetable:

Action	Date	FR Cite
Stakeholder Meeting.	10/17/07	72 FR 54619
ANPRM	01/21/09	74 FR 3937
ANPRM Withdrawn.	03/17/09	74 FR 11329
ANPRM Comment Period End.	04/21/09	
Completed SBREFA Report.	07/02/09	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, Room N–3718, FP Building, 200 Constitution Avenue NW., Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: dougherty.dorothy@dol.gov.*

RIN: 1218–AC33

[FR Doc. 2012–31499 Filed 1–7–13; 8:45 am]

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Part XII

Department of Transportation

Semiannual Regulatory Agenda

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chs. I, II and III

23 CFR Chs. I, II and III

33 CFR Chs. I and IV

46 CFR Chs. I, II and III

48 CFR Ch. 12

49 CFR Subtitle A, Chs. I–VI and Chs. X–XII

[OST Docket 99–5129]

Department Regulatory Agenda; Semiannual Summary

AGENCY: Office of the Secretary, DOT.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: The Regulatory Agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The Agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity. The public is also invited to submit comments on any aspect of this Agenda.

FOR FURTHER INFORMATION CONTACT:

General

You should direct all comments and inquiries on the Agenda in general to Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; (202) 366–4723.

Specific

You should direct all comments and inquiries on particular items in the Agenda to the individual listed for the regulation or the general rulemaking contact person for the operating administration in Appendix B. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 755–7687.

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SUPPLEMENTARY INFORMATION:

Background

Improvement of our regulations is a prime goal of the Department of Transportation (Department or DOT). Our regulations should be clear, simple, timely, fair, reasonable, and necessary. They should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed. To view additional information about the Department of Transportation's regulatory activities online, go to *http://www.dot.gov/regulations.* Among other things, this Web site provides a report, updated monthly, on the status of the DOT significant rulemakings listed in the Semiannual Regulatory Agenda.

To help the Department achieve these goals and in accordance with Executive Order (EO) 12866, "Regulatory Planning and Review," (58 FR 51735; Oct. 4, 1993) and the Department's Regulatory Policies and Procedures (44 FR 11034; Feb. 26, 1979), the Department prepares a Semiannual Regulatory Agenda. It summarizes all current and projected rulemaking, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last Agenda.

The Agendas are based on reports submitted by the offices initiating the rulemaking and are reviewed by the Department Regulations Council.

The Internet is the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at *www.reginfo.gov*, in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), DOT's printed Agenda entries include only:

1. The agency's Agenda preamble;

2. Rules that are in the agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

3. Any rules that the agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. These elements are: Sequence Number; Title; Section 610 Review, if applicable; Legal Authority; Abstract; Timetable; Regulatory Flexibility Analysis Required; Agency Contact; and Regulation Identifier Number (RIN). Additional information (for detailed list see section heading "Explanation of Information on the Agenda") on these entries is available in the Unified Agenda published on the Internet.

Significant/Priority Rulemakings

The Agenda covers all rules and regulations of the Department. We have classified rules as a DOT agency priority in the Agenda if they are, essentially, very costly, beneficial, controversial, or of substantial public interest under our Regulatory Policies and Procedures. All DOT agency priority rulemaking documents are subject to review by the Secretary of Transportation. If the Office of Management and Budget (OMB) decide a rule is subject to its review under Executive Order 12866, we have classified it as significant in the Agenda.

Explanation of Information on the Agenda

An Office of Management and Budget memorandum, dated June 13, 2012, requires the format for this Agenda.

First, the Agenda is divided by initiating offices. Then, the Agenda is divided into five categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, (4) long-term actions, and (5) completed actions. For each entry, the Agenda provides the following information: (1) Its "significance"; (2) a short, descriptive title; (3) its legal basis; (4) the related regulatory citation in the Code of Federal Regulations; (5) any legal deadline and, if so, for what action (e.g., NPRM, final rule); (6) an abstract; (7) a timetable, including the earliest expected date for a decision on whether to take the action; (8) whether the rulemaking will affect small entities and/or levels of government and, if so, which categories; (9) whether a Regulatory Flexibility Act (RFA) analysis is required (for rules that would have a significant economic impact on a substantial number of small entities); (10) a listing of any analyses an office will prepare or has prepared for the

action (with minor exceptions, DOT requires an economic analysis for all its rulemakings.); (11) an agency contact office or official who can provide further information; (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the Agenda and facilitate tracing further action on the issue; (13) whether the action is subject to the Unfunded Mandates Reform Act; (14) whether the action is subject to the Energy Act; and (15) whether the action is major under the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act. If there is information that does not fit in the other categories, it will be included under a separate heading entitled "Additional Information." One such example of this are the letters "SB," "IC," "SLT." These refer to information used as part of our required reports on Retrospective Review of DOT rulemakings. A "Y" or an "N," for yes and no, respectively, follow the letters to indicate whether or not a particular rulemaking would have effects on: Small businesses (SB); information collections (IC); or State, local, or tribal (SLT) governments.

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, we only include the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations; we do not list individual regulations.

In the "Timetable" column, we use abbreviations to indicate the particular documents being considered. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, and NPRM for Notice of Proposed Rulemaking. Listing a future date in this column does not mean we have made a decision to issue a document; it is the earliest date on which we expect to make a decision on whether to issue it. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this Agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the Agenda for the first time.

Request for Comments

General

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the Agenda easier to use. We would like you, the public, to make suggestions or comments on how the Agenda could be further improved.

Reviews

We also seek your suggestions on which of our existing regulations you believe need to be reviewed to determine whether they should be revised or revoked. We particularly draw your attention to the Department's review plan in appendix D. In response to Executive Order 13563 "Retrospective Review and Analysis of Existing Rules," we have prepared a retrospective review plan providing more detail on the process we use to conduct reviews of existing rules, including changes in response to Executive Order 13563. We provided the public opportunities to comment at regulations.gov and IdeaScale on both our process and any existing DOT rules the public thought needed review. The plan and the results of our review can be found at *http://www.dot.gov/regulations.*

Regulatory Flexibility Act

The Department is especially interested in obtaining information on requirements that have a "significant economic impact on a substantial number of small entities" and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please submit them to us, along with your explanation of why they should be reviewed.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that we have targeted for review under section 610 of the Act. The phrase (sec. 610 Review) appears at the end of the title for these reviews. Please see appendix D for the Department's section 610 review plans.

Consultation With State, Local, and Tribal Governments

Executive orders 13132 and 13175 require us to develop an accountable process to ensure "meaningful and timely input" by State, local, and tribal officials in the development of regulatory policies that have federalism or tribal implications. These policies are defined in the Executive orders to include regulations that have "substantial direct effects" on States or Indian tribes, on the relationship between the Federal Government and them, or on the distribution of power and responsibilities between the Federal Government and various levels of government or Indian tribes. Therefore, we encourage State and local governments or Indian tribes to provide us with information about how the Department's rulemakings impact them.

Purpose

The Department is publishing this regulatory Agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity and should result in more effective public participation. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the Agenda. Regulatory action, in addition to the items listed, is not precluded.

Dated: November 2, 2012.

Ray LaHood,

Secretary of Transportation.

Appendix A—Instructions for Obtaining Copies of Regulatory Documents

To obtain a copy of a specific regulatory document in the Agenda, you should communicate directly with the contact person listed with the regulation at the address below. We note that most, if not all, such documents, including the Semiannual Regulatory Agenda, are available through the Internet at *http://www.regulations.gov.* See appendix C for more information.

(Name of contact person), (Name of the DOT agency), 1200 New Jersey Avenue SE., Washington, DC 20590. (For the Federal Aviation Administration, substitute the following address: Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591).

Appendix B—General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

FAA—Rebecca MacPherson, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room

915A, Washington, DC 20591; telephone (202) 267–3073.

FHWA—Jennifer Outhouse, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–0761.

FMCSA—Steven J. LaFreniere, Regulatory Ombudsman, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–0596.

NHTSA—Steve Wood, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–2992.

FRA—Kathryn Shelton, Office of Chief Counsel, 1200 New Jersey Avenue SE., Room W31–214, Washington, DC 20590; telephone (202) 493–6063.

FTA—Richard Wong, Office of Chief Counsel, 1200 New Jersey Avenue SE., Room E56–308, Washington, DC 20590; telephone (202) 366–0675.

SLSDC—Carrie Mann Lavigne, Chief Counsel, 180 Andrews Street, Massena, NY 13662; telephone (315) 764–3200.

PHMSA—Patricia Burke, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–4400.

MARAD—Christine Gurland, Office of Chief Counsel, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–5157.

RITA—Robert Monniere, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–5498.

OST—Neil Eisner, Office of Regulation and Enforcement, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–4723.

Appendix C—Public Rulemaking Dockets

All comments via the Internet are submitted through the Federal Docket Management System (FDMS) at the following address: *http://www.regulations.gov*. The FDMS allows the public to search, view, download, and comment on all Federal agency rulemaking documents in one central online system. The above referenced Internet address also allows the public to sign up to receive notification when certain documents are placed in the dockets.

The public also may review regulatory dockets at, or deliver comments on proposed rulemakings to, the Dockets Office at 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, 1–800–647–5527. Working Hours: 9–5.

Appendix D—Review Plans for Section 610 and Other Requirements

Part I—The Plan

General

The Department of Transportation has long recognized the importance of regularly reviewing its existing regulations to determine whether they need to be revised or revoked. Our 1979 Regulatory Policies and Procedures require such reviews. We also have responsibilities under Executive Order 12866, "Regulatory Planning and Review," and section 610 of the Regulatory Flexibility Act to conduct such reviews. This includes the use of plain language techniques in new rules and considering its use in existing rules when we have the opportunity and resources to permit its use. We are committed to continuing our reviews of existing rules and, if needed, will initiate rulemaking actions based on these reviews.

In accordance with Executive Order 13563, "Improving Regulation and Regulatory Review," issued by the President on January 18, 2011, the Department has added other elements to its review plan. The Department has decided to improve its plan by adding special oversight processes within the Department; encouraging effective and timely reviews, including providing additional guidance on particular problems that warrant review; and expanding opportunities for public participation. These new actions are in addition to the other steps described in this Appendix.

Section 610 Review Plan

Section 610 requires that we conduct reviews of rules that (1): Have been published within the last 10 years, and (2) have a "significant economic impact on a substantial number of small entities" (SEIOSNOSE). It also requires that we publish in the **Federal Register** each year a list of any such rules that we will review during the next year. The Office of the Secretary and each of the Department's Operating Administrations have a 10-year review plan. These reviews comply with section 610 of the Regulatory Flexibility Act.

Other Review Plan(s)

All elements of the Department, except for the Federal Aviation Administration (FAA), have also elected to use this 10-year plan process to comply with the review requirements of the Department's Regulatory Policies and Procedures and Executive Order 12866.

Changes to the Review Plan

Some reviews may be conducted earlier than scheduled. For example, to the extent resources permit, the plain language reviews will be conducted more quickly. Other events, such as accidents, may result in the need to conduct earlier reviews of some rules. Other factors may also result in the need to make changes; for example, we may make changes in response to public comment on this plan or in response to a Presidentially-mandated review. If there is any change to the review plan, we will note the change in the following Agenda. For any section 610 review, we will provide the required notice prior to the review.

Part II—The Review Process

The Analysis

Generally, the agencies have divided their rules into 10 different groups and plan to analyze one group each year. For purposes of these reviews, a year will coincide with the fall-to-fall schedule for publication of the Agenda. Thus, Year 1 (2008) begins in the fall of 2008 and ends in the fall of 2009; Year 2 (2009) begins in the fall of 2009 and ends in the fall of 2010, and so on. We request public comment on the timing of the reviews. For example, is there a reason for scheduling an analysis and review for a particular rule earlier than we have? Any comments concerning the plan or particular analyses should be submitted to the regulatory contacts listed in Appendix B, General Rulemaking Contact Persons.

Section 610 Review

The agency will analyze each of the rules in a given year's group to determine whether any rule has a SEIOSNOSE and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. The level of analysis will, of course, depend on the nature of the rule and its applicability. Publication of agencies' section 610 analyses listed each fall in this Agenda provides the public with notice and an opportunity to comment consistent with the requirements of the Regulatory Flexibility Act. We request that public comments be submitted to us early in the analysis year concerning the small entity impact of the rules to help us in making our determinations.

In each fall Agenda, the agency will publish the results of the analyses it has completed during the previous year. For rules that had a negative finding on SEIOSNOSE, we will give a short explanation (e.g., "these rules only establish petition processes that have no cost impact" or "these rules do not

apply to any small entities"). For parts, subparts, or other discrete sections of rules that do have a SEIOSNOSE, we will announce that we will be conducting a formal section 610 review during the following 12 months. At this stage, we will add an entry to the Agenda in the prerulemaking section describing the review in more detail. We also will seek public comment on how best to lessen the impact of these rules and provide a name or docket to which public comments can be submitted. In some cases, the section 610 review may be part of another unrelated review of the rule. In such a case, we plan to clearly indicate which parts of the review are being conducted under section 610.

Other Reviews

The agency will also examine the specified rules to determine whether any other reasons exist for revising or revoking the rule or for rewriting the rule in plain language. In each fall Agenda, the agency will also publish information on the results of the examinations completed during the previous year.

The FAA, in addition to reviewing its rules in accordance with the section 610 Review Plan, has established a tri-annual process to comply with the review requirements of the Department's Regulatory Policies and Procedures, Executive Order 12866, and Plain Language Review Plan. The FAA's latest review notice was published November 15, 2007 (72 FR 64170). In that notice, the FAA requested comments from the public to identify those regulations currently in effect that it should amend, remove, or simplify. The FAA also requested the public to provide any specific suggestions where rules could be developed as performance-based rather than prescriptive, and any specific plain language that might be used, and provide suggested language on how those rules should be written. The FAA will review the issues addressed by the commenters against its regulatory agenda and rulemaking program efforts and adjust its regulatory priorities consistent with its statutory responsibilities. At the end of this process, the FAA will publish a summary and general disposition of comments and indicate, where appropriate, how it will adjust its regulatory priorities.

Part III—List of Pending Section 610 Reviews

The Agenda identifies the pending DOT section 610 Reviews by inserting "(Section 610 Review)," after the title for the specific entry. For further information on the pending reviews, see the Agenda entries at www.reginfo.gov. For example, to obtain a list of all entries that is section 610 Reviews under the Regulatory Flexibility Act, a user would select the desired responses on the search screen (by selecting "advanced search") and, in effect, generate the desired "index" of reviews.

OFFICE OF THE SECRETARY—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
337	+Enhancing Airline Passenger Protections III	2105–AE11

+ DOT-designated significant regulation.

OFFICE OF THE SECRETARY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
338	+Use of the Seat-Strapping Method for Carrying a Wheelchair on an Aircraft	2105–AD87

+ DOT-designated significant regulation.

FEDERAL AVIATION ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
339	+Operation and Certification of Small Unmanned Aircraft Systems (sUAS)	2120–AJ60
340	+Flight Crewmember Mentoring, Leadership and Professional Development (HR 5900)	2120–AJ87

+ DOT-designated significant regulation.

FEDERAL AVIATION ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
341	+Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers	2120–AJ00
342	+Pilot Certification and Qualification Requirements (Formerly First Officer Qualification Requirements) (HR 5900).	2120–AJ67
343	+Safety Management Systems for Certificate Holders **(Section 610 Review)**	2120–AJ86

+ DOT-designated significant regulation.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
344	+Electronic Logging Devices and Hours of Service Supporting Documents	2126–AB20

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—PROPOSED RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
345	+Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (RRR)	2126–AB46

+ DOT-designated significant regulation.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
346	+Unified Registration System	2126–AA22
347	Self Reporting of Out-of-State Convictions (RRR) **(Section 610 Review)**	2126–AB43

+ DOT-designated significant regulation.

FEDERAL RAILROAD ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
348	+Critical Incident Stress Plan; "Critical Incident" Definition	2130–AC00
349	Risk Reduction Program (RRR)	2130–AC11
350	+Positive Train Control Systems: De Minimis Exception, Yard Movements, En Route Failures; Miscellaneous Grade Crossing/Signal and Train Control Amendments (RRR).	2130–AC32

+ DOT-designated significant regulation.

FEDERAL RAILROAD ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
351	Roadway Worker Protection; Miscellaneous Revisions	2130–AB89
352	+Training Standards for Railroad Employees (RRR)	2130–AC06
353	+Emergency Escape Breathing Apparatus (RRR)	2130–AC14
354	Passenger Train Emergency Systems; Doors, Emergency Lighting, Emergency Signage and Markings for Egress and Access, and Low-Location Emergency Exit Path Marking; Miscellaneous Amendments.	2130–AC22
355	Amendments Expanding the Drug Panel for FRA Post-Accident Toxicological Testing	2130–AC24
356	Track Safety Standards: Improving Rail Integrity (RRR)	2130–AC28
357	Railroad System Safety Program	2130–AC31
358	Revisions to Passenger Train Emergency Preparedness Regulations	2130–AC33
359	Roadway Worker Protection; Adjacent-Track On-Track Safety—Response to Petitions for Reconsideration	2130–AC37
360	Telephonic Notification at Grade Crossings—Response to Petitions for Reconsideration	2130–AC38
361	Locomotive Safety Standards Amendments—Response to Petitions for Reconsideration	2130–AC39

+ DOT-designated significant regulation.

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
362	+Pipeline Safety: Safety of On-Shore Liquid Hazardous Pipelines	2137–AE66
363	Pipeline Safety: Miscellaneous Amendments Related to Reauthorization and Petitions for Rulemaking (RRR).	2137–AE94

+ DOT-designated significant regulation.

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
364	+Hazardous Materials: Revisions to Requirements for the Transportation of Lithium Batteries	2137–AE44
365	Hazardous Materials: Miscellaneous Amendments (RRR) **(Section 610 Review)**	2137–AE78

+ DOT-designated significant regulation.

MARITIME ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
366	+Regulations To Be Followed by All Departments, Agencies and Shippers Having Responsibility To Provide a Preference for U.S.-Flag Vessels in the Shipment of Cargoes on Ocean Vessels (RRR).	2133–AB74

+ DOT-designated significant regulation.

DEPARTMENT OF TRANSPORTATION (DOT)

Office of the Secretary (OST)

Proposed Rule Stage

337. +Enhancing Airline Passenger Protections III

Legal Authority: 49 U.S.C. 41712; 49 U.S.C. 40101;49 U.S.C. 41702

Abstract: This rulemaking would address the following issues: (1) Whether the Department should require a marketing carrier to provide assistance to its code-share partner when a flight operated by the code-share partner experiences a lengthy tarmac delay; (2) whether the Department should enhance disclosure requirements on code-share operations, including requiring on-time performance data, reporting of certain data code-share operations, and codifying the statutory amendment of 49 U.S.C. 41712(c) regarding Web site schedule disclosure of code-share operations; (3) whether the Department should expand the on-time performance "reporting carrier" pool to include smaller carriers; (4) whether the Department should require travel agents to adopt minimum customer service standards in relation to the sale of air transportation; (5) whether the Department should require ticket agents to disclose the carriers whose tickets they sell or do not sell and information regarding any incentive payments they receive in connection with the sale of air transportation; (6) whether the Department should require ticket agents to disclose any preferential display of individual fares or carriers in the ticket agent's Internet displays; (7) whether the Department should require additional or special disclosures regarding certain substantial fees, e.g., oversize or overweight baggage fees; (8) whether the Department should prohibit post-purchase price increase for all services and products not purchased with the ticket or whether it is sufficient to prohibit post-purchase prices increases for baggage charges that traditionally have been included in the ticket price; and (9) whether the Department should require that ancillary fees be displayed through all sale channels.

Timetable:

Action	Date	FR Cite
Supplemental NPRM.	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Blane A Workie, Attorney, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–9342, *TDD Phone:* 202 755–7687, *Fax:* 202 366–7152, *Email: blane.workie@ost.dot.gov.*

RIN: 2105–AE11

DEPARTMENT OF TRANSPORTATION (DOT)

Office of the Secretary (OST)

Final Rule Stage

338. +Use of the Seat-Strapping Method for Carrying a Wheelchair on an Aircraft

Legal Authority: 49 U.S.C. 41705

Abstract: This rulemaking would address whether carriers should be allowed to utilize the seat-strapping method to stow a passenger's wheelchair in the aircraft cabin.

Timetable:

Action	Date	FR Cite
NPRM	06/03/11	76 FR 32107
NPRM Comment Period End.	08/02/11	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Blane A Workie, Attorney, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–9342, *TDD Phone:* 202–755–7687, *Fax:* 202–366–7152, *Email: blane.workie@ost.dot.gov.*

RIN: 2105–AD87

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

Proposed Rule Stage

339. +Operation and Certification of Small Unmanned Aircraft Systems (SUAS)

Legal Authority: 49 U.S.C. 44701; Pub. L. 112–95

Abstract: This rulemaking would enable small unmanned aircraft to safely operate in limited portions of the national airspace system (NAS). This action is necessary because it addresses the novel legal or policy issues about the minimum safety parameters for operating recreational remote control model and toy aircraft in the NAS. The intended effect of this action is to develop requirements and standards to ensure that risks are adequately mitigated, such that safety is maintained for the entire aviation community.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Stephen A Glowacki, Department of Transportation, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, *Phone:* 202–385–4898, *Email: stephen.a.glowacki@faa.gov.*

RIN: 2120–AJ60

340. +Flight Crewmember Mentoring, Leadership and Professional Development (HR 5900)

Legal Authority: 49 U.S.C. 44701(a)(5); Pub. L. 111–216, sec 206

Abstract: This rulemaking would amend the regulations for air carrier training programs under part 121. The action is necessary to ensure that air carriers establish or modify training programs that address mentoring, leadership, and professional development of flight crewmembers in part 121 operations. The amendments are intended to contribute significantly to airline safety by reducing aviation accidents and respond to the mandate in Public Law 111–216.

Timetable:

Action	Date	FR Cite
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Deke Abbott, Department of Transportation, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, *Phone:* 202 267–8266, *Email: deke.abbott@faa.gov.*

RIN: 2120–AJ87

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

Final Rule Stage

341. +Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers

Legal Authority: 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 40119; 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. 44901; 49 U.S.C. 44903; 49 U.S.C. 44904; 49 U.S.C. 44912; 49 U.S.C. 46105

Abstract: This rulemaking would amend the regulations for crewmember and dispatcher training programs in domestic, flag, and supplemental operations. The rulemaking would enhance traditional training programs by requiring the use of flight simulation training devices for flight crewmembers and including additional training requirements in areas that are critical to safety. The rulemaking would also reorganize and revise the qualification and training requirements. The changes are intended to contribute significantly to reducing aviation accidents.

Timetable:

Action	Date	FR Cite
NPRM	01/12/09	74 FR 1280
Proposed rule; notice of public meeting.	03/12/09	74 FR 10689
NPRM Comment Period Extended.	04/20/09	74 FR 17910
Comment Period End.	05/12/09	
Extended Comment Period End.	08/10/09	
Supplemental NPRM.	05/20/11	76 FR 29336
Comment Period Extended.	06/23/11	76 FR 36888
Comment Period End.	07/19/11	
Comment Period End.	09/19/11	
Final Rule	10/00/13	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Nancy L Claussen, Federal Aviation Administration, Department of Transportation, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, *Phone:* 202 267–8166, *Email: nancy.claussen@faa.gov.*

RIN: 2120–AJ00

342. +Pilot Certification and Qualification Requirements (Formerly First Officer Qualification Requirements) (HR 5900)

Legal Authority: 49 U.S.C. 106(g); 49 U.S.C. 35301 to 45302; 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(a)(5); 49 U.S.C. 44701 to 44703; 49 U.S.C. 44705; 49 U.S.C. 44707; 49 U.S.C. 44709 to 44711; 49 U.S.C. 44713; 49 U.S.C. 44716; 49 U.S.C. 44722; 49 U.S.C. 45102 to 45103; 49 U.S.C. 46105; 49 U.S.C. 44717; Pub. L. 111–216

Abstract: This rulemaking would amend the eligibility and qualification requirements for pilots engaged in part 121 air carrier operations. Additionally, it would modify the requirements for an airline transport pilot certificate. These actions are necessary because recent airline accidents and incidents have brought considerable attention to the experience level and training of air carrier flight crews. This rulemaking is a result of requirements in Public Law 111–216.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/10	75 FR 6164
ANPRM Comment Period End.	04/09/10	
NPRM	02/29/12	77 FR 12374
NPRM Comment Period End.	04/30/12	
Final Rule	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Barbara Adams, Department of Transportation, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, *Phone:* 202 267–8166, *Email: barbara.adams@faa.gov.*

RIN: 2120–AJ67

343. +Safety Management Systems for Certificate Holders (Section 610 Review)

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

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, section 215.

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	
NPRM Comment Period Extended End.	03/07/11	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

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.*

RIN: 2120–AJ86

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Motor Carrier Safety Administration (FMCSA)

Proposed Rule Stage

344. +Electronic Logging Devices and Hours of Service Supporting Documents

Legal Authority: 49 U.S.C. 31502; 31136(a); Pub. L. 103.311; 49 U.S.C. 31137(a)

Abstract: This rulemaking would establish: (1) Minimum performance standards for electronic logging devices (ELDs); (2) requirements for the

mandatory use of the devices by drivers required to prepare handwritten records of duty status (RODS); (3) requirements concerning HOS supporting documents; and (4) measures to ensure that the mandatory use of ELDs will not result in harassment of drivers by motor carriers and enforcement officials. This rulemaking would supplement the Agency's February 1, 2011, Notice of Proposed Rulemaking (NPRM) and address issues raised by the U.S. Court of Appeals for the Seventh Circuit Court in its 2011 decision vacating the Agency's April 5, 2010, final rule concerning ELDs. This action would improve compliance with the hours-of-service (HOS) rules and thereby decrease the risk of fatigue-related crashes attributable to non-compliance with the applicable HOS requirements.

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.	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Deborah M. Freund, Senior Transportation Specialist, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–5370, *Email: deborah.freund@dot.gov.*

RIN: 2126–AB20

345. +Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (RRR)

Legal Authority: 49 U.S.C. 31136; 49 U.S.C. 31502

Abstract: This rulemaking would rescind the requirement that commercial motor vehicle (CMV) drivers operating in interstate commerce submit, and motor carriers retain, driver-vehicle inspection reports when the driver has neither found nor been made aware of any vehicle defects or deficiencies. Specifically, this rulemaking would remove a significant information collection burden without adversely impacting safety. This rulemaking would remove a significant information collection burden without adversely impacting safety. The value of the time saved by eliminating the paperwork burden associated with the filing of no-defect DVIRs is more than 1 billion dollars per year. This rulemaking responds in part to the President's January 2012 Regulatory Review and Reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sean Gallagher, MC–PRR, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 366–3740, *Email: sean.gallagher@dot.gov.*

RIN: 2126–AB46

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Motor Carrier Safety Administration (FMCSA)

Final Rule Stage

346. +Unified Registration System

Legal Authority: Pub. L. 104–88; 109 Stat 803, 888 (1995); 49 U.S.C. 13908; Pub. L. 109–159, sec 4304

Abstract: This rule would establish a new Unified Registration System (URS) to replace three legacy systems in support of FMCSA's safety and commercial oversight responsibilities. It would require all entities subject to FMCSA jurisdiction to comply with a new URS registration and biennial update requirement, disclose the cumulative registration information collected by URS and provides a cross-reference to all regulatory requirements necessary to obtain permanent registration. It implements statutory provisions in the ICC Termination Act and SAFTEA–LU. URS would serve as a clearinghouse and depository of information on, and identification of, brokers, freight forwarders, and others required to register with the Department of Transportation. The agency has determined the total net societal benefits of the rule to be $19.5 million and the total societal costs to be $26.5 million.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/96	61 FR 43816
ANPRM Comment Period End.	10/25/96	
NPRM	05/19/05	70 FR 28990
NPRM Comment Period End.	08/17/05	
Supplemental NPRM.	10/26/11	76 FR 66506
Comment Period End.	12/27/11	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Valerie Height, Management Analyst, Department of Transportation, Federal Motor Carrier Safety Administration, Office of Policy (MC–PRR), 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–0901, *Email: valerie.height@dot.gov.*

RIN: 2126–AA22

347. Self Reporting of Out-of-State Convictions (RRR) (Section 610 Review)

Legal Authority: Commercial Motor Vehicle Safety Act of 1986

Abstract: This rulemaking would clarify the requirement for holders of commercial drivers licenses (CDL) convicted of violating traffic laws in a State other than the State that issued their CDL, to notify the State of issuance about those violations under part 383.31 of FMCSA's Commercial Drivers License Standards; and clarify the requirement for the licensing agency from the jurisdiction in which the conviction takes place to notify the State licensing Agency that issued the CDL under part 384.209 State Compliance with Commercial Drivers License Program. This rulemaking would also ensure that notifications required in sections 383.31 and 384.209 take place within 30 days of the conviction.

Timetable:

Action	Date	FR Cite
NPRM	08/02/12	77 FR 46010
NPRM Comment Period End.	10/01/12	
Final Rule	06/00/13	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Robert Redmond, Senior Transportation Specialist, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–5014, *Email: robert.redmond@dot.gov.*

RIN: 2126–AB43

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Railroad Administration (FRA)

Proposed Rule Stage

348. +Critical Incident Stress PLAN; "Critical Incident" Definition

Legal Authority: Pub. L. 110–432, Div A, 122 Stat 4848 *et seq.;* Rail Safety Improvement Act of 2008 sec 410(c)

Abstract: This rulemaking would seek to define the term "critical incident." This rulemaking would also seek to define program elements appropriate for the rail environment for certain railroad's critical incident response programs, so that appropriate action is taken when a railroad employee is involved in or directly witnesses a critical incident.

Timetable:

Action	Date	FR Cite
NPRM	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave, SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC00

349. Risk Reduction Program (RRR)

Legal Authority: Pub. L. 110–432, Div A, 122 Stat 4848 *et seq.;* Rail Safety Improvement Act of 2008; sec 103, 49 U.S.C. 20156 "Railroad Safety Risk Reduction Program"

Abstract: This rulemaking would require each Class I railroad and each railroad with inadequate safety performance to develop and implement a Risk Reduction Program (RRP) to improve the safety of their operations. Each RRP would he required to include a risk analysis, a technology implementation plan, and a fatigue management plan. Railroads would be required to conduct annual internal assessments of their RRPs, which could also be externally audited by FRA.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/10	75 FR 76345
ANPRM Comment Period End.	02/07/11	
NPRM	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC11

350. +Positive Train Control Systems: De Minimis Exception, Yard Movements, En Route Failures; Miscellaneous Grade Crossing/Signal and Train Control Amendments (RRR)

Legal Authority: 49 U.S.C. 20102 to 20103; 28 U.S.C. 2461, note; 49 CFR 1.49; 49 U.S.C. 20107; 49 U.S.C. 20133; 49 U.S.C. 20141; 49 U.S.C. 20157; 49 U.S.C. 20301 to 20303; 49 U.S.C. 20306; 49 U.S.C. 21301 to 21302; 49 U.S.C. 21304

Abstract: This rulemaking would revise Positive Train Control regulations by defining the de minimis exception and en route failures, proposing exceptions relating to yard movements that may not be considered on the main line system, and amending regulations governing grade crossing and signal and train control systems. The rulemaking is in response to a petition for rulemaking from the Association of American Railroads.

Timetable:

Action	Date	FR Cite
NPRM	12/11/12	77 FR 73589
NPRM Comment Period End.	02/11/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC32

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Railroad Administration (FRA)

Final Rule Stage

351. Roadway Worker Protection; Miscellaneous Revisions

Legal Authority: 28 U.S.C. 2461; 49 CFR 1.49; 49 U.S.C. 20103; 49 U.S.C. 20107; 49 U.S.C. 21301; 49 U.S.C. 21304

Abstract: This rulemaking would revise FRA's Roadway Worker Protection regulations in 49 CFR, Part 214, to further advance the on-track safety of railroad employees and contractors engaged in maintenance-of-way activities throughout the general railroad system of transportation, including clarification of existing regulations. In doing so, FRA will review existing technical bulletins and a safety advisory dealing with on-track safety to consider implications, and as appropriate, consider enhancements to the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/20/12	77 FR 50324
NPRM Comment Period End.	10/19/12	
Final Rule	10/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AB89

352. +Training Standards for Railroad Employees (RRR)

Legal Authority: Pub. L. 110 thru 432, Div A, 122 Stat 4848 *et seq.;* Railroad Safety Improvement Act of 2008; sec 401 (49 U.S.C. 20162)

Abstract: This rulemaking would (1) Establish minimum training standards for each class or craft of safety-related employee and equivalent railroad contractor and subcontractor employee that require railroads, contractors, and subcontractors to qualify or otherwise document the proficiency of such employees in each such class and craft regarding their knowledge and ability to comply with Federal railroad safety laws and regulations and railroad rules and procedures intended to implement those laws and regulations, etc.; (2) require submission of railroads', contractors', and subcontractors' training and qualification programs for FRA approval; and (3) establish a minimum training curriculum and ongoing training criteria, testing, and skills evaluation measures for track and equipment inspectors employed by railroads and railroad contractor and subcontractors. It is anticipated that crane operator provisions contained in this rulemaking will further the objectives of EO 13563.

Timetable:

Action	Date	FR Cite
NPRM	02/07/12	77 FR 6412
NPRM Comment Period End.	04/09/12	
Final Rule	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC06

353. +Emergency Escape Breathing Apparatus (RRR)

Legal Authority: Pub. L. 110–432, Div A, 122 Stat 4848 *et seq.*; Rail Safety Improvement Act of 2008; sec 413 49 U.S.C. 20166

Abstract: This rulemaking would prescribe regulations that require railroads to provide specified emergency escape breathing apparatus for all crew members in locomotive cabs on freight trains carrying poison-inhalation-hazard hazardous material and provide training in its use.

Timetable:

Action	Date	FR Cite
NPRM	10/05/10	75 FR 61386
NPRM Comment Period End.	12/06/10	
Final Rule	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202–493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC14

354. Passenger Train Emergency Systems; Doors, Emergency Lighting, Emergency Signage and Markings for Egress and Access, and Low-Location Emergency Exit Path Marking; Miscellaneous Amendments

Legal Authority: 28 U.S.C. 241, note; 49 CFR 1.49; 49 U.S.C. 20103, 20107, 20133, 20141, 20302 to 20303, 20306, 20701 to 20702; 49 U.S.C. 21301 to 21302, 21304

Abstract: This rulemaking would amend the passenger equipment safety standards to enhance standards for passenger train emergency systems and would clarify the passenger train emergency preparedness standards. Specifically, FRA would incorporate by reference three APTA emergency system standards: "Standard for Emergency Lighting System Design for Passenger Cars," "Standard for Emergency Signage for Egress/Access of Passenger Rail Equipment," and "Standard for Low-Location Exit Path Marking." Miscellaneous amendments to FRA's existing regulations would include: (1) Clarifying that new passenger cars must have at least two exterior side doors, one on each side; (2) requiring removable panels/windows in vestibule doors for new passenger cars; (3) consolidating various door requirements into one section for easier reference; and (4) revising part 239 to explicitly address train crew participation in debrief and critique sessions.

Timetable:

Action	Date	FR Cite
NPRM	01/03/12	77 FR 154
NPRM Comment Period End.	03/05/12	
Final Rule	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202–493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC22

355. Amendments Expanding the Drug Panel for FRA Post-Accident Toxicological Testing

Legal Authority: 28 U.S.C. 2461, note; 49 CFR 1.49(m); 49 U.S.C. 20103; 49 U.S.C. 20107; 49 U.S.C. 20140; 49 U.S.C. 21301; 49 U.S.C. 21304

Abstract: This rulemaking would expand the drug testing panel for FRA's post-accident toxicological testing (PATT) program, which investigates the role of alcohol and drug use in serious train accidents. This rulemaking would also amend the requirements regarding the analysis of PATT results in 49 CFR 219.211 to reflect that some of the drugs in the expanded panel are prescription and over-the-counter drugs that are not controlled substances. FRA has tested for the same basic panel of drugs since the beginning of PATT in 1985. Currently, FRA tests blood and urine specimens for eight drug classifications: alcohol, marijuana, cocaine, the opiates, the amphetamines, phencyclidine (PCP), the barbiturates, and the benzodiazepines. FRA would expand the PATT panel to include synthetic opiates, sedating antihistamines, MDMA and one of its analogues, and additional benzodiazepines. This rulemaking does not make any substantive changes to the prohibitions on the abuse of controlled substances and prescription drugs found in 49 CFR 219.102 and 219.103.

Timetable:

Action	Date	FR Cite
NPRM	05/17/12	77 FR 29307
NPRM Comment Period End.	07/16/12	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202–493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC24

356. Track Safety Standards: Improving Rail Integrity (RRR)

Legal Authority: 28 U.S.C. 2461, note; 49 CFR 1.49; 49 U.S.C. 20102 to 20114; 49 U.S.C. 20142; sec 403, Div A; Pub. L. 110–432, 122 Stat 4885

Abstract: This rulemaking would prescribe specific requirements for effective rail inspection frequencies, rail flaw remedial actions, minimum operator qualifications, and requirements for rail inspection records. In addition, it would remove the regulatory requirements concerning joint bar fracture reporting. Section 403(c) of the Rail Safety Improvement Act of 2008 mandates that FRA promulgate regulations addressing rail flaw detection inspections.

Timetable:

Action	Date	FR Cite
NPRM	10/19/12	77 FR 64249
NPRM Comment Period End.	12/18/12	
Final Rule	09/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202–493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC28

357. Railroad System Safety Program

Legal Authority: 49 U.S.C. 20103; 49 U.S.C. 20107; 49 U.S.C. 20133; 49 U.S.C. 21301 to 21302; 49 U.S.C. 21304; 49 U.S.C. 21311; 28 U.S.C. 2461, note; 49 CFR 1.49

Abstract: This rulemaking would improve passenger railroad safety through structured, proactive processes and procedures developed by passenger railroad operators. It would require passenger railroads to establish a System Safety Program that would

systematically evaluate and manage risks in order to reduce the number and rates of railroad accidents, incidents, injuries and fatalities. This rulemaking was bifurcated from 2130–AC11.

Timetable:

Action	Date	FR Cite
NPRM	09/07/12	77 FR 55372
NPRM Comment Period End.	11/06/12	
Final Rule	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC31

358. Revisions to Passenger Train Emergency Preparedness Regulations

Legal Authority: 49 U.S.C. 20103; 49 U.S.C. 20107; 49 U.S.C. 20133; 49 U.S.C. 20141; 49 U.S.C. 20302 to 20303; 49 U.S.C. 20306; 49 U.S.C. 20701 to 20702; 49 U.S.C. 21301 to 21302; 49 U.S.C. 21304; 28 U.S.C. 2461, note; 49 CFR 1.49

Abstract: The rulemaking would propose a series of unrelated revisions to 49 CFR part 239. These proposed revisions would: (1) Create a definition for emergency response communication centers to ensure that railroad personnel who coordinate first responders receive control center employee training provided by part 239; (2) require railroads develop procedures to promote the safe evacuation of disabled passengers; (3) make the FRA emergency preparedness plan approval process more efficient; and (4) create new testing and inspection requirements for railroads covered by part 239. These revisions are based on a recommendation made to FRA by the Railroad Safety Advisory Committee.

Timetable:

Action	Date	FR Cite
NPRM	06/27/12	77 FR 38248
NPRM Comment Period End.	08/27/12	
Final Rule	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC33

359. Roadway Worker Protection; Adjacent-Track On-Track Safety—Response to Petitions for Reconsideration

Legal Authority: 49 U.S.C. 20103

Abstract: This rulemaking would respond to petitions for reconsideration of the final rule published on November 30, 2011. FRA received two petitions for reconsideration of the final rule from railroad industry organizations. The first petition raised concern with the final rule's cost-benefit analysis and requested several amendments to the final rule to lessen the potential costs. The second petition discussed the final rule's potential impact on passenger train service/resultant costs and requested an amendment to the final rule to allow passenger trains to travel at higher speeds when passing maintenance of way work zones implicated by the rulemaking. This Final Rule will make amendments to the original Adjacent-Track On-Track Safety Final Rule.

Timetable:

Action	Date	FR Cite
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC37

360. • Telephonic Notification at Grade Crossings—Response to Petitions for Reconsideration

Legal Authority: 28 U.S.C. 2461, note; 49 CFR 1.49; 49 U.S.C. 20103; 49 U.S.C. 20107; 49 U.S.C. 20152; 49 U.S.C. 21301; 49 U.S.C. 21304; 49 U.S.C. 21311; 49 U.S.C. 22501, note; Pub. L. 110–432, Div, sec 202, 205

Abstract: The rulemaking would respond to petitions for reconsideration of the final rule published June 12, 2012. This final rule will make amendments to the original Systems for Telephonic Notification of Unsafe Conditions at Highway-Rail and Pathway Grade Crossings Final Rule. Amendments will be made to certain compliance dates, signage, and third-party telephone service requirements.

Timetable:

Action	Date	FR Cite
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC38

361. • Locomotive Safety Standards Amendments—Response to Petitions for Reconsideration

Legal Authority: 49 U.S.C. 20701

Abstract: This rulemaking would amend and clarify certain sections of the Locomotive Safety Standards final rule that was issued on April 9, 2012. In response to eight petitions for reconsideration of the final rule, this rulemaking would amend and clarify the requirements related to remote control locomotives (RCL), locomotive alerters, and locomotive electronics. This rulemaking would also clarify how to properly record the air flow method calibration date and the duration of the audio indication for RCL.

Timetable:

Action	Date	FR Cite
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave, SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC39

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION (DOT)

Pipeline and Hazardous Materials Safety Administration (PHMSA)

Proposed Rule Stage

362. +Pipeline Safety: Safety of On-Shore Liquid Hazardous Pipelines

Legal Authority: 49 U.S.C. 60101 *et seq.*

Abstract: This rulemaking would establish 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 existing 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.

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	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

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

363. • Pipeline Safety: Miscellaneous Amendments Related to Reauthorization and Petitions for Rulemaking (RRR)

Legal Authority: 49 U.S.C. 60101 *et seq.*

Abstract: This rulemaking will address miscellaneous issues that have been raised because of the reauthorization of the pipeline safety program in 2012 and petitions for rulemaking from many affected stakeholders. Some of the issues that this rulemaking would address include, renewal process for special permits, cost recovery for design reviews and incident reporting.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

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–AE94

DEPARTMENT OF TRANSPORTATION (DOT)

Pipeline and Hazardous Materials Safety Administration (PHMSA)

Final Rule Stage

364. +Hazardous Materials: Revisions to Requirements for the Transportation of Lithium Batteries

Legal Authority: 49 U.S.C. 5101 *et seq.*

Abstract: This rulemaking would amend the Hazardous Materials Regulations to comprehensively address the safe transportation of lithium cells and batteries. The intent of the rulemaking is to strengthen the current regulatory framework by imposing more effective safeguards, including design testing to address risks related to internal short circuits, and enhanced packaging, hazard communication, and operational measures for various types and sizes of lithium batteries in specific transportation contexts. The rulemaking would respond to several recommendations issued by the National Transportation Safety Board.

Timetable:

Action	Date	FR Cite
NPRM	01/11/10	75 FR 1302
NPRM Comment Period End.	03/12/10	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kevin Leary, Transportation Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–8553, *Email: kevin.leary@dot.gov.*

RIN: 2137–AE44

365. Hazardous Materials: Miscellaneous Amendments (RRR) (Section 610 Review)

Legal Authority: 49 U.S.C. 5101 *et seq.*

Abstract: This rulemaking would update and clarify existing requirements by incorporating changes into the Hazardous Materials Regulations (HMR) based on PHMSA's own initiatives through an extensive review of the HMR and previously issued letters of interpretation. Specifically, among other provisions, PHMSA would provide for the continued use of approvals until final administrative action is taken, when a correct and completed application for approval renewal was received 60 days prior to expiration date; update various entries in the hazardous materials table and the corresponding special provisions; clarify the lab pack requirements for temperature controlled materials; correct an error in the HMR with regard to the inspection of cargo tank motor vehicles containing corrosive materials; and revise the training requirements to require that hazardous materials employers ensure their hazardous materials employee training records are available upon request to an authorized official of the Department of Transportation or the Department of Homeland Security.

Timetable:

Action	Date	FR Cite
NPRM	04/26/12	77 FR 24885
NPRM Comment Period End.	06/25/12	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Robert Benedict, 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: robert.benedict@dot.gov.*

RIN: 2137–AE78

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION (DOT)

Maritime Administration (MARAD)

Long-Term Actions

366. +Regulations To Be Followed by All Departments, Agencies and Shippers Having Responsibility to Provide a Preference for U.S.-Flag Vessels in the Shipment of Cargoes on Ocean Vessels (RRR)

Legal Authority: 49 CFR 1.66; 46 app U.S.C. 1101; 46 app U.S.C. 1241; 46 U.S.C. 2302 (e)(1); Pub. L. 91–469

Abstract: This rulemaking would revise and clarify the Cargo Preference rules that have not been revised substantially since 1971. Revisions

would include an updated purpose and definitions section along with the removal of obsolete provisions. This rulemaking also would establish a new Part 383 to implement the Cargo Preference regulations. This rulemaking would cover Public Law 110–417, section 3511, National Defense Authorization Act for FY2009 changes to the cargo preference rules. The rulemaking also would include compromise, assessment, mitigation, settlement, and collection of civil penalties. Originally the agency had two separate rulemakings in process under RIN 2133–AB74 and 2133–AB75. RIN 2133–AB74 would have revised existing regulations and RIN 2133–AB75 would have established a new part 383: Guidance and Civil Penalties and implement Public Law 110–417, section 3511, National Defense Authorization Act for FY 2009. MARAD has decided it would be more efficient to merge both efforts under one; RIN 2133–AB75 has been merged with this action.

Timetable: Next Action Undetermined.

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Christine Gurland, Department of Transportation, Maritime Administration, 1200 New Jersey Ave SE., Washington, DC 20590, *Phone:* 202 366–5157, *Email: christine.gurland@dot.gov.*

RIN: 2133–AB74

[FR Doc. 2012–31500 Filed 1–7–13; 8:45 am]

BILLING CODE 4910–81–P

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Part XIII

Department of the Treasury

Semiannual Regulatory Agenda

DEPARTMENT OF THE TREASURY

31 CFR Subtitles A and B

Semiannual Agenda and Fiscal Year 2013 Regulatory Plan

AGENCY: Department of the Treasury.

ACTION: Semiannual regulatory agenda and annual regulatory plan.

SUMMARY: This notice is given pursuant to the requirements of the Regulatory Flexibility Act and Executive Order (E.O.) 12866 ("Regulatory Planning and Review"), which require the publication by the Department of a semiannual agenda of regulations. E.O. 12866 also requires the publication by the Department of a regulatory plan for the upcoming fiscal year.

FOR FURTHER INFORMATION CONTACT: The Agency Contact identified in the item relating to that regulation.

SUPPLEMENTARY INFORMATION: The semiannual regulatory agenda includes regulations that the Department has issued or expects to issue and rules currently in effect that are under departmental or bureau review. For this edition of the regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory Priorities are included in the Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** publication that includes the Unified Agenda.

Beginning with the fall 2007 edition, the Internet has been the primary medium for disseminating the Unified Agenda. The complete Unified Agenda will be available online at *www.reginfo.gov* and *www.regulations.gov*, in a format that offers users an enhanced ability to obtain information from the Agenda database. Because publication in the **Federal Register** is mandated for the regulatory flexibility agenda required by the Regulatory Flexibility Act (5 U.S.C. 602), Treasury's printed agenda entries include only:

(1) Rules that are in the regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that have been identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years.

The semiannual agenda and The Regulatory Plan of the Department of the Treasury conform to the Unified Agenda format developed by the Regulatory Information Service Center (RISC).

Dated: October 19, 2012.

Brian J. Sonfield,

Deputy Assistant General Counsel for General Law and Regulation.

INTERNAL REVENUE SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
367	Special Rules Under the Additional Medicare Tax	1545–BK54
368	Reporting and Notice Requirements Under Section 6056	1545–BL26

INTERNAL REVENUE SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
369	Indoor Tanning Services; Cosmetic Services Excise Taxes	1545–BJ40

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Proposed Rule Stage

367. Special Rules Under the Additional Medicare Tax

Legal Authority: 26 U.S.C. 3101; 26 U.S.C. 3102; 26 U.S.C. 6402; 26 U.S.C. 1401; 26 U.S.C. 6011; 26 U.S.C. 6205; 26 U.S.C. 6413; 26 U.S.C. 3111; 26 U.S.C. 3121; 26 U.S.C. 7805

Abstract: Proposed amendments of sections 31.3101, 31.3102, 31.3111, 31.3121, 1.1401, 31.6205, 31.6011, 31.6205, 31.6402, and 31.6413 of the Employment Tax Regulations provide guidance for employers and employees relating to the implementation of the Additional Medicare Tax, as enacted by the Affordable Care Act, and correction procedures for errors related to the Additional Medicare Tax.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Andrew K. Holubeck, Attorney—Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave NW., Room 4010, Washington, DC 20224, *Phone:* 202 622–3841, *Fax:* 202 622–5697, *Email: andrew.k.holubeck@irscounsel.treas.gov.*

Ligeia M. Donis, General Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Room 4312, Washington, DC 20224, *Phone:* 202 622–0047, *Fax:* 202 622–5697, *Email: ligeia.m.donis@irscounsel.treas.gov.*

RIN: 1545–BK54

368. • Reporting and Notice Requirements Under Section 6056

Legal Authority: 26 U.S.C. 7805; 26 U.S.C. 6056

Abstract: Proposed regulations under section 6056 of the Internal Revenue Code, as enacted by the Affordable Care Act, to provide guidance on rules that require applicable large employers to file certain information with the Internal Revenue Service on coverage under an eligible employer-sponsored health plan and furnish to individuals statements that set forth the information required to be reported to the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ligeia M. Donis, General Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Room 4312, Washington, DC 20224, *Phone:* 202 622–0047, *Fax:* 202 622–5697, *Email: ligeia.m.donis@irscounsel.treas.gov.*

R. Lisa Mojiri-Azad, Senior Technician Reviewer, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, *Phone:* 202 622–6060, *Email: lisa.mojiri-azad@irscounsel.treas.gov.*

RIN: 1545–BL26

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Final Rule Stage

369. Indoor Tanning Services; Cosmetic Services Excise Taxes

Legal Authority: 26 U.S.C. 6302(c); 26 U.S.C. 5000B; 26 U.S.C. 7805

Abstract: Proposed regulations provide guidance on the indoor tanning services tax made by the Patient Protection and Affordable Care Act of 2010, affecting users and providers of indoor tanning services.

Timetable:

Action	Date	FR Cite
NPRM	06/15/10	75 FR 33740
NPRM Comment Period End.	09/13/10	
Public Hearing—10/11/2011.	03/03/11	76 FR 76677
Outlines of Topics Due.	09/28/11	
Final Action	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael H. Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Room 5314, Washington, DC 20224, *Phone:* 202 622–3130, *Fax:* 202 622–4537, *Email: michael.h.beker@irscounsel.treas.gov.*

RIN: 1545–BJ40

[FR Doc. 2012–31673 Filed 1–7–13; 8:45 am]

BILLING CODE 4810–25–P

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Part XIV

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities which may be conducted by the Agency during the next 12 months. This regulatory agenda may be revised by the Agency during the coming months as a result of action taken by the Board.

ADDRESSES: Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact James J. Raggio, General Counsel, 202 272–0040 (voice) or 202 272–0062 (TTY).

James J. Raggio,

General Counsel.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
370	Americans With Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels **(Reg Plan Seq No. 74)**.	3014–AA11
371	Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way	3014–AA26

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Proposed Rule Stage

370. Americans with Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels

Regulatory Plan: This entry is Seq. No. 74 in part II of this issue of the **Federal Register**.

RIN: 3014–AA11

371. Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way

Legal Authority: 42 U.S.C. 12204, Americans With Disabilities Act; 29 U.S.C. 792, Rehabilitation Act

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) would propose 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.

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	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

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–AA26

[FR Doc. 2012–31501 Filed 1–7–13; 8:45 am]

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Part XV

Environmental Protection Agency

Semiannual Regulatory Agenda

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[EPA–HQ–OA–2012–0077; FRL–9744–8]

Fall 2012 Regulatory Agenda

AGENCY: Environmental Protection Agency.

ACTION: Semiannual regulatory flexibility agenda and semiannual regulatory agenda.

SUMMARY: The Environmental Protection Agency (EPA) publishes the semiannual regulatory agenda online (the e-Agenda) at *http://www.reginfo.gov* and at *www.regulations.gov* to update the public about: Regulations and major policies currently under development; reviews of existing regulations and major policies; and rules and major policy makings completed or canceled since the publication of the last agenda.

Definitions

"E-Agenda," "online regulatory agenda," and "semiannual regulatory agenda" all refer to the same comprehensive collection of information that, until 2007, was published in the **Federal Register** but now is only available through an online database.

"Regulatory Flexibility Agenda" refers to a document that contains information about regulations that may have a significant impact on a substantial number of small entities. We continue to publish it in the **Federal Register** because it is required by the Regulatory Flexibility Act of 1980.

"Unified Regulatory Agenda" refers to the collection of all agencies' agendas with an introduction prepared by the Regulatory Information Service Center.

"Regulatory Agenda Preamble" refers to the document you are reading now. It appears as part of the Regulatory Flexibility Agenda and introduces both the Regulatory Flexibility Agenda and the e-Agenda.

"Regulatory Development and Retrospective Review Tracker" refers to an online portal to EPA's priority rules and retrospective reviews of existing regulations. More information about the Regulatory Development and Retrospective Review Tracker appears in section II of this preamble.

FOR FURTHER INFORMATION CONTACT: If you have questions or comments about a particular action, please get in touch with the agency contact listed in each agenda entry. If you have general questions about the semiannual regulatory agenda, please contact: Caryn Muellerleile (*muellerleile.carvn@epa.gov*; 202–564–2855) or Amy Cole (*cole.amy@epa.gov*; 202–564–6535).

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SUPPLEMENTARY INFORMATION:

A. Links to EPA's Regulatory Information

- Semiannual Regulatory Agenda: *www.reginfo.gov* and *www.regulations.gov*
- Semiannual Regulatory Flexibility Agenda: *http://www.gpo.gov/fdsys/search/home.action*
- Regulatory Development and Retrospective Review Tracker: *www.epa.gov/regdarrt/*

B. What key statutes and executive orders guide EPA's rule and policymaking process?

A number of environmental laws authorize EPA's actions, including but not limited to:

- Clean Air Act (CAA),
- Clean Water Act (CWA),
- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, or Superfund),
- Emergency Planning and Community Right-to-Know Act (EPCRA),
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA),
- Resource Conservation and Recovery Act (RCRA),
- Safe Drinking Water Act (SDWA), and
- Toxic Substances Control Act (TSCA).

Not only must EPA comply with environmental laws, but also administrative legal requirements that apply to the issuance of regulations, such as: The Administrative Procedure Act (APA), the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), the Unfunded Mandates Reform Act (UMRA), the Paperwork Reduction Act (PRA), the National Technology Transfer and Advancement Act (NTTAA), and the Congressional Review Act (CRA).

EPA also meets a number of requirements contained in numerous Executive Orders: 12866, "Regulatory Planning and Review" (58 FR 51735, Oct. 4, 1993), as supplemented by Executive Order (EO) 13563, "Improving Regulation and Regulatory Review" (76 FR 3821, Jan. 21, 2011); 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations" (59 FR 7629, Feb. 16, 1994); 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, Apr. 23, 1997); 13132, "Federalism" (64 FR 43255, Aug. 10, 1999); 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, Nov. 9, 2000); 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

In addition to meeting its mission goals and priorities as described above, EPA is reviewing its existing regulations under EO 13563. This EO provides for periodic retrospective review of existing significant regulations and is intended to determine whether any such regulations should be modified, streamlined, expanded, or repealed, so as to make the Agency's regulatory program more effective or less burdensome in achieving the regulatory objectives. More information about this review is described in EPA's Statement of Priorities in the Regulatory Plan.

C. How can you be involved in EPA's rule and policymaking process?

You can make your voice heard by getting in touch with the contact person provided in each agenda entry. EPA encourages you to participate as early in the process as possible. You may also participate by commenting on proposed rules published in the **Federal Register** (FR).

Instructions on how to submit your comments are provided in each Advanced Notice of Proposed Rulemaking (ANPRM) and Notice of Proposed Rulemaking (NPRM). To be most effective, comments should contain information and data that support your position, and you also should explain why EPA should incorporate your suggestion in the rule or nonregulatory action. You can be

particularly helpful and persuasive if you provide examples to illustrate your concerns and offer specific alternatives.

EPA believes its actions will be more cost effective and protective if the development process includes stakeholders working with us to help identify the most practical and effective solutions to problems. Democracy gives real power to individual citizens, but with that power comes responsibility. EPA encourages you to become involved in its rule and policymaking process. For more information about public involvement in EPA activities, please visit *www.epa.gov/open*.

D. What actions are included in the e-Agenda and the Regulatory Flexibility Agenda?

EPA includes regulations and certain major policy documents in the e-Agenda. However, there is no legal significance to the omission of an item from the agenda, and EPA generally does not include the following categories of actions:

- Administrative actions such as delegations of authority, changes of address, or phone numbers;
- Under the CAA: Revisions to State implementation plans; equivalent methods for ambient air quality monitoring; deletions from the new source performance standards source categories list; delegations of authority to states; area designations for air quality planning purposes;
- Under FIFRA: Registration-related decisions, actions affecting the status of currently registered pesticides, and data call-ins;
- Under the Federal Food, Drug, and Cosmetic Act: Actions regarding pesticide tolerances and food additive regulations;
- Under RCRA: Authorization of State solid waste management plans; hazardous waste delisting petitions;
- Under the CWA: State Water Quality Standards; deletions from the section 307(a) list of toxic pollutants; suspensions of toxic testing requirements under the National Pollutant Discharge Elimination System (NPDES); delegations of NPDES authority to States;
- Under SDWA: Actions on State underground injection control programs;
- Under TSCA: New chemical-related decisions; actions implementing the TSCA Interagency Testing Committee decisions; actions affecting extensions for submitting test data.

The Regulatory Flexibility Agenda includes:

- Actions likely to have a significant economic impact on a substantial number of small entities.

E. How is the e-Agenda organized?

You can now choose how both the *www.reginfo.gov* and *www.regulations.gov* versions of the e-Agenda are organized. Current choices include: EPA subagency; stage of rulemaking, which is explained below; alphabetically by title; and by the Regulation Identifier Number (RIN), which is assigned sequentially when an action is added to the agenda.

Stages of rulemaking include:

1. Active—Actions may be in the Prerule, Proposed Rule, or Final Rule stage of the "Active" rules section. Prerule actions are generally intended to determine whether EPA should initiate rulemaking. They may include anything that influences or leads to rulemaking, such as Advance Notices of Proposed Rulemaking (ANPRMs), studies or analyses of the possible need for regulatory action, requests for public comment on the need for regulatory action, or important preregulatory policy proposals. Proposed Rules are EPA rulemaking actions that are within a year of proposal, or the publication of Notices of Proposed Rulemakings (NPRMs), in the **Federal Register**. Final Rules are those rules that will be issued as a final rule within a year.

2. Long-Term Actions—This section includes rulemakings for which the next scheduled regulatory action is after December 2013. We urge you to explore becoming involved even if an action is listed in the Long-Term category. By the time an action is listed in the Proposed Rules category you may have missed the opportunity to participate in certain public meetings or policy dialogues.

3. Completed Actions—This section contains actions that have been promulgated and published in the **Federal Register** since publication of the previous Semiannual Agenda. It also includes actions that EPA is no longer considering and has elected to "withdraw."

F. What information is in the Regulatory Flexibility Agenda and the e-Agenda?

The Regulatory Flexibility Agenda entries include only the nine categories of information that are required by the Regulatory Flexibility Act of 1980 and by **Federal Register** Agenda printing requirements: Sequence Number, RIN, Title, Description, Statutory Authority, Section 610 Review, if applicable, Regulatory Flexibility Analysis Required, Schedule, and Contact Person. Note that the electronic version of the Agenda (eAgenda) has more extensive information on each of these actions.

e-Agenda entries include:

Title: Titles for new entries (those that have not appeared in previous agendas) are preceded by a bullet (•) The notation "Section 610 Review" follows the title if we are reviewing the rule as part of our periodic review of existing rules under section 610 of the RFA (5 U.S.C. 610).

Priority: Entries are placed into one of five categories described below. OMB reviews all significant rules including both of the first two categories, "economically significant" and "other significant."

a. Economically Significant: Under Executive Order 12866, a rulemaking that may 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.

b. Other Significant: A rulemaking that is not economically significant but is considered significant for other reasons. This category includes rules that may:

1. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

2. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients; or

3. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles in Executive Order 12866.

c. Substantive, Nonsignificant: A rulemaking that has substantive impacts but is not Significant, Routine and Frequent, or Informational/Administrative/Other.

d. Routine and Frequent: A rulemaking that is a specific case of a recurring application of a regulatory program in the Code of Federal Regulations (e.g., certain State Implementation Plans, National Priority List updates, Significant New Use Rules, State Hazardous Waste Management Program actions, and Tolerance Exemptions). If an action that would normally be classified Routine and Frequent is reviewed by the Office of Management and Budget under EO 12866, then we would classify the action as either "Economically Significant" or "Other Significant."

e. Informational/Administrative/Other: An action that is primarily informational or pertains to an action outside the scope of EO 12866.

Also, if a rule may be "Major" as defined in the Congressional Review Act (5 U.S.C. 801, *et seq.*) because it is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in this law, it appears under the "Priority" heading with the statement "Major under 5 U.S.C. 801."

Legal Authority: The sections of the United States Code (U.S.C.), Public Law (Pub. L.), Executive Order (EO), or common name of the law that authorizes the regulatory action.

CFR Citation: The sections of the Code of Federal Regulations that would be affected by the action.

Legal Deadline: An indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to a Notice of Proposed Rulemaking, a Final Action, or some other action.

Abstract: A brief description of the problem the action will address.

Timetable: The dates (and citations) that documents for this action were published in the **Federal Register** and, where possible, a projected date for the next step. Projected publication dates frequently change during the course of developing an action. The projections in the agenda are best estimates as of the date we submit the agenda for publication. For some entries, the timetable indicates that the date of the next action is "to be determined."

Regulatory Flexibility Analysis Required: Indicates whether EPA has prepared or anticipates that it will be preparing a regulatory flexibility analysis under section 603 or 604 of the RFA. Generally, such an analysis is required for proposed or final rules subject to the RFA that EPA believes may have a significant economic impact on a substantial number of small entities.

Small Entities Affected: Indicates whether the rule is anticipated to have any effect on small businesses, small governments, or small nonprofit organizations.

Government Levels Affected: Indicates whether the rule may have any effect on levels of Government and, if so, whether the Governments are State, local, tribal, or Federal.

Federalism Implications: Indicates whether the action is expected to 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.

Unfunded Mandates: Section 202 of UMRA generally requires an assessment of anticipated costs and benefits if a rule includes a mandate that may result in expenditures of more than $100 million in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. If it is anticipated to exceed this $100 million threshold, we note it in this section.

Energy Impacts: Indicates whether the action is a significant energy action under EO 13211.

Sectors Affected: Indicates the main economic sectors regulated by the action. The regulated parties are identified by their North American Industry Classification System (NAICS) codes. These codes were created by the Census Bureau for collecting, analyzing, and publishing statistical data on the U.S. economy. There are more than 1,000 NAICS codes for sectors in agriculture, mining, manufacturing, services, and public administration.

International Trade Impacts: Indicates whether the action is likely to have international trade or investment effects, or otherwise be of international interest.

Agency Contact: The name, address, phone number, and email address, if available, of a person who is knowledgeable about the regulation.

Additional Information: Other information about the action including docket information.

URLs: For some actions, the Internet addresses are included for reading copies of rulemaking documents, submitting comments on proposals, and getting more information about the rulemaking and the program of which it is a part. (Note: To submit comments on proposals, you can go to the associated electronic docket, which is housed at *www.regulations.gov*. Once there, follow the online instructions to access the docket in question and submit comments. A docket identification [ID] number will assist in the search for materials.)

RIN: The Regulation Identifier Number is used by OMB to identify and track rulemakings. The first four digits of the RIN identify the EPA office with lead responsibility for developing the action.

G. How can you find out about rulemakings that start up after the regulatory agenda is signed?

EPA posts monthly information of new rulemakings that the Agency's senior managers have decided to develop. This list is also distributed via email. You can find the current list, known as the Action Initiation List (AIL), at *http://www.epa.gov/lawsregs/regulations/ail.html* where you will also find information about how to get an email notification when a new list is posted. If you would like to regularly receive information about the rules newly approved for development, sign up for our monthly Action Initiation List by going to *http://www.epa.gov/lawsregs/regulations/ail.html#notification* and completing the steps listed there.

H. What tools are available for mining regulatory agenda data and for finding more about EPA rules and policies?

1. The http://www.reginfo.gov/Searchable Database

The Regulatory Information Service Center and Office of Information and Regulatory Affairs have a Federal regulatory dashboard that allows users to view the Regulatory Agenda database (*http://www.reginfo.gov/public/do/eAgendaMain*), which includes powerful search, display, and data transmission options. At that site you can:

a. *See the preamble.* At the URL listed above for the Unified Agenda and Regulatory Plan, find "Current Agenda Agency Preambles." Environmental Protection Agency is listed alphabetically under "Other Executive Agencies."

b. *Get a complete list of EPA's entries in the current edition of the Agenda.* Use the drop-down menu in the "Select Agency" box to find Environmental Protection Agency and "Submit."

c. *View the contents of all of EPA's entries in the current edition of the Agenda.* Choose "Search" from the "Unified Agenda" selection in the toolbar at the top of the page. Within the "Search of Agenda/Regulatory Plan" screen, open "Advanced Search," then "Continue." Select "Environmental Protection Agency" and "Continue." Select "Search," then "View All RIN Data (Max 350)."

d. *Get a listing of entries with specified characteristics.* Follow the procedure described immediately above for viewing the contents of all entries, but on the screen entitled "Advanced Search—Select Additional Fields," choose the characteristics you are seeking before "Search." For example, if you wish to see a listing of all economically significant actions that may have a significant economic impact on a substantial number of small businesses, you would check "Economically Significant" under "Priority" and "Business" under "Regulatory Flexibility Analysis Required."

e. *Download the results of your searches in XML format.*

2. Subject Matter EPA Web Sites

Some actions listed in the Agenda include a URL that provides additional information.

3. Public Dockets

When EPA publishes either an ANPRM or a NPRM in the **Federal Register**, the Agency typically establishes a docket to accumulate materials throughout the development process for that rulemaking. The docket serves as the repository for the collection of documents or information related to a particular Agency action or activity. EPA most commonly uses dockets for rulemaking actions, but dockets may also be used for RFA section 610 reviews of rules with significant economic impacts on a substantial number of small entities and for various non-rulemaking activities, such as **Federal Register** documents seeking public comments on draft guidance, policy statements, information collection requests under the PRA, and other non-rule activities. Docket information should be in that action's agenda entry. All of EPA's public dockets can be located at *www.regulations.gov*.

4. EPA's Regulatory Development and Retrospective Review Tracker

EPA's Regulatory Development and Retrospective Review Tracker (*www.epa.gov/regdarrt/*) serves as a portal to EPA's priority rules, providing you with earlier and more frequently updated information about Agency regulations than is provided by the Regulatory Agenda. It also provides information about retrospective reviews of existing regulations. Not all of EPA's Regulatory Agenda entries appear on Reg DaRRT; only priority rulemakings can be found on this Web site. You can track progress on various aspects of EPA's priority rulemakings by signing up for RSS feeds from the Regulatory Development and Retrospective Review Tracker at *http://yosemite.epa.gov/opei/RuleGate.nsf/content/getalerts.html?opendocument*.

I. Reviews of Rules With Significant Impacts on a Substantial Number of Small Entities

Section 610 of the RFA requires that an agency review, within 10 years of promulgation, each rule that has or will have a significant economic impact on a substantial number of small entities. On October 31, 2012, EPA published in the **Federal Register** a notice announcing the review of three past rulemakings:

- Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements
- National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitations Guidelines Standards for Concentrated Animal Feeding Operations
- Review of National Emissions Standards for Hazardous Air Pollutants (NESHAP): Reinforced Plastic Composites Production

To comment or learn more about these retrospective reviews of agency rulemakings under section 610 of the RFA, see: *http://www.epa.gov/sbrefa/section-610.html*.

J. What other special attention does EPA give to the impacts of rules on small businesses, small governments, and small nonprofit organizations?

For each of EPA's rulemakings, consideration is given whether there will be any adverse impact on any small entity. EPA attempts to fit the regulatory requirements, to the extent feasible, to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulation.

Under RFA as amended by SBREFA, the Agency must prepare a formal analysis of the potential negative impacts on small entities, convene a Small Business Advocacy Review Panel (proposed rule stage), and prepare a Small Entity Compliance Guide (final rule stage) unless the Agency certifies a rule will not have a significant economic impact on a substantial number of small entities. For more detailed information about the Agency's policy and practice with respect to implementing RFA/SBREFA, please visit the RFA/SBREFA Web site at *http://www.epa.gov/sbrefa/*.

K. Thank You for Collaborating With Us

Finally, we would like to thank those of you who choose to join with us in making progress on the complex issues involved in protecting human health and the environment. Collaborative efforts such as EPA's open rulemaking process are a valuable tool for addressing the problems we face, and the regulatory agenda is an important part of that process.

Dated: October 22, 2012.

Shannon Kenny,

Acting Principal Deputy Associate Administrator, Office of Policy.

10—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
372	Revision of New Source Performance Standards for New Residential Wood Heaters	2060–AP93

10—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
373	National Emission Standards for Hazardous Air Pollutants (NESHAP) Risk and Technology Review (RTR) for the Mineral Wool and Wool Fiberglass Industries.	2060–AQ90

35—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
374	Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings	2070–AJ56

35—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
375	Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products **(Reg Plan Seq No. 84)**.	2070–AJ44
376	Formaldehyde Emissions Standards for Composite Wood Products **(Reg Plan Seq No. 85)**	2070–AJ92

References in boldface appear in The Regulatory Plan in part II of this issue of the FEDERAL REGISTER.

60—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
377	Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hard Rock Mining Industry.	2050–AG61

ENVIRONMENTAL PROTECTION AGENCY (EPA)

10

Proposed Rule Stage

372. Revision of New Source Performance Standards for New Residential Wood Heaters

Legal Authority: CAA sec 111(b)(1)(B)

Abstract: EPA is revising the New Source Performance Standards (NSPS) for new residential wood heaters. This action is necessary because it updates the 1988 NSPS to reflect significant advancements in wood heater technologies and design, broadens the range of residential wood-heating appliances covered by the regulation, and improves and streamlines implementation procedures. This rule is expected to require manufacturers to redesign wood heaters to be cleaner and lower emitting. In general, the design changes would also make the heaters perform better and be more efficient. The revisions are also expected to streamline the process for testing new model lines by allowing the use of International Standards Organization (ISO)-accredited laboratories and certifying bodies, which will expand the number of facilities that can be used for testing and certification of the new model lines. This action is expected to include the following new residential wood-heating appliances:

—Adjustable burn-rate wood heaters
—Pellet stoves
—Single burn-rate wood heaters
—Outdoor hydronic heaters (outdoor wood boilers)
—Indoor hydronic heaters (indoor wood boilers)
—Wood-fired, forced-air furnaces
—Masonry heaters.

These standards would apply only to new residential wood heaters and not to existing residential wood-heating appliances.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	
Final Rule	03/00/14	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Gil Wood, Environmental Protection Agency, Air and Radiation, C404–05, Research Triangle Park, NC 27711, *Phone:* 919 541–5272, *Fax:* 919 541–0242, *Email: wood.gil@epa.gov.*

David Cole, Environmental Protection Agency, Air and Radiation, C404–05, Research Triangle Park, NC 27711, *Phone:* 919 541–5565, *Fax:* 919 541–0242, *Email: cole.david@epa.gov.*

RIN: 2060–AP93

ENVIRONMENTAL PROTECTION AGENCY (EPA)

10

Long-Term Actions

373. National Emission Standards for Hazardous Air Pollutants (NESHAP) Risk and Technology Review (RTR) for the Mineral Wool and Wool Fiberglass Industries

Legal Authority: 42 U.S.C. 7401

Abstract: The Maximum Achievable Control Technology (MACT) standard for Mineral Wool Production was promulgated on June 1, 1999, and the MACT for Wool Fiberglass Production was promulgated on June 14, 1999. The Clean Air Act requires EPA to evaluate the risk remaining to human health within eight years of promulgation of each MACT standard; for these regulations, that date expired in June 2007. Along with risk, the EPA is also required to review new technology in the industry that can reduce hazardous air pollutant (HAP) emissions from regulated sources in the industry, and may consider costs under this technology review. EPA is addressing these Clean Air Act requirements under a combined risk and technology review (RTR). EPA was petitioned to review the risk for these source categories, and also to determine MACT floors for pollutants and processes that were not regulated by the MACT standards. The court entered into an agreement with EPA and the litigants, and the resulting deadline for proposal and promulgation of these RTRs is November 4, 2011, and November 30, 2012, respectively. In addition, EPA will be preparing to regulate wool fiberglass area sources under a new NESHAP, expected to be proposed March 15, 2013.

Timetable:

Action	Date	FR Cite
NPRM	11/25/11	76 FR 72770
Notice	12/20/11	76 FR 78872
Notice	01/23/12	77 FR 3223
Final Rule	01/00/14	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Susan Fairchild, Environmental Protection Agency, Air and Radiation, D–243–04, Research Triangle Park, NC 27711, *Phone:* 919 541–5167, *Fax:* 919 541–5450, *Email: fairchild.susan@epamail.epa.gov.*

Keith Barnett, Environmental Protection Agency, Air and Radiation, D243–04, Research Triangle Park, NC 27711, *Phone:* 919 541–5605, *Fax:* 919 541–5450, *Email: barnett.keith@epa.gov.*

RIN: 2060–AQ90

ENVIRONMENTAL PROTECTION AGENCY (EPA)

35

Prerule Stage

374. Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings

Legal Authority: 15 U.S.C. 2682(c)(3)

Abstract: Section 402(c)(3) of the Toxic Substances Control Act (TSCA) requires EPA to regulate renovation or remodeling activities that create lead-based paint hazards in target housing (most pre-1978 housing), pre-1978 public buildings, and commercial buildings. In a 2008 rule, EPA addressed lead-based paint hazards created by these activities in target housing and child-occupied facilities built before 1978 (child-occupied facilities are a subset of public and commercial buildings or facilities where children under age 6 spend a great deal of time). The 2008 rule established requirements for training renovators, other renovation workers, and dust sampling technicians; for certifying renovators, dust sampling technicians, and renovation firms; for accrediting providers of renovation and dust sampling technician training; for renovation work practices; and for recordkeeping. The current rulemaking effort will address renovation or remodeling activities in the remaining buildings described in TSCA section 402(c)(3); i.e., public buildings built before 1978 and commercial buildings that are not child-occupied facilities. In 2010, EPA issued an Advanced Notice of Proposed Rulemaking (ANPRM) that solicited public comment on lead-safe work practices and other requirements EPA should consider for renovations on the exteriors of public and commercial buildings and whether lead-based paint hazards are created by interior renovation, repair, and painting projects in public and commercial buildings. EPA is currently developing a proposal to address lead-based paint hazards that may be created by renovations on the exterior or in the interiors of public and commercial buildings. As part of a settlement agreement reached in 2009 and most recently amended in September 2012, EPA will hold a public meeting in 2013 to discuss the issues under consideration for this rulemaking. In addition, after considering the information it gathers and its related analyses, EPA has agreed to either sign a proposed rule covering renovation, repair, and painting activities in public and commercial buildings, or determine that these activities do not create lead-based paint hazards by July 1, 2015. If EPA issues a proposed rule, EPA has further agreed to take final action on or before the date 18 months after the proposal is published.

Timetable:

Action	Date	FR Cite
ANPRM	05/06/10	75 FR 24848
Notice (Request Information).	01/00/13	
Notice (Public Meeting).	06/00/13	
NPRM	07/00/15	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Hans Scheifele, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, Washington, DC 20460, *Phone:* 202 564–3122, *Email: scheifele.hans@epa.gov.*

Cindy Wheeler, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, Washington, DC 20460, *Phone:* 202 566–0484, *Email: wheeler.cindy@epa.gov.*

RIN: 2070–AJ56

ENVIRONMENTAL PROTECTION AGENCY (EPA)

35

Proposed Rule Stage

375. Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products

Regulatory Plan: This entry is Seq. No. 84 in part II of this issue of the **Federal Register**.

RIN: 2070–AJ44

376. Formaldehyde Emissions Standards for Composite Wood Products

Regulatory Plan: This entry is Seq. No. 85 in part II of this issue of the **Federal Register**.

RIN: 2070–AJ92

ENVIRONMENTAL PROTECTION AGENCY (EPA)

60

Long-Term Actions

377. Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hard Rock Mining Industry

Legal Authority: 42 U.S.C. 9601 *et seq.;* 42 U.S.C. 9608(b)

Abstract: Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, establishes certain authorities concerning financial responsibility requirements. This provision authorizes regulation to require business operators to have some financial mechanisms in place—such as a bond or insurance policy—that can provide funds to clean or avert spills of hazardous substances without burdening taxpayers. The Agency has identified classes of facilities within the Hard Rock mining industry as those for which financial responsibility requirements will be first developed. EPA intends to include requirements for financial responsibility, as well as notification and implementation.

Timetable:

Action	Date	FR Cite
Notice	07/28/09	74 FR 37213
NPRM	05/00/14	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ben Lesser, Environmental Protection Agency, Solid Waste and Emergency Response, 5302P, Washington, DC 20460, *Phone:* 703 308–0314, *Email: lesser.ben@epa.gov.*

David Hockey, Environmental Protection Agency, Solid Waste and Emergency Response, 5303P, Washington, DC 20460, *Phone:* 703 308–8846, *Email: hockey.david@epa.gov.*

RIN: 2050–AG61

[FR Doc. 2012–31502 Filed 1–7–13; 8:45 am]

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FEDERAL REGISTER

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Part XVI

General Services Administration

Semiannual Regulatory Agenda

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 102, 105, 300, 301, 302, 303, and 304

48 CFR Ch. 5

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: General Services Administration (GSA).

ACTION: Semiannual Regulatory Agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since the fall 2012 edition. This agenda was developed under the guidelines of Executive Order 12866 "Regulatory Planning and Review." GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. GSA also invites interested persons to recommend existing significant regulations for review to determine whether they should be modified or eliminated. Proposed rules may be reviewed in their entirety at the Government's rulemaking Web site at *http://www.regulations.gov.*

Since the fall 2007 edition, the Internet has been the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at *www.reginfo.gov,* in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), GSA's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register,** as in past years, including GSA's regulatory plan.

FOR FURTHER INFORMATION CONTACT: Hada Flowers, Division Director, Regulatory Secretariat Division at 202 208–7282.

Dated: November 8, 2012.

Joseph A. Neurauter,

Director, Office of Acquisition Policy and Senior Procurement Executive.

GENERAL SERVICES ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
378	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2006–G507, Rewrite of Part 538, Federal Supply Schedule Contracting.	3090–AI77

GENERAL SERVICES ADMINISTRATION (GSA)

Office of Acquisition Policy

Final Rule Stage

378. General Services Administration Acquisition Regulation (GSAR); GSAR Case 2006–G507, Rewrite of Part 538, Federal Supply Schedule Contracting

Legal Authority: 40 U.S.C. 121(c)

Abstract: The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to revise sections of GSAR part 538 that provide requirements for Federal Supply Schedule Contracting actions. Areas in the rewrite include the following: subpart 538.1, Definitions; subpart 538.4, Administrative Matters; subpart 538.7, Acquisition Planning; subpart 538.9, Contractor Qualifications; subpart 538.12, Acquisition of Commercial Items—FSS; subpart 538.15, Negotiation and Award of Contracts; subpart 538.17, Administration of Evergreen Contracts; subpart 538.19, FSS and Small Business Programs; subpart 538.25, Requirements for Foreign Entities; subpart 538.42, Contract Administration and subpart 538.43, Contract Modifications. This case is included in GSA's retrospective review of existing regulations under E.O. 13563. Additional information is located in GSA's retrospective review dated May 14, 2011 available at: *www.gsa.gov/improvingregulations.*

Timetable:

Action	Date	FR Cite
NPRM	01/26/09	74 FR 4596
NPRM Comment Period End.	03/27/09	
Final Rule	09/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dana L Munson, Procurement Analyst, General Services Administration, 1275 First Street NE., Washington, DC 20417, *Phone:* 202 357–9652, *Email: dana.munson@gsa.gov.*

[FR Doc. 2012–31504 Filed 1–7–13; 8:45 am]

BILLING CODE 6824–34–P

FEDERAL REGISTER

Vol. 78 Tuesday,
No. 5 January 8, 2013

Part XVII

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: NASA's regulatory agenda describes those regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of the knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESSES: Director, for Internal Controls and Management Systems, Office of Management Systems Division, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Cheryl E. Parker, (202) 358–0252.

SUPPLEMENTARY INFORMATION: OMB guidelines dated June 13, 2012; "Fall 2012 Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions" require a regulatory agenda of those regulations under development and review to be published in the **Federal Register** each April and October. This edition of the Unified Agenda includes NASA's Statement of Regulatory Priorities, which appears in Part II of this issue of the **Federal Register**. The complete Unified Agenda will be published at *www.reginfo.gov*.

Dated: October 19, 2012.

Nancy Anne Baugher,

Director, for Internal Controls and Management Systems.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
379	Nondiscrimination on Basis of Handicap **(Section 610 Review)**	2700–AD85

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Proposed Rule Stage

379. Nondiscrimination on Basis of Handicap (Section 610 Review)

Legal Authority: 29 U.S.C. 794, sec 504 of the Rehabilitation Act of 1973, amended

Abstract: This proposed rule amends 14 CFR 1251 to align with the Department of Justice's (DOJ) implementing regulations incorporating the new accessibility standards. Other amendments include updates to organizational information, use of the term "disability" in lieu of the term "handicap," changes to definitions, and other sections based on the Americans with Disabilities Act of 2008.

Part 1251 implements the federally assisted provisions of section 504 of the Rehabilitation Act of 1973 (section 504), as amended, 29 U.S.C. section 794, which prohibits discrimination on the basis of disability by recipients of Federal Financial Assistance from NASA. Under Executive Order No. 12250, the United States Attorney General has the authority to coordinate the implementation and enforcement of a variety of civil rights statutes by Federal agencies such as NASA, including section 504.

The revisions to this rule are part of NASA's retrospective plan under Executive Order 13563 completed in August 2011. NASA's full plan can be accessed at: *http://www.nasa.gov/open.*

Timetable:

Action	Date	FR Cite
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Robert W. Cosgrove, External Compliance Manager, National Aeronautics and Space Administration, 300 E Street SW., Washington, DC 20546, *Phone:* 202 358–0446, *Fax:* 202 358–3336, *Email: robert.cosgrove@nasa.gov.*

RIN: 2700–AD85

[FR Doc. 2012–31505 Filed 1–7–13; 8:45 am]

BILLING CODE 7510–13–P

FEDERAL REGISTER

Vol. 78 Tuesday,
No. 5 January 8, 2013

Part XVIII

Small Business Administration

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Semiannual Regulatory Agenda.

SUMMARY: This Regulatory Agenda is a semiannual summary of all current and projected rulemakings, existing regulations, and completed actions of the Small Business Administration (SBA). For this fall edition of the SBA's Regulatory Agenda, a Regulatory Plan that contains a list of the Agency's most important and significant regulatory actions and a Statement of Regulatory Priorities is also included. This plan appears in both the online Unified Agenda and in part II of the **Federal Register** editions that include the abbreviated Unified Agenda.

This agenda provides the public with information about SBA's regulatory activity. SBA invites the public to submit comments on any aspect of this Agenda. SBA expects that providing early information about pending regulatory activities would encourage more effective public participation in this process.

FOR FURTHER INFORMATION CONTACT:

General

Please direct general comments or inquiries to Martin "Sparky" Conrey, Assistant General Counsel for Legislation and Appropriations, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 619–0638, *martin.conrey@sba.gov*.

Specific

Please direct specific comments and inquiries on individual regulatory activities identified in this agenda to the individual listed in the summary of the regulation as the point of contact for that regulation.

SUPPLEMENTARY INFORMATION: SBA provides this notice under the requirements of the Regulatory Flexibility Act, 5 U.S.C. sections 601 to 612 and Executive Order 12866, "Regulatory Planning and Review," which require each agency to publish a semiannual agenda of regulations. The Regulatory Agenda is a summary of all current and projected rulemakings during the coming one-year period, as well as actions completed since the publication of the last Regulatory Agenda for the agency.

Beginning with the fall 2007 edition, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at *www.reginfo.gov* in a format that greatly enhances a user's ability to obtain information about the rules in the agency's Agenda.

The Regulatory Flexibility Act (RFA) also requires federal agencies to publish their regulatory flexibility agendas in the **Federal Register**. A regulatory flexibility agenda contains only those rules listed in the semi-annual agenda that are likely to have a significant economic impact on a substantial number of small entities, and those rules identified for periodic review in keeping with the requirements of section 610 of the RFA. This regulatory flexibility agenda may be combined with any other agenda. Therefore, SBA's Fall 2012 Regulatory Agenda includes, as a subset, those regulatory actions that are in the SBA's regulatory flexibility agenda. Printing of these entries is limited to fields that contain information required by the RFA requirements. Additional information on these entries is available in the Unified Agenda published on the Internet.

Dated: September 13, 2012.

Karen G. Mills,

Administrator.

SMALL BUSINESS ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
380	Small Business Development Centers (SBDC) Program Revisions	3245–AE05
381	SBA Express Loan Program; Export Express Program	3245–AF85
382	Implementation of Small Business Disaster Response and Loan Improvement Act of 2008: Expedited Disaster Assistance Program.	3245–AF88
383	Implementation of Small Business Disaster Response and Loan Improvement Act of 2008: Private Loan Disaster Program.	3245–AF99
384	Women's Business Center Program	3245–AG02
385	504 and 7(a) Regulatory Enhancements **(Reg Plan Seq No. 98)**	3245–AG04
386	Small Business Jobs Act: Small Business Size Standards; Alternative Size Standard for 7(a) and 504 Business Loan Programs.	3245–AG16
387	Small Business Jobs Act: Small Business Mentor-Protégé Programs **(Reg Plan Seq No. 99)**	3245–AG24
388	Small Business HUBZone Program	3245–AG38
389	Agent Revocation and Suspension Procedures	3245–AG40
390	Small Business Size Standards: Mining, Quarrying, and Oil and Gas Extraction	3245–AG44
391	Small Business Size Standards for Wholesale Trade	3245–AG49
392	Small Business Size Standards for Manufacturing	3245–AG50
393	Small Business Size Standards for Other Industries With Employee-Based Size Standards not Part of Manufacturing or Wholesale Trade.	3245–AG51

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

SMALL BUSINESS ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
394	Lender Oversight Program	3245–AE14
395	Small Business Technology Transfer (STTR) Policy Directive **(Reg Plan Seq No. 100)**	3245–AF45
396	Small Business Innovation Research (SBIR) Program Policy Directive **(Reg Plan Seq No. 101)**	3245–AF84
397	Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation **(Reg Plan Seq No. 102)**.	3245–AG20
398	Small Business Jobs Act: Subcontract Integrity	3245–AG22

SMALL BUSINESS ADMINISTRATION—FINAL RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
399	Small Business Jobs Act: Small Business Size and Status Integrity	3245–AG23
400	Small Business Size Standards for Utilities	3245–AG25
401	Small Business Size Standards: Arts, Entertainment, and Recreation	3245–AG36
402	Small Business Size Standards: Construction	3245–AG37
403	Small Business Size Standards: Agriculture, Forestry, Fishing, and Hunting	3245–AG43
404	Small Business Size Standards: Finance and Insurance; Management of Companies and Enterprises	3245–AG45
405	Small Business Size Regulations, Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) Program.	3245–AG46

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

SMALL BUSINESS ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
406	Small Business Size Standards; Information	3245–AG26
407	Small Business Size Standards; Administrative and Support, Waste Management and Remediation Services.	3245–AG27
408	Small Business Size Standards: Real Estate, Rental and Leasing	3245–AG28
409	Small Business Size Standards: Educational Services	3245–AG29
410	Small Business Size Standards: Health Care and Social Assistance	3245–AG30
411	Small Business Investment Companies—Early Stage SBICs	3245–AG32

SMALL BUSINESS ADMINISTRATION (SBA)

Proposed Rule Stage

380. Small Business Development Centers (SBDC) Program Revisions

Legal Authority: 15 U.S.C. 634(b)(6); 15 U.S.C. 648

Abstract: This rule would update Small Business Development Center (SBDC) program regulations by amending among other things, the: (1) procedures for approving and funding of SBDCs; (2) approval procedures for travel outside the continental U.S. and U.S. territories; (3) procedures and requirements regarding findings and disputes resulting from financial exams, programmatic reviews, accreditation reviews, and other SBA oversight activities; (4) requirements for new and renewal applications for SBDC awards, including the requirements for electronic submission through the approved electronic Government submission facility; and (5) provisions regarding the collection and use of individual SBDC client data.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John C. Lyford, Deputy Associate Administrator, Office of Small Development Centers, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7159, *Fax:* 202 481–2613, *Email: chancy.lyford@sba.gov.*

RIN: 3245–AE05

381. SBA Express Loan Program; Export Express Program

Legal Authority: 15 U.S.C. 636(a)(31) and (35)

Abstract: SBA plans to issue regulations for the SBA Express loan program codified in section 7(a)(31) of the Small Business Act. The SBA Express loan program reduces the number of Government mandated forms and procedures, streamlines the processing and reduces the cost of smaller, less complex SBA loans. Particular features of the SBA Express loan program include: (1) SBA Express loans carry a maximum SBA guaranty of 50 percent; (2) a response to an SBA Express loan application will be given within 36 hours; (3) lenders and borrowers can negotiate the interest rate, which may not exceed SBA maximums; and (4) qualified lenders may be granted authorization to make eligibility determinations. SBA also plans to issue regulations for the Export Express Program codified at 7(a)(35) of the Small Business Act. The Export Express Program, made permanent by the Small Business Jobs Act, makes guaranteed financing available for export development activities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Grady Hedgespeth, Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7562, *Fax:* 202 481–0248, *Email: grady.hedgespeth@sba.gov.*

RIN: 3245–AF85

382. Implementation of Small Business Disaster Response and Loan Improvement Act of 2008: Expedited Disaster Assistance Program

Legal Authority: 15 U.S.C. 636(j)

Abstract: This proposed rule would establish and implement an expedited disaster assistance business loan program under which the SBA will guarantee short-term loans made by private lenders to eligible small businesses located in a catastrophic disaster area. The maximum loan amount is $150,000, and SBA will guarantee timely payment of principal and interest to the lender. The maximum loan term will be 180 days, and the interest rate will be limited to 300 basis points over the Federal funds rate.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Grady Hedgespeth, Director, Office of Financial Assistance, Small Business Administration, 409

Third Street SW., Washington, DC 20416, *Phone:* 202 205–7562, *Fax:* 202 481–0248, *Email: grady.hedgespeth@sba.gov.*

RIN: 3245–AF88

383. Implementation of Small Business Disaster Response and Loan Improvement Act of 2008: Private Loan Disaster Program

Legal Authority: 15 U.S.C. 636

Abstract: This proposed rule would establish and implement a private disaster loan program under which SBA will guarantee loans made by qualified lenders to eligible small businesses and homeowners located in a catastrophic disaster area. Private disaster loans made under this programs will have the same terms and conditions as SBA's direct disaster loans. In addition, SBA will guarantee timely payment of principal and interest to the lender. SBA may guarantee up to 85 percent of any loan under this program and the maximum loan amount is $2 million.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Grady Hedgespeth, Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7562, *Fax:* 202 481–0248, *Email: grady.hedgespeth@sba.gov.*

RIN: 3245–AF99

384. Women's Business Center Program

Legal Authority: 15 U.S.C. 631; 15 U.S.C. 656

Abstract: SBA's Office of Women's Business Ownership (OWBO) oversees a network of SBA-funded Women's Business Centers (WBCs) throughout the United States and its territories. WBCs provide management and technical assistance to small business concerns both nascent and established, with a focus on such businesses that are owned and controlled by women, or on women planning to start a business, especially women who are economically or socially disadvantaged. The training and counseling provided by the WBCs encompass a comprehensive array of topics, such as finance, management and marketing in various languages. This rule would propose to codify the requirements and procedures that govern the delivery, funding and evaluation of the management and technical assistance provided under the WBC Program. The rule would address, among other things, the eligibility criteria for selection as a WBC, use of federal funds, standards for effectively carrying out program duties and responsibilities, and the requirements for reporting on financial and programmatic performance.

Timetable:

Action	Date	FR Cite
NPRM	09/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ana Harvey, Assistant Administrator, Office of Women's Business Ownership, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, *Phone:* 202 205–6677, *Email: ana.harvey@sba.gov.*

RIN: 3245–AG02

385. 504 and 7(A) Regulatory Enhancements

Regulatory Plan: This entry is Seq. No. 98 in part II of this issue of the **Federal Register**.

RIN: 3245–AG04

386. Small Business Jobs Act: Small Business Size Standards; Alternative Size Standard for 7(A) and 504 Business Loan Programs

Legal Authority: Pub. L. 111–240, sec 1116

Abstract: SBA will amend its size eligibility criteria for Business Loans and for development company loans under title V of the Small Business Investment Act (504). For the SBA 7(a) Business Loan Program, the amendments will provide an alternative size standard for loan applicants that do not meet the small business size standards for their industries. For the 504 Program, the amendments will increase the current alternative standard for applicants for 504 loans. The Small Business Jobs Act of 2010 (Jobs Act) established alternative size standards that apply to both of these programs until the SBA's Administrator establishes other alternative size standards. This interim final rule will be effective when published because the alternative size standards that the Jobs Act established were effective September 27, 2010, the date of its enactment. These alternative size standards do not affect other Federal government programs, including Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email: khem.sharma@sba.gov.*

RIN: 3245–AG16

387. Small Business Jobs Act: Small Business Mentor-Protégé Programs

Regulatory Plan: This entry is Seq. No. 99 in part II of this issue of the **Federal Register**.

RIN: 3245–AG24

388. Small Business Hubzone Program

Legal Authority: 15 U.S.C. 657a

Abstract: SBA has been reviewing its processes and procedures for implementing the HUBZone program and has determined that several of the regulations governing the program should be amended in order to resolve certain issues that have arisen. As a result, the proposed rule would constitute a comprehensive revision of part 126 of SBA's regulations to clarify current HUBZone Program regulations, and implement various new procedures. These planned amendments will serve to streamline the HUBZone program and ease program eligibility requirements, particularly those that the small business concerns perceive to be burdensome. In developing this proposed rule, SBA will focus on the principles of Executive Order 13563 to determine whether portions of regulations should be modified, streamlined, expanded or repealed to make the HUBZone program more effective and/or less burdensome on small business concerns. At the same time, SBA will maintain a framework that helps identify and reduce waste, fraud and abuse in the program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mariana Pardo, Deputy Director, Office of Hubzone, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, *Phone:* 202 205–2985, *Email: mariana.pardo@sba.gov.*

RIN: 3245–AG38

389. Agent Revocation and Suspension Procedures

Legal Authority: Not Yet Determined

Abstract: These changes to 13 CFR sections 103, 134, and 2 CFR 2700 lay

out a procedural process for SBA's revocation of the privilege of agents to conduct business with the Agency. Included in this process are procedure for proposed revocation, the opportunity to object to the proposed revocation, the revocation decision, as well as requests for reconsideration. These procedures also provide for suspension of the privilege to conduct business with the Agency pending a revocation action. In addition, these changes remove Office of Hearings and Appeals review of suspension, revocation, and debarment actions by SBA.

Timetable:

Action	Date	FR Cite
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Christopher J McClintock, Trial Attorney, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, *Phone:* 202 205–7715, *Email:* *christoper.mcclintock@sba.gov.*

RIN: 3245–AG40

390. Small Business Size Standards: Mining, Quarrying, and Oil and Gas Extraction

Legal Authority: 15 U.S.C. 632(a)

Abstract: SBA has received numerous comments from businesses, industry associations and other Federal agencies that SBA's small business size standards have not kept pace with changes in industry structure and Federal government contracting marketplace. SBA also recognizes that such changes require a re-evaluation of existing small business size standards. As a result, SBA is conducting a comprehensive review of all small business size standards to determine whether the existing size standards should be retained or revised. In addition, the Small Business Jobs Act of 2010 directs SBA to conduct a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. Accordingly, in this proposed rule, SBA will evaluate each industry within the North American Industry Classification System (NAICS) Sector 21, Mining, Quarrying, and Oil and Gas Extraction, and revise, as necessary, size standards for the sector. This is one of a series of proposed rules that will examine industries grouped by a NAICS Sector.

Timetable:

Action	Date	FR Cite
NPRM	12/06/12	77 FR 72766
NPRM Comment Period End.	02/04/13	
Final Action	09/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email:* *khem.sharma@sba.gov.*

RIN: 3245–AG44

391. • Small Business Size Standards for Wholesale Trade

Legal Authority: 15 U.S.C. 632(a)

Abstract: SBA is conducting a comprehensive review of all small business size standards to determine whether the existing size standards should be retained or revised. As part of this effort, SBA has evaluated each industry in North American Industry Classification System (NAICS) Sector 42, Wholesale Trade, and revised these employee-based size standards for certain industries in the sector. This is one of the rules that will examine industries grouped by an NAICS Sector. SBA has applied its "Size Standards Methodology," which is available on its Web site at *http://www.sba.gov/size,* to this purposed rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email:* *khem.sharma@sba.gov.*

RIN: 3245–AG49

392. • Small Business Size Standards for Manufacturing

Legal Authority: 15 U.S.C. 632(a)

Abstract: SBA is conducting a comprehensive review of all small business size standards to determine whether the existing size standards should be retained or revised. As part of this effort, SBA has evaluated each industry in North American Industry Classification System (NAICS) Sector 31–33, Manufacturing, and revised these employee-based size standards for certain industries in the sector. This is one of the rules that will examine industries grouped by an NAICS Sector. SBA has applied its "Size Standards Methodology," which is available on its Web site at *http://www.sba.gov/size,* to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email:* *khem.sharma@sba.gov.*

RIN: 3245–AG50

393. • Small Business Size Standards for Other Industries With Employee-Based Size Standards not Part of Manufacturing or Wholesale Trade

Legal Authority: 15 U.S.C. 632(a)

Abstract: SBA is conducting a comprehensive review of all small business size standards to determine whether the existing size standards should be retained or revised. As part of this effort, SBA has evaluated each industry that has an employee-based standard but is not part of North American Industry Classification System (NAICS) Sector 31–33, Manufacturing, or Sector 42, Wholesale Trade, and revised size standards for some of those industries. This is one of the rules that will examine industries grouped by an NAICS Sector. SBA has applied its "Size Standards Methodology," which is available on its Web site at *http://www.sba.gov/size,* to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email:* *khem.sharma@sba.gov.*

RIN: 3245–AG51

SMALL BUSINESS ADMINISTRATION (SBA)

Final Rule Stage

394. Lender Oversight Program

Legal Authority: 15 U.S.C. 634(5)(b)(6),(b)(7),(b)(14),(h) and note; 687(f), 697(e)(c)(8), and 650

Abstract: This rule implements the Small Business Administration's (SBA) statutory authority under the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (Reauthorization Act) to regulate Small Business Lending Companies (SBLCs) and non-federally regulated lenders (NFRLs). It also conforms SBA rules for the section 7(a) Business Loan Program and the Certified Development Company (CDC) Program.

In particular, this rule: (1) Defines SBLCs and NFRLs; (2) clarifies SBA's authority to regulate SBLCs and NFRLs; (3) authorizes SBA to set certain minimum capital standards for SBLCs, to issue cease and desist orders, and revoke or suspend lending authority of SBLCs and NFRLs; (4) establishes the Bureau of Premier Certified Lender Program Oversight in the Office of Credit Risk Management; (5) transfers existing SBA enforcement authority over CDCs from the Office of Financial Assistance to the appropriate official in the Office of Capital Access; and (6) defines SBA's oversight and enforcement authorities relative to all SBA lenders participating in the 7(a) and CDC programs and intermediaries in the Microloan program.

Timetable:

Action	Date	FR Cite
NPRM	10/31/07	72 FR 61752
NPRM Comment Period Extended.	12/20/07	72 FR 72264
NPRM Comment Period End.	02/29/08	
Interim Final Rule	12/11/08	73 FR 75498
Interim Final Rule Comment Period End.	03/11/09	
Interim Final Rule Effective.	01/12/09	
Final Rule	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brent Ciurlino, Director, Office of Credit Risk Management, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, *Phone:* 202 205–6538, *Email: brent.ciurlino@sba.gov.*

RIN: 3245–AE14

395. Small Business Technology Transfer (STTR) Policy Directive

Regulatory Plan: This entry is Seq. No. 100 in part II of this issue of the **Federal Register**.

RIN: 3245–AF45

396. Small Business Innovation Research (SBIR) Program Policy Directive

Regulatory Plan: This entry is Seq. No. 101 in part II of this issue of the **Federal Register**.

RIN: 3245–AF84

397. Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation

Regulatory Plan: This entry is Seq. No. 102 in part II of this issue of the **Federal Register**.

RIN: 3245–AG20

398. Small Business Jobs Act: Subcontract Integrity

Legal Authority: Pub. L. 111–240, sec 1321 and 1322, 1334

Abstract: These regulations address subcontracting compliance and the interrelationship between contracting offices, small business offices, and program offices relating to oversight and review activities. The regulation also addresses the statutory requirement that a large business prime contractor must represent that it will make good faith efforts to award subcontracts to small businesses at the same percentage as indicated in the subcontracting plan submitted as part of its proposal for a contract and that if the percentage is not met, the large business prime contractor must provide a written justification and explanation to the contracting officer. Finally, the regulation also addresses the statutory requirement that a prime contractor must notify the contracting officer in writing if it has paid a reduced price to a subcontractor for goods and services or if the payment to the subcontractor is more than 90 days past due.

Timetable:

Action	Date	FR Cite
NPRM	10/05/11	76 FR 61626
NPRM Comment Period End.	12/05/11	
NPRM Comment Period Reopened.	12/01/11	76 FR 74749
Second NPRM Comment Period End.	01/06/12	
Final Action	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

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–AG22

399. Small Business Jobs Act: Small Business Size and Status Integrity

Legal Authority: Pub. L. 111–240, sec 1341 and 1343

Abstract: These regulations address the intentional misrepresentations of small business status as a "presumption of loss against the Government." In addition, the rule addresses the statutory requirement that no business may continue to certify itself as small on the System for Award Management (SAM) without first providing an annual certification.

Timetable:

Action	Date	FR Cite
NPRM	10/07/11	76 FR 62313
NPRM Comment Period End.	11/07/11	
NPRM Comment Period Extended.	11/08/11	76 FR 69154
NPRM Extended Comment Period End.	12/08/11	
Final Action	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

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–AG23

400. Small Business Size Standards for Utilities

Legal Authority: 15 U.S.C. 632(a)

Abstract: The U.S. Small Business Administration (SBA) proposes to revise the small business size standards for nine industries in North American Industry Classification System (NAICS) Sector 22, Utilities. Six of those industries deal with electric power generation, distribution and transmission (NAICS 221111, NAICS 221112, NAICS 221113, NAICS 221119, NAICS 221121, and NAICS 221122) and have a common size standard based on electric output. For those six industries, SBA proposes to replace the current size standard of 4 million megawatt hours in electric output with an employee based size standard of 500 employees. SBA also proposes to increase the small

business size standards for three industries in NAICS Sector 22 that have receipt based size standards, namely—NAICS 221310, Water Supply and Irrigation Systems, from $7 million to $25.5 million; NAICS 221320, Sewage Treatment Facilities, from $7 million to $19 million; and NAICS 221330, Steam and Air-conditioning Supply, from $12.5 million to $14 million. As part of its ongoing initiative to review all size standards, SBA evaluated all industries in NAICS Sector 22 that have either electric output based or receipts based size standards to determine whether the existing size standards should be retained or revised. This rule is one of the rules that will examine industries grouped by NAICS sector. SBA has applied its "Size Standards Methodology," which is available on its Web site at *http://www.sba.gov/size*, to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	07/19/12	77 FR 42441
NPRM Comment Period End.	09/17/12	
Final Rule	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email: khem.sharma@sba.gov.*

RIN: 3245–AG25

401. Small Business Size Standards: Arts, Entertainment, and Recreation

Legal Authority: 15 U.S.C. 632(a)

Abstract: The U.S. Small Business Administration (SBA) will increase the small business size standards for 17 industries in North American Industry Classification System (NAICS) Sector 71, Arts, Entertainment, and Recreation. As part of its ongoing comprehensive review of all size standards, SBA has evaluated all size standards in NAICS Sector 71 to determine whether the existing size standards should be retained or revised. This is one of the rules that will examine industries grouped by an NAICS Sector. SBA has applied its "Size Standards Methodology," which is available on its Web site at *http://www.sba.gov/size*, to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	07/18/12	77 FR 42211
NPRM Comment Period End.	09/17/12	
Final Action	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–6390, *Fax:* 202 205–6390.

RIN: 3245–AG36

402. Small Business Size Standards: Construction

Legal Authority: 15 U.S.C. 632(a)

Abstract: The U.S. Small Business Administration (SBA) will increase small business size standards for one industry and one sub-industry in North American Industry Classification System (NAICS) Sector 23, Construction. SBA will also increase the size standard for NAICS 237210, Land Subdivision, from $7 million to $25 million and the size standard for Dredging and Surface Cleanup Activities, a sub-industry category (or an "exception") under NAICS 237990, Other Heavy and Civil Engineering Construction, from $20 million to $30 million in average annual receipts. As part of its ongoing comprehensive size standards review, SBA has evaluated all size standards in NAICS Sector 23 to determine whether they should be retained or revised. This is one of the rules that examines size standards of industries grouped by NAICS Sector. SBA has applied its "Size Standards Methodology," which is available on its Web site at *http://www.sba.gov/size*, to this rule.

Timetable:

Action	Date	FR Cite
NPRM	07/18/12	77 FR 42197
NPRM Comment Period End.	09/17/12	
Final Rule	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–6390, *Fax:* 202 205–6390.

RIN: 3245–AG37

403. Small Business Size Standards: Agriculture, Forestry, Fishing, and Hunting

Legal Authority: 15 U.S.C. 632(a)

Abstract: This rule increases the small business size standards for 11 industries in North American Industry Classification System (NAICS) Sector 11, Agriculture, Forestry, Fishing and Hunting. As part of its ongoing comprehensive review of all small business size standards, SBA evaluated receipts based size standards for 16 industries and two sub-industries in NAICS Sector 11 to determine whether they should be retained or revised. SBA did not review size standards for 46 industries in NAICS Sector 11 that are currently set by statute at $750,000 in average annual receipts. SBA also did not review the 500-employee based size standard for NAICS 113310, Logging, but will review it in the near future with other employee based size standards. In developing the revised size standards, SBA has applied its "Size Standards Methodology," which is available on the Agency's Web site at *http://www.sba.gov/size.*

Timetable:

Action	Date	FR Cite
NPRM	09/11/12	77 FR 55755
NPRM Comment Period End.	11/13/12	
Final Action	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email: khem.sharma@sba.gov.*

RIN: 3245–AG43

404. Small Business Size Standards: Finance and Insurance; Management of Companies and Enterprises

Legal Authority: 15 U.S.C. 632(a)

Abstract: The U.S. Small Business Administration (SBA) is increasing the small business size standards for 37 industries in North American Industry Classification System (NAICS) Sector 52, Finance and Insurance, and for two industries in NAICS Sector 55, Management of Companies and Enterprises. In addition, SBA proposes to change the measure of size from average assets to average receipts for NAICS 522293, International Trade Financing. As part of its ongoing comprehensive size standards review, SBA evaluated all receipts based and assets based size standards in NAICS Sectors 52 and 55 to determine whether they should be retained or revised. In developing the revised standards, SBA relied on the methodology set forth in

its "Size Standards Methodology," which is available at *www.sba.gov/size.*

Timetable:

Action	Date	FR Cite
NPRM	09/11/12	77 FR 55737
NPRM Comment Period End.	11/13/12	
Final Action	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email: khem.sharma@sba.gov.*

RIN: 3245–AG45

405. Small Business Size Regulations, Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) Program

Legal Authority: 15 U.S.C. 632(a); Pub. L. 111–81, sec 5107

Abstract: SBA is amending its regulations as they relate to size and eligibility for the SBIR and STTR programs. The revised amendments implement provisions of the SBIR/STTR Reauthorization Act of 2011. The amendments address ownership, control and affilation for participants in these programs, including participants that are majority owned by multiple venture capital operating companies, private equity firms or hedge funds. The regulations also address whether the participant is owned by domestic or foreign business concerns.

Timetable:

Action	Date	FR Cite
NPRM	05/15/12	77 FR 28520
NPRM Comment Period End.	07/16/12	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

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.*

RIN: 3245–AG46

SMALL BUSINESS ADMINISTRATION (SBA)

Completed Actions

406. Small Business Size Standards; Information

Legal Authority: 15 U.S.C. 632(a)

Abstract: The U.S. Small Business Administration (SBA) proposes to increase small business size standards for 15 industries in North American Industry Classification System (NAICS) Sector 51, Information. As part of its ongoing comprehensive review of all size standards, SBA evaluated all receipts-based size standards in NAICS Sector 51 to determine whether they should be retained or revised. This proposed rule is one of a series of proposals that examines size standards of industries grouped by NAICS Sector. SBA has applied its "Size Standards Methodology," which is available on its Web site at *http://www.sba.gov/size,* to this proposed rule.

Completed:

Reason	Date	FR Cite
Final Rule	12/06/12	77 FR 72702
Final Rule Effective.	01/07/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Khem Raj Sharma, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email: khem.sharma@sba.gov.*

RIN: 3245–AG26

407. Small Business Size Standards; Administrative and Support, Waste Management and Remediation Services

Legal Authority: 15 U.S.C. 632(a)

Abstract: The U.S. Small Business Administration (SBA) is increasing small business size standards for 37 industries in North American Industry Classification System (NAICS) Sector 56, Administrative and Support, Waste Management and Remediation Services. As part of its ongoing comprehensive review of all size standards, SBA evaluated all receipts-based standards in NAICS Sector 56 to determine whether they should be retained or revised. This rule is one of a series that examined size standards of industries grouped by NAICS Sector. SBA has applied its "Size Standards Methodology," which is available on its Web site at *http://www.sba.gov/size,* to this rule.

Completed:

Reason	Date	FR Cite
Final Rule	12/06/12	77 FR 72691
Final Rule Effective.	01/07/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Khem Raj Sharma, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email: khem.sharma@sba.gov.*

RIN: 3245–AG27

408. Small Business Size Standards: Real Estate, Rental and Leasing

Legal Authority: 15 U.S.C. 632(a)

Abstract: The U.S. Small Business Administration (SBA) is increasing the small business size standards for 20 industries and one sub-industry in North American Industry Classification System (NAICS) Sector 53, Real Estate and Rental and Leasing. As part of its ongoing comprehensive review of all size standards, SBA evaluated all size standards in NAICS Sector 53 to determine whether they should be retained or revised. This rule is one of a series of proposals that examined size standards of industries grouped by NAICS Sector. SBA has applied its "Size Standards Methodology," which is available on its Web site at *http://www.sba.gov/size,* to this rule.

Completed:

Reason	Date	FR Cite
Final Rule	09/24/12	77 FR 58747
Final Rule Effective.	10/24/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Khem Raj Sharma, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email: khem.sharma@sba.gov.*

RIN: 3245–AG28

409. Small Business Size Standards: Educational Services

Legal Authority: 15 U.S.C. 632(a)

Abstract: The U.S. Small Business Administration (SBA) will increase small business size standards for nine industries in North American Industry Classification System (NAICS) Sector 61, Educational Services. As part of its ongoing comprehensive size standards review, SBA evaluated all size standards in NAICS Sector 61 to determine whether they should be retained or revised. This rule is one of a series of rules that examines size standards of industries grouped by NAICS Sector. SBA applied its "Size Standards Methodology," which is available on its Web site at *http://www.sba.gov/size,* to this final rule.

Completed:

Reason	Date	FR Cite
Final Rule	09/24/12	77 FR 58739
Final Rule Effective.	10/24/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Khem Raj Sharma, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email: khem.sharma@sba.gov.*

RIN: 3245–AG29

410. Small Business Size Standards: Health Care and Social Assistance

Legal Authority: 15 U.S.C. 632(a)

Abstract: The U.S. Small Business Administration (SBA) will increase small business size standards for 28 industries in North American Industry Classification System (NAICS) Sector 62, Health Care and Social Assistance. As part of its ongoing comprehensive review of all size standards, SBA evaluated all size standards in NAICS Sector 62 to determine whether they should be retained or revised. SBA has applied its "Size Standards Methodology," which is available on its Web site at *http://www.sba.gov/size,* to this final rule.

Completed:

Reason	Date	FR Cite
Final Rule	09/24/12	77 FR 58755
Final Rule Effective.	10/24/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Khem Raj Sharma, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email: khem.sharma@sba.gov.*

RIN: 3245–AG30

411. Small Business Investment Companies—Early Stage SBICS

Legal Authority: 15 U.S.C. 636(a)(32)

Abstract: To address a critical market need for early stage equity financing, SBA will license a limited number of Small Business Investment Companies (SBICs) each year that are focused on providing equity capital to seed and early stage small businesses. These SBICs would be designated as "Early Stage SBICs." SBA leverage is available to SBICs through a debenture instrument, the structure of which was not designed to address the needs or circumstances of early stage investors, and thus presents certain repayment risks for such investors. However, with certain regulatory changes, the risk associated with providing debenture leverage to Early Stage SBICs may be significantly reduced. This rule will establish a number of regulatory provisions applicable to Early Stage SBICs for the purpose of managing overall program risk, including lower limits on maximum leverage eligibility and special distribution rules.

Completed:

Reason	Date	FR Cite
Final Rule	04/27/12	77 FR 25042
Final Rule Effective.	04/27/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Carol Fendler, *Phone:* 202 205–7559, *Email: carol.fendler@sba.gov.*

RIN: 3245–AG32

[FR Doc. 2012–31507 Filed 1–7–13; 8:45 am]

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Part XIX

Department of Defense

General Services Administration

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in compliance with Executive Order 12866 "Regulatory Planning and Review." This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The Regulatory Secretariat Division has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing.

Published proposed rules may be reviewed in their entirety at the Government's rulemaking Web site at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Hada Flowers, Division Director, Regulatory Secretariat Division, 1275 First Street NE., Washington, DC 20417, (202) 501–4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the **Federal Register** and produced electronically as Federal Acquisition Circulars (FACs). The electronic version of the FAR, including changes, can be accessed on the FAR Web site at *http://www.acquisition.gov/far.*

Dated: November 6, 2012.

Joseph A. Neurauter,

Director, Office of Acquisition Policy and Senior Procurement Executive.

DOD/GSA/NASA (FAR)—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
412	Federal Acquisition Regulation (FAR); FAR Case 2012–031; Accelerated Payments to Small Business Subcontractors.	9000–AM37
413	Federal Acquisition Regulation (FAR); FAR Case 2012–001; Performance of Inherently Governmental Functions and Critical Functions.	9000–AM41
414	Federal Acquisition Regulation (FAR); FAR Case 2012–029; Contractor Access to Protected Information	9000–AM42

DOD/GSA/NASA (FAR)—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
415	Federal Acquisition Regulation (FAR); FAR Case 2011–001; Organizational Conflicts of Interest	9000–AL82
416	FAR Case 2010–013, Privacy Training	9000–AM02
417	Federal Acquisition Regulation (FAR); FAR Case 2011–011; Unallowability of Costs Associated With Foreign Contractor Excise Tax.	9000–AM13
418	Federal Acquisition Regulation (FAR); FAR Case 2011–020; Basic Safeguarding of Contractor Information Systems.	9000–AM19
419	Federal Acquisition Regulation (FAR); FAR Case 2011–029; Contractors Performing Private Security Functions Outside the United States.	9000–AM20
420	Federal Acquisition Regulation (FAR); FAR Case 2011–028; Nondisplacement of Qualified Workers Under Service Contracts.	9000–AM21
421	Federal Acquisition Regulation (FAR); FAR Case 2011–025; Changes to Time-and-Materials and Labor-Hour Contracts and Orders.	9000–AM28
422	Federal Acquisition Regulation (FAR); FAR Case 2012–027, Free Trade Agreement—Panama	9000–AM43
423	Federal Acquisition Regulation (FAR); FAR Case 2008–039; Reporting Executive Compensation and First-Tier Subcontract Awards.	9000–AL66

DEPARTMENT OF DEFENSE/ GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Proposed Rule Stage

412. • Federal Acquisition Regulation (FAR); FAR Case 2012–031; Accelerated Payments to Small Business Subcontractors

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the temporary policy provided by Office of Management and Budget (OMB) Policy Memorandum M–12–16, dated July 11, 2012, by adding a new clause to provide for the accelerated payments to small business subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Edward Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20417, Phone: 202 501–3221, *Email: edward.chambers@gsa.gov.*

RIN: 9000–AM37

413. • Federal Acquisition Regulation (FAR); FAR Case 2012–001; Performance of Inherently Governmental Functions and Critical Functions

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to revise the Federal

Acquisition Regulation to implement acquisition-related requirements of the Office of Federal Procurement Policy (OFPP) Policy Letter 11–01, entitled "Performance of Inherently Governmental and Critical Functions", published September 12, 2011 (65 FR 56227), with a correction published February 13, 2012 (77 FR 7609). OFPP Policy Letter 11–01 was issued in response to (1) the Presidential Memorandum on Government Contracting, signed March 4, 2009, and published March 6, 2009 (74 FR 9755), and (2) section 321 of the Duncan Hunter National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2009 (Pub. L. 110–417).

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Patricia Corrigan, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20714, *Phone:* 202 208–1963.

RIN: 9000–AM41

414. • Federal Acquisition Regulation (FAR); FAR Case 2012–029; Contractor Access to Protected Information

Legal Authority: 10 U.S.C. ch 137; 40 U.S.C. 486(c); 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to address contractor access to protected information. On April 26, 2011, DoD, GSA, and NASA proposed amending the Federal Acquisition Regulation (FAR) to provide additional coverage regarding contractor access to nonpublic information (76 FR 23236), with an extension for public comment published June 29, 2011 (76 FR 38089). The first proposed rule was combined with proposed revised regulatory coverage on organizational conflicts of interest (FAR Case 2011–001). DoD, GSA, and NASA are proposing substantial changes to the proposed coverage based on the public comments received. Therefore, DoD, GSA, and NASA decided to separate this coverage from the organizational conflicts of interest rule in order to publish for additional public comments.

The coverage provided in this proposed rule differs from the coverage provided in the first proposed rule in a number of important respects. This case is included in the FAR retrospective review of existing regulations under Executive Order 13563. Additional information is located in the FAR final plan (2012), available at: *https://www.acquisition.gov.*

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marissa Petrusek, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20714, *Phone:* 202 501–0136, *Email: marissa.petrusek@gsa.gov.*

RIN: 9000–AM42

DEPARTMENT OF DEFENSE/ GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Final Rule Stage

415. Federal Acquisition Regulation (FAR); FAR Case 2011–001; Organizational Conflicts of Interest

Legal Authority: 10 U.S.C. ch 137; 40 U.S.C. 486(c); 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to provide revised regulatory coverage on organizational conflicts of interest (OCIs), and add related provisions and clauses. Coverage on contractor access to protected information has been moved to a new proposed rule, FAR Case 2012–029.

Section 841 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110–417) required a review of the FAR coverage on OCIs. This proposed rule was developed as a result of a review conducted in accordance with section 841 by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council and the Office of Federal Procurement Policy, in consultation with the Office of Government Ethics. This proposed rule was preceded by an Advance Notice of Proposed Rulemaking, under FAR Case 2007–018 (73 FR 15962), to gather comments from the public with regard to whether and how to improve the FAR coverage on OCIs. This case is included in the FAR retrospective review of existing regulations under Executive Order 13563. Additional information is located in the FAR final plan (2012), available at: *https://www.acquisition.gov/.*

Timetable:

Action	Date	FR Cite
NPRM	04/26/11	76 FR 23236
NPRM Comment Period End.	06/27/11	
NPRM Comment Period Extended.	06/29/11	76 FR 38089
Comment Period End.	07/27/11	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Deborah Erwin, Attorney-Advisor in the Office of Governmentwide Policy, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20714, *Phone:* 202 501–2164, *Email: deborah.erwin@gsa.gov.*

RIN: 9000–AL82

416. FAR Case 2010–013, Privacy Training

Legal Authority: 5 U.S.C. 552a; 40 U.S.C. 121(c); 10 U.S.C. ch 137; 42 U.S.C. 2473(c)

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to ensure that all contractors are required to complete training in the protection of privacy and the handling and safeguarding of Personally Identifiable Information (PII). A number of agencies currently require that contractors who handle personally identifiable information or operate a system of records on behalf of the Federal Government complete agency-provided privacy training. However, in some circumstances an agency may provide a contractor the Privacy Act requirements, and the contractor will train its own employees, and shall upon request, provide evidence of privacy training for all applicable employees. The proposed FAR language provides flexibility for agencies to conduct the privacy training or require the contractor to conduct the privacy training.

Timetable:

Action	Date	FR Cite
NPRM	10/14/11	76 FR 63896
NPRM Comment Period End.	12/13/11	
Final Rule	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Karlos Morgan, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20417, *Phone:* 202 501–2364, *Email: karlos.morgan@gsa.gov.*

RIN: 9000–AM02

417. Federal Acquisition Regulation (FAR); FAR Case 2011–011; Unallowability of Costs Associated With Foreign Contractor Excise Tax

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

Abstract: DoD, GSA and NASA are proposing to amend the Federal Acquisition Regulation to implement the requirements of the James Zadroga 9/11 Health and Compensation Act of 2010 regarding the imposition of a 2 percent tax on certain foreign procurements.

Timetable:

Action	Date	FR Cite
NPRM	02/22/12	77 FR 10461
NPRM Comment Period End.	04/23/12	
Final Rule	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Edward Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20417, *Phone:* 202 501–3221, *Email: edward.chambers@gsa.gov.*

RIN: 9000–AM13

418. Federal Acquisition Regulation (FAR); FAR Case 2011–020; Basic Safeguarding of Contractor Information Systems

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation to add a new subpart and contract clause for the safeguarding of contractor information systems that contain information provided by the Government (other than public information) or generated for the Government that will be resident on or transiting through contractor information systems.

Timetable:

Action	Date	FR Cite
NPRM	07/26/12	77 FR 51496
NPRM Comment Period End.	10/23/12	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Patricia Corrigan, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20714, *Phone:* 202 208–1963.

RIN: 9000–AM19

419. Federal Acquisition Regulation (FAR); FAR Case 2011–029; Contractors Performing Private Security Functions Outside the United States

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation to implement Governmentwide requirements in National Defense Authorization Acts that establish minimum processes and requirements for the selection, accountability, training, equipping, and conduct of personnel performing private security functions outside the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/23/12	77 FR 43039
NPRM Comment Period End.	09/21/12	
Final Rule	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20417, *Phone:* 202 208–4949, *Email: michaelo.jackson@gsa.gov.*

RIN: 9000–AM20

420. Federal Acquisition Regulation (FAR); FAR Case 2011–028; Nondisplacement of Qualified Workers Under Service Contracts

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation to implement an Executive order for nondisplacement of qualified workers under service contracts, as implemented in Department of Labor regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/03/12	77 FR 26232
NPRM Comment Period End.	07/02/12	
Final Rule	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Edward Loeb, Program Manager, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20417, *Phone:* 202 501–0650, *Email: edward.loeb@gsa.gov.*

RIN: 9000–AM21

421. • Federal Acquisition Regulation (FAR); FAR Case 2011–025; Changes to Time-and-Materials and Labor-Hour Contracts and Orders

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to provide additional guidance when raising the ceiling price or otherwise changing the scope of work for a time-and-materials or labor-hour contract or order.

Timetable:

Action	Date	FR Cite
NPRM	07/26/12	77 FR 43780
NPRM Comment Period End.	09/24/12	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20417, *Phone:* 202 208–4949, *Email: michaelo.jackson@gsa.gov.*

RIN: 9000–AM28

422. • Federal Acquisition Regulation (FAR); FAR Case 2012–027, Free Trade Agreement—Panama

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement the United States-Panama Trade Promotion Agreement. This Trade Promotion Agreement is a free trade agreement that provides for mutually non-discriminatory treatment of eligible products and services from Panama.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/20/12	77 FR 69723
Interim Final Rule Comment Period End.	01/22/13	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Cecelia Davis, Program Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20417, *Phone:* 202 219–0202, *Email: cecelia.davis@gsa.gov.*

RIN: 9000–AM43

DEPARTMENT OF DEFENSE/ GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

423. Federal Acquisition Regulation (FAR); FAR Case 2008–039; Reporting Executive Compensation and First-Tier Subcontract Awards

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch 137; 42 U.S.C. 2473(c)

Abstract: DoD, GSA, and NASA adopted as final, with changes, the interim rule that amended the Federal Acquisition Regulation to implement section 2 of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), as amended by section 6202 of Public Law 110–252, which requires the Office of Management and Budget (OMB) to establish a free, public, Web site containing full disclosure of all Federal contract award information. This rule requires contractors to report executive compensation and first-tier subcontractor awards on contracts expected to be $25,000 or more, except classified contracts, and contracts with individuals.

Completed:

Action	Date	FR Cite
Final Rule	07/26/12	77 FR 44047
Final Rule Effective.	08/27/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Clark, *Phone:* 202 219–1813, *Email: william.clark@gsa.gov.*

RIN: 9000–AL66

[FR Doc. 2012–31510 Filed 1–7–13; 8:45 am]

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FEDERAL REGISTER

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Part XX

Bureau of Consumer Financial Protection

Semiannual Regulatory Agenda

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Ch. X

Semiannual Regulatory Agenda

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Bureau of Consumer Financial Protection (CFPB) is publishing this agenda as part of the Fall 2013 Unified Agenda of Federal Regulatory and Deregulatory Actions. The CFPB reasonably anticipates having the regulatory matters identified below under consideration during the period from October 1, 2012 to October 1, 2013. The next agenda will be published in spring 2013 and will update this agenda through October 1, 2013. Publication of this agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

DATES: This information is current as of November 30, 2012.

ADDRESSES: Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: A staff contact is included for each regulatory item listed herein.

SUPPLEMENTARY INFORMATION: The CFPB is publishing its fall 2012 agenda as part of the Fall 2012 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The CFPB's participation in the Unified Agenda is voluntary. The complete Unified Agenda will be available to the public at the following Web site: *http://www.reginfo.gov.*

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376) (Dodd-Frank Act), the CFPB has rulemaking, supervisory, enforcement, and other authorities relating to consumer financial products and services. These authorities include the ability to issue regulations under more than a dozen Federal consumer financial laws, which transferred to the CFPB from seven Federal agencies on July 21, 2011. The CFPB is working on a wide range of initiatives to address issues in markets for consumer financial products and services that are not reflected in this notice because the Unified Agenda is limited to rulemaking activities.

The CFPB reasonably *anticipates* having the regulatory matters identified below under consideration during the period from October 1, 2012, to October 1, 2013.[1] These primarily include various rulemakings mandated by the Dodd-Frank Act, such as several mortgage-related rulemakings and rulemakings to implement the CFPB's supervisory program for nondepository covered persons by, among other things, defining "larger participants" in certain consumer financial product and service markets.

As the CFPB completes several mortgage-related rulemakings in January 2013, it is continuing to assess the need and resources available for additional rulemakings. For instance, the Dodd-Frank Act mandates rulemakings to implement amendments to the Home Mortgage Disclosure Act, and to the Equal Credit Opportunity Act to create a data reporting regime concerning small, women-owned, or minority-owned business lending. The CFPB has also inherited proposed rules concerning mortgage loans, home equity lines of credit, and other topics from other agencies as part of the transfer of authorities under the Dodd-Frank Act.

As discussed in more detail in the CFPB's Fall 2012 Statement of Regulatory Priorities, the CFPB in the last year has also issued reports, Requests for Information, and an Advance Notice of Proposed Rulemaking on a variety of topics that may be suitable for rulemaking. For instance, the Bureau has sought extensive comment on ways to reduce regulatory burden through the streamlining of regulations that the Bureau inherited from other agencies under the Dodd-Frank Act. It has also conducted research and outreach on a variety of consumer financial products and services, including payday lending and deposit advance loans, bank overdraft programs, private student loans, prepaid cards, and reverse mortgages. The Bureau expects to update its agenda in spring 2013 to reflect the results of this prioritization and planning process.

Dated: November 30, 2012.

Meredith Fuchs,

General Counsel, Bureau of Consumer Financial Protection.

CONSUMER FINANCIAL PROTECTION BUREAU—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
424	Loan Originator Compensation (Regulation Z)	3170–AA13
425	Mortgage Servicing (Regulation X; Regulation Z)	3170–AA14
426	Requirements for Escrow Accounts (Regulation Z)	3170–AA16
427	TILA Ability to Repay (Regulation Z)	3170–AA17
428	TILA/RESPA Mortgage Disclosure Integration (Regulation X; Regulation Z)	3170–AA19
429	The Expedited Funds Availability Act (Regulation CC)	3170–AA31

CONSUMER FINANCIAL PROTECTION BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
430	Business Lending Data (Regulation B)	3170–AA09

[1] The listing does not include certain routine or administrative matters. Further, certain of the information fields for the listing are not applicable to independent regulatory agencies, including the CFPB, and, accordingly, the CFPB has indicated responses of "no" for such fields.

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Final Rule Stage

424. Loan Originator Compensation (Regulation Z)

Legal Authority: 12 U.S.C. 5512; 12 U.S.C. 5581; 15 U.S.C. 1601 *et seq.*

Abstract: The CFPB published for public comment in August 2012 a proposed rule amending Regulation Z (Truth in Lending) to implement amendments to the Truth in Lending Act (TILA) made by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The proposal would implement statutory changes made by the Dodd-Frank Act to Regulation Z's current loan originator compensation provisions, including a new additional restriction on the imposition of any upfront discount points, origination points, or fees on consumers under certain circumstances. In addition, the proposal implements additional requirements imposed by the Dodd-Frank Act concerning proper qualification and registration or licensing for loan originators. The proposal also implements Dodd-Frank Act restrictions on mandatory arbitration and the financing of certain credit insurance premiums. Finally, the proposal provides additional guidance and clarification under the existing regulation's provisions restricting loan originator compensation practices, including guidance on the application of those provisions to certain profit-sharing plans and the appropriate analysis of payments to loan originators based on factors that are not terms but that may act as proxies for a transaction's terms. The comment period for the proposed rule ended on October 16, 2012, except that the comment period for that portion of the proposal relating to proposed information collections under the Paperwork Reduction Act closed on November 6, 2012. The CFPB is working to issue a final rule. The CFPB will issue at a later time proposed regulations on anti-steering provisions that TILA section 129B(c)(3) requires the CFPB to adopt.

Timetable:

Action	Date	FR Cite
NPRM	09/07/12	77 FR 55272
NPRM Comment Period End.	10/16/12	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Honig, Office of Regulations, Consumer Financial Protection Bureau, *Phone:* 202 435–7700.

RIN: 3170–AA13

425. Mortgage Servicing (Regulation X; Regulation Z)

Legal Authority: 12 U.S.C. 2601 *et seq.;* 12 U.S.C. 5512; 12 U.S.C. 5581; 12 U.S.C. 5582; 15 U.S.C. 1602; 15 U.S.C. 1638; 15 U.S.C. 1638a; 15 U.S.C. 1639f; 15 U.S.C. 1639g

Abstract: The CFPB has proposed to amend Regulation Z, which implements the Truth in Lending Act (TILA), and the official interpretation of the regulation. The proposed amendments would implement the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) provisions regarding mortgage loan servicing. Specifically, the CFPB's Regulation Z proposal implements Dodd Frank Act sections addressing initial rate adjustment notices for adjustable-rate mortgages (ARMs), periodic statements for residential mortgage loans, and prompt crediting of mortgage payments and response to requests for payoff amounts. The proposed revisions would also amend current rules governing the scope, timing, content, and format of current disclosures to consumers occasioned by interest rate adjustments of their variable-rate transactions.

The CFPB also has proposed to amend Regulation X, which implements the Real Estate Settlement Procedures Act of 1974 (RESPA) and add a supplement setting forth an official interpretation of the regulation. The proposed amendments implement the Dodd-Frank Act provisions regarding mortgage loan servicing. Specifically, the proposal requests comment regarding proposed additions to Regulation X to address six servicer obligations: (1) To correct errors asserted, and provide information requested, by mortgage loan borrowers; (2) to alert consumers to possible servicer imposition of force-placed insurance and ensure that a reasonable basis exists to charge for it; (3) to establish reasonable information management policies and procedures; (4) to provide information about mortgage loss mitigation options and foreclosure to delinquent borrowers; (5) to provide delinquent borrowers access to servicer personnel with continuity of contact about the borrower's mortgage loan account; and (6) to evaluate borrowers' complete applications for available loss mitigation options. The Regulation X proposal would also modify and streamline certain existing general and servicing-related provisions of Regulation X. For instance, the proposal would revise provisions relating to a mortgage servicer's obligation to provide disclosures to borrowers in connection with a transfer of mortgage servicing, and a mortgage servicer's obligation to manage escrow accounts, including the obligation to advance funds to an escrow account to maintain insurance coverage and to return amounts in an escrow account to a borrower upon payment in full of a mortgage loan. The comment period for the proposed rules ended on October 9, 2012, except that the comment period for that portion of the proposal relating to proposed information collections under the Paperwork Reduction Act closed on November 16, 2012. The CFPB is working to issue final rules.

The CFPB is also participating in an interagency process among Federal financial services regulators to consider broader issues regarding national servicing standards.

Timetable:

Action	Date	FR Cite
NPRM (Regulation X).	09/17/12	77 FR 57200
NPRM (Regulation Z).	09/17/12	77 FR 57318
NPRM Comment Period End.	10/09/12	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mitchell E. Hochberg, Office of Regulations, Consumer Financial Protection Bureau, *Phone:* 202 435–7700.

RIN: 3170–AA14

426. Requirements for Escrow Accounts (Regulation Z)

Legal Authority: 15 U.S.C. 1639

Abstract: The Board of Governors of the Federal Reserve System (Board) published in the **Federal Register** on March 2, 2011, a proposed rule to implement certain amendments to the Truth in Lending Act (TILA) made by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that lengthen the time for which a mandatory escrow account established for a higher-priced mortgage loan must be maintained. In addition, the Board's proposal would implement the Dodd-Frank Act's disclosure requirements regarding escrow accounts. The Board's proposal also would exempt certain loans from the statute's escrow requirement, pursuant to authority in the Dodd-Frank Act. The primary exemption would apply to mortgage loans extended by creditors that operate predominantly in rural or underserved areas and meet certain other prerequisites. Pursuant to the Dodd-Frank Act, the rulemaking authority for

the TILA generally transferred from the Board to the CFPB on July 21, 2011. The CFPB is working to issue a final rule. The CFPB, in a separate rulemaking (see RIN 3170–AA32), issued a final rule postponing the implementation of the disclosures included in the Board's proposal.

Timetable:

Action	Date	FR Cite
NPRM	03/02/11	76 FR 11598
NPRM Comment Period End.	05/02/11	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Paul Mondor, Office of Regulations, Consumer Financial Protection Bureau, *Phone:* 202 435–7700.

RIN: 3170–AA16

427. TILA Ability To Repay (Regulation Z)

Legal Authority: 12 U.S.C. 5512; 15 U.S.C. 1604; 15 U.S.C. 1639c

Abstract: The Board of Governors of the Federal Reserve System (Board) published for public comment on May 11, 2011, a proposed rule amending Regulation Z to implement amendments to the Truth in Lending Act (TILA) made by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Regulation Z currently prohibits a creditor from making a higher-priced mortgage loan without regard to the consumer's ability to repay the loan. The proposal would implement statutory changes made by the Dodd-Frank Act that expand the scope of the ability-to-repay requirement to cover any consumer credit transaction secured by a dwelling (excluding an open-end credit plan, timeshare plan, reverse mortgage, or temporary loan). In addition, the proposal would establish standards for complying with the ability-to-repay requirement, including by making a "qualified mortgage." The proposal also implements the Dodd-Frank Act's limits on prepayment penalties. Finally, the proposal would require creditors to retain evidence of compliance with this rule for three years after a loan is consummated. Pursuant to the Dodd-Frank Act, the rulemaking authority for the TILA generally transferred from the Board to the CFPB on July 21, 2011. On June 5, 2012, the CFPB issued a notice to reopen the comment period until July 9, 2012, to seek comment on certain new data and information submitted during or obtained after the close of the original comment period. The CFPB is working to issue a final rule.

Timetable:

Action	Date	FR Cite
NPRM	05/11/11	76 FR 27390
NPRM Comment Period End.	07/22/11	
Supplemental NPRM.	06/05/12	77 FR 33120
Supplemental NPRM Comment Period End.	07/09/12	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Stephen Shin, Office of Regulations, Consumer Financial Protection Bureau, *Phone:* 202 435–7700.

RIN: 3170–AA17

428. TILA/RESPA Mortgage Disclosure Integration (Regulation X; Regulation Z)

Legal Authority: 12 U.S.C. 2617; 12 U.S.C. 3806; 15 U.S.C. 1604; 15 U.S.C. 1637(c)(5); 15 U.S.C. 1639(l); 12 U.S.C. 5532

Abstract: Sections 1032(f), 1098, and 1100A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) direct the CFPB to issue proposed rules and forms that combine certain disclosures that consumers receive in connection with a mortgage loan under the Truth in Lending Act and the Real Estate Settlement Procedures Act. Consistent with this requirement, the CFPB has proposed to amend Regulation X (Real Estate Settlement Procedures Act) and Regulation Z (Truth in Lending) to establish new disclosure requirements and forms in Regulation Z for most closed-end consumer credit transactions secured by real property. In addition to combining the existing disclosure requirements and implementing new requirements in the Dodd-Frank Act, the CFPB's proposed rule provides extensive guidance regarding compliance with those requirements. The proposal had two comment periods. Comments on the proposed revisions to the definition of the finance charge and the proposed compliance date for the new Dodd-Frank Act disclosures were due September 7, 2012. Comments on all other aspects of the proposal were due November 6, 2012. On September 6, 2012, the CFPB issued a notice extending the comment period to November 6, 2012, for the proposed revisions to the definition of the finance charge. The CFPB is working to issue a final rule. The CFPB issued the final rule to implement the compliance dates for the new Dodd-Frank Act disclosures that were proposed in this proposal in a separate rulemaking, as noted elsewhere in this regulatory agenda (see RIN 3170–AA32).

Timetable:

Action	Date	FR Cite
NPRM	08/23/12	77 FR 51116
NPRM Comment Period Extended.	09/06/12	77 FR 54843
NPRM Comment Period End.	11/06/12	
Final Rule	09/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Richard Horn, Office of Regulations, Consumer Financial Protection Bureau, *Phone:* 202 435–7700.

RIN: 3170–AA19

429. • The Expedited Funds Availability Act (Regulation CC)

Legal Authority: 12 U.S.C. 4001 *et seq.*

Abstract: The Expedited Funds Availability Act (EFA Act), implemented by Regulation CC, governs availability of funds after a check deposit and check collection and return processes. Section 1086 of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended the EFA Act to provide the CFPB with joint rulemaking authority with the Board of Governors of the Federal Reserve System (Board) over certain consumer-related EFA Act provisions. The Board proposed amendments to Regulation CC in March 2011, to facilitate the banking industry's ongoing transition to fully-electronic interbank check collection and return. The Board's proposal includes some provisions that are subject to the CFPB's joint rulemaking authority, including the period for funds availability and revising model form disclosures. The CFPB will work with the Board to jointly issue a final rule that includes provisions within the CFPB's authority.

Timetable:

Action	Date	FR Cite
NPRM	03/23/11	76 FR 16862
NPRM Comment Period End.	06/30/11	
Final Rule	08/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Stephen Shin, Office of Regulations, Consumer Financial Protection Bureau, *Phone:* 202 435–7700.

RIN: 3170–AA31

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Long-Term Actions

430. Business Lending Data (Regulation B)

Legal Authority: 15 U.S.C. 1691c–2

Abstract: Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amends the Equal Credit Opportunity Act (ECOA) to require financial institutions to report information concerning credit applications made by women- or minority-owned businesses and small businesses. The amendments made by the Dodd-Frank Act require that certain data be collected and maintained under ECOA, including the number and date the application was received; the type and purpose of loan applied for; the amount of credit applied for and approved; the type of action taken with regard to each application and the date of such action; the census tract of the principal place of business; the gross annual revenue; and the race, sex, and ethnicity of the principal owners of the business. The CFPB expects to begin developing proposed regulations concerning the data to be collected and appropriate procedures, information safeguards, and privacy protections for information-gathering under this section.

Timetable:

Action	Date	FR Cite
CFPB Expects Further Action.	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Honig, Office of Regulations, Consumer Financial Protection Bureau, *Phone:* 202 435–7700.

RIN: 3170–AA09

[FR Doc. 2012–31512 Filed 1–7–13; 8:45 am]

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FEDERAL REGISTER

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Part XXI

Federal Communications Commission

Semiannual Regulatory Agenda

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions—Fall 2012

AGENCY: Federal Communications Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Twice a year, in spring and fall, the Commission publishes in the **Federal Register** a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. *See* 5 U.S.C. 602. The Unified Agenda also provides the Code of Federal Regulations citations and legal authorities that govern these proceedings.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maura McGowan, Telecommunications Specialist, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, (202) 418–0990.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in its rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared a list of important proceedings now in progress. The General Services Administration publishes the Unified Agenda in the **Federal Register** in the spring and fall of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

Docket Number—assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established plus a sequential number that begins at 1 with the first docket initiated during a calendar year (*e.g.*, Docket No. 96–1 or Docket No. 99–1). The abbreviation for the responsible bureau usually precedes the docket number, as in "MM Docket No. 96–222," which indicates that the responsible bureau is the Mass Media Bureau (now the Media Bureau). A docket number consisting of only five digits (*e.g.*, Docket No. 29622) indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI)—issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM)—issued by the Commission when it is proposing a specific change to Commission rules and regulations. Before any changes are actually made, interested parties may submit written comments on the proposed revisions.

Further Notice of Proposed Rulemaking (FNPRM)—issued by the Commission when additional comment in the proceeding is sought.

Memorandum Opinion and Order (MO&O)—issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or address a petition for reconsideration of a decision.

Rulemaking (RM) Number—assigned to a proceeding after the appropriate bureau or office has reviewed a petition for rulemaking, but before the Commission has taken action on the petition.

Report and Order (R&O)—issued by the Commission to state a new or amended rule or state that the Commission rules and regulations will not be revised.

Marlene H. Dortch,

Secretary, Federal Communications Commission.

Consumer and Governmental Affairs Bureau—Long-Term Actions

Sequence No.	Title	Regulation Identifier No.
431	Implementation of the Telecommunications Act of 1996; Access to Telecommunications Service, Telecommunications Equipment, and Customer Premises Equipment by Persons With Disabilities.	3060–AG58
432	Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991 (CG Docket No. 02–278).	3060–AI14
433	Rules and Regulations Implementing Section 225 of the Communications Act (Telecommunications Relay Service) (CG Docket No. 03–123).	3060–AI15
434	Consumer Information and Disclosure and Truth in Billing and Billing Format	3060–AI61
435	Closed-Captioning of Video Programming **(Section 610 Review)**	3060–AI72
436	Accessibility of Programming Providing Emergency Information	3060–AI75
437	Empowering Consumers to Avoid Bill Shock (Docket No. 10–207)	3060–AJ51
438	Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges ("Cramming")	3060–AJ72
439	Implementation of the Middle Class Tax Relief and Job Creation Act of 2012—Establishment of a Public Safety Answering Point Do-Not-Call Registry.	3060–AJ74
440	Implementation of the Middle Class Tax Relief and Job Creation Act of 2012/Establishment of a Public Safety Answering Point Do-Not-Call Registry.	3060–AJ84

Office of Engineering and Technology—Long-Term Actions

Sequence No.	Title	Regulation Identifier No.
441	New Advanced Wireless Services (ET Docket No. 00–258)	3060–AH65
442	Exposure to Radiofrequency Electromagnetic Fields	3060–AI17
443	Unlicensed Operation in the TV Broadcast Bands (ET Docket No. 04–186)	3060–AI52
444	Fixed and Mobile Services in the Mobile Satellite Service (ET Docket No. 10–142)	3060–AJ46
445	Innovation in the Broadcast Television Bands; ET Docket No. 10–235	3060–AJ57
446	Radio Experimentation and Market Trials Under Part 5 of the Commission's Rules and Streamlining Other Related Rules; ET Docket No. 10–236.	3060–AJ62

OFFICE OF ENGINEERING AND TECHNOLOGY—LONG-TERM ACTIONS—Continued

Sequence No.	Title	Regulation Identifier No.
447	Operation of Radar Systems in the 76–77 GHz Band; ET Docket No. 11–90	3060–AJ68

INTERNATIONAL BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
448	Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band (IB Docket No. 95–91; GEN Docket No. 90–357).	3060–AF93
449	Space Station Licensing Reform (IB Docket No. 02–34)	3060–AH98
450	Reporting Requirements for U.S. Providers of International Telecommunications Services (IB Docket No. 04–112).	3060–AI42
451	Amendment of the Commission's Rules To Allocate Spectrum and Adopt Service Rules and Procedures To Govern the Use of Vehicle-Mounted Earth Stations (IB Docket No. 07–101).	3060–AI90
452	Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as Amended; IB Docket No. 11–133.	3060–AJ70
453	International Settlements Policy Reform; IB Docket No. 11–80	3060–AJ77

MEDIA BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
454	Competitive Availability of Navigation Devices (CS Docket No. 97–80)	3060–AG28
455	Second Periodic Review of Rules and Policies Affecting the Conversion to DTV (MB Docket 03–15)	3060–AH54
456	Broadcast Ownership Rules	3060–AH97
457	Establishment of Rules for Digital Low-Power Television, Television Translator, and Television Booster Stations (MB Docket No. 03–185).	3060–AI38
458	Joint Sales Agreements in Local Television Markets (MB Docket No. 04–256)	3060–AI55
459	Program Access Rules—Sunset of Exclusive Contracts Prohibition and Examination of Programming Tying Arrangements (MB Docket Nos. 12–68, 07–198).	3060–AI87
460	Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (MB Docket No. 07–91).	3060–AI89
461	Broadcast Localism (MB Docket No. 04–233)	3060–AJ04
462	Creating a Low Power Radio Service (MM Docket No. 99–25)	3060–AJ07
463	Policies To Promote Rural Radio Service and To Streamline Allotment and Assignment Procedures (MB Docket No. 09–52).	3060–AJ23
464	Promoting Diversification of Ownership in the Broadcast Services (MB Docket No. 07–294)	3060–AJ27
465	Amendment of the Commission's Rules Related to Retransmission Consent; MB Docket No. 10–71	3060–AJ55
466	Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010; MB Docket No. 11–43.	3060–AJ56
467	Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010; MB Docket No. 11–154.	3060–AJ67
468	Basic Service Tier Encryption (MB Docket No. 11–169)	3060–AJ76
469	Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations; MB Docket No. 12–106.	3060–AJ79

OFFICE OF MANAGING DIRECTOR—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
470	Assessment and Collection of Regulatory Fees	3060–AI79
471	Amendment of Part 1 of the Commission's Rules, Concerning Practice and Procedure, Amendment of CORES Registration System; MD Docket No. 10–234.	3060–AJ54

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
472	Revision of the Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems	3060–AG34
473	Enhanced 911 Services for Wireline	3060–AG60
474	In the Matter of the Communications Assistance for Law Enforcement Act	3060–AG74
475	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements.	3060–AG85
476	Implementation of 911 Act (CC Docket No. 92–105, WT Docket No. 00–110)	3060–AH90
477	Commission Rules Concerning Disruptions to Communications; PS Docket No. 11–82	3060–AI22

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU—LONG-TERM ACTIONS—Continued

Sequence No.	Title	Regulation Identifier No.
478	E911 Requirements for IP-Enabled Service Providers; Dockets: GN 11–117, PS 07–114, WC 05–196, WC 04–36.	3060–AI62
479	Stolen Vehicle Recovery System (SVRS)	3060–AJ01
480	Commercial Mobile Alert System	3060–AJ03
481	Emergency Alert System	3060–AJ33
482	Wireless E911 Location Accuracy Requirements; PS Docket No. 07–114	3060–AJ52

WIRELESS TELECOMMUNICATIONS BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
483	Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers	3060–AH83
484	Review of Part 87 of the Commission's Rules Concerning Aviation (WT Docket No. 01–289)	3060–AI35
485	Implementation of the Commercial Spectrum Enhancement Act (CSEA) and Modernization of the Commission's Competitive Bidding Rules and Procedures (WT Docket No. 05–211).	3060–AI88
486	Facilitating the Provision of Fixed and Mobile Broadband Access, Educational, and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands.	3060–AJ12
487	Amendment of the Rules Regarding Maritime Automatic Identification Systems (WT Docket No. 04–344)	3060–AJ16
488	Service Rules for Advanced Wireless Services in the 2155–2175 MHz Band	3060–AJ19
489	Service Rules for Advanced Wireless Services in the 1915 to 1920 MHz, 1995 to 2000 MHz, 2020 to 2025 MHz, and 2175 to 2180 MHz Bands.	3060–AJ20
490	Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698–806 MHz Band, WT Docket No. 08–166; Public Interest Spectrum Coalition, Petition for Rulemaking Regarding Low Power Auxiliary.	3060–AJ21
491	Amendment of the Commission's Rules To Improve Public Safety Communications in the 800 MHz Band, and To Consolidate the 800 MHz and 900 MHz Business and Industrial/Land Transportation Pool Channels.	3060–AJ22
492	Amendment of Part 101 to Accommodate 30 MHz Channels in the 6525–6875 MHz Band and Provide Conditional Authorization on Channels in the 21.8–22.0 and 23.0–23.2 GHz Band (WT Docket No. 04–114).	3060–AJ28
493	In the Matter of Service Rules for the 698 to 746, 747 to 762, and 777 to 792 MHz Bands	3060–AJ35
494	National Environmental Act Compliance for Proposed Tower Registrations; In the Matter of Effects on Migratory Birds.	3060–AJ36
495	Amendment of Part 90 of the Commission's Rules	3060–AJ37
496	Amendment of Part 101 of the Commission's Rules for Microwave Use and Broadcast Auxiliary Service Flexibility.	3060–AJ47
497	2004 and 2006 Biennial Regulatory Reviews—Streamlining and Other Revisions of the Commission's Rules Governing Construction, Marking, and Lighting of Antenna Structures.	3060–AJ50
498	Universal Service Reform Mobility Fund (WT Docket No. 10–208)	3060–AJ58
499	Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525–1559 MHz and 1626.5–1660.5 MHz, 1610–1626.5 MHz and 2483.5–2500 MHz, and 2000–2020 MHz and 2180–2200 MHz.	3060–AJ59
500	Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-Based 800 MHz Specialized Mobile Radio Licensees; WT Docket Nos. 12–64 and 11–110.	3060–AJ71
501	Service Rules for Advanced Wireless Services in the 2000–2020 MHz and 2180–2200 MHz Bands	3060–AJ73
502	Promoting Interoperability in the 700 MHz Commercial Spectrum; Interoperability of Mobile User Equipment Across Paired Commercial Spectrum Blocks in the 700 MHz Band.	3060–AJ78

WIRELESS TELECOMMUNICATIONS BUREAU—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
503	Amendment of Parts 13 and 80 of the Commission's Rules Governing Maritime Communications	3060–AH55

WIRELINE COMPETITION BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
504	Implementation of the Universal Service Portions of the 1996 Telecommunications Act	3060–AF85
505	2000 Biennial Regulatory Review—Telecommunications Service Quality Reporting Requirements	3060–AH72
506	Access Charge Reform and Universal Service Reform	3060–AH74
507	National Exchange Carrier Association Petition	3060–AI47
508	IP-Enabled Services	3060–AI48
509	Establishing Just and Reasonable Rates for Local Exchange Carriers (WC Docket No. 07–135)	3060–AJ02
510	Jurisdictional Separations	3060–AJ06
511	Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering (WC Docket Nos. 08–190, 07–139, 07–204, 07–273, 07–21).	3060–AJ14

WIRELINE COMPETITION BUREAU—LONG-TERM ACTIONS—Continued

Sequence No.	Title	Regulation Identifier No.
512	Form 477; Development of Nationwide Broadband Data To Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans.	3060–AJ15
513	Preserving the Open Internet; Broadband Industry Practices	3060–AJ30
514	Local Number Portability Porting Interval and Validation Requirements (WC Docket No. 07–244)	3060–AJ32
515	Electronic Tariff Filing System (ETFS); WC Docket No. 10–141	3060–AJ41
516	Implementation of Section 224 of the Act; A National Broadband Plan for Our Future; WC Docket No. 07–245, GN Docket No. 09–51.	3060–AJ64

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Consumer and Governmental Affairs Bureau

Long-Term Actions

431. Implementation of the Telecommunications Act of 1996; Access to Telecommunications Service, Telecommunications Equipment, and Customer Premises Equipment by Persons With Disabilities

Legal Authority: 47 U.S.C. 255; 47 U.S.C. 251(a)(2)

Abstract: These proceedings implement the provisions of sections 255 and 251(a)(2) of the Communications Act and related sections of the Telecommunications Act of 1996 regarding the accessibility of telecommunications equipment and services to persons with disabilities.

Timetable:

Action	Date	FR Cite
R&O	08/14/96	61 FR 42181
NOI	09/26/96	61 FR 50465
NPRM	05/22/98	63 FR 28456
R&O	11/19/99	64 FR 63235
Further NOI	11/19/99	64 FR 63277
Public Notice	01/07/02	67 FR 678
R&O	08/06/07	72 FR 43546
Petition for Waiver	11/01/07	72 FR 61813
Public Notice	11/01/07	72 FR 61882
Final Rule	04/21/08	73 FR 21251
Public Notice	08/01/08	73 FR 45008
Extension of Waiver.	05/15/08	73 FR 28057
Extension of Waiver.	05/06/09	74 FR 20892
Public Notice	05/07/09	74 FR 21364
Extension of Waiver.	07/29/09	74 FR 37624
NPRM	03/14/11	76 FR 13800
NPRM Comment Period Extended.	04/12/11	76 FR 20297
FNPRM	12/30/11	76 FR 82240
Comment Period End.	03/14/12	
R&O	12/30/11	76 FR 82354
Announcement of Effective Date.	04/25/12	77 FR 24632
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cheryl J. King, Deputy Chief, Disability Rights Office, Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2284, *TDD Phone:* 202 418–0416, *Fax:* 202 418–0037, *Email:* *cheryl.king@fcc.gov.*

RIN: 3060–AG58

432. Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991 (CG Docket No. 02–278)

Legal Authority: 47 U.S.C. 227

Abstract: On July 3, 2003, the Commission released a Report and Order establishing, along with the FTC, a national do-not-call registry. The Commission's Report and Order also adopted rules on the use of predictive dialers, the transmission of caller ID information by telemarketers, and the sending of unsolicited fax advertisements.

On September 21, 2004, the Commission released an Order amending existing safe harbor rules for telemarketers subject to the do-not-call registry to require such telemarketers to access the do-not-call list every 31 days, rather than every 3 months.

On April 5, 2006, the Commission adopted a Report and Order and Third Order on Reconsideration amending its facsimile advertising rules to implement the Junk Fax Protection Act of 2005. On October 14, 2008, the Commission released an Order on Reconsideration addressing certain issues raised in petitions for reconsideration and/or clarification of the Report and Order and Third Order on Reconsideration.

On January 4, 2008, the Commission released a Declaratory Ruling, clarifying that autodialed and prerecorded message calls to wireless numbers that are provided by the called party to a creditor in connection with an existing debt are permissible as calls made with the "prior express consent" of the called party.

Following a December 4, 2007, NPRM, on June 17, 2008, the Commission released a Report and Order amending its rules to require sellers and/or telemarketers to honor registrations with the National Do-Not-Call Registry indefinitely, unless the registration is cancelled by the consumer or the number is removed by the database administrator.

On January 22, 2010, the Commission released an NPRM proposing to require sellers and telemarketers to obtain express written consent from recipients before making autodialed or prerecorded telemarketing calls, commonly known as "robocalls," even when the caller has an established business relationship with the consumer. The proposals also, among other things, would require that prerecorded telemarketing calls include an automated, interactive mechanism by which a consumer may "opt out" of receiving future prerecorded messages from a seller or telemarketer.

On February 15, 2012, the Commission released a Report and Order requiring telemarketers to obtain prior express written consent, including by electronic means, before making an autodialed or prerecorded telemarketing call to a wireless number or before making a prerecorded telemarketing call to a residential line; eliminating the "established business relationship" exemption to the consent requirement for prerecorded telemarketing calls to residential lines; requiring telemarketers to provide an automated, interactive "opt-out" mechanism during autodialed or prerecorded telemarketing calls to wireless numbers and during prerecorded telemarketing calls to residential lines; and requiring that the abandoned call rate for telemarketing calls be calculated on a "per-campaign" basis.

Timetable:

Action	Date	FR Cite
NPRM	10/08/02	67 FR 62667
FNPRM	04/03/03	68 FR 16250
Order	07/25/03	68 FR 44144
Order Effective	08/25/03	

Action	Date	FR Cite
Order on Recon ..	08/25/03	68 FR 50978
Order	10/14/03	68 FR 59130
FNPRM	03/31/04	69 FR 16873
Order	10/08/04	69 FR 60311
Order	10/28/04	69 FR 62816
Order on Recon ..	04/13/05	70 FR 19330
Order	06/30/05	70 FR 37705
NPRM	12/19/05	70 FR 75102
Public Notice	04/26/06	71 FR 24634
Order	05/03/06	71 FR 25967
NPRM	12/14/07	72 FR 71099
Declaratory Ruling	02/01/08	73 FR 6041
R&O	07/14/08	73 FR 40183
Order on Recon ..	10/30/08	73 FR 64556
NPRM	03/22/10	75 FR 13471
R&O (release date).	02/15/12	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kurt Schroeder, Deputy Chief, Consumer Policy Div., Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0966, *Email: kurt.schroeder@fcc.gov.*

RIN: 3060–AI14

433. Rules and Regulations Implementing Section 225 of the Communications Act (Telecommunications Relay Service) (CG Docket No. 03–123)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225

Abstract: This proceeding established a new docket flowing from the previous telecommunications relay service (TRS) history, CC Docket No. 98–67. This proceeding continues the Commission's inquiry into improving the quality of TRS and furthering the goal of functional equivalency, consistent with Congress' mandate that TRS regulations encourage the use of existing technology and not discourage or impair the development of new technology. In this docket, the Commission explores ways to improve emergency preparedness for TRS facilities and services, new TRS technologies, public access to information and outreach, and issues related to payments from the Interstate TRS Fund.

Timetable:

Action	Date	FR Cite
NPRM	08/25/03	68 FR 50993
R&O, Order on Recon.	09/01/04	69 FR 53346
FNPRM	09/01/04	69 FR 53382
Public Notice	02/17/05	70 FR 8034
Declaratory Ruling/Interpretation.	02/25/05	70 FR 9239
Public Notice	03/07/05	70 FR 10930
Order	03/23/05	70 FR 14568
Public Notice/Announcement of Date.	04/06/05	70 FR 17334
Order	07/01/05	70 FR 38134
Order on Recon ..	08/31/05	70 FR 51643
R&O	08/31/05	70 FR 51649
Order	09/14/05	70 FR 54294
Order	09/14/05	70 FR 54298
Public Notice	10/12/05	70 FR 59346
R&O/Order on Recon.	12/23/05	70 FR 76208
Order	12/28/05	70 FR 76712
Order	12/29/05	70 FR 77052
NPRM	02/01/06	71 FR 5221
Declaratory Ruling/Clarification.	05/31/06	71 FR 30818
FNPRM	05/31/06	71 FR 30848
FNPRM	06/01/06	71 FR 31131
Declaratory Ruling/Dismissal of Petition.	06/21/06	71 FR 35553
Clarification	06/28/06	71 FR 36690
Declaratory Ruling on Recon.	07/06/06	71 FR 38268
Order on Recon ..	08/16/06	71 FR 47141
MO&O	08/16/06	71 FR 47145
Clarification	08/23/06	71 FR 49380
FNPRM	09/13/06	71 FR 54009
Final Rule; Clarification.	02/14/07	72 FR 6960
Order	03/14/07	72 FR 11789
R&O	08/06/07	72 FR 43546
Public Notice	08/16/07	72 FR 46060
Order	11/01/07	72 FR 61813
Public Notice	01/04/08	73 FR 863
R&O/Declaratory Ruling.	01/17/08	73 FR 3197
Order	02/19/08	73 FR 9031
Order	04/21/08	73 FR 21347
R&O	04/21/08	73 FR 21252
Order	04/23/08	73 FR 21843
Public Notice	04/30/08	73 FR 23361
Order	05/15/08	73 FR 28057
Declaratory Ruling	07/08/08	73 FR 38928
FNPRM	07/18/08	73 FR 41307
R&O	07/18/08	73 FR 41286
Public Notice	08/01/08	73 FR 45006
Public Notice	08/05/08	73 FR 45354
Public Notice	10/10/08	73 FR 60172
Order	10/23/08	73 FR 63078
2nd R&O and Order on Recon.	12/30/08	73 FR 79683
Order	05/06/09	74 FR 20892
Public Notice	05/07/09	74 FR 21364
NPRM	05/21/09	74 FR 23815
Public Notice	05/21/09	74 FR 23859
Public Notice	06/12/09	74 FR 28046
Order	07/29/09	74 FR 37624
Public Notice	08/07/09	74 FR 39699
Order	09/18/09	74 FR 47894
Order	10/26/09	74 FR 54913
Public Notice	05/12/10	75 FR 26701
Order Deying Stay Motion (Release Date).	07/09/10	
Order	08/13/10	75 FR 49491
Order	09/03/10	75 FR 54040
NPRM	11/02/10	75 FR 67333
NPRM	05/02/11	76 FR 24442
Order	07/25/11	76 FR 44326
Final Rule (Order)	09/27/11	76 FR 59551
Final Rule; announcement of effective date.	11/22/11	76 FR 72124
Proposed Rule (Public Notice).	02/28/12	77 FR 11997
Comment Period End.	03/20/12	
Proposed Rule (FNPRM).	02/01/12	77 FR 4948
FNPRM Comment Period End.	02/28/12	
First R&O	07/25/12	77 FR 43538
Public Notice (release date).	10/15/12	
Comment Period End.	11/29/12	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Karen Peltz Strauss, Deputy Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2388, *Email: karen.strauss@fcc.gov.*

RIN: 3060–AI15

434. Consumer Information and Disclosure and Truth in Billing and Billing Format

Legal Authority: 47 U.S.C. 201; 47 U.S.C. 258

Abstract: In 1999, the Commission adopted truth-in-billing rules to address concerns that there is consumer confusion relating to billing for telecommunications services. On March 18, 2005, the Commission released an Order and FNPRM to further facilitate the ability of telephone consumers to make informed choices among competitive service offerings.

On August 28, 2009, the Commission released a Notice of Inquiry which asks questions about information available to consumers at all stages of the purchasing process for all communications services, including (1) Choosing a provider; (2) choosing a service plan; (3) managing use of the service plan; and (4) deciding whether and when to switch an existing provider or plan.

On October 14, 2010, the Commission released a Notice of Proposed Rulemaking proposing rules that would require mobile service providers to provide usage alerts and information that will assist consumers in avoiding unexpected charges on their bills.

On July 12, 2011, the Commission released an NPRM that would assist consumers in detecting and preventing the placement of unauthorized charges on their telephone bills, an unlawful

and fraudulent practice, commonly referred to as "cramming."

On April 27, 2012, the Commission adopted rules to address "cramming" on wireline telephone bills and released an FNPRM seeking comment on additional measures.

Timetable:

Action	Date	FR Cite
FNPRM	05/25/05	70 FR 30044
R&O	05/25/05	70 FR 29979
NOI	08/28/09	
Public Notice	05/20/10	75 FR 28249
Public Notice	06/11/10	75 FR 33303
NPRM	11/26/10	75 FR 72773
NPRM	08/23/11	76 FR 52625
NPRM Comment Period End.	11/21/11	
R&O and FNPRM Next Action Undetermined.	04/27/12	77 FR 30972

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John B. Adams, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2854, *Email: johnb.adams@fcc.gov.*

RIN: 3060–AI61

435. Closed-Captioning of Video Programming (Section 610 Review)

Legal Authority: 47 U.S.C. 613

Abstract: The Commission's closed-captioning rules are designed to make video programming more accessible to deaf and hard-of-hearing Americans. This proceeding resolves some issues regarding the Commission's closed-captioning rules that were raised for comment in 2005, and also seeks comment on how a certain exemption from the closed-captioning rules should be applied to digital multicast broadcast channels.

Timetable:

Action	Date	FR Cite
NPRM	02/03/97	62 FR 4959
R&O	09/16/97	62 FR 48487
Order on Recon	10/28/98	63 FR 55959
NPRM	09/26/05	70 FR 56150
Order and Declaratory Ruling.	01/13/09	74 FR 1594
NPRM	01/13/09	74 FR 1654
Final Rule Correction.	09/11/09	74 FR 46703
Final Rule Announcement of Effective Date.	02/19/10	75 FR 7370
Order	02/19/10	75 FR 7368
Order Suspending Effective Date.	02/19/10	75 FR 7369
Waiver Order	10/04/10	75 FR 61101
Public Notice	11/17/10	75 FR 70168
Interim Final Rule (Order).	11/01/11	76 FR 67376
Final Rule (MO&O).	11/01/11	76 FR 67377
NPRM	11/01/11	76 FR 67397
NPRM Comment Period End.	12/16/11	
Public Notice	05/04/12	77 FR 26550
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Eliot Greenwald, Consumer & Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2235, *Email: eliot.greenwald@fcc.gov.*

RIN: 3060–AI72

436. Accessibility of Programming Providing Emergency Information

Legal Authority: 47 U.S.C. 613

Abstract: In this proceeding, the Commission adopted rules detailing how video programming distributors must make emergency information accessible to persons with hearing and visual disabilities.

Timetable:

Action	Date	FR Cite
FNPRM	01/21/98	63 FR 3070
NPRM	12/01/99	64 FR 67236
NPRM Correction	12/22/99	64 FR 71712
Second R&O	05/09/00	65 FR 26757
R&O	09/11/00	65 FR 54805
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Eliot Greenwald, Consumer & Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2235, *Email: eliot.greenwald@fcc.gov.*

RIN: 3060–AI75

437. Empowering Consumers To Avoid Bill Shock (Docket No. 10–207)

Legal Authority: 47 U.S.C. 201; 47 U.S.C. 303; 47 U.S.C. 332

Abstract: On October 14, 2010, the Commission released a Notice of Proposed Rulemaking which proposes a rule that would require mobile service providers to provide usage alerts and information that will assist consumers in avoiding unexpected charges on their bills.

Timetable:

Action	Date	FR Cite
Public Notice	05/20/10	75 FR 28249
NPRM	11/26/10	75 FR 72773
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Richard D. Smith, Special Counsel, Consumer Policy Div., Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 717 338–2797, *Fax:* 717 338–2574, *Email: richard.smith@fcc.gov.*

RIN: 3060–AJ51

438. Empowering Consumers To Prevent and Detect Billing for Unauthorized Charges ("Cramming")

Legal Authority: 47 U.S.C. 201; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 332

Abstract: On July 12, 2011, the Commission released a Notice of Proposed Rulemaking proposing rules that would assist consumers in detecting and preventing the placement of unauthorized charges on telephone bills, an unlawful and fraudulent practice commonly referred to as "cramming."

On April 27, 2012, the Commission adopted rules to address "cramming" on wireline telephone bills and released an FNPRM seeking comment on additional measures.

Timetable:

Action	Date	FR Cite
NPRM	08/23/11	76 FR 52625
NPRM Comment Period End.	11/21/11	
R&O and FNPRM Next Action Undetermined.	04/27/12	77 FR 30972

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John B. Adams, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2854, *Email: johnb.adams@fcc.gov.*

RIN: 3060–AJ72

439. Implementation of the Middle Class Tax Relief and Job Creation Act of 2012—Establishment of a Public Safety Answering Point Do-Not-Call Registry

Legal Authority: Pub. L. 112–96, sec 6507

Abstract: The Commission must issue, by May 22, 2012, an NPRM to initiate a proceeding to create a Do-Not-Call registry for public safety answer points (PSAPs), as required by section 6507 of the Middle Class Tax Relief and Job

Creation Act of 2012. The statute requires the Commission to: establish a registry that allows PSAPs to register their telephone numbers on a do-not-call list; prohibit the use of automatic dialing equipment to contact registered numbers; and implement a range of monetary penalties for disclosure of registered numbers and for use of automatic dialing equipment to contact such numbers.

Timetable:

Action	Date	FR Cite
NPRM	06/21/12	77 FR 37362
R&O (release date).	10/17/12	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Richard D. Smith, Special Counsel, Consumer Policy Div., Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 717 338–2797, *Fax:* 717 338–2574, *Email: richard.smith@fcc.gov.*

RIN: 3060–AJ74

440. • Implementation of the Middle Class Tax Relief and Job Creation Act of 2012/Establishment of a Public Safety Answering Point Do-Not-Call Registry

Legal Authority: Pub. L. 112–96 sec 6507

Abstract: The Commission issued, on May 22, 2012, an NPRM to initiate a proceeding to create a Do-Not-Call registry for public safety answer points (PSAPs), as required by section 6507 of the Middle Class Tax Relief and Job Creation Act of 2012. The statute requires the Commission to establish a registry that allows PSAPs to register their telephone numbers on a do-not-call list; prohibit the use of automatic dialing equipment to contact registered numbers; and implement a range of monetary penalties for disclosure of registered numbers and for use of automatic dialing equipment to contact such numbers. On October 17, 2012, the commission adopted final rules implementing the statutory requirements described above.

Timetable:

Action	Date	FR Cite
NPRM (release date).	05/22/12	
R&O (release date).	10/17/12	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Richard D. Smith, Special Counsel, Consumer Policy Div., Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 717 338–2797, *Fax:* 717 338–2574, *Email: richard.smith@fcc.gov.*

RIN: 3060–AJ84

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Office of Engineering and Technology

Long-Term Actions

441. New Advanced Wireless Services (ET Docket No. 00–258)

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 303(c); 47 U.S.C. 303(f); 47 U.S.C. 303(g); 47 U.S.C. 303(r)

Abstract: This proceeding explores the possible uses of frequency bands below 3 GHz to support the introduction of new advanced wireless services, including third generations as well as future generations of wireless systems. Advanced wireless systems could provide for a wide range of voice data and broadband services over a variety of mobile and fixed networks.

The Third Notice of Proposed Rulemaking discusses the frequency bands that are still under consideration in this proceeding and invites additional comments on their disposition. Specifically, it addresses the Unlicensed Personal Communications Service (UPCS) band at 1910–1930 MHz, the Multipoint Distribution Service (MDS) spectrum at 2155–2160/62 MHz bands, the Emerging Technology spectrum, at 2160–2165 MHz, and the bands reallocated from MSS 91990–2000 MHz, 2020–2025 MHz, and 2165–2180 MHz. We seek comment on these bands with respect to using them for paired or unpaired Advance Wireless Service (AWS) operations or as relocation spectrum for existing services.

The seventh Report and Order facilitates the introduction of Advanced Wireless Service (AWS) in the band 1710–1755 MHz—an integral part of a 90 MHz spectrum allocation recently reallocated to allow for such new and innovative wireless services. We largely adopt the proposals set forth in our recent AWS Fourth NPRM in this proceeding that are designed to clear the 1710–1755 MHz band of incumbent Federal Government operations that would otherwise impede the development of new nationwide AWS services. These actions are consistent with previous actions in this proceeding and with the United States Department of Commerce, National Telecommunications and Information Administration (NTIA) 2002 Viability Assessment, which addressed relocation and reaccommodation options for Federal Government operations in the band.

The eighth Report and Order reallocated the 2155–2160 MHz band for fixed and mobile services and designates the 2155–2175 MHz band for Advanced Wireless Service (AWS) use. This proceeding continues the Commission's ongoing efforts to promote spectrum utilization and efficiency with regard to the provision of new services, including Advanced Wireless Services.

The Order requires Broadband Radio Service (BRS) licensees in the 2150–2160/62 MHz band to provide information on the construction status and operational parameters of each incumbent BRS system that would be the subject of relocation.

The Notice of Proposed Rule Making requested comments on the specific relocation procedures applicable to Broadband Radio Service (BRS) operations in the 2150–2160/62 MHz band, which the Commission recently decided will be relocated to the newly restructured 2495–2690 MHz band. The Commission also requested comments on the specific relocation procedures applicable to Fixed Microwave Service (FS) operations in the 2160–2175 MHz band.

The Office of Engineering and Technology (OET) and the Wireless Telecommunications Bureau (WTB) set forth the specific data that Broadband Radio Service (BRS) licensees in the 2150–2160/62 MHz band must file along with the deadline date and procedures for filing this data on the Commission's Universal Licensing System (ULS). The data will assist in determining future AWS licensees' relocation obligations.

The ninth Report and Order established procedures for the relocation of Broadband Radio Service (BRS) operations from the 2150–2160/62 MHz band, as well as for the relocation of Fixed Microwave Service (FS) operations from the 2160–2175 MHz band, and modified existing relocation procedures for the 2110–2150 MHz and 2175–2180 MHz bands. It also established cost-sharing rules to identify the reimbursement obligations for Advanced Wireless Service (AWS) and Mobile Satellite Service (MSS) entrants benefiting from the relocation of incumbent FS operations in the 2110–

2150 MHz and 2160–2200 MHz bands and AWS entrants benefiting from the relocation of BRS incumbents in the 2150–2160/62 MHz band. The Commission continues its ongoing efforts to promote spectrum utilization and efficiency with regard to the provision of new services, including AWS. The Order dismisses a petition for reconsideration filed by the Wireless Communications Association International, Inc. (WCA) as moot.

Two petitions for Reconsideration were filed in response to the ninth Report and Order.

The Report and Orders and Declaratory Ruling concludes the Commission's longstanding efforts to relocate the Broadcast Auxiliary Service (BAS) from the 1990–2110 MHz band to the 2025–2110 MHz band, freeing up 35 megahertz of spectrum in order to foster the development of new and innovative services. This decision addresses the outstanding matter of Sprint Nextel Corporation's (Sprint Nextel) inability to agree with Mobile Satellite Service (MSS) operators in the band on the sharing of the costs to relocate the BAS incumbents. To resolve this controversy, the Commission applied its time-honored relocation principles for emerging technologies previously adopted for the BAS band to the instant relocation process, where delays and unanticipated developments have left ambiguities and misconceptions among the relocating parties. In the process, the Commission balances the responsibilities for and benefits of relocating incumbent BAS operations among all the new entrants in the different services that will operate in the band.

The Commission proposed to modify its cost sharing requirements for the 2 GHz BAS band because the circumstances surrounding the BAS transition are very different than what was expected when the cost sharing requirements were adopted. The Commission believed that the best course of action was to propose new requirements that would address the ambiguity of applying the literal language of the current requirements to the changed circumstances, as well as balance the responsibilities for and benefits of relocating incumbent BAS operations among all new entrants in the band based on the Commission's relocation policies set forth in the Emerging Technologies proceeding.

The Commission proposed to eliminate, as of January 1, 2009, the requirement that Broadcast Auxiliary Service (BAS) licensees in the thirty largest markets and fixed BAS links in all markets be transitioned before the Mobile Satellite Service (MSS) operators can begin offering service. The Commission also sought comments on how to mitigate interference between new MSS entrants and incumbent BAS licensees who had not completed relocation before the MSS entrants begin offering service. In addition, the Commission sought comments on allowing MSS operators to begin providing service in those markets where BAS incumbents have been transitioned.

Timetable:

Action	Date	FR Cite
NPRM	01/23/01	66 FR 7438
NPRM Comment Period End.	03/09/01	
Final Report	04/11/01	66 FR 18740
FNPRM	09/13/01	66 FR 47618
MO&O	09/13/01	66 FR 47591
First R&O	10/25/01	66 FR 53973
Petition for Recon	11/02/01	66 FR 55666
Second R&O	01/24/03	68 FR 3455
Third NPRM	03/13/03	68 FR 12015
Seventh R&O	12/29/04	69 FR 7793
Petition for Recon	04/13/05	70 FR 19469
Eighth R&O	10/26/05	70 FR 61742
Order	10/26/05	70 FR 61742
NPRM	10/26/05	70 FR 61752
Public Notice	12/14/05	70 FR 74011
Ninth R&O and Order.	05/24/06	71 FR 29818
Petition for Recon	07/19/06	71 FR 41022
5th R&O, 11th R&O, 6th R&O, and Declaratory Ruling.	11/02/10	75 FR 67227
R&O and NPRM	06/23/09	74 FR 29607
FNPRM	03/31/08	73 FR 16822
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Rodney Small, Economist, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2452 *Fax:* 202 418–1944 *Email: rodney.small@fcc.gov.*

RIN: 3060–AH65

442. Exposure to Radiofrequency Electromagnetic Fields

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 302 and 303; 47 U.S.C. 309(j); 47 U.S.C. 336

Abstract: The Notice of Proposed Rulemaking (NPRM) proposed amendments to the FCC rules relating to compliance of transmitters and facilities with guidelines for human exposure to radio frequency (RF) energy.

Timetable:

Action	Date	FR Cite
NPRM	09/08/03	68 FR 52879
NPRM Comment Period End.	12/08/03	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ira Keltz, Electronics Engineer, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0616, *Fax:* 202 418–1944, *Email: ikeltz@fcc.gov.*

RIN: 3060–AI17

443. Unlicensed Operation in the TV Broadcast Bands (ET Docket No. 04–186)

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 302; 47 U.S.C. 303(e) and 303(f); 47 U.S.C. 303(r); 47 U.S.C. 307

Abstract: The Commission adopted rules to allow unlicensed radio transmitters to operate in the broadcast television spectrum at locations where that spectrum is not being used by licensed services (this unused TV spectrum is often termed "white spaces"). This action will make a significant amount of spectrum available for new and innovative products and services, including broadband data and other services for businesses and consumers. The actions taken are a conservative first step that includes many safeguards to prevent harmful interference to incumbent communications services. Moreover, the Commission will closely oversee the development and introduction of these devices to the market and will take whatever actions may be necessary to avoid, and if necessary correct, any interference that may occur.

The Second Memorandum Opinion and Order finalizes rules to make the unused spectrum in the TV bands available for unlicensed broadband wireless devices. This particular spectrum has excellent propagation characteristics that allow signals to reach farther and penetrate walls and other structures. Access to this spectrum could enable more powerful public Internet connections—super Wi-Fi hot spots—with extended range, fewer dead spots, and improved individual speeds as a result of reduced congestion on existing networks. This type of "opportunistic use" of spectrum has great potential for enabling access to other spectrum bands and improving spectrum efficiency. The Commission's actions here are expected to spur investment and innovation in applications and devices that will be

used not only in the TV band but eventually in other frequency bands as well.

Timetable:

Action	Date	FR Cite
NPRM	06/18/04	69 FR 34103
First R&O	11/17/06	71 FR 66876
FNPRM	11/17/06	71 FR 66897
R&O and MO&O	02/17/09	74 FR 7314
Petitions for Reconsideration.	04/13/09	74 FR 16870
Second MO&O	12/06/10	75 FR 75814
Petitions for Recon.	02/09/11	76 FR 7208
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Hugh Van Tuyl, Electronics Engineer, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7506, *Fax:* 202 418–1944, *Email: hugh.vantuyl@fcc.gov.*

RIN: 3060–AI52

444. Fixed and Mobile Services in the Mobile Satellite Service (ET Docket No. 10–142)

Legal Authority: 47 U.S.C. 154(i) and 301; 47 U.S.C. 303(c) and 303(f); 47 U.S.C. 303(r) and 303(y); 47 U.S.C. 310

Abstract: The Notice of Proposed Rulemaking proposed to take a number of actions to further the provision of terrestrial broadband services in the MSS bands. In the 2 GHz MSS band, the Commission proposed to add co-primary Fixed and Mobile allocations to the existing Mobile-Satellite allocation. This would lay the groundwork for providing additional flexibility in use of the 2 GHz spectrum in the future. The Commission also proposed to apply the terrestrial secondary market spectrum leasing rules and procedures to transactions involving terrestrial use of the MSS spectrum in the 2 GHz, Big LEO, and L-bands in order to create greater certainty and regulatory parity with bands licensed for terrestrial broadband service.

The Commission also asked, in a Notice of Inquiry, about approaches for creating opportunities for full use of the 2 GHz band for stand-alone terrestrial uses. The Commission requested comment on ways to promote innovation and investment throughout the MSS bands while also ensuring market-wide mobile satellite capability to serve important needs like disaster recovery and rural access.

In the Report and Order the Commission amended its rules to make additional spectrum available for new investment in mobile broadband networks while also ensuring that the United States maintains robust mobile satellite service capabilities. First, the Commission adds co-primary Fixed and Mobile allocations to the Mobile Satellite Service (MSS) 2 GHz band, consistent with the International Table of Allocations, allowing more flexible use of the band, including for terrestrial broadband services, in the future. Second, to create greater predictability and regulatory parity with the bands licensed for terrestrial mobile broadband service, the Commission extends its existing secondary market spectrum manager spectrum leasing policies, procedures, and rules that currently apply to wireless terrestrial services to terrestrial services provided using the Ancillary Terrestrial Component (ATC) of an MSS system.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceeding concerning Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525–1559 MHz and 1626.5–1660.5 MHz, 1610–1626.5 MHz and 2483.5–2500 MHz, and 2000–2020 MHz and 2180–2200 MHz, and published pursuant to 47 CFR 1.429(e). See 1.4(b)(1) of the Commission's rules.

Timetable:

Action	Date	FR Cite
NPRM	08/16/10	75 FR 49871
NPRM Comment Period End.	09/15/10	
Reply Comment Period End.	09/30/10	
R&O	05/31/11	76 FR 31252
Petitions for Recon.	08/10/11	76 FR 49364
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nicholas Oros, Electronics Engineer, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0636, *Email: nicholas.oros@fcc.gov.*

RIN: 3060–AJ46

445. Innovation in the Broadcast Television Bands; ET Docket No. 10–235

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 301; 47 U.S.C. 302; 47 U.S.C. 303(e); 47 U.S.C. 303(f); 47 U.S.C. 303(r)

Abstract: The Commission initiated this proceeding to further its ongoing commitment to addressing America's growing demand for wireless broadband services, to spur ongoing innovation and investment in mobile technology, and to ensure that America keeps pace with the global wireless revolution by making a significant amount of new spectrum available for broadband. The approach proposed is consistent with the goal set forth in the National Broadband Plan (the Plan) to repropose up to 120 megahertz from the broadcast television bands for new wireless broadband uses through, in part, voluntary contributions of spectrum to an incentive auction. Reallocation of this spectrum as proposed will provide the necessary flexibility for meeting the requirements of these new applications.

In the Report and Order, the Commission took preliminary steps toward making a significant portion of the UHF and VHF frequency bands (U/V Bands) currently used by the broadcast television service available for new uses. This action serves to further address the nation's growing demand for wireless broadband services, promote the ongoing innovation and investment in mobile communications, and ensure that the United States keeps pace with the global wireless revolution. At the same time, the approach helps preserve broadcast television as a healthy, viable medium and would be consistent with the general proposal set forth in the National Broadband Plan to repurpose spectrum from the U/V bands for new wireless broadband uses through, in part, voluntary contributions of spectrum to an incentive auction. This action is consistent with the recent enactment by Congress of new incentive auction authority for the Commission (Spectrum Act). Specifically, this item sets out a framework by which two or more television licensees may share a single six MHz channel in connection with an incentive auction.

However, the Report and Order did not act on the proposals in the Notice of Proposed Rulemaking to establish fixed and mobile allocations in the U/V bands or to improve TV service on VHF channels. The Report and Order stated that the Commission will undertake a broader rulemaking to implement the Spectrum Act's provisions relating to an incentive auction for U/V band spectrum, and that it believes it will be more efficient to act on new allocations in the context of that rulemaking. In addition, the record created in response to the Notice of Proposed Rulemaking does not establish a clear way forward to significantly increase the utility of the VHF bands for the operation of television services. The Report and Order states that the Commission will revisit this matter in a future proceeding.

Timetable:

Action	Date	FR Cite
NPRM	02/01/11	76 FR 5521
NPRM Comment Period End.	03/18/11	
R&O	05/23/12	77 FR 30423
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alan Stillwell, Deputy Chief, OET, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW., Washington, DC 20554, Phone: 202 418–2925, *Email: alan.stillwell@fcc.gov.*

RIN: 3060–AJ57

446. Radio Experimentation and Market Trials Under Part 5 of the Commission's Rules and Streamlining Other Related Rules; ET Docket No. 10–236

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 301 and 303

Abstract: The Commission initiated this proceeding to promote innovation and efficiency in spectrum use in the Experimental Radio Service (ERS). For many years, the ERS has provided fertile ground for testing innovative ideas that have led to new services and new devices for all sectors of the economy. The Commission proposes to leverage the power of experimental radio licensing to accelerate the rate at which these ideas transform from prototypes to consumer devices and services. Its goal is to inspire researchers to dream, discover, and deliver the innovations that push the boundaries of the broadband ecosystem. The resulting advancements in devices and services available to the American public and greater spectrum efficiency over the long term will promote economic growth, global competitiveness, and a better way of life for all Americans.

Timetable:

Action	Date	FR Cite
NPRM	02/08/11	76 FR 6928
NPRM Comment Period End.	03/10/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Burtle, Chief, Experimental Licensing Branch, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2445, *Email: james.burtle@fcc.gov.*

RIN: 3060–AJ62

447. Operation of Radar Systems in the 76–77 GHz Band; ET Docket No. 11–90

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152; 47 U.S.C. 154(i); 47 U.S.C. 301; 47 U.S.C. 302; 47 U.S.C. 303(f)

Abstract: The Commission proposes to amend its rules to enable enhanced vehicular radar technologies in the 76–77 GHz band to improve collision avoidance and driver safety. Vehicular radars can determine the exact distance and relative speed of objects in front of, beside, or behind a car to improve the driver's ability to perceive objects under bad visibility conditions or objects that are in blind spots. These modifications to the rules will provide more efficient use of spectrum, and enable the automotive and fixed radar application industries to develop enhanced safety measures for drivers and the general public. The Commission takes this action in response to petitions for rulemaking filed by Toyota Motor Corporation ("TMC") and Era Systems Corporation ("Era").

This Report and Order amends the Commission's rules to provide a more efficient use of the 76–77 GHz band, and to enable the automotive and aviation industries to develop enhanced safety measures for drivers and the general public. Specifically, the Commission has eliminated the in-motion and not-in-motion distinction for vehicular radars, and instead adopted new uniform emission limits for forward, side, and rear-looking vehicular radars. This will facilitate enhanced vehicular radar technologies to improve collision avoidance and driver safety. The Commission also amended its rules to allow the operation of fixed radars at airport locations in the 76–77 GHz band for purposes of detecting foreign object debris on runways and monitoring aircraft and service vehicles on taxiways and other airport vehicle service areas that have no public vehicle access. The Commission took this action in response to petitions for rulemaking filed by Toyota Motor Corporation ("TMC") and Era Systems Corporation ("Era").

Timetable:

Action	Date	FR Cite
NPRM	06/16/11	76 FR 35176
R&O	08/13/12	77 FR 48097
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Aamer Zain, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2437, *Email: aamer.zain@fcc.gov.*

RIN: 3060–AJ68

FEDERAL COMMUNICATIONS COMMISSION (FCC)

International Bureau

Long-Term Actions

448. Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band (IB Docket No. 95–91; GEN Docket No. 90–357)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 151(i); 47 U.S.C. 154(j); 47 U.S.C. 157; 47 U.S.C. 309(j)

Abstract: In 1997, the Commission adopted service rules for the satellite digital audio radio service (SDARS) in the 2320–2345 MHz frequency band and sought further comment on proposed rules governing the use of complementary SDARS terrestrial repeaters. The Commission released a second further notice of proposed rulemaking in January 2008, to consider new proposals for rules to govern terrestrial repeaters operations. The Commission released a Second Report and Order on May 20, 2010, which adopted rules governing the operation of SDARS terrestrial repeaters, including establishing a blanket licensing regime for repeaters operating up to 12 kilowatts average equivalent isotropically radiated power.

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 35166
R&O	03/11/97	62 FR 11083
FNPRM	04/18/97	62 FR 19095
Second FNPRM	01/15/08	73 FR 2437
FNPRM Comment Period End.	03/17/08	
2nd R&O	05/20/10	75 FR 45058
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3060–AF93

449. Space Station Licensing Reform (IB Docket No. 02–34)

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 303(c); 47 U.S.C. 303(g); * * *

Abstract: The Commission adopted a Notice of Proposed Rulemaking (NPRM) to streamline its procedures for reviewing satellite license applications.

Before 2003, the Commission used processing rounds to review those applications. In a processing round, when an application is filed, the International Bureau (Bureau) issued a public notice establishing a cutoff date for other mutually exclusive satellite applications, and then considered all those applications together. In cases where sufficient spectrum to accommodate all the application was not available, the Bureau directed the applicants to negotiate a mutually agreeable solution. Those negotiations took a long time, and delayed provision of satellite services to the public.

The NPRM invited comment on two alternatives for expediting the satellite application process. One alternative was to replace the processing round procedure with a "first-come, first-served" procedure that would allow the Bureau to issue a satellite license to the first party filing a complete, acceptable application. The other alternative was to streamline the processing round procedure by adopting one or more of the following proposals: (1) Place a time limit on negotiations; (2) establish criteria to select among competing applicants; (3) divide the available spectrum evenly among the applicants.

In the First Report and Order in this proceeding, the Commission determined that different procedures were better-suited for different kinds of satellite applications. For most geostationary orbit (GSO) satellite applications, the Commission adopted a first-come, first-served approach. For most non-geostationary orbit (NGSO) satellite applications, the Commission adopted a procedure in which the available spectrum is divided evenly among the qualified applicants. The Commission also adopted measures to discourage applicants from filing speculative applications, including a bond requirement, payable if a licensee misses a milestone. The bond amounts originally were $5 million for each GSO satellite, and $7.5 million for each NGSO satellite system. These were interim amounts. Concurrently with the First Report and Order, the Commission adopted an FNPRM to determine whether to revise the bond amounts on a long-term basis.

In the Second Report and Order, the Commission adopted a streamlined procedure for certain kinds of satellite license modification requests.

In the Third Report and Order, the Commission adopted a standardized application form for satellite licenses, and adopted a mandatory electronic filing requirement for certain satellite applications.

In the Fourth Report and Order, the Commission revised the bond amounts based on the record developed in response to FNPRM. The bond amounts are now $3 million for each GSO satellite, and $5 million for each NGSO satellite system.

Timetable:

Action	Date	FR Cite
NPRM	03/19/02	67 FR 12498
NPRM Comment Period End.	07/02/02	
Second R&O (Release Date).	06/20/03	68 FR 62247
Second FNPRM (Release Date).	07/08/03	68 FR 53702
Third R&O (Release Date).	07/08/03	68 FR 63994
FNPRM	08/27/03	68 FR 51546
First R&O	08/27/03	68 FR 51499
FNPRM Comment Period End.	10/27/03	
Fourth R&O (Release Date).	04/16/04	69 FR 67790
Fifth R&O, First Order on Recon (Release Date).	07/06/04	69 FR 51586
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Fern Jarmulnek, Associate Chief, Satellite and Radio Communication Division, Federal Communications Commission, International Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0751, *Fax:* 202 418–0748, *Email: fjarmuln@fcc.gov.*

RIN: 3060–AH98

450. Reporting Requirements for U.S. Providers of International Telecommunications Services (IB Docket No. 04–112)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 161; 47 U.S.C. 201 to 205; * * *

Abstract: FCC is reviewing the reporting requirements to which carriers providing U.S.-international services are subject under 47 CFR part 43. The FCC adopted a First Report and Order that eliminated certain of those requirements. Specifically, it eliminated the quarterly reporting requirements for large carriers and foreign-affiliated switched resale carriers, 47 CFR 43.61(b), (c); the circuit addition report, 47 CFR 63.23(e); the division of telegraph tolls report, 47 CFR 43.53; and requirement to report separately for U.S. off shore points, 43.61(a), 43.82(a). The FCC also adopted a Further Notice of Proposed Rulemaking that seeks comment on additional reforms to further streamline and modernize the reporting requirements. The FCC also seeks comments on whether providers of interconnected Voice over Internet Protocol (VoIP) should submit data regarding their provision of international telephone services and whether non-common carrier international circuits should be reported.

Timetable:

Action	Date	FR Cite
NPRM	04/12/04	69 FR 29676
First R&O	05/12/11	76 FR 42567
FNPRM	05/12/11	76 FR 42613
FNPRM Comment Period End.	09/02/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David Krech, Attorney Advisor, Federal Communications Commission, International Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1460, *Fax:* 202 418–2824, *Email: david.krech@fcc.gov.*

RIN: 3060–AI42

451. Amendment of the Commission's Rules To Allocate Spectrum and Adopt Service Rules and Procedures To Govern the Use of Vehicle-Mounted Earth Stations (IB Docket No. 07–101)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i) and (j); 47 U.S.C. 157(a); 47 U.S.C. 301; 47 U.S.C. 303(c); 47 U.S.C. 303(f); 47 U.S.C. 303(g); 47 U.S.C. 303(r); 47 U.S.C. 303(y); 47 U.S.C. 308

Abstract: The Commission seeks comment on the proposed amendment of parts 2 and 25 of the Commission's rules to allocate spectrum for use with Vehicle-Mounted Earth Stations (VMES) in the Fixed-Satellite Service in the Ku-band uplink at 14.0–14.5 GHz and Ku-band downlink 11.72–12.2 GHz on a primary basis, and in the extended Ku-band downlink at 10.95–11.2 GHz and 11.45–11.7 GHz on a non-protected basis, and to adopt Ku-band VMES licensing and service rules modeled on the FCC's rules for Ku-band Earth Stations on Vessels (ESVs). The record in this proceeding will provide a basis for Commission action to facilitate introduction of this proposed service.

Timetable:

Action	Date	FR Cite
NPRM	07/08/07	72 FR 39357
NPRM Comment Period End.	09/04/07	
R&O	11/04/09	74 FR 57092
Petition for Reconsideration.	04/14/10	75 FR 19401

Action	Date	FR Cite
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Howard Griboff, Deputy Chief, Federal Communications Commission, International Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0657, *Fax:* 202 418–1414, *Email: howard.griboff@fcc.gov.*

RIN: 3060–AI90

452. Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees Under Section 310(B)(4) of the Communications Act of 1934, as Amended; IB Docket No. 11–133

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152; 47 U.S.C. 154; 47 U.S.C. 211; 47 U.S.C. 303(r); 47 U.S.C. 309; 47 U.S.C. 310; 47 U.S.C. 403

Abstract: FCC seeks comment on changes and other options to revise and simplify its policies and procedures implementing section 310(b)(4) for common carrier and aeronautical radio station licensees while continuing to ensure that we have the information we need to carry out our statutory duties. (The NPRM does not address our policies with respect to the application of section 310(b)(4) to broadcast licensees.) The proposals are designed to reduce to the extent possible the regulatory costs and burdens imposed on wireless common carrier and aeronautical applicants, licensees, and spectrum lessees; provide greater transparency and more predictability with respect to the Commission's filing requirements and review process; and facilitate investment from new sources of capital, while continuing to protect important interests related to national security, law enforcement, foreign policy, and trade policy. The streamlining proposals in the NPRM may reduce costs and burdens currently imposed on licensees, including those licensees that are small entities, and accelerate the foreign ownership review process, while continuing to ensure that the Commission has the information it needs to carry out its statutory duties.

Timetable:

Action	Date	FR Cite
NPRM	08/09/11	76 FR 65472
NPRM Comment Period End.	01/04/12	
First Report and Order.	08/22/12	77 FR 50628
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Ball, Chief, Policy Division, International Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0427, *Email: james.ball@fcc.gov.*

RIN: 3060–AJ70

453. International Settlements Policy Reform; IB Docket No. 11–80

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152; 47 U.S.C. 154; 47 U.S.C. 201–205; 47 U.S.C. 208; 47 U.S.C. 211; 47 U.S.C. 214; 47 U.S.C. 303(r); 47 U.S.C. 309; 47 U.S.C. 403

Abstract: FCC is reviewing the International Settlements Policy (ISP), which governs how U.S. carriers negotiate with foreign carriers for the exchange of international traffic and is the structure by which the Commission has sought to respond to concerns that foreign carriers with market power are able to take advantage of the presence of multiple U.S. carriers serving a particular market. In the NPRM, the FCC proposes to further deregulate the international telephony market and enable U.S. consumers to enjoy competitive prices when they make calls to international destinations. First, it proposes to remove the ISP from all international routes, except Cuba. Second, the FCC seeks comment on a proposal to enable the Commission to better protect U.S. consumers from the effects of anticompetitive conduct by foreign carriers in instances necessitating Commission intervention. Specifically, it seeks comments on proposals and issues regarding the application of the Commission's benchmarks policy.

Timetable:

Action	Date	FR Cite
NPRM	05/13/11	76 FR 42625
NPRM Comment Period End.	09/02/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Ball, Chief, Policy Division, International Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0427, *Email: james.ball@fcc.gov.*

RIN: 3060–AJ77

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Media Bureau

Long-Term Actions

454. Competitive Availability of Navigation Devices (CS Docket No. 97–80)

Legal Authority: 47 U.S.C. 549

Abstract: The Commission has adopted rules to address the mandate expressed in section 629 of the Communications Act to ensure the commercial availability of "navigation devices," the equipment used to access video programming and other services from multichannel video programming systems.

Specifically, the Commission required MVPDs to make available by a security element (known as a "cablecard") separate from the basic navigation device (e.g., cable set-top boxes, digital video recorders, and television receivers with navigation capabilities). The separation of the security element from the host device required by this rule (referred to as the "integration ban") was designed to enable unaffiliated manufacturers, retailers, and other vendors to commercially market host devices while allowing MVPDs to retain control over their system security. Also, in this proceeding, the Commission adopted unidirectional "plug and play" rules, to govern compatibility between MVPDs and navigation devices manufactured by consumer electronics manufacturers not affiliated with cable operators.

In the most recent action, the Commission made rule changes to improve the operation of the CableCard regime.

Timetable:

Action	Date	FR Cite
NPRM	03/05/97	62 FR 10011
R&O	07/15/98	63 FR 38089
Order on Recon	06/02/99	64 FR 29599
FNPRM & Declaratory Ruling.	09/28/00	65 FR 58255
FNPRM	01/16/03	68 FR 2278
Order and FNPRM.	06/17/03	68 FR 35818
Second R&O	11/28/03	68 FR 66728
FNPRM	11/28/03	68 FR 66776
Order on Recon	01/28/04	69 FR 4081
Second R&O	06/22/05	70 FR 36040
Third FNPRM	07/25/07	72 FR 40818
4th FNPRM	05/14/10	75 FR 27256
3rd R&O	07/08/11	76 FR 40263
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brendan Murray, Attorney Advisor, Policy Division,

Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, Phone: 202 418–1573, *Email: brendan.murray@fcc.gov.*

RIN: 3060–AG28

455. Second Periodic Review of Rules and Policies Affecting the Conversion to DTV (MB Docket 03–15)

Legal Authority: 47 U.S.C. 4(i) and 4(j); 47 U.S.C. 303(r); 47 U.S.C. 307; 47 U.S.C. 309; 47 U.S.C. 336

Abstract: On January 18, 2001, the Commission adopted a Report and Order (R&O) and Further Notice of Proposed Rulemaking, addressing a number of issues related to the conversion of the nation's broadcast television system from analog to digital television. The Second Report and Order resolved several major technical issues, including the issue of receiver performance standards, DTV tuners, and revisions to certain components of the DTV transmission standard. A subsequent NPRM commenced the Commission's second periodic review of the progress of the digital television conversion. The resulting R&O adopted a multistep process to create a new DTV table of allotments and authorizations. Also in the R&O, the Commission adopted replication and maximization deadlines for DTV broadcasters and updated rules in recognition of revisions to broadcast transmission standards.

The Second R&O adopts disclosure requirements for televisions that do not include a digital tuner.

Timetable:

Action	Date	FR Cite
NPRM	03/23/00	65 FR 15600
R&O	02/13/01	66 FR 9973
MO&O	12/18/01	66 FR 65122
Third MO&O and Order on Recon.	10/02/02	67 FR 61816
Second R&O and Second MO&O.	10/11/02	67 FR 63290
NPRM	02/18/03	68 FR 7737
R&O	10/04/04	69 FR 59500
Second R&O	05/10/07	72 FR 26554
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Evan Baranoff, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7142, *Email: evan.baranoff@fcc.gov.*

RIN: 3060–AH54

456. Broadcast Ownership Rules

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152(a); 47 U.S.C. 154(i); 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 309 and 310

Abstract: Section 202(h) of the Telecommunications Act of 1996 requires the Commission to review its ownership rules every four years and determine whether any such rules are necessary in the public interest as the result of competition.

In 2002, the Commission undertook a comprehensive review of its broadcast multiple and cross-ownership limits examining: Cross-ownership of TV and radio stations; local TV ownership limits; national TV cap; and dual network rule.

The Report and Order replaced the newspaper/broadcast cross-ownership and radio and TV rules with a tiered approach based on the number of television stations in a market. In June 2006, the Commission adopted a Further Notice of Proposed Rulemaking initiating the 2006 review of the broadcast ownership rules. The further notice also sought comment on how to address the issues raised by the Third Circuit. Additional questions are raised for comment in a Second Further Notice of Proposed Rulemaking.

In the Report and Order and Order on Reconsideration, the Commission adopted rule changes regarding newspaper/broadcast cross-ownership, but otherwise generally retained the other broadcast ownership rules currently in effect.

For the 2010 quadrennial review, five of the Commission's media rules are the subject of review: The local TV ownership rule; the local radio ownership rule; the newspaper broadcast cross-ownership rule; the radio/TV cross-ownership rule; and the dual network rule.

Timetable:

Action	Date	FR Cite
NPRM	10/05/01	66 FR 50991
R&O	08/05/03	68 FR 46286
Public Notice	02/19/04	69 FR 9216
FNPRM	08/09/06	71 FR 4511
Second FNPRM	08/08/07	72 FR 44539
R&O and Order on Recon.	02/21/08	73 FR 9481
Notice of Inquiry	06/11/10	75 FR 33227
NPRM	01/19/12	77 FR 2868
NPRM Comment Period End.	03/19/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amy Brett, Asst. Div. Chief, Industry Analysis Div., Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2703, *Email: amy.brett@fcc.gov.*

RIN: 3060–AH97

457. Establishment of Rules for Digital Low-Power Television, Television Translator, and Television Booster Stations (MB Docket No. 03–185)

Legal Authority: 47 U.S.C. 309; 47 U.S.C. 336

Abstract: This proceeding initiates the digital television conversion for low-power television (LPTV) and television translator stations. The rules and policies adopted as a result of this proceeding provide the framework for these stations' conversion from analog to digital broadcasting. The Report and Order adopts definitions and permissible use provisions for digital TV translator and LPTV stations. The Second Report and Order takes steps to resolve the remaining issues in order to complete the low-power television digital transition.

Timetable:

Action	Date	FR Cite
NPRM	09/26/03	68 FR 55566
NPRM Comment Period End.	11/25/03	
R&O	11/29/04	69 FR 69325
FNPRM and MO&O.	10/18/10	75 FR 63766
2nd R&O	07/07/11	76 FR 44821
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Shaun Maher, Attorney, Video Division, Federal Communications Commission, Mass Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2324, *Fax:* 202 418–2827, *Email: shaun.maher@fcc.gov.*

RIN: 3060–AI38

458. Joint Sales Agreements in Local Television Markets (MB Docket No. 04–256)

Legal Authority: 47 U.S.C. 151 to 152(a); 47 U.S.C. 154(i); 47 U.S.C. 303; * * *

Abstract: A joint sales agreement (JSA) is an agreement with a licensee of a brokered station that authorizes a broker to sell some or all of the advertising time for the brokered station in return for a fee or percentage of revenues paid to the licensee. The Commission has sought comment on whether TV JSAs should be attributed for purposes of determining compliance with the Commission's multiple ownership rules.

Timetable:

Action	Date	FR Cite
NPRM	08/26/04	69 FR 52464

Action	Date	FR Cite
NPRM Comment Period End.	09/27/04	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amy Brett, Asst. Div. Chief, Industry Analysis Div., Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2703, *Email: amy.brett@fcc.gov.*

RIN: 3060–AI55

459. Program Access Rules—Sunset of Exclusive Contracts Prohibition and Examination of Programming Tying Arrangements (MB Docket Nos. 12–68, 07–198)

Legal Authority: 47 U.S.C. 548

Abstract: The program access provisions of the Communications Act (sec. 628) generally prohibit exclusive contracts for satellite delivered programming between programmers in which a cable operator has an attributable interest (vertically integrated programmers) and cable operators. This limitation was set to expire on October 5, 2007, unless circumstances in the video programming marketplace indicate that an extension of the prohibition continues "to be necessary to preserve and protect competition and diversity in the distribution of video programming." The October 2007 Report and Order concluded the prohibition continues to be necessary, and accordingly, retained it until October 5, 2012. The accompanying Notice of Proposed Rulemaking (NPRM) sought comment on revisions to the Commission's program access and retransmission consent rules. The associated Report and Order adopted rules to permit complainants to pursue program access claims regarding terrestrially delivered cable affiliated programming.

In March 2012, the Commission sought comment on whether to retain, relax, or sunset the exclusive contracts prohibition.

Timetable:

Action	Date	FR Cite
NPRM	03/01/07	72 FR 9289
NPRM Comment Period End.	04/02/07	
R&O	10/04/07	72 FR 56645
Second NPRM	10/31/07	72 FR 61590
Second NPRM Comment Period End.	11/30/07	
R&O	03/02/10	75 FR 9692
NPRM	04/23/12	77 FR 24302
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David Konczal, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2228, *Email: david.konczal@fcc.gov.*

RIN: 3060–AI87

460. Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (MB Docket No. 07–91)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 301 to 303; 47 U.S.C. 307 to 309; 47 U.S.C. 312; 47 U.S.C. 316; 47 U.S.C. 318 and 319; 47 U.S.C. 324 and 325; 47 U.S.C. 336 and 337

Abstract: Congress has mandated that after February 17, 2009, full-power broadcast stations must transmit only in digital signals, and may no longer transmit analog signals. This proceeding is the Commission's third periodic review of the transition of the nation's broadcast television system from analog to digital television (DTV). The Commission conducts these periodic reviews in order to assess the progress of the transition and make any necessary adjustments to the Commission's rules and policies to facilitate the introduction of DTV service and the recovery of spectrum at the end of the transition. In this review, the Commission considers how to ensure that broadcasters complete construction of their final post-transition (digital) facilities by the statutory deadline.

Timetable:

Action	Date	FR Cite
NPRM	07/09/07	72 FR 37310
NPRM Comment Period End.	08/08/07	
R&O	01/30/08	73 FR 5634
Order on Clarification.	07/10/08	73 FR 39623
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Evan Baranoff, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7142, *Email: evan.baranoff@fcc.gov.*

RIN: 3060–AI89

461. Broadcast Localism (MB Docket No. 04–233)

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 303; 47 U.S.C. 532; 47 U.S.C. 536

Abstract: The concept of localism has been a cornerstone of broadcast regulation. The Commission has consistently held that as temporary trustee of the public's airwaves, broadcasters are obligated to operate their stations to serve the public interest. Specifically, broadcasters are required to air programming responsive to the needs and issues of the people in their licensed communities. The Commission opened this proceeding to seek input on a number of issues related to broadcast localism.

Timetable:

Action	Date	FR Cite
Report and NPRM	02/13/08	73 FR 8255
NPRM Comment Period End.	03/14/08	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mary Beth Murphy, Chief, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2132, *Email: marybeth.murphy@fcc.gov.*

RIN: 3060–AJ04

462. Creating a Low Power Radio Service (MM Docket No. 99–25)

Legal Authority: 47 U.S.C. 151 to 152; 47 U.S.C. 154(i); 47 U.S.C. 303; 47 U.S.C. 403; 47 U.S.C. 405

Abstract: This proceeding was initiated to establish a new noncommercial educational low power FM radio service for non-profit community organizations and public safety entities. In January 2000, the Commission adopted a Report and Order establishing two classes of LPFM stations, 100 watt (LP100) and 10 watt (LP10) facilities, with service radii of approximately 3.5 miles and 1–2 miles, respectively. The Report and Order also established ownership and eligibility rules for the LPFM service. The Commission generally restricted ownership to entities with no attributable interest in any other broadcast station or other media. To choose among entities filing mutually exclusive applications for LPFM licenses, the Commission established a point system favoring local ownership and locally-originated programming. The Report and Order imposed separation requirements for LPFM with respect to full power stations operating

on co-, first-, and second-adjacent and intermediate frequency (IF) channels.

In a Further Notice issued in 2005, the Commission reexamined some of its rules governing the LPFM service, noting that the rules may need adjustment in order to ensure that the Commission maximizes the value of the LPFM service without harming the interests of full-power FM stations or other Commission licensees. The Commission sought comment on a number of issues with respect to LPFM ownership restrictions and eligibility.

The Third Report and Order resolves issues raised in the Further Notice. The accompanying Second Further Notice of Proposed Rulemaking (FNPRM) considers rule changes to avoid the potential loss of LPFM stations.

In the third FNPRM, the Commission seeks comment on the impact of the Local Community Radio Act on the procedures previously adopted.

The Fourth Report and Order adopts translator application necessary policies to effectuate the requirement of the Local Community Radio Act of 2010.

In the Fifth Report and Order, the Commission modified rules to implement provisions of the Local Community Radio Act of 2010.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7577
R&O	02/15/00	65 FR 7616
MO&O and Order on Recon.	11/09/00	65 FR 67289
Second R&O	05/10/01	66 FR 23861
Second Order on Recon and FNPRM.	07/07/05	70 FR 3918
Third R&O	01/17/08	73 FR 3202
Second FNPRM	03/26/08	73 FR 12061
Third FNPRM	07/29/11	76 FR 454901
4th R&O	04/09/12	77 FR 21002
5th R&O	04/05/12	77 FR 20555
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Peter Doyle, Chief, Audio Division, Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2700, *Email:* *peter.doyle@fcc.gov.*

RIN: 3060–AJ07

463. Policies To Promote Rural Radio Service and To Streamline Allotment and Assignment Procedures (MB Docket No. 09–52)

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i); 47 U.S.C. 303; 47 U.S.C. 307 and 309(j)

Abstract: This proceeding was commenced to consider a number of changes to the Commission's rules and procedures to carry out the statutory goal of distributing radio service fairly and equitably, and to increase the transparency and efficiency of radio broadcast auction and licensing processes. In the NPRM, comment is sought on specific proposals regarding the procedures used to award commercial broadcast spectrum in the AM and FM broadcast bands. The accompanying Report and Order adopts rules that provide tribes a priority to obtain broadcast radio licenses in tribal communities. The Commission concurrently adopted a Further Notice of Proposed Rulemaking seeking comment on whether to extend the tribal priority to tribes that do not possess tribal land.

The Commission adopted a second FNPRM in order to develop a more comprehensive record regarding measures to assist Federally recognized Native American tribes and Alaska native villages in obtaining commercial FM station authorizations. In the second R&O, the Commission adopted a number of procedures, procedural changes, and clarifications of existing rules and procedures, designed to promote ownership and programming diversity, especially by Native American tribes, and to promote the initiation and retention of radio service in and to smaller communities and rural areas.

In the Third R&O, the Commission adopted procedures to enable a Tribe or Tribal entity to qualify for Tribal Allotments added to the FM allotment table.

Timetable:

Action	Date	FR Cite
NPRM	05/13/09	74 FR 22498
NPRM Comment Period End.	07/10/09	
First R&O	03/04/10	75 FR 9797
FNPRM	03/04/10	75 FR 9856
2nd FNPRM	03/16/11	76 FR 14362
2nd R&O	04/06/11	76 FR 18942
3rd R&O	01/20/12	77 FR 2916
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Peter Doyle, Chief, Audio Division, Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2700, *Email:* *peter.doyle@fcc.gov.*

RIN: 3060–AJ23

464. Promoting Diversification of Ownership in the Broadcast Services (MB Docket No. 07–294)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152(a); 47 U.S.C. 154 i and (j); 47 U.S.C. 257; 47 U.S.C. 303(r); 47 U.S.C. 307 to 310; 47 U.S.C. 336; 47 U.S.C. 534 and 535

Abstract: Diversity and competition are longstanding and important Commission goals. The measures proposed, as well as those adopted in this proceeding, are intended to promote diversity of ownership of media outlets. In the Report and Order and third FNPRM, measures are enacted to increase participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses. In the Report and Order and fourth FNPRM, the Commission adopts improvements to its data collection in order to obtain an accurate and comprehensive assessment of minority and female broadcast ownership in the United States. The Memorandum Opinion & Order addressed petitions for Reconsideration of the rules, and also sought comment on a proposal to expand the reporting requirements to non attributable interests.

Pursuant to a remand from the Third Circuit, the measures adopted in the 2009 Diversity Order were put forth for comment in the NPRM for the 2010 review of the Commission's Broadcast Ownership rules.

Timetable:

Action	Date	FR Cite
R&O	05/16/08	73 FR 28361
3rd FNPRM	05/16/08	73 FR 28400
R&O	05/27/09	74 FR 25163
4th FNPRM	05/27/09	74 FR 25305
5th NPRM (release date).	10/16/09	
MO&O	10/30/09	74 FR 56131
NPRM	01/19/12	77 FR 2868
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Hillary DeNigro, Attorney, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7334.

RIN: 3060–AJ27

465. Amendment of the Commission's Rules Related to Retransmission Consent; MB Docket No. 10–71

Legal Authority: 47 U.S.C. 154; 47 U.S.C. 325; 47 U.S.C. 534

Abstract: Cable systems and other multichannel video programming distributors are not entitled to

retransmit a broadcast station's signal without the station's consent. This consent is known as "retransmission consent." Since Congress enacted the retransmission consent regime in 1992, there have been significant changes in the video programming marketplace. In this proceeding, comment is sought on a series of proposals to streamline and clarify the Commission's rules concerning or affecting retransmission consent negotiations.

Timetable:

Action	Date	FR Cite
NPRM	03/28/11	76 FR 17071
NPRM Comment Period End.	05/27/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Diana Sokolow, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2120, *Email: diana.sokolow@fcc.gov.*

RIN: 3060–AJ55

466. Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010; MB Docket No. 11–43

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152; 47 U.S.C. 154(i); 47 U.S.C. 303

Abstract: The Twenty-First Century Communications and Video Accessibility Act of 2010 ("CVAA") requires reinstatement of the video description rules adopted by the Commission in 2000. "Video description," which is the insertion of narrated descriptions of a television program's key visual elements into natural pauses in the program's dialogue, makes video programming more accessible to individuals who are blind or visually impaired. This proceeding was initiated to enable compliance with the CVAA.

Timetable:

Action	Date	FR Cite
NPRM	03/18/11	76 FR 14856
NPRM Comment Period End.	04/18/11	
R&O	09/08/11	76 FR 55585
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lyle Elder, Attorney, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2120, *Email: lyle.elder@fcc.gov.*

RIN: 3060–AJ56

467. Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010; MB Docket No. 11–154

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 303; 47 U.S.C. 330(b); 47 U.S.C. 613; 47 U.S.C. 617

Abstract: Pursuant to the Commission's responsibilities under the Twenty-First Century Communications and Video Accessibility Act of 2010, this proceeding was initiated to adopt rules to govern the closed captioning requirements for the owners, providers, and distributors of video programming delivered using Internet protocol.

Timetable:

Action	Date	FR Cite
NPRM	09/28/11	76 FR 59963
R&O	03/20/12	77 FR 19480
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Diana Sokolow, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2120, *Email: diana.sokolow@fcc.gov.*

RIN: 3060–AJ67

468. Basic Service Tier Encryption (MB Docket No. 11–169)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 303(r); 47 U.S.C. 403; 47 U.S.C. 544q

Abstract: In this proceeding, the Commission evaluates a proposed rule to allow cable operators to encrypt the basic service tier in all-digital cable systems, provided that those operators undertake certain consumer protection measures.

Timetable:

Action	Date	FR Cite
NPRM	10/27/11	76 FR 66666
NPRM Comment Period End.	11/28/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brendan Murray, Attorney Advisor, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1573, *Email: brendan.murray@fcc.gov.*

RIN: 3060–AJ76

469. • Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations; MB Docket No. 12–106

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 303(r); 47 U.S.C. 399(b)

Abstract: The proceeding was initiated to analyze the Commission's long standing policy prohibiting non-commercial educational broadcast stations from conducting on-air fundraising activities that interrupt regular programming for the benefit of third-party non-profit organizations.

Timetable:

Action	Date	FR Cite
NPRM	06/22/12	77 FR 37638
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mary Beth Murphy, Chief, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2132, *Email: marybeth.murphy@fcc.gov.*

RIN: 3060–AJ79

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Office of Managing Director

Long-Term Actions

470. Assessment and Collection of Regulatory Fees

Legal Authority: 47 U.S.C. 159

Abstract: Section 9 of the Communications Act of 1934, as amended, 47 U.S.C. 159, requires the FCC to recover the cost of its activities by assessing and collecting annual regulatory fees from beneficiaries of the activities.

Timetable:

Action	Date	FR Cite
NPRM	04/06/06	71 FR 17410
R&O	08/02/06	71 FR 43842
NPRM	05/02/07	72 FR 24213
R&O	08/16/07	72 FR 45908
FNPRM	08/16/07	72 FR 46010
NPRM	05/28/08	73 FR 30563
R&O	08/26/08	73 FR 50201
FNPRM	08/26/08	73 FR 50285
2nd R&O	05/12/09	74 FR 22104
NPRM and Order	06/02/09	74 FR 26329
R&O	08/11/09	74 FR 40089

Action	Date	FR Cite
NPRM	04/26/10	75 FR 21536
R&O	07/19/10	75 FR 41932
NPRM	05/26/11	76 FR 30605
NPRM Comment Period End.	06/09/11	
R&O	08/10/11	76 FR 49333
NPRM	05/17/12	77 FR 29275
NPRM Comment Period End.	05/31/12	
Reply Comment Period End.	06/07/12	
R&O	08/03/12	77 FR 46307
NPRM	08/17/12	77 FR 49749
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roland Helvajian, Office of the Managing Director, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0444, *Email: roland.helvajian@fcc.gov.*

RIN: 3060–AI79

471. Amendment of Part 1 of the Commission's Rules, Concerning Practice and Procedure, Amendment of CORES Registration System; MD Docket No. 10–234

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 158(c)(2); 47 U.S.C. 159(c)(2); 47 U.S.C. 303(r); 5 U.S.C. 5514; 31 U.S.C. 7701(c)(1)

Abstract: This Notice of Proposed Rulemaking proposes revisions intended to make the Commission's Registration System (CORES) more feature-friendly and improve the Commission's ability to comply with various statutes that govern debt collection and the collection of personal information by the Federal Government. The proposed modifications to CORES partly include: Requiring entities and individuals to rely primarily upon a single FRN that may, at their discretion, be linked to subsidiary or associated accounts; allowing entities to identify multiple points of contact; eliminating some of our exceptions to the requirement that entities and individuals provide their Taxpayer Identification Number (TIN) at the time of registration; requiring FRN holders to provide their email addresses; modifying CORES log-in procedures; adding attention flags and automated notices that would inform FRN holders of their financial standing before the Commission; and adding data fields to enable FRN holders to indicate their tax-exempt status and notify the Commission of pending bankruptcy proceedings.

Timetable:

Action	Date	FR Cite
NPRM	02/01/11	76 FR 5652
NPRM Comment Period End.	03/03/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Warren Firschein, Attorney, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0844, *Email: warren.firschein@fcc.gov.*

RIN: 3060–AJ54

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Public Safety and Homeland Security Bureau

Long-Term Actions

472. Revision of the Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems

Legal Authority: 47 U.S.C. 134(i); 47 U.S.C. 151; 47 U.S.C. 201; 47 U.S.C. 208; 47 U.S.C. 215; 47 U.S.C. 303; 47 U.S.C. 309

Abstract: In a series of orders in several related proceedings issued since 1996, the Federal Communications Commission has taken action to improve the quality and reliability of 911 emergency services for wireless phone users. Rules have been adopted governing the availability of basic 911 services and the implementation of enhanced 911 (E911) for wireless services.

Timetable:

Action	Date	FR Cite
FNPRM	08/02/96	61 FR 40374
R&O	08/02/96	61 FR 40348
MO&O	01/16/98	63 FR 2631
Second R&O	06/28/99	64 FR 34564
Third R&O	11/04/99	64 FR 60126
Second MO&O	12/29/99	64 FR 72951
Fourth MO&O	10/02/00	65 FR 58657
FNPRM	06/13/01	66 FR 31878
Order	11/02/01	66 FR 55618
R&O	05/23/02	67 FR 36112
Public Notice	07/17/02	67 FR 46909
Order to Stay	07/26/02	
Order on Recon	01/22/03	68 FR 2914
FNPRM	01/23/03	68 FR 3214
R&O, Second FNPRM.	02/11/04	69 FR 6578
Second R&O	09/07/04	69 FR 54037
NPRM	06/20/07	72 FR 33948
NPRM Comment Period End.	09/18/07	
R&O	02/14/08	73 FR 8617
Public Notice	09/25/08	73 FR 55473
Comment Period End.	10/18/08	
Public Notice	11/18/09	74 FR 59539
Comment Period End.	12/04/09	
FNPRM, NOI	11/02/10	75 FR 67321
Second R&O	11/18/10	75 FR 70604
Order, Comment Period Extension.	01/07/11	76 FR 1126
Comment Period End.	02/18/11	
Final Rule	04/28/11	76 FR 23713
NPRM	08/04/11	76 FR 47114
Second FNPRM	08/04/11	76 FR 47114
3rd R&O	09/28/11	76 FR 59916
NPRM Comment Period End.	11/02/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tom Beers, Chief, Policy Division, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0952, *Email: tom.beers@fcc.gov.*

RIN: 3060–AG34

473. Enhanced 911 Services for Wireline

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 201; 47 U.S.C. 222; 47 U.S.C. 251

Abstract: The rules generally will assist State governments in drafting legislation that will ensure that multi-line telephone systems are compatible with the enhanced 911 network. The Public Notice seeks comment on whether the Commission, rather than States, should regulate multi-line telephone systems, and whether Part 68 of the Commission's rules should be revised.

Timetable:

Action	Date	FR Cite
NPRM	10/11/94	59 FR 54878
FNPRM	01/23/03	68 FR 3214
Second FNPRM	02/11/04	69 FR 6595
R&O	02/11/04	69 FR 6578
Public Notice	01/13/05	70 FR 2405
Comment Period End.	03/29/05	
NOI	01/13/11	76 FR 2297
NOI Comment Period End.	03/14/11	
Public Notice (release date).	05/21/12	
Public Notice Comment Period End.	08/06/12	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tom Beers, Chief, Policy Division, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0952, *Email: tom.beers@fcc.gov.*

RIN: 3060–AG60

474. In the Matter of the Communications Assistance for Law Enforcement Act

Legal Authority: 47 U.S.C. 229; 47 U.S.C. 1001 to 1008

Abstract: All of the decisions in this proceeding thus far are aimed at implementation of provisions of the Communications Assistance for Law Enforcement Act.

Timetable:

Action	Date	FR Cite
NPRM	10/10/97	62 FR 63302
Order	01/13/98	63 FR 1943
FNPRM	11/16/98	63 FR 63639
R&O	01/29/99	64 FR 51462
Order	03/29/99	64 FR 14834
Second R&O	09/23/99	64 FR 51462
Third R&O	09/24/99	64 FR 51710
Order on Recon	09/28/99	64 FR 52244
Policy Statement	10/12/99	64 FR 55164
Second Order on Recon.	05/04/01	66 FR 22446
Order	10/05/01	66 FR 50841
Order on Remand	05/02/02	67 FR 21999
NPRM	09/23/04	69 FR 56976
First R&O	10/13/05	70 FR 59704
Second R&O	07/05/06	71 FR 38091
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tom Beers, Chief, Policy Division, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0952, *Email: tom.beers@fcc.gov.*

RIN: 3060–AG74

475. Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 160; 47 U.S.C. 201 and 202; 47 U.S.C. 303; 47 U.S.C. 337(a); 47 U.S.C. 403

Abstract: This item takes steps toward developing a flexible regulatory framework to meet vital current and future public safety communications needs.

Timetable:

Action	Date	FR Cite
NPRM	10/09/97	62 FR 60199
Second NPRM	11/07/97	62 FR 60199
First R&O	11/02/98	63 FR 58645
Third NPRM	11/02/98	63 FR 58685
MO&O	11/04/99	64 FR 60123
Second R&O	08/08/00	65 FR 48393
Fourth NPRM	08/25/00	65 FR 51788
Second MO&O	09/05/00	65 FR 53641
Third MO&O	11/07/00	65 FR 66644
Third R&O	11/07/00	65 FR 66644
Fifth NPRM	02/16/01	66 FR 10660
Fourth R&O	02/16/01	66 FR 10632
MO&O	09/27/02	67 FR 61002
NPRM	11/08/02	67 FR 68079
R&O	12/13/02	67 FR 76697
NPRM	04/27/05	70 FR 21726
R&O	04/27/05	70 FR 21671
NPRM	04/07/06	71 FR 17786
NPRM	09/21/06	71 FR 55149
Ninth NPRM	01/10/07	72 FR 1201
Ninth NPRM Comment Period End.	02/26/07	
R&O and FNPRM	05/02/07	72 FR 24238
R&O and FNPRM Comment Period End.	05/23/07	
Second R&O	08/24/07	72 FR 48814
Second FNPRM	05/21/08	73 FR 29582
Third FNPRM	10/03/08	73 FR 57750
Third R&O	01/25/11	76 FR 51271
Fourth FNPRM	01/25/11	76 FR 51271
Fourth FNPRM Comment Period End.	05/10/11	
Fourth R&O	07/20/11	76 FR 62309
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jeff Cohen, Senior Legal Counsel, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0799, *Email: jeff.cohen@fcc.gov.*

RIN: 3060–AG85

476. Implementation of 911 Act (CC Docket No. 92–105, WT Docket No. 00–110)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 157; 47 U.S.C. 160; 47 U.S.C. 202; 47 U.S.C. 208; 47 U.S.C. 210; 47 U.S.C. 214; 47 U.S.C. 251(e); 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 308 to 309(j); 47 U.S.C. 310

Abstract: This proceeding is separate from the Commission's proceeding on Enhanced 911 Emergency Systems (E911) in that it is intended to implement provisions of the Wireless Communications and Public Safety Act of 1999 through the promotion of public safety by the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. More specifically, a chief goal of the proceeding is to ensure that all emergency calls are routed to the appropriate local emergency authority to provide assistance. The E911 proceeding goes a step further and is aimed at improving the effectiveness and reliability of wireless 911 dispatchers with additional information on wireless 911 calls.

Timetable:

Action	Date	FR Cite
Fourth R&O, Third NPRM.	09/19/00	65 FR 56752
NPRM	09/19/00	65 FR 56757
Fifth R&O, First R&O, and MO&O.	01/14/02	67 FR 1643
Final Rule	01/25/02	67 FR 3621
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David H. Siehl, Attorney, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1313, *Fax:* 202 418–2816, *Email: david.siehl@fcc.gov.*

RIN: 3060–AH90

477. Commission Rules Concerning Disruptions to Communications; PS Docket No. 11–82

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 303(r); 47 U.S.C. 615a–1

Abstract: The 2004 Report and Order extended the Commission's outage reporting requirements to non-wireline carriers and streamlined reporting through a new electronic template. Nine petitions for reconsideration were filed and remain pending. A Further Notice of Proposed Rulemaking regarding the unique communications needs of airports also remains pending.

The 2012 Report and Order extended the Commission's outage reporting requirements to interconnected Voice over Internet Protocol (VOIP) services where there is a complete loss of connectivity that has the potential to affect at least 900,000 user minutes. Interconnected VOIP service providers will file outage reports through the same electronic mechanism as providers of other services. They will be required to submit a "Notification" and a "Final Report." A notification is due within four hours of discovering a reportable outage when the outage affects a facility serving a 911 call center, and within 24 hours when the outage does not affect such facilities. A Final Report is due within 30 days. The Commission

deferred action on extending the outage reporting requirements to broadband Internet services and to circumstances where technical conditions (such as packet loss, latency, and/or jitter) effectively prevent communication.

Timetable:

Action	Date	FR Cite
NPRM	03/26/04	69 FR 15761
FNPRM	11/26/04	69 FR 68859
R&O	12/03/04	69 FR 70316
Announcement of Effective Date and Partial Stay.	12/30/04	69 FR 78338
Petition for Recon	02/15/05	70 FR 7737
Amendment of Delegated Authority.	02/21/08	73 FR 9462
Public Notice	08/02/10	
NPRM	05/13/11	76 FR 33686
NPRM Comment Period End.	08/08/11	
R&O	02/21/12	77 FR 25088
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7452, *Email: lisa.fowlkes@fcc.gov.*

RIN: 3060–AI22

478. E911 Requirements for IP-Enabled Service Providers; Dockets: GN 11–117, PS 07–114, WC 05–196, WC 04–36

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 251(e); 47 U.S.C. 303(r)

Abstract: The notice seeks comment on what additional steps the Commission should take to ensure that providers of Voice-over Internet Protocol services that interconnect with the public switched telephone network provide ubiquitous and reliable enhanced 911 service.

Timetable:

Action	Date	FR Cite
NPRM	03/29/04	69 FR 16193
NPRM	06/29/05	70 FR 37307
R&O	06/29/05	70 FR 37273
NPRM Comment Period End.	09/12/05	
NPRM	06/20/07	72 FR 33948
NPRM Comment Period End.	09/18/07	
FNPRM, NOI	11/02/10	75 FR 67321
Order, Extension of Comment Period.	01/07/11	76 FR 1126
Comment Period End.	02/18/11	
2nd FNPRM, NPRM.	08/04/11	76 FR 47114
2nd FNPRM Comment Period End.	11/02/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tom Beers, Chief, Policy Division, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0952, *Email: tom.beers@fcc.gov.*

RIN: 3060–AI62

479. Stolen Vehicle Recovery System (SVRS)

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i); 47 U.S.C. 301 to 303

Abstract: The Report and Order amends 47 CFR 90.20(e)(6) governing stolen vehicle recovery system operations at 173.075 MHz, by increasing the radiated power limit for narrowband base stations; increasing the power output limit for narrowband base stations; increasing the power output limit for narrowband mobile transceivers; modifying the base station duty cycle; increasing the tracking duty cycle for mobile transceivers; and retaining the requirement for TV channel 7 interference studies and that such studies must be served on TV channel 7 stations.

Timetable:

Action	Date	FR Cite
NPRM	08/23/06	71 FR 49401
NPRM Comment Period End.	10/10/06	
R&O	10/14/08	73 FR 60631
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zenji Nakazawa, Assoc. Chief, Policy Division, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7949, *Email: zenji.nakazaw@fcc.gov.*

RIN: 3060–AJ01

480. Commercial Mobile Alert System

Legal Authority: Pub. L. 109–347 title VI; EO 13407; 47 U.S.C. 151; 47 U.S.C. 154(i)

Abstract: In the Notice of Proposed Rulemaking (NPRM), the Commission initiated a comprehensive rulemaking to establish a commercial mobile alert system under which commercial mobile service providers may elect to transmit emergency alerts to the public. The Commission has issued three orders adopting CMAS rules as required by statute. Issues raised in an FNPRM regarding testing requirements for noncommercial educational and public broadcast television stations remain outstanding.

Timetable:

Action	Date	FR Cite
NPRM	01/03/08	73 FR 545
NPRM Comment Period End.	02/04/08	
First R&O	07/24/08	73 FR 43009
Second R&O	08/14/08	73 FR 47550
FNPRM	08/14/08	73 FR 47568
FNPRM Comment Period End.	09/15/08	
Third R&O	09/22/08	73 FR 54511
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7452, *Email: lisa.fowlkes@fcc.gov.*

RIN: 3060–AJ03

481. Emergency Alert System

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i) and 154(o); 47 U.S.C. 301; 47 U.S.C. 393(r) and 303(v); 47 U.S.C. 307 and 309; 47 U.S.C. 335 and 403; 47 U.S.C. 544(g); 47 U.S.C. 606 and 615

Abstract: This revision of 47 CFR part 11 provides for national-level testing of the Emergency Alert System.

Timetable:

Action	Date	FR Cite
NPRM	01/12/10	75 FR 4760
NPRM Comment Period End.	03/30/10	
3rd R&O	02/03/11	76 FR 12600
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Eric Ehrenreich, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1726, *Email: eric.ehrenreich@fcc.gov.*

RIN: 3060–AJ33

482. Wireless E911 Location Accuracy Requirements; PS Docket No. 07–114

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 332

Abstract: Related to the proceedings in which the FCC has previously acted to improve the quality of all emergency services, this action requires wireless carriers to take steps to provide more specific automatic location information in connection with 911 emergency calls to Public Safety Answering Points (PSAPs) in areas where wireless carriers have not done so in the past. Wireless licensees must now satisfy amended Enhanced 911 location accuracy standards at either a county-based or a PSAP-based geographic level.

Timetable:

Action	Date	FR Cite
NPRM	06/20/07	72 FR 33948
R&O	02/14/08	73 FR 8617
Public Notice	09/25/08	73 FR 55473
Public Notice	11/18/09	74 FR 59539
2nd R&O	11/18/10	75 FR 70604
Second NPRM	08/04/11	76 FR 47114
Second NPRM Comment Period End.	11/02/11	
FNPRM; NOI	11/02/10	75 FR 67321
Final Rule	04/28/11	76 FR 23713
3rd R&O	09/28/11	76 FR 59916
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tom Beers, Chief, Policy Division, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0952, *Email:* *tom.beers@fcc.gov.*

RIN: 3060–AJ52

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Wireless Telecommunications Bureau

Long-Term Actions

483. Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152(n); 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 201(b); 47 U.S.C. 251(a); 47 U.S.C. 253; 47 U.S.C. 303(r); 47 U.S.C. 332(c)(1)(B); 47 U.S.C. 309

Abstract: This rulemaking considers whether the Commission should adopt an automatic roaming rule for voice services for Commercial Mobile Radio Services and whether the Commission should adopt a roaming rule for mobile data services.

Timetable:

Action	Date	FR Cite
NPRM	11/21/00	65 FR 69891
NPRM	09/28/05	70 FR 56612
NPRM	01/19/06	71 FR 3029
FNPRM	08/30/07	72 FR 50085
Final Rule	08/30/07	72 FR 50064
Final Rule	04/28/10	75 FR 22263
FNPRM	04/28/10	75 FR 22338
2nd R&O	05/06/11	76 FR 26199
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Peter Trachtenberg, Assoc. Div. Chief SCPD, WTB, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7369, *Email:* *peter.trachtenberg@fcc.gov.*

Christina Clearwater, Asst. Div. Chief, SCPD, WTB, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1893, *Email:* *christina.clearwater@fcc.gov.*

RIN: 3060–AH83

484. Review of Part 87 of the Commission's Rules Concerning Aviation (WT Docket No. 01–289)

Legal Authority: 47 U.S.C. 154; 47 U.S.C. 303; 47 U.S.C. 307(e)

Abstract: This proceeding is intended to streamline, consolidate, and revise our part 87 rules governing the Aviation Radio Service. The rule changes are designed to ensure these rules reflect current technological advances.

Timetable:

Action	Date	FR Cite
NPRM	10/16/01	66 FR 64785
NPRM Comment Period End.	03/14/02	
R&O and FNPRM	10/16/03	
FNPRM	04/12/04	69 FR 19140
FNPRM Comment Period End.	07/12/04	
R&O	06/14/04	69 FR 32577
NPRM	12/06/06	71 FR 70710
NPRM Comment Period End.	03/06/07	
Final Rule	12/06/06	71 FR 70671
3rd R&O	03/29/11	76 FR 17347
Stay Order	03/29/11	76 FR 17353
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jeff Tobias, Attorney Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0680, *Email:* *jeff.tobias@fcc.gov.*

RIN: 3060–AI35

485. Implementation of the Commercial Spectrum Enhancement Act (CSEA) and Modernization of the Commission's Competitive Bidding Rules and Procedures (WT Docket No. 05–211)

Legal Authority: 15 U.S.C. 79; 47 U.S.C. 151; 47 U.S.C. 154(i) and (j); 47 U.S.C. 155; 47 U.S.C. 155(c); 47 U.S.C. 157; 47 U.S.C. 225; 47 U.S.C. 303(r); 47 U.S.C. 307; 47 U.S.C. 309; 47 U.S.C. 309(j); 47 U.S.C. 325(e); 47 U.S.C. 334; 47 U.S.C. 336; 47 U.S.C. 339; 47 U.S.C. 554

Abstract: This proceeding implements rules and procedures needed to comply with the recently enacted Commercial Spectrum Enhancement Act (CSEA). It establishes a mechanism for reimbursing Federal agencies out of spectrum auction proceeds for the cost of relocating their operations from certain "eligible frequencies" that have been reallocated from Federal to non-Federal use. It also seeks to improve the Commission's ability to achieve Congress' directives with regard to designated entities and to ensure that, in accordance with the intent of Congress, every recipient of its designated entity benefits is an entity that uses its licenses to directly provide facilities-based telecommunications services for the benefit of the public.

Timetable:

Action	Date	FR Cite
NPRM	06/14/05	70 FR 43372
NPRM Comment Period End.	08/26/05	
Declaratory Ruling	06/14/05	70 FR 43322
R&O	01/24/06	71 FR 6214
FNPRM	02/03/06	71 FR 6992
FNPRM Comment Period End.	02/24/06	
Second R&O	04/25/06	71 FR 26245
Order on Recon of Second R&O.	06/02/06	71 FR 34272
NPRM	06/21/06	71 FR 35594
NPRM Comment Period End.	08/21/06	
Reply Comment Period End.	09/19/06	
Second Order and Recon of Second R&O.	04/04/08	73 FR 18528
Order	02/01/12	77 FR 16470
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kelly Quinn, Assistant Chief, Auctions and Spectrum Access Division, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554,

Phone: 202 418–7384, *Email: kelly.quinn@fcc.gov.*
RIN: 3060–AI88

486. Facilitating the Provision of Fixed and Mobile Broadband Access, Educational, and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands

Legal Authority: 47 U.S.C. 154; 47 U.S.C. 301 to 303; 47 U.S.C. 307; 47 U.S.C. 309; 47 U.S.C. 332; 47 U.S.C. 336 and 337

Abstract: The Commission seeks comment on whether to assign Educational Broadband Service (EBS) spectrum in the Gulf of Mexico. It also seeks comment on how to license unassigned and available EBS spectrum. Specifically, we seek comment on whether it would be in the public interest to develop a scheme for licensing unassigned EBS spectrum that avoids mutual exclusivity; we ask whether EBS eligible entities could participate fully in a spectrum auction; we seek comment on the use of small business size standards and bidding credits for EBS if we adopt a licensing scheme that could result in mutually exclusive applications; we seek comment on the proper market size and size of spectrum blocks for new EBS licenses; and we seek comment on issuing one license to a State agency designated by the Governor to be the spectrum manager, using frequency coordinators to avoid mutually exclusive EBS applications, as well as other alternative licensing schemes. The Commission must develop a new licensing scheme for EBS in order to achieve the Commission's goal of facilitating the development of new and innovative wireless services for the benefit of students throughout the nation.

In addition, the Commission has sought comment on a proposal intended to make it possible to use wider channel bandwidths for the provision of broadband services in these spectrum bands. The proposed changes may permit operators to use spectrum more efficiently, and to provide higher data rates to consumers, thereby advancing key goals of the National Broadband Plan.

Timetable:

Action	Date	FR Cite
NPRM	04/02/03	68 FR 34560
NPRM Comment Period End.	09/08/03	
FNPRM	07/29/04	69 FR 72048
FNPRM Comment Period End.	01/10/03	
R&O	07/29/04	69 FR 72020
MO&O	04/27/06	71 FR 35178
FNPRM	03/20/08	73 FR 26067
FNPRM Comment Period End.	07/07/08	
MO&O	03/20/08	73 FR 26032
MO&O	09/28/09	74 FR 49335
FNPRM	09/28/09	74 FR 49356
FNPRM Comment Period End.	10/13/09	
R&O	06/03/10	75 FR 33729
FNPRM	05/27/11	76 FR 32901
FNPRM Comment Period End.	07/22/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: John Schauble, Deputy Chief, Broadband Division, WTB, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0797, *Email: john.schauble@fcc.gov.*
RIN: 3060–AJ12

487. Amendment of the Rules Regarding Maritime Automatic Identification Systems (WT Docket No. 04–344)

Legal Authority: 47 U.S.C. 154; 47 U.S.C. 302(a); 47 U.S.C. 303; 47 U.S.C. 306; 47 U.S.C. 307(e); 47 U.S.C. 332; 47 U.S.C. 154(i); 47 U.S.C. 161

Abstract: This action adopts additional measures for domestic implementation of Automatic Identification Systems (AIS), an advanced marine vessel tracking and navigation technology that can significantly enhance our nation's homeland security as well as maritime safety.

Timetable:

Action	Date	FR Cite
Final Rule	01/29/09	74 FR 5117
Final Rule Effective.	03/02/09	
Petition for Recon	04/03/09	74 FR 15271
Final Rule	05/26/11	76 FR 33653
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Jeff Tobias, Attorney Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0680, *Email: jeff.tobias@fcc.gov.*
RIN: 3060–AJ16

488. Service Rules for Advanced Wireless Services in the 2155–2175 MHz Band

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 214; 47 U.S.C. 301

Abstract: This proceeding explores the possible uses of the 2155–2175 MHz frequency band (AWS–3) to support the introduction of new advanced wireless services, including third generations as well as future generations of wireless systems. Advanced wireless systems could provide for a wide range of voice data and broadband services over a variety of mobile and fixed networks.

The Notice of Proposed Rulemaking (NPRM) sought comment on what service rules should be adopted in the AWS–3 band. We requested comment on rules for licensing this spectrum in a manner that will permit it to be fully and promptly utilized to bring advanced wireless services to American consumers. Our objective is to allow for the most effective and efficient use of the spectrum in this band, while also encouraging development of robust wireless broadband services. We proposed to apply our flexible, market-oriented rules to the band in order to meet this objective.

Thereafter, the Commission released a Further Notice of Proposed Rulemaking (FNPRM), seeking comment on the Commission's proposed AWS–3 rules, which include adding 5 megahertz of spectrum (2175–80 MHz) to the AWS–3 band, and requiring licensees of that spectrum to provide—using up to 25 percent of its wireless network capacity—free, two-way broadband Internet service at engineered data rates of at least 768 kbps downstream.

Timetable:

Action	Date	FR Cite
NPRM	11/14/07	72 FR 64013
NPRM Comment Period End.	01/14/08	
FNPRM	06/25/08	73 FR 35995
FNPRM Comment Period End.	08/11/08	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Peter Daronco, Associate Div. Chief, Broadband Div., Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7235, *Email: peter.daronco@fcc.gov.*
RIN: 3060–AJ19

489. Service Rules for Advanced Wireless Services in the 1915 to 1920 MHz, 1995 to 2000 MHz, 2020 to 2025 MHz, and 2175 to 2180 MH Bands

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i); 47 U.S.C. 157; 47

U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 214; 47 U.S.C. 301; * * *

Abstract: This proceeding explores the possible uses of the 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz, and 2175–2180 MHz Bands (collectively AWS–2) to support the introduction of new advanced wireless services, including third generations as well as future generations of wireless systems. Advanced wireless systems could provide for a wide range of voice data and broadband services over a variety of mobile and fixed networks.

The Notice of Proposed Rulemaking (NPRM) sought comment on what service rules should be adopted in the AWS–2 band. We requested comment on rules for licensing this spectrum in a manner that will permit it to be fully and promptly utilized to bring advanced wireless services to American consumers. Our objective is to allow for the most effective and efficient use of the spectrum in this band, while also encouraging development of robust wireless broadband services.

Thereafter, the Commission released a Further Notice of Proposed Rulemaking (FNPRM), seeking comment on the Commission's proposed rules for the 1915–1920 MHz and 1995–2000 MHz bands. In addition, the Commission proposed to add 5 megahertz of spectrum (2175–80 MHz band) to the 2155–2175 MHz band, and would require the licensee of the 2155–2180 MHz band to provide—using up to 25 percent of its wireless network capacity—free, two-way broadband Internet service at engineered data rates of at least 768 kbps downstream.

Timetable:

Action	Date	FR Cite
NPRM	11/02/04	69 FR 63489
NPRM Comment Period End.	01/24/05	
FNPRM	06/25/08	73 FR 35995
FNPRM Comment Period End.	08/11/08	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Peter Daronco, Associate Div. Chief, Broadband Div., Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7235, *Email:* *peter.daronco@fcc.gov.*

RIN: 3060–AJ20

490. Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698–806 MHz Band, WT Docket No. 08–166; Public Interest Spectrum Coalition, Petition for Rulemaking Regarding Low Power Auxiliary

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 301 and 302(a); 47 U.S.C. 303; 47 U.S.C. 303(r); 47 U.S.C. 304; 47 U.S.C. 307 to 309; 47 U.S.C. 316; 47 U.S.C. 332; 47 U.S.C. 336 and 337

Abstract: In the Notice of Proposed Rulemaking and Order, to facilitate the DTV transition the Commission tentatively concludes to amend its rules to make clear that the operation of low power auxiliary stations within the 700 MHz Band will no longer be permitted after the end of the DTV transition. The Commission also tentatively concludes to prohibit the manufacture, import, sale, offer for sale, or shipment of devices that operate as low power auxiliary stations in the 700 MHz Band. In addition, for those licensees that have obtained authorizations to operate low power auxiliary stations in spectrum that includes the 700 MHz Band beyond the end of the DTV transition, the Commission tentatively concludes that it will modify these licenses so as not to permit such operations in the 700 MHz Band after February 17, 2009. The Commission also seeks comment on issues raised by the Public Interest Spectrum Coalition (PISC) in its informal complaint and petition for rulemaking.

The Commission also imposes a freeze on the filing of new license applications that seek to operate on any 700 MHz Band frequencies (698–806 MHz) after the end of the DTV transition, February 17, 2009, as well as on granting any request for equipment authorization of low power auxiliary station devices that would operate in any of the 700 MHz Band frequencies. The Commission also holds in abeyance, until the conclusion of this proceeding, any pending license applications and equipment authorization requests that involve operation of low power auxiliary devices on frequencies in the 700 MHz Band after the end of the DTV transition.

On January 15, 2010, the Commission released a Report and Order that prohibits the distribution and sale of wireless microphones that operate in the 700 MHz Band (698–806 MHz, channels 52–69) and includes a number of provisions to clear these devices from that band. These actions help complete an important part of the DTV transition by clearing the 700 MHz Band to enable the rollout of communications services for public safety and the deployment of next generation wireless devices.

On January 15, 2010, the Commission also released a Further Notice of Proposed Rulemaking seeking comment on the operation of low power auxiliary stations, including wireless microphones, in the core TV bands (channels 2–51, excluding channel 37). Among the issues the Commission is considering in the Further Notice are revisions to its rules to expand eligibility for licenses to operate wireless microphones under part 74; the operation of wireless microphones on an unlicensed basis in the core TV bands under part 15; technical rules to apply to low power wireless audio devices, including wireless microphones, operating in the core TV bands on an unlicensed basis under part 15 of the rules; and long-term solutions to address the operation of wireless microphones and the efficient use of the core TV spectrum.

Timetable:

Action	Date	FR Cite
NPRM	09/03/08	73 FR 51406
NPRM Comment Period End.	10/20/08	
R&O	01/22/10	75 FR 3622
FNPRM	01/22/10	75 FR 3682
FNPRM Comment Period End.	03/22/10	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: G. William Stafford, Attorney, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0563, *Fax:* 202 418–3956, *Email:* *bill.stafford@fcc.gov.*

RIN: 3060–AJ21

491. Amendment of the Commission's Rules To Improve Public Safety Communications in the 800 MHz Band, and To Consolidate the 800 MHz and 900 MHz Business and Industrial/Land Transportation Pool Channels

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 303; 47 U.S.C. 309; 47 U.S.C. 332

Abstract: This action adopts rules that retain the current site-based licensing paradigm for the 900 MHz B/ILT "white space"; adopts interference protection rules applicable to all licensees operating in the 900 MHz B/ILT spectrum; and lifts, on a rolling basis, the freeze placed on applications for new 900 MHz B/ILT licenses in September 2004—the lift being tied to the completion of rebanding in each 800

MHz National Public Safety Planning Advisory Committee (NPSPAC) region.

Timetable:

Action	Date	FR Cite
NPRM	03/18/05	70 FR 13143
NPRM Comment Period End.	06/12/05	70 FR 23080
Final Rule	12/16/08	73 FR 67794
Petition for Recon	03/12/09	74 FR 10739
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Katherine M. Harris, Deputy Chief, Commercial Wireless Division, WTB, Federal Communications Commission, Wireless Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0609, *Fax:* 202 418–7224, *Email: kharris@fcc.gov.*

RIN: 3060–AJ22

492. Amendment of Part 101 To Accommodate 30 MHz Channels in the 6525–6875 MHz Band and Provide Conditional Authorization on Channels in the 21.8–22.0 and 23.0–23.2 GHz Band (WT Docket No. 04–114)

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 214; 47 U.S.C. 301 to 303; 47 U.S.C. 307 to 310; 47 U.S.C. 319; 47 U.S.C. 324; 47 U.S.C. 332 and 333

Abstract: The Commission seeks comments on modifying its rules to authorize channels with bandwidths of as much as 30 MHz in the 6525–6875 MHz band. We also propose to allow conditional authorization on additional channels in the 21.8–22.0 and 23.0–23.2 GHz bands.

Timetable:

Action	Date	FR Cite
NPRM	06/29/09	74 FR 36134
NPRM Comment Period End.	07/22/09	
R&O	06/11/10	75 FR 41767
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Schauble, Deputy Chief, Broadband Division, WTB, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0797, *Email: john.schauble@fcc.gov.*

RIN: 3060–AJ28

493. In the Matter of Service Rules for the 698 to 746, 747 to 762, and 777 to 792 MHz Bands

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 303(r); 47 U.S.C. 309

Abstract: This is one of several docketed proceedings involved in the establishment of rules governing wireless licenses in the 698–806 MHz Band (the 700 MHz Band). This spectrum is being vacated by television broadcasters in TV Channels 52–69. It is being made available for wireless services, including public safety and commercial services, as a result of the digital television (DTV) transition. This docket has to do with service rules for the commercial services, and is known as the 700 MHz Commercial Services proceeding.

Timetable:

Action	Date	FR Cite
NPRM	08/03/06	71 FR 48506
NPRM	09/20/06	
FNPRM	05/02/07	72 FR 24238
FNPRM Comment Period End.	05/23/07	
R&O	07/31/07	72 FR 48814
Order on Recon	09/24/07	72 FR 56015
Second FNPRM	05/14/08	73 FR 29582
Second FNPRM Comment Period End.	06/20/08	
Third FNPRM	09/05/08	73 FR 57750
Third FNPRM Comment Period End.	11/03/08	
Second R&O	02/20/09	74 FR 8868
Final Rule	03/04/09	74 FR 8868
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Paul D'Ari, Spectrum and Competition Policy Division, Wireless Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1550, *Fax:* 202 418–7447, *Email: paul.dari@fcc.gov.*

RIN: 3060–AJ35

494. National Environmental Act Compliance for Proposed Tower Registrations; in the Matter of Effects on Migratory Birds

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 303(q); 47 U.S.C. 303(r); 47 U.S.C. 309(g); 42 U.S.C. 4321 *et seq.*

Abstract: On April 14, 2009, American Bird Conservancy, Defenders of Wildlife, and National Audubon Society filed a Petition for Expedited Rulemaking and Other Relief. The petitioners request that the Commission adopt on an expedited basis a variety of new rules, which they assert are necessary to comply with environmental statutes and their implementing regulations. This proceeding addresses the Petition for Expedited Rulemaking and Other Relief.

Timetable:

Action	Date	FR Cite
NPRM	11/22/06	71 FR 67510
NPRM Comment Period End.	02/20/07	
New NPRM Comment Period End.	05/23/07	
Order on Remand	01/26/12	77 FR 3935
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jeff Steinberg, Deputy Chief, Spectrum and Competition Div, WTB, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0896.

RIN: 3060–AJ36

495. Amendment of Part 90 of the Commission's Rules

Legal Authority: 47 U.S.C. 154; 47 U.S.C. 303

Abstract: This proceeding considers rule changes impacting miscellaneous part 90 Private Land Mobile Radio rules.

Timetable:

Action	Date	FR Cite
NPRM	06/13/07	72 FR 32582
FNPRM	04/14/10	75 FR 19340
Order on Recon (Release Date).	06/07/10	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Rodney P. Conway, Engineer, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2904, *Fax:* 202 418–1944, *Email: rodney.conway@fcc.gov.*

RIN: 3060–AJ37

496. Amendment of Part 101 of the Commission's Rules for Microwave Use and Broadcast Auxiliary Service Flexibility

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i) and 157; 47 U.S.C. 160 and 201; 47 U.S.C. 214; 47 U.S.C. 301 to 303; 47 U.S.C. 307 to 310; 47 U.S.C. 319 and 324; 47 U.S.C. 332 and 333

Abstract: In this document, the Commission commences a proceeding

to remove regulatory barriers to the use of spectrum for wireless backhaul and other point-to-point and point-to-multipoint communications.

Timetable:

Action	Date	FR Cite
NPRM	08/05/10	75 FR 52185
NPRM Comment Period End.	11/22/10	
R&O	09/27/11	76 FR 59559
FNPRM	09/27/11	76 FR 59614
FNPRM Comment Period End.	10/25/11	
R&O	09/05/12	77 FR 54421
FNPRM	09/05/12	77 FR 54511
FNPRM Comment Period End.	10/22/12	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Schauble, Deputy Chief, Broadband Division, WTB, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0797, *Email: john.schauble@fcc.gov.*

RIN: 3060–AJ47

497. 2004 and 2006 Biennial Regulatory Reviews—Streamlining and Other Revisions of the Commission's Rules Governing Construction, Marking, and Lighting of Antenna Structures

Legal Authority: 47 U.S.C. 154(i)–(j) and 161; 47 U.S.C. 303(q)

Abstract: In this NPRM, in WT Docket No. 10–88, the Commission seeks comment on revisions to part 17 of the Commission's rules governing construction, marking, and lighting of antenna structures. The Commission initiated this proceeding to update and modernize the part 17 rules. These proposed revisions are intended to improve compliance with these rules and allow the Commission to enforce them more effectively, helping to better ensure the safety of pilots and aircraft passengers nationwide. The proposed revisions would also remove outdated and burdensome requirements without compromising the Commission's statutory responsibility to prevent antenna structures from being hazards or menaces to air navigation.

Timetable:

Action	Date	FR Cite
NPRM	05/21/10	75 FR 28517
NPRM Comment Period End.	07/20/10	
NPRM Reply Comment Period End.	08/19/10	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Borkowski, Attorney–Advisor, Federal Communications Commission, 2025 M Street NW., Washington, DC 20554, *Phone:* 202 634–2443.

RIN: 3060–AJ50

498. Universal Service Reform Mobility Fund (WT Docket No. 10–208)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 155; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 205; 47 U.S.C. 225; 47 U.S.C. 254; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 303(c); 47 U.S.C. 303(f); 47 U.S.C. 303(r); 47 U.S.C. 303(y); 47 U.S.C. 309; 47 U.S.C. 310

Abstract: This proceeding proposes the creation of the Mobility Fund to provide an initial infusion of funds toward solving persistent gaps in mobile services through targeted, one-time support for the build-out of current-and next-generation wireless infrastructure in areas where these services are unavailable.

Timetable:

Action	Date	FR Cite
NPRM	10/14/10	75 FR 67060
NPRM Comment Period End.	01/18/11	
R&O	11/29/11	76 FR 73830
FNPRM	12/16/11	76 FR 78384
R&O	12/28/11	76 FR 81562
2nd R&O	07/03/12	77 FR 39435
4th Order on Recon.	08/14/12	77 FR 48453
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Scott Mackoul, Attorney Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0660.

RIN: 3060–AJ58

499. Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525–1559 MHz and 1626.5–1660.5 MHz, 1610–1626.5 MHz and 2483.5–2500 MHz, and 2000–2020 MHz and 2180–2200 MHz

Legal Authority: 47 U.S.C. 151 and 154; 47 U.S.C. 303 and 310

Abstract: The Commission proposes steps to make additional spectrum available for new investment in mobile broadband networks while ensuring that the United States maintains robust mobile satellite service capabilities. Mobile broadband is emerging as one of America's most dynamic innovation and economic platforms. Yet tremendous demand growth will soon test the limits of spectrum availability. 90 megahertz of spectrum allocated to the Mobile Satellite Service (MSS)—in the 2 GHz band, Big LEO band, and L-band—are potentially available for terrestrial mobile broadband use. The Commission seeks to remove regulatory barriers to terrestrial use, and to promote additional investments, such as those recently made possible by a transaction between Harbinger Capital Partners and SkyTerra Communications, while retaining sufficient market-wide MSS capability. The Commission proposes to add co-primary Fixed and Mobile allocations to the 2 GHz band, consistent with the International Table of Allocations. This allocation modification is a precondition for more flexible licensing of terrestrial services within the band. Second, the Commission proposes to apply the Commission's secondary market policies and rules applicable to terrestrial services to all transactions involving the nse of MSS bands for terrestrial services in order to create greater predictability and regulatory parity with bands licensed for terrestrial mobile broadband service. The Commission also requests comment on further steps we can take to increase the value, utilization, innovation, and investment in MSS spectrum generally.

Timetable:

Action	Date	FR Cite
NPRM	07/15/10	75 FR 49871
NPRM Comment Period End.	09/30/10	
R&O	04/06/11	76 FR 31252
Next Action Undetermined.		

Regulatory Flexibility Analysis Rcquired: Yes.

Agency Contact: Jeremy Marcus, Asst. Division Chief, Broadband Div., Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0059, *Fax:* 202 418–7257, *Email: jeremy.marcus@fcc.gov.*

RIN: 3060–AJ59

500. Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-Based 800 MHz Specialized Mobile Radio Licensees; WT Docket Nos. 12–64 and 11–110

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152; 47 U.S.C. 154; 47 U.S.C. 301; 47 U.S.C. 302(a); 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 308

Abstract: This proceeding was initiated to allow EA-based 800 MHz SMR Licensees in 813.5–824/858.5–869

MHz to exceed the channel spacing and bandwidth limitation in Section 90.209 of the Commission's rules subject to conditions.

Timetable:

Action	Date	FR Cite
NPRM	03/29/12	77 FR 18991
NPRM Comment Period End.	04/13/12	
R&O	05/24/12	77 FR 33972
Petition for Recon Public Notice.	08/16/12	77 FR 53163
Petition for Recon PN Comment Period End.	09/27/12	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mr. Brian Regan, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2849, *Email: brian.regan@fcc.gov.*

RIN: 3060–AJ71

501. Service Rules for Advanced Wireless Services in the 2000–2020 MHz and 2180–2200 MHz Bands

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 153; 47 U.S.C. 154(i); 47 U.S.C. 227; 47 U.S.C. 301; 47 U.S.C. 302; 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 308; 47 U.S.C. 309; 47 U.S.C. 310; 47 U.S.C. 316; 47 U.S.C. 319; 47 U.S.C. 324; 47 U.S.C. 332; 47 U.S.C. 333

Abstract: In this Notice of Proposed Rulemaking, the Commission proposes to increase the Nation's supply of spectrum for mobile broadband by removing unnecessary barriers to flexible use of spectrum currently assigned to the Mobile Satellite Service (MSS) in the 2 GHz band. This proposal would carry out a recommendation in the National Broadband Plan that the Commission enable the provision of stand-alone terrestrial services in this spectrum. We do so by proposing service, technical, assignment, and licensing rules for this spectrum. These proposed rules are designed to provide for flexible use of this spectrum, to encourage innovation and investment in mobile broadband, and to provide a stable regulatory environment in which broadband deployment could develop. Additionally, in our Notice of Inquiry, we seek comment on potential ways to free up additional valuable spectrum to address the Nation's growing demand for mobile broadband spectrum.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End.	04/17/12	
NPRM	04/17/12	77 FR 22720
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jeremy Marcus, Asst. Division Chief, Broadband Div., Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0059, *Fax:* 202 418–7257, *Email: jeremy.marcus@fcc.gov.*

RIN: 3060–AJ73

502. Promoting Interoperability in the 700 MHz Commercial Spectrum; Interoperability of Mobile User Equipment Across Paired Commercial Spectrum Blocks in the 700 MHz Band

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152; 47 U.S.C. 154(i); 47 U.S.C. 154 (j); 47 U.S.C. 301; 47 U.S.C. 302(a); 47 U.S.C. 303(b); 47 U.S.C. 303(e); 47 U.S.C. 303(f); 47 U.S.C. 303(g); 47 U.S.C. 303(r); 47 U.S.C. 304; 47 U.S.C. 307(a); 47 U.S.C. 309(j)(3); 47 U.S.C. 316(a)(1); 47 CFR 1.401 *et seq.*

Abstract: The Commission seeks comment on whether the customers of lower 700 MHz B and C block licensees would experience harmful interference—and if so, to what degree, if the lower 700 MHz band were interoperable. The Commission also explores the next steps should it find that interoperability would cause limited or no harmful interference to lower 700 MHz B and C block licensees, or that such interference can reasonably be mitigated through industry efforts and/or through modifications to the Commission's technical rules or other regulatory measures.

Timetable:

Action	Date	FR Cite
NPRM	04/02/12	77 FR 19575
NPRM Comment Period End.	06/01/12	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brenda Boykin, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2062, *Email: brenda.boykin@fcc.gov.*

RIN: 3060–AJ78

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Wireless Telecommunications Bureau

Completed Actions

503. Amendment of Parts 13 and 80 of the Commission's Rules Governing Maritime Communications

Legal Authority: 47 U.S.C. 302 to 303

Abstract: This matter concerns the amendment of the rules governing maritime communications in order to consolidate, revise, and streamline the regulations as well as address new international requirements and improve the operational ability of all users of marine radios.

Timetable:

Action	Date	FR Cite
NPRM	03/24/00	65 FR 21694
NPRM	08/17/00	65 FR 50173
NPRM	05/17/02	67 FR 35086
Report & Order	08/07/03	68 FR 46957
Second R&O, Sixth R&O, Second FNPRM.	04/06/04	69 FR 18007
Comments Due	06/07/04	
Reply Comments Due.	07/06/04	
Second R&O and Sixth R&O.	11/08/04	69 FR 64664
NPRM	11/08/06	71 FR 65447
Final Action	01/25/08	73 FR 4475
Petition for Reconsideration.	03/18/08	73 FR 14486
4th R&O [Release Date].	06/10/10	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jeff Tobias, Attorney Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0680, *Email: jeff.tobias@fcc.gov.*

RIN: 3060–AH55

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Wireline Competition Bureau

Long-Term Actions

504. Implementation of the Universal Service Portions of the 1996 Telecommunications Act

Legal Authority: 47 U.S.C. 151 *et seq.*

Abstract: The goals of Universal Service, as mandated by the 1996 Act, are to promote the availability of quality services at just, reasonable, and affordable rates; increase access to advanced telecommunications services throughout the Nation; advance the

availability of such services to all consumers, including those in low income, rural, insular, and high cost areas at rates that are reasonably comparable to those charged in urban areas. In addition, the 1996 Act states that all providers of telecommunications services should contribute to Federal universal service in some equitable and nondiscriminatory manner; there should be specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service; all schools, classrooms, health care providers, and libraries should, generally, have access to advanced telecommunications services; and finally, that the Federal-State Joint Board and the Commission should determine those other principles that, consistent with the 1996 Act, are necessary to protect the public interest. More recently, modernization efforts for continuous improvements to the universal service programs are being realized consistent and in keeping with the goals envisioned by the National Broadband Plan.

On February 19, 2010, the Commission released an Order and Notice of Proposed Rulemaking that enabled schools that receive funding from the E-rate program to allow members of the general public to use the schools' Internet access during non-operating hours through funding year 2010 (July 1, 2010 through June 30, 2011) and sought comment on revising its rules to make this change permanent.

On March 18, 2010, the Commission issued a Report & Order and Memorandum Opinion & Order. In this order, the Commission addressed an inequitable asymmetry in the Commission's current rules governing the receipt of universal service high-cost local switching support (LSS) by small incumbent local exchange carriers (LECs). By modifying the Commission's rules to permit incumbent LECs that lose lines to receive additional LSS when they cross a threshold, the order provides LSS to all small LECs on the same basis. Nothing in the order is intended to address the long-term role of LSS in the Commission's high-cost universal service policies, which the Commission is considering as part of comprehensive universal service reform.

April 16, 2010, the Commission issued an Order and NPRM addressing high-cost universal service support for non-rural carriers serving insular areas. In the NPRM, the Commission sought comment on amending its rules to provide additional low-income support in Puerto Rico.

On April 21, 2010, the Commission issued a Notice of Inquiry and Notice of Proposed Rulemaking, the first in a series of proceedings to kick off universal service support reform that is key to making broadband service available for millions of Americans who lack access. This NOI and NPRM sought comment on first steps to reform the distribution of universal service high-cost support.

Timetable:

Action	Date	FR Cite
Recommended Decision Federal–State Joint Board, Universal Service.	11/08/96	61 FR 63778
First R&O	05/08/97	62 FR 32862
Second R&O	05/08/97	62 FR 32862
Order on Recon	07/10/97	62 FR 40742
R&O and Second Order on Recon.	07/18/97	62 FR 41294
Second R&O, and FNPRM.	08/15/97	62 FR 47404
Third R&O	10/14/97	62 FR 56118
Second Order on Recon.	11/26/97	62 FR 65036
Fourth Order on Recon.	12/30/97	62 FR 2093
Fifth Order on Recon.	06/22/98	63 FR 43088
Fifth R&O	10/28/98	63 FR 63993
Eighth Order on Recon.	11/21/98	
Second Recommended Decision.	11/25/98	63 FR 67837
Thirteenth Order on Recon.	06/09/99	64 FR 30917
FNPRM	06/14/99	64 FR 31780
FNPRM	09/30/99	64 FR 52738
Fourteenth Order on Recon.	11/16/99	64 FR 62120
Fifteenth Order on Recon.	11/30/99	64 FR 66778
Tenth R&O	12/01/99	64 FR 67372
Ninth R&O and Eighteenth Order on Recon.	12/01/99	64 FR 67416
Nineteenth Order on Recon.	12/30/99	64 FR 73427
Twentieth Order on Recon.	05/08/00	65 FR 26513
Public Notice	07/18/00	65 FR 44507
Twelfth R&O, MO&O and FNPRM.	08/04/00	65 FR 47883
FNPRM and Order.	11/09/00	65 FR 67322
FNPRM	01/26/01	66 FR 7867
R&O and Order on Recon.	03/14/01	66 FR 16144
NPRM	05/08/01	66 FR 28718
Order	05/22/01	66 FR 35107
Fourteenth R&O and FNPRM,	05/23/01	66 FR 30080
FNPRM and Order.	01/25/02	67 FR 7327
NPRM	02/15/02	67 FR 9232
NPRM and Order	02/15/02	67 FR 10846
FNPRM and R&O	02/26/02	67 FR 11254
NPRM	04/19/02	67 FR 34653
Order and Second FNPRM.	12/13/02	67 FR 79543
NPRM	02/25/03	68 FR 12020
Public Notice	02/26/03	68 FR 10724
Second R&O and FNPRM.	06/20/03	68 FR 36961
Twenty-Fifth Order on Recon, R&O, Order, and FNPRM.	07/16/03	68 FR 41996
NPRM	07/17/03	68 FR 42333
Order	07/24/03	68 FR 47453
Order	08/06/03	68 FR 46500
Order and Order on Recon.	08/19/03	68 FR 49707
Order on Remand, MO&O, FNPRM.	10/27/03	68 FR 69641
R&O, Order on Recon, FNPRM.	11/17/03	68 FR 74492
R&O, FNPRM	02/26/04	69 FR 13794
R&O, FNPRM	04/29/04	
NPRM	05/14/04	69 FR 3130
NPRM	06/08/04	69 FR 40839
Order	06/28/04	69 FR 48232
Order on Recon & Fourth R&O.	07/30/04	69 FR 55983
Fifth R&O and Order.	08/13/04	69 FR 55097
Order	08/26/04	69 FR 57289
Second FNPRM	09/16/04	69 FR 61334
Order & Order on Recon.	01/10/05	70 FR 10057
Sixth R&O	03/14/05	70 FR 19321
R&O	03/17/05	70 FR 29960
MO&O	03/30/05	70 FR 21779
NPRM & FNPRM	06/14/05	70 FR 41658
Order	10/14/05	70 FR 65850
Order	10/27/05	
NPRM	01/11/06	71 FR 1721
Report Number 2747.	01/12/06	71 FR 2042
Order	02/08/06	71 FR 6485
FNPRM	03/15/06	71 FR 13393
R&O and NPRM	07/10/06	71 FR 38781
Order	01/01/06	71 FR 6485
Order	05/16/06	71 FR 30298
MO&O and FNPRM.	05/16/06	71 FR 29843
R&O	06/27/06	71 FR 38781
Public Notice	08/11/06	71 FR 50420
Order	09/29/06	71 FR 65517
Public Notice	03/12/07	72 FR 36706
Public Notice	03/13/07	72 FR 40816
Public Notice	03/16/07	72 FR 39421
Notice of Inquiry	04/16/07	
NPRM	05/14/07	72 FR 28936
Recommended Decision.	11/20/07	
Order	02/14/08	73 FR 8670
NPRM	03/04/08	73 FR 11580
NPRM	03/04/08	73 FR 11591
R&O	05/05/08	73 FR 11837
Public Notice	07/02/08	73 FR 37882
NPRM	08/19/08	73 FR 48352
Notice of Inquiry	10/14/08	73 FR 60689
Order on Remand, R&O, FNPRM.	11/12/08	73 FR 66821
R&O	05/22/09	74 FR 2395
Order & NPRM	03/24/10	75 FR 10199
R&O and MO&O	04/08/10	75 FR 17872
NOI and NPRM	05/13/10	75 FR 26906
Order and NPRM	05/28/10	75 FR 30024
NPRM	06/09/10	75 FR 32699

Action	Date	FR Cite
NPRM	08/09/10	75 FR 48236
NPRM	09/21/10	75 FR 56494
R&O	12/03/10	75 FR 75393
Order	01/27/11	76 FR 4827
NPRM	03/02/11	76 FR 11407
NPRM	03/02/11	76 FR 11632
NPRM	03/23/11	76 FR 16482
Order and NPRM	06/27/11	76 FR 37307
R&O	12/28/11	76 FR 81562
Order	03/09/12	77 FR 14297
R&O	03/30/12	77 FR 19125
Order	05/23/12	77 FR 30411
3rd Order on Recon.	05/24/12	77 FR 30904
Public Notice	05/31/12	77 FR 32113
FNPRM	06/07/12	77 FR 33896
Public Notice	07/26/12	77 FR 43773
Order	08/30/12	77 FR 52616
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nakesha Woodward, Program Support Assistant, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1502, *Email:kesha,woodward@fcc.gov.*

RIN: 3060–AF85

505. 2000 Biennial Regulatory Review—Telecommunications Service Quality Reporting Requirements

Legal Authority: 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 201(b); 47 U.S.C. 303(r); 47 U.S.C. 403

Abstract: This NPRM proposes to eliminate our current service quality reports (ARMIS Report 43–05 and 43–06) and replace them with a more consumer-oriented report. The NPRM proposes to reduce the reporting categories from more than 30 to 6, and addresses the needs of carriers, consumers, state public utility commissions, and other interested parties.

On February 15, 2005, the Commission adopted an Order that extended the Federal-State Joint Conference on Accounting Issues until March 1, 2007.

Timetable:

Action	Date	FR Cite
NPRM	12/04/00	65 FR 75657
Order	02/06/02	67 FR 5670
Order	03/22/05	70 FR 14466
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cathy Zima, Deputy Chief, Industry Analysis Div., WCB, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7380, *Fax:* 202 418–6768, *Email: cathy.zima@fcc.gov.*

RIN: 3060–AH72

506. Access Charge Reform and Universal Service Reform

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 201 to 205; 47 U.S.C. 254; 47 U.S.C. 403

Abstract: On October 11, 2001, the Commission adopted an Order reforming the interstate access charge and universal service support system for rate-of-return incumbent carriers. The Order adopts three principal reforms. First, the Order modifies the interstate access rate structure for small carriers to align it more closely with the manner in which costs are incurred. Second, the Order removes implicit support for universal service from the rate structure and replaces it with explicit, portable support. Third, the Order permits small carriers to continue to set rates based on the authorized rate of return of 11.25 percent. The Order became effective on January 1, 2002, and the support mechanism established by the Order was implemented beginning July 1, 2002.

The Commission also adopted a Further Notice of Proposed Rulemaking (FNPRM) seeking additional comment on proposals for incentive regulation, increased pricing flexibility for rate-of-return carriers, and proposed changes to the Commission's "all-or-nothing" rule. Comments on the FNPRM were due on February 14, 2002, and reply comments on March 18, 2002.

On February 12, 2004, the Commission adopted a Second Report and Order resolving several issues on which the Commission sought comment in the FNPRM. First, the Commission modified the "all-or-nothing" rule to permit rate-of-return carriers to bring recently acquired price cap lines back to rate-of-return regulation. Second, the Commission granted rate-of-return carriers the authority immediately to provide geographically deaveraged transport and special access rates, subject to certain limitations. Third, the Commission merged Long Term Support (LTS) with Interstate Common Line Support (ICLS).

The Commission also adopted a Second FNPRM seeking comment on two specific plans that propose establishing optional alternative regulation mechanisms for rate-of-return carriers. In conjunction with the consideration of those alternative regulation proposals, the Commission sought comment on modification that would permit a rate-of-return carrier to adopt an alternative regulation plan for some study areas, while retaining rate-of-return regulation for other of its study areas. Comments on the Second FNPRM were due on April 23, 2004, and May 10, 2004.

Timetable:

Action	Date	FR Cite
NPRM	01/25/01	66 FR 7725
NPRM Comment Period End.	02/26/01	
FNPRM	11/30/01	66 FR 59761
FNPRM Comment Period End.	12/31/01	
R&O	11/30/01	66 FR 59719
Second FNPRM	03/23/04	69 FR 13794
Second FNPRM Comment Period End.	04/23/04	
Order	05/06/04	69 FR 25325
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Douglas Slotten, Attorney-Advisor, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1572, *Email: douglas.slotten@fcc.gov.*

RIN: 3060–AH74

507. National Exchange Carrier Association Petition

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 201 and 202; * * *

Abstract: In a Notice of Proposed Rulemaking (NPRM) released on July 19, 2004, the Commission initiated a rulemaking proceeding to examine the proper number of end user common line charges (commonly referred to as subscriber line charges or SLCs) that carriers may assess upon customers that obtain derived channel T–1 service where the customer provides the terminating channelization equipment and upon customers that obtain Primary Rate Interface (PRI) Integrated Service Digital Network (ISDN) service.

Timetable:

Action	Date	FR Cite
NPRM	08/13/04	69 FR 50141
NPRM Comment Period End.	11/12/04	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Douglas Slotten, Attorney–Advisor, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1572, *Email: douglas.slotten@fcc.gov.*

RIN: 3060–AI47

508. IP-Enabled Services

Legal Authority: 47 U.S.C. 151 and 152; * * *

Abstract: The notice seeks comment on ways in which the Commission might categorize or regulate IP-enabled services. It poses questions regarding the proper allocation of jurisdiction over each category of IP-enabled service. The notice then requests comment on whether the services comprising each category constitute "telecommunications services" or "information services" under the definitions set forth in the Act. Finally, noting the Commission's statutory forbearance authority and title I ancillary jurisdiction, the notice describes a number of central regulatory requirements (including, for example, those relating to access charges, universal service, E911, and disability accessibility), and asks which, if any, should apply to each category of IP-enabled services.

Timetable:

Action	Date	FR Cite
NPRM	03/29/04	69 FR 16193
NPRM Comment Period End.	07/14/04	
First R&O	06/03/05	70 FR 37273
Public Notice	06/16/05	70 FR 37403
First R&O Effective.	07/29/05	70 FR 43323
Public Notice	08/31/05	70 FR 51815
R&O	07/10/06	71 FR 38781
R&O and FNPRM	06/08/07	72 FR 31948
FNPRM Comment Period End.	07/09/07	72 FR 31782
R&O	08/06/07	72 FR 43546
Public Notice	08/07/07	72 FR 44136
R&O	08/16/07	72 FR 45908
Public Notice	11/01/07	72 FR 61813
Public Notice	11/01/07	72 FR 61882
Public Notice	12/13/07	72 FR 70808
Public Notice	12/20/07	72 FR 72358
R&O	02/21/08	73 FR 9463
NPRM	02/21/08	73 FR 9507
Order	05/15/08	73 FR 28057
Order	07/29/09	74 FR 37624
R&O	08/07/09	74 FR 39551
Public Notice	10/14/09	74 FR 52808
Announcement of Effective Date.	03/19/10	75 FR 13235
Public Notice	05/20/10	75 FR 28249
Public Notice	06/11/10	75 FR 33303
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tim Stelzig, Deputy Chief, Competition Policy Division, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0942, Email: *tim.stelzig@fcc.gov.*

RIN: 3060–AI48

509. Establishing Just and Reasonable Rates for Local Exchange Carriers (WC Docket No. 07–135)

Legal Authority: Not Yet Determined

Abstract: The Federal Communications Commission (Commission) is examining whether its existing rules governing the setting of tariffed rates by local exchange carriers (LECs) provide incentives and opportunities for carriers to increase access demand endogenously with the result that the tariff rates are no longer just and reasonable. The Commission tentatively concluded that it must revise its tariff rules so that it can be confident that tariffed rates remain just and reasonable even if a carrier experiences or induces significant increases in access demand. The Commission sought comment on the types of activities that are caused increases in interstate access demand and the effects of such demand increases on the cost structures of LECs. The Commission also sought comment on several means of ensuring just and reasonable rates going forward. The NPRM invited comment on potential traffic stimulation by rate-of-return LECs, price cap LECs, and competitive LECs, as well as other forms of intercarrier traffic stimulation. Comments were received on December 17, 2007, and reply comments were received on January 16, 2008.

On February 8, 2011, the Commission adopted a Further Notice of Proposed Rulemaking seeking comment on proposed rule revisions to address access stimulation. The Commission sought comment on a proposal to require rate-of-return LECs and competitive LECs to file revised tariffs if they enter into or have existing revenue sharing agreements. The proposed tariff filing requirements vary depending on the type of LEC involved. The Commission also sought comment on other record proposals and on possible rules for addressing access stimulation in the context of intra-MTA call terminations by CMRS providers. Comments were filed on April 1, 2011, and reply comments were filed on April 18, 2011.

In the USF/ICC Transformation Order, we defined access stimulation. The access stimulation definition we adopted has two conditions: (1) A revenue sharing condition; and (2) an additional traffic volume condition, which is met where the LEC either: (a) Has a three-to-one interstate terminating-to-originating traffic ratio in a calendar month; or (b) has had more than a 100 percent growth in interstate originating and/or terminating switched access minutes of use in a month compared to the same month in the preceding year. If both conditions are satisfied, the LEC generally must file revised tariffs to account for its increased traffic.

Timetable:

Action	Date	FR Cite
NPRM	11/15/07	72 FR 64179
NPRM Comment Period End.	12/17/07	
FNPRM	03/02/11	76 FR 11632
R&O and FNPRM	12/08/11	76 FR 76623
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Douglas Slotten, Attorney—Advisor, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1572, *Email: douglas.slotten@fcc.gov.*

RIN: 3060–AJ02

510. Jurisdictional Separations

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 205; 47 U.S.C. 221(c); 47 U.S.C. 254; 47 U.S.C. 403; 47 U.S.C. 410

Abstract: Jurisdictional separations is the process, pursuant to part 36 of the Commission's rules, by which incumbent local exchange carriers apportion regulated costs between the intrastate and interstate jurisdictions. In 1997, the Commission initiated a proceeding seeking comment on the extent to which legislative changes, technological changes, and market changes warrant comprehensive reform of the separations process. In 2001, the Commission adopted the Federal-State Joint Board on Jurisdictional Separations' recommendation to impose an interim freeze of the part 36 category relationships and jurisdictional cost allocation factors for a period of five years, pending comprehensive reform of the part 36 separations rules. In 2006, the Commission adopted an Order and Further Notice of Proposed Rulemaking, which extended the separations freeze for a period of three years and sought comment on comprehensive reform. In 2009, the Commission adopted a Report and Order extending the separations freeze an additional year to June 2010. In 2010, the Commission adopted a Report and Order extending the separations freeze for an additional year to June 2011. In 2011, the Commission adopted a Report and Order extending the separations freeze for an additional year to June 2012.

The Commission is considering a Further Notice of Proposed Rulemaking regarding extending the separations freeze for an additional two years to June 2014.

Timetable:

Action	Date	FR Cite
NPRM	11/05/97	62 FR 59842
NPRM Comment Period End.	12/10/97	
Order	06/21/01	66 FR 33202
Order and FNPRM.	05/26/06	71 FR 29882
Order and FNPRM Comment Period End.	08/22/06	
Report and Order	05/15/09	74 FR 23955
R&O	05/25/10	75 FR 30301
R&O	05/27/11	76 FR 30840
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ted Burmeister, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7389, *Email: theodore.burmeister@fcc.gov.*

RIN: 3060–AJ06

511. Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering (WC Docket Nos. 08–190, 07–139, 07–204, 07–273, 07–21)

Legal Authority: 47 U.S.C. 151 to 155; 47 U.S.C. 160 and 161; 47 U.S.C. 20 to 205; 47 U.S.C. 215; 47 U.S.C. 218 to 220; 47 U.S.C. 251 to 271; 47 U.S.C. 303(r) and 332; 47 U.S.C. 403; 47 U.S.C. 502 and 503

Abstract: This NPRM tentatively proposes to collect infrastructure and operating data that is tailored in scope to be consistent with Commission objectives from all facilities-based providers of broadband and telecommunications. Similarly, the NPRM also tentatively proposes to collect data concerning service quality and customer satisfaction from all facilities-based providers of broadband and telecommunications. The NPRM seeks comment on the proposals, on the specific information to be collected, and on the mechanisms for collecting information.

Timetable:

Action	Date	FR Cite
NPRM	10/15/08	73 FR 60997
NPRM Comment Period End.	11/14/08	
Reply Comment Period End.	12/15/08	
NPRM	02/28/11	76 FR 12308
NPRM Comment Period End.	03/30/11	
Reply Comment Period End.	04/14/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cathy Zima, Deputy Chief, Industry Analysis Div., WCB, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7380, *Fax:* 202 418–6768, *Email: cathy.zima@fcc.gov.*

RIN: 3060–AJ14

512. Form 477; Development of Nationwide Broadband Data To Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans

Legal Authority: 15 U.S.C. 251; 47 U.S.C. 252; 47 U.S.C. 257; 47 U.S.C. 271; 47 U.S.C. 1302; 47 U.S.C. 160(b); 47 U.S.C. 161(a)(2)

Abstract: The NPRM seeks comment on streamlining and reforming the Commission's Form 477 Data Program which is the Commission's primary tool to collect data on broadband and telephone services.

Timetable:

Action	Date	FR Cite
NPRM	05/16/07	72 FR 27519
Order	07/02/08	73 FR 37861
Order	10/15/08	73 FR 60997
NPRM	02/08/11	76 FR 10827
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Carol Simpson, Deputy Chief, Policy Division, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2391, *Fax:* 202 418–2816, *Email: carol.simpson@fcc.gov.*

RIN: 3060–AJ15

513. Preserving the Open Internet; Broadband Industry Practices

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152; 47 U.S.C. 154 (i)–(j); 47 U.S.C. 201(b)

Abstract: In 2009, the FCC launched a public process to determine whether and what actions might be necessary to preserve the characteristics that have allowed the Internet to grow into an indispensable platform supporting our nation's economy and civic life. After receiving input from more than 100,000 individuals and organizations and several public workshops, this process has made clear that the Internet has thrived because of its freedom and openness—the absence of any gatekeeper blocking lawful uses of the network or picking winners and losers online. The Open Internet Order builds on the bipartisan Internet Policy Statement the Commission adopted in 2005. The Order requires that all broadband providers are required to be transparent by disclosing their network management practices, performance, and commercial terms; fixed providers may not block lawful content, applications, services, or non-harmful devices; fixed providers may not unreasonably discriminate in transmitting lawful network traffic; mobile providers may not block access to lawful Web sites, or applications that compete with their voice or video telephony services; and all providers may engage in "reasonable network management," such as managing the network to address congestion or security issues. The rules do not prevent broadband providers from offering specialized services, such as facilities-based VoIP; do not prevent providers from blocking unlawful content or unlawful transfers of content; and do not supersede any obligation or authorization a provider may have to address the needs of emergency communications or law enforcement, public safety, or national security authorities.

Timetable:

Action	Date	FR Cite
NPRM	11/30/09	74 FR 62638
NPRM Comment Period End.	04/26/10	
Public Notice	09/10/10	75 FR 55297
Comment Period End.	11/04/10	
Order	09/23/11	76 FR 59192
OMB Approval Notice.	09/21/11	76 FR 58512
Rules Effective	11/20/11	
Public Notice Petition for Recon.	11/14/11	76 FR 74721
Comment Period End.	12/27/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: R. Matthew Warner, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2419, *Email: matthew.warner@fcc.gov.*

RIN: 3060–AJ30

514. Local Number Portability Porting Interval and Validation Requirements (WC Docket No 07–244)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 251; 47 U.S.C. 303(r)

Abstract: In 2007, the Commission released a Notice of Proposed Rulemaking in WC Docket No. 07–244. The Notice sought comment on whether the Commission should adopt rules specifying the length of the porting intervals or other details of the porting process. It also tentatively concluded that the Commission should adopt rules reducing the porting interval for wireline-to-wireline and intermodal simple port requests, specifically, to a 48-hour porting interval.

In the Local Number Portability Porting Interval and Validation Requirements First Report and Order and Further Notice of Proposed Rulemaking, released on May 13, 2009, the Commission reduced the porting interval for simple wireline and simple intermodal port requests, requiring all entities subject to its local number portability (LNP) rules to complete simple wireline-to-wireline and simple intermodal port requests within one business day. In a related Further Notice of Proposed Rulemaking (FNPRM), the Commission sought comment on what further steps, if any, the Commission should take to improve the process of changing providers.

In the LNP Standard Fields Order, released on May 20, 2010, the Commission adopted standardized data fields for simple wireline and intermodal ports. The Order also adopts the NANC's recommendations for porting process provisioning flows and for counting a business day in the context of number porting.

Timetable:

Action	Date	FR Cite
NPRM	02/21/08	73 FR 9507
R&O and FNPRM	07/02/09	74 FR 31630
R&O	06/22/10	75 FR 35305
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Melissa Kirkel, Attorney—Advisor, WCB, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7958, *Fax:* 202 418–1413, *Email: melissa.kirkel@fcc.gov.*

RIN: 3060–AJ32

515. Electronic Tariff Filing System (ETFS); WC Docket No. 10–141

Legal Authority: 47 U.S.C. 151 and 154; 47 U.S.C. 201 to 205; 47 U.S.C. 218 and 222; 47 U.S.C. 225 to 226; 47 U.S.C. 228 and 254; 47 U.S.C. 403

Abstract: Section 402(b)(1)(A)(iii) of the Telecommunications Act of 1996 added section 204(a)(3) to the Communications Act of 1934, as amended, providing for streamlined tariff filings by local exchange carriers. On September 6, 1996, in an effort to meet the goals of the 1996 Act, the Commission released the Tariff Streamlining NPRM, proposing measures to implement the tariff streamlining requirements of section 204(a)(3). Among other suggestions, the Commission proposed requiring LECs to file tariffs electronically.

The Commission began implementing the electronic filing of tariffs on January 31, 1997, when it released the Streamlined Tariff Order. On November 17, 1997, the Bureau made this electronic system, known as the Electronic Tariff Filing System, available for voluntary filing by incumbent LECs. The Bureau also announced that the use of ETFS would become mandatory for all incumbent LECs in 1998.

On May 28, 1998, in the ETFS Order, the Bureau established July 1, 1998, as the date after which incumbent LECs would be required to use ETFS to file tariffs and associated documents. The Commission deferred consideration of establishing mandatory electronic filing for non-incumbent LECs until the conclusion of a proceeding considering the mandatory detariffing of interstate long distance services.

On June 9, 2011, the Commission adopted rule revisions to require all tariff filiers to file tariffs using ETFS. Carriers were given a 60 day window in order to make their initial filings on ETFS. On October 13, 2011, the Commission announced that all tariff filiers should file their initial Base Document and/or Informational Tariff using the ETFS between November 17, 2011 and January 17, 2012. After January 17, 2012, all carriers would be required to use ETFS on a going forward basis to file their tariff documents.

Timetable:

Action	Date	FR Cite
NPRM	08/11/10	75 FR 48629
NPRM Comment Period End.	09/10/10	
NPRM Reply Comment Period End.	09/27/10	
Report and Order	07/20/11	76 FR 43206
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Pamela Arluk, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1540, Email: *pamela.arluk@fcc.gov.*

RIN: 3060–AJ41

516. Implementation of Section 224 of the Act; A National Broadband Plan for Our Future; WC Docket No. 07–245, GN Docket No. 09–51

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i0; 47 U.S.C. 154(j); 47 U.S.C. 224

Abstract: In 2010, the Commission released an Order and Further Notice of Proposed Rulemaking which implemented certain pole attachment recommendations of the National Broadband Plan and sought comment with regard to others. On April 7, 2011, the Commission adopted a Report and Order and Order on Reconsideration that sets forth a comprehensive regulatory scheme for access to poles, and modifies existing rules for pole attachment rates and enforcement.

Timetable:

Action	Date	FR Cite
NPRM	02/06/08	73 FR 6879
FNPRM	07/15/10	75 FR 41338
Declaratory Ruling	08/03/10	75 FR 45494
R&O	05/09/11	76 FR 26620
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jonathan Reel, Attorney Advisor, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0637, *Email: jonathan.reel@fcc.gov.*

RIN: 3060–AJ64

[FR Doc. 2012–31514 Filed 1–7–13; 8:45 am]

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Part XXII

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is hereby publishing items for the fall 2012 Unified Agenda of Federal Regulatory and Deregulatory Actions. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. Unless otherwise noted, the address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

Proposed Rules

Margin and Capital Requirements for Covered Swap Entities (3064–AD79)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Farm Credit Administration and the Federal Housing Finance Agency (collectively the "Agencies") are reopening the comment period for the proposed rule published in the **Federal Register** on May 11, 2011 (76 FR 27564) to establish minimum margin and capital requirements for uncleared swaps and security-based swaps entered into by 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 ("Proposed Margin Rule"). Reopening the comment period that expired on July 11, 2011 will allow interested persons additional time to analyze and comment on the Proposed Margin Rule in light of the consultative document on margin requirements for non-centrally-cleared derivatives recently published for comment by the Basel Committee on Banking Supervision and the International Organization of Securities Commissions.

Regulatory Capital Rules (Part 1): Regulatory Capital, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions (3064–AD95)

The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively the "Agencies"), are seeking comment on three Notices of Proposed Rulemaking ("NPR") that would revise and replace the agencies' current capital rules. In this NPR, the agencies are proposing to revise their risk-based and leverage capital requirements consistent with agreements reached hy the Basel Committee on Banking Supervision in Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems. The proposed revisions would include implementation of a new common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for banking organizations subject to the advanced approaches capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator measure. Additionally, consistent with Basel III, the agencies are proposing to apply 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 requirements. This NPR also would establish more conservative standards for including an instrument in regulatory capital. As discussed in the proposal, the revisions set forth in this NPR are consistent with section 171 of the Dodd-Frank Wall Street Reform and Consumer Protection Act which requires the agencies to establish minimum risk-based and leverage capital requirements.

Regulatory Capital Rules (Part 2): Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements (3064–AD96)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the "Agencies") are seeking comment on three notices of proposed rulemaking ("NPRs") that would revise and replace the Agencies' current capital rules.

This NPR ("Standardized Approach NPR") includes proposed changes to the agencies' general risk-based capital requirements for determining risk-weighted assets (that is, the calculation of the denominator of a banking organization's risk-based capital ratios). The proposed changes would revise and harmonize the agencies' rules of calculating risk-weighted assets to enhance risk-sensitivity and address weaknesses identified over recent years, including by incorporating certain international capital standards of the Basel Committee on Banking Supervision ("BCBS") set forth in the standardized approach of the "International Convergence of Capital Measurement and Capital Standards: A revised Framework" (Basel II), as revised by the BCBS between 2006 and 2009, and other proposals addressed in recent consultative papers of the BCBS.

In this NPR, the Agencies also propose alternatives to credit ratings for calculating risk-weighted assets for certain assets, consistent with section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The revisions include methodologies for determining risk-weighted assets for residential mortgages, securitization exposures, and counterparty credit risk. The changes in the Standardized Approach NPR are proposed to take effect on January 1, 2015, with an option for early adoption. The Standardized Approach NPR also would introduce disclosure requirements that would apply to top-tier banking organizations domiciled in the United States with $50 billion or more in total assets, including disclosures related to regulatory capital instruments.

Regulatory Capital Rules (Part 3): Advanced Approaches Risk-Based Capital Rules; Market Risk Capital Rule (3064–AD97)

The Office of the Comptroller of the Currency (the "OCC"), Board of Governors of the Federal Reserve System (the "Board"), and the Federal Deposit Insurance Corporation (the "FDIC") (collectively, the "Agencies") are seeking comment on three notices of proposed rulemaking ("NPRs") that would revise and replace the agencies' current capital rules.

In this NPR ("Advanced Approaches and Market Risk NPR") the Agencies are proposing to revise the advanced approaches risk-based capital rule to incorporate certain aspects of "Basel III:

A Global Regulatory Framework for More Resilient Banks and Banking Systems" that the Agencies would apply only to advanced approach banking organizations. This NPR also proposes other changes to the advanced approaches rule that the Agencies believe are consistent with changes by the Basel Committee on Banking Supervision ("BCBS") to its "International Convergence of Capital Measurement and Capital Standards: A Revised Framework," as revised by the BCBS between 2006 and 2009, and recent consultative papers published by the BCBS. The Agencies also propose to revise the advanced approaches risk-based capital rule to be consistent with Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act"). These revisions include replacing reference to credit ratings with alternative standards of creditworthiness consistent with section 939A of the Dodd-Frank Act.

Additionally, the OCC and FDIC are proposing that the market risk capital rule be applicable to federal and state savings associations, and the Board is proposing that the advanced approaches and market risk capital rules apply to top-tier savings and loan holding companies domiciled in the United States that meet the applicable thresholds. In addition, this NPR would codify the market risk rule consistent with the proposed codification of the other regulatory capital rules across the three proposals.

Final Rule

Credit Risk Retention (3064–AD74)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the U.S. Securities and Exchange Commission, the Federal Housing Finance Agency, and the Department of Housing and Urban Development (collectively the "Agencies") are proposing rules to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934 (15 U.S.C. 78o–11), as added by section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 15G generally requires the securitizer of asset-backed securities to retain not less than five 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.

Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds (3064–AD85)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and U.S. Securities and Exchange Commission requested comment on a proposed rule that would implement Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") which contains certain prohibitions and restrictions on the ability of a banking entity and nonbank financial company supervised by the Board to engage in proprietary trading and have certain interests in, or relationships with, a hedge fund or private equity fund.

Incentive-Based Compensation Arrangements (3064–AD86)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the U.S. Securities Exchange Commission, and the Fair Housing Finance Agency (collectively the "Agencies") proposed a rule to implement section 956 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The rule would require the reporting of incentive-based compensation arrangements by a covered financial institution and prohibit incentive-based compensation arrangements at a covered financial institution that provide excessive compensation or that could expose the institution to inappropriate risks that could lead to material financial loss.

Assessments, Large Bank Pricing (3064–AD92)

On February 7, 2011, the Board adopted a final rule that amended its assessment regulations, by, among other things, establishing a new methodology for determining assessment rates for large and highly complex institutions. The rule uses a scorecard method to determine large or highly complex institution's assessment rate. One of the financial ratios used in the scorecard is the ratio of higher-risk assets to Tier 1 capital and reserves. Higher-risk assets were defined as the sum of construction and land development ("C&D") loans, leveraged loans, subprime loans, and nontraditional mortgage loans. In developing the definition of higher-risk assets, the FDIC used existing interagency guidance to define leveraged loans, nontraditional mortgage loans, and subprime loans, but refined the definitions to ensure consistency in reporting. In arriving at these definitions, the FDIC took into account comments that were received in response to the two notices of proposed rulemaking that led to adoption of the February 2011 rule.

While institutions already reported C&D loan data in their quarterly reports of condition and income (the "Call Reports"), they did not report the data for the other loans, thus requiring new line items in these reports. Therefore, the February 2011 rule required a Paperwork Reduction Act of 1995 ("PRA") notice requesting comment on proposed revisions to the reports that would provide the data needed by the FDIC to implement the rule beginning with the June 30, 2011 report date (the "March 2011 PRA notice").

Commenters on the March 2011 PRA notice raised concerns about their ability to report subprime and leveraged loan data consistent with the definitions used in the February 2011 rule. They also stated that they would be unable to report the required data by the June 30, 2011 report date. These data concerns had not been raised during the rulemaking process leading up to the February 2011 rule.

As a consequence of this unexpected difficulty, the FDIC issued guidance to large and highly complex institutions instructing them to identify and report subprime and leveraged loans and securitizations using either their existing internal methodologies or the definitions in existing supervisory guidance for a transition period. During the transition period, the FDIC would review the definitions of subprime and leveraged loans to determine whether changes to the definitions would alleviate commenters concerns without sacrificing accuracy in determining risk for deposit insurance pricing purposes.

As part of the review, staff considered all comments related to the higher-risk asset definitions submitted in response to the March 2011 PRA notice and a later July 2011 PRA notice. Staff also engaged in extensive discussions with bankers and industry trade groups to better understand their concerns and to solicit potential solutions to these concerns. As a result, the Board issued a notice of proposed rulemaking on March 20, 2012 (the "NPR") on which this final rule is based.

While the FDIC received only 14 comment letters on the NPR, some of the comments were extensive and detailed. The final rule generally

follows the proposal in the NPR, but makes some changes that reflect these comments. The goal of the final rule is to ensure that the assessment system captures the risk inherent in higher-risk assets without imposing unnecessary reporting burden.

Long Term Actions

Recordkeeping Rules for Institutions Operating Under the Exceptions or Exemptions for Banks From the Definitions of "Broker" or "Dealer" in the Securities Exchange Act of 1934 (3064–AD80)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation requested comment on recordkeeping rules for banks, savings associations, federal and state-licensed branches and agencies of foreign banks, and Edge and agreement corporations that engage in securities-related activities under the statutory exceptions or regulatory exemptions for "banks" from the definitions of "broker" or "dealer" in section 3(a)(4)(B) or section 3(a)(5) of the Securities Exchange Act of 1934. The rule is designed to facilitate and promote compliance with these exceptions and exemptions.

Completed Actions

Risk-Based Capital Guidelines; Market Risk; Alternatives to Credit Ratings for Debt and Securitization Positions (3064–AD70)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation are revising their market risk capital rules to better capture positions for which the market risk capital rules are appropriate; reduce procyclicality; enhance the rules' sensitivity to risks that are not adequately captured under current methodologies; and increase transparency through enhanced disclosures. The final rules do not include all of the methodologies adopted by the Basel Committee on Banking Supervision for calculating the standardized specific risk capital requirements for debt and securitization positions due to their reliance on credit ratings, which is impermissible under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Instead, the final rule includes alternative methodologies for calculating standardized specific risk capital requirements for debt and securitization positions.

Transfer and Redesignation of Certain Regulations Involving State Savings Associations Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (3064–AD82)

Consistent with the authority provided to the Federal Deposit Insurance Corporation (the "FDIC") by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, and other statutory authorities, the FDIC is reissuing and redesigning certain transferring Office of Thrift Supervision ("OTS") regulations currently found in title 12, chapter V of the Code of Federal Regulations. In republishing these rules, the FDIC is making only technical changes to existing OTS regulations (such as nomenclature or address changes), and eliminating those OTS regulations for which other appropriate Federal banking agencies are authorized to act. In the future, the FDIC may take other actions related to the transferred rules: incorporating them into other FDIC regulations contained in title 12, chapter III, amending them, or rescinding them, as appropriate.

Disclosure of Information; Privacy Act Regulations; Notice and Amendments (3064–AD83)

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") abolished the Office of Thrift Supervision ("OTS") and redistributed, as of July 21, 2011, the statutorily prescribed transfer date ("Transfer Date"), the functions and regulations of the OTS relating to savings and loan holding companies, Federal savings associations, and State savings associations to the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (the "FDIC"), respectively. The FDIC has determined that, effective on the Transfer Date, the OTS Freedom of Information Act ("FOIA") and Privacy Act ("PA") regulations will not be enforced by the FDIC and that, instead, all FOIA and PA issues will be addressed under the FDIC's regulations involving disclosure of information and the PA, as amended. In taking this action the FDIC's goal is to avoid potential confusion and uncertainty that may arise regarding information concerning State savings associations after the Transfer Date.

Calculation of Maximum Obligation Limitation (3064–AD84)

The Federal Deposit Insurance Corporation and the Departmental Offices of the Department of the Treasury are issuing the final rule to implement applicable provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"). The Final Rule governs the calculation of the maximum obligation limitation ("MOL"), as specified in the Dodd-Frank Act. The MOL limits the aggregate amount of outstanding obligations that the FDIC may issue or incur in connection with the orderly liquidation of a covered financial company.

Permissible Investments for Federal and State Savings Associations: Corporate Debt Securities (3064–AD88)

This final rule amends Federal Deposit Insurance Corporation ("FDIC") regulations to prohibit any insured savings association from acquiring or retaining a corporate debt security unless it determines, prior to acquiring such security and periodically thereafter, that the issuer has adequate capacity to meet all financial commitments under the security for the projected life of the investment. An issuer would satisfy this requirement if, based on the assessment of the savings association, the issuer presents a low risk of default and is likely to make full and timely repayment of principal and interest. This final rule adopts the proposed creditworthiness standard with the clarifying revision described below. In the final rule, the phrase "projected life of the investment" has been revised to "projected life of the security" to more closely track the language in the Office of the Comptroller of the Currency's ("OCC") final rule. The clarifying revision addresses ambiguities in the proposed rule and harmonizes the final rule with the final rule adopted by the OCC regarding permissible investments for national banks.

Mutual Insurance Holding Company Treated as Insurance Company (3064–AD89)

The Federal Deposit Insurance Corporation (the "FDIC") is issuing a final rule that treats a mutual insurance holding company as an insurance company for purposes of Section 203(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"). The final rule clarifies that the liquidation and rehabilitation of a covered financial company that is a mutual insurance holding company will be conducted in the same manner as an insurance company. The final rule harmonizes the treatment of mutual insurance holding companies under Section 203(e) of the Dodd-Frank Act. The comment period for the NPR closed on February 13,

2012, and the FDIC received four comment letters. Additionally, the FDIC held a conference call with representatives of the National Association of Insurance Commissioners on January 17, 2012 and received their comments on the NPR. In light of the comments received and pursuant to the authority granted to it by section 209 of the Dodd-Frank Act, the FDIC is issuing the Final Rule.

Annual Stress Test (3064–AD91)

The Federal Deposit Insurance Corporation (the "Corporation") is issuing a final rule that implements the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") regarding stress tests. The Dodd-Frank Act requires the Corporation to issue regulations that require FDIC-insured state nonmember banks and FDIC-insured state-chartered savings associations with total consolidated assets of more than $10 billion to conduct annual stress tests, report the results of such stress tests to the Corporation and the Board of Governors of the Federal Reserve System, and publish a summary of the results of the stress tests. The final rule requires large covered banks to conduct annual stress tests beginning on the effective date of this final rule. The Corporation, however, will delay implementation of the annual stress test requirements under the final rule for institutions with total consolidated assets of more than $10 billion but less than $50 billion until September 30, 2013. The final rule requirement for public disclosure of a summary of the stress testing results for these institutions will be implemented starting with the 2014 stress test, with the disclosure occurring during the period starting June 15 and ending June 30 of 2015.

Qualified Financial Contracts Recordkeeping (3064–AD93)

The U.S. Commodity Futures Trading Commission, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation ("FDIC"), the U.S. Securities and Exchange Commission, and the Federal Housing Finance Agency (collectively the "Agencies" or "primary financial regulatory agencies") are proposing rules to implement the qualified financial contract recordkeeping requirements of section 210(c)(8)(H) of the Dodd Frank Wall Street Reform and Consumer Protection Act (the "Act" or the "Dodd Frank Act"). Section 210(c)(8)(H) provides that, within 24 months of the enactment of the Act, the Agencies must jointly prescribe regulations that require financial companies to maintain such records with respect to qualified financial contracts (as defined in section 210(c)(8) of the Act) as necessary or appropriate to assist the FDIC as receiver for a covered financial company to exercise its rights and fulfill its obligations under the Act. The proposed rules will state recordkeeping requirements with respect to position-level data, counterparty level data, legal documentation data and collateral level data. These data are necessary to enable the FDIC to: (a) Comply with section 210(c)(9) and (10) of the Act in transferring qualified financial contracts; (b) assess the consequences of decisions to transfer, disaffirm or allow the termination of qualified financial contracts with one or more counterparties, and; (c) determine if any systemic risks are posed by the transfer, disaffirmance, or termination of such qualified financial contracts. The recordkeeping requirements of the proposed rule have been informed by the FDIC's experience with both large and small portfolios of qualified financial contracts and its review of large portfolios of insured depository institutions that were in troubled condition during the recent financial crisis.

Enforcement of Subsidiary and Affiliate Contracts by the FDIC as Receiver of a Covered Financial Company (3064–AD94)

The Federal Deposit Insurance Corporation (the "Corporation") is issuing a Final Rule that implements section 210(c)(16) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, codified at 12 U.S.C. section 5390(c)(16), which permits the Corporation, as receiver for a financial company whose failure would pose a significant risk to the financial stability of the United States, to enforce contracts of subsidiaries or affiliates of the covered financial company despite contract clauses that purport to terminate, accelerate or provide for other remedies based on the insolvency, financial condition or receivership of the covered financial company. As a condition to maintaining these subsidiary or affiliate contracts in full force and effect, the Corporation as receiver must either: (1) transfer any supporting obligations of the covered financial company that back the obligations of the subsidiary or affiliate under the contract (along with all assets and liabilities that relate to those supporting obligations) to a bridge financial company or qualified third-party transferee by the statutory one-business-day deadline; or (2) provide adequate protection to such contract counterparties. The Final Rule sets forth the scope and effect of the authority granted under section 210(c)(16), clarifies the conditions and requirements applicable to the receiver, addresses requirements for notice to certain affected counterparties and defines key terms.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

FEDERAL DEPOSIT INSURANCE CORPORATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
517	12 CFR 324 Regulatory Capital Rules (Part I): Regulatory Capital, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions.	3064–AD95
518	12 CFR 324 Regulatory Capital Rules (Part III): Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements.	3064–AD96
519	12 CFR 324 Regulatory Capital Rules (Part 3): Advanced Approaches Risk-Based Capital Rules; Market Risk Capital Rule.	3064–AD97

FEDERAL DEPOSIT INSURANCE CORPORATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
520	12 CFR 342 Recordkeeping Rules for Institutions Operating Under the Exceptions or Exemptions for Banks From the Definitions of "Broker" or "Dealer" in the Securities Exchange Act of 1934.	3064–AD80

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

Final Rule Stage

517. • Regulatory Capital Rules (Part I): Regulatory Capital, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions

Legal Authority: Pub. L. 111—203

Abstract: The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively the "Agencies"), are seeking comment on three Notices of Proposed Rulemaking ("NPRM") that would revise and replace the Agencies' current capital rules. In this NPRM, the Agencies are proposing to revise their risk-based and leverage capital requirements consistent with agreements reached by the Basel Committee on Banking Supervision in Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems. The proposed revisions would include implementation of a new common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for banking organizations subject to the advanced approaches capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator measure.

Additionally, consistent with Basel III, the Agencies are proposing to apply 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 requirements. This NPRM also would establish more conservative standards for including an instrument in regulatory capital. As discussed in the proposal, the revisions set forth in this NPRM are consistent with section 171 of the Dodd-Frank Wall Street Reform and Consumer Protection Act which requires the Agencies to establish minimum risk-based and leverage capital requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/30/12	77 FR 169
NPRM Comment Period End.	10/22/12	
Final Rule	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Bobby R. Bean, Chief, Policy Section, Federal Deposit Insurance Corporation, Washington, DC 20429, *Phone:* 202 898–3575.

Mark Handzlik, Senior Attorney, Federal Deposit Insurance Corporation, Washington, DC 20429, *Phone:* 202 898–3900.

Michael Phillips, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, *Phone:* 202 898–3581.

RIN: 3064–AD95

518. • Regulatory Capital Rules (Part III): Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements

Legal Authority: Pub. L. 111–203

Abstract: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the Agencies) are seeking comment on three notices of proposed rulemaking (NPRM) that would revise and replace the agencies' current capital rules.

This NPRM (Standardized Approach NPRM) includes proposed changes to the Agencies' general risk-based capital requirements for determining risk-weighted assets (that is, the calculation of the denominator of a banking organization's risk-based capital ratios). The proposed changes would revise and harmonize the Agencies' rules of calculating risk-weighted assets to enhance risk-sensitivity and address weaknesses identified over recent years, including by incorporating certain international capital standards of the Basel Committee on Banking Supervision (BCBS) set forth in the standardized approach of the "International Convergence of Capital Measurement and Capital Standards: A Revised Framework" (Basel II), as revised by the BCBS between 2006 and 2009, and other proposals addressed in recent consultative papers of the BCBS.

In this NPRM, the Agencies also propose alternatives to credit ratings for calculating risk-weighted assets for certain assets, consistent with section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The revisions include methodologies for determining risk-weighted assets for residential mortgages, securitization exposures, and counterparty credit risk. The changes in the Standardized Approach NPRM are proposed to take effect on January 1, 2015, with an option for early adoption. The Standardized Approach NPRM also would introduce disclosure requirements that would apply to top-tier banking organizations domiciled in the United States with $50 billion or more in total assets, including disclosures related to regulatory capital instruments.

Timetable:

Action	Date	FR Cite
NPRM	08/30/12	77 FR 52887
Comment Period Extended 11/16/2012.	10/17/12	77 FR 63763
NPRM Comment Period End 10/22/2012.	10/22/12	
Final Rule	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Bobby R. Bean, Chief, Policy Section, Federal Deposit Insurance Corporation, Washington, DC 20429, *Phone:* 202 898–3575.

Karl Reitz, Senior Capital Markets Specialist, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, *Phone:* 202 898–6775, *Email: kreitz@fdic.gov.*

Mark Handzlik, Senior Attorney, Federal Deposit Insurance Corporation, Washington, DC 20429, *Phone:* 202 898–3900.

Michael Phillips, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, *Phone:* 202 898–3581.

RIN: 3064–AD96

519. • Regulatory Capital Rules (Part 3): Advanced Approaches Risk-Based Capital Rules; Market Risk Capital Rule

Legal Authority: Pub. L. 111–203

Abstract: The Office of the Comptroller of the Currency (the "OCC"), Board of Governors of the Federal Reserve System (the "Board"), and the Federal Deposit Insurance Corporation (the "FDIC") (collectively, the "Agencies") are seeking comment on three notices of proposed rulemaking (NPRMs) that would revise and replace the Agencies' current capital rules.

In this NPRM (Advanced Approaches and Market Risk NPR) the Agencies are proposing to revise the advanced approaches risk-based capital rule to incorporate certain aspects of "Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems" that the agencies would apply only to advanced approach banking organizations. This NPRM also proposes other changes to the advanced approaches rule that the agencies believe are consistent with changes by the Basel Committee on Banking Supervision ("BCBS") to its "International Convergence of Capital Measurement and Capital Standards: A Revised Framework" (Basel II), as revised by the BCBS between 2006 and 2009, and recent consultative papers published by the BCBS. The Agencies also propose to revise the advanced approaches risk-based capital rule to be consistent with Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act"). These revisions include replacing reference to credit ratings with alternative standards of creditworthiness consistent with section 939A of the Dodd-Frank Act.

Additionally, the OCC and FDIC are proposing that the market risk capital rule be applicable to federal and state savings associations, and the Board is proposing that the advanced approaches and market risk capital rules apply to top-tier savings and loan holding companies domiciled in the United States that meet the applicable thresholds. In addition, this NPRM would codify the market risk rule consistent with the proposed codification of the other regulatory capital rules across the three proposals.

Timetable:

Action	Date	FR Cite
NPRM	08/30/12	77 FR 52977
NPRM Comment Period End 10/22/2012.	10/22/12	
Final Rule	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Bobby R. Bean, Chief, Policy Section, Federal Deposit Insurance Corporation, Washington, DC 20429, *Phone:* 202 898–3575.

Ryan Billingsley, Senior Policy Analyst, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, *Phone:* 202 898–3797, *Email: rbillingsley@fdic.gov.*

Mark Handzlik, Senior Attorney, Federal Deposit Insurance Corporation, Washington, DC 20429, *Phone:* 202 898–3900.

Michael Phillips, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, *Phone:* 202 898–3581.

RIN: 3064–AD97

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

Long-Term Actions

520. Recordkeeping Rules for Institutions Operating Under the Exceptions or Exemptions for Banks From the Definitions of "Broker" or "Dealer" in the Securities Exchange Act of 1934

Legal Authority: 12 U.S.C. 1818; 12 U.S.C. 1819 (Tenth); 12 U.S.C. 1828(t)

Abstract: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation requested comment on recordkeeping rules for banks, savings associations, federal and state-licensed branches and agencies of foreign banks, and Edge and agreement corporations that engage in securities-related activities under the statutory exceptions or regulatory exemptions for "banks" from the definitions of "broker" or "dealer" in section 3(a)(4)(B) or section 3(a)(5) of the Securities Exchange Act of 1934. The rule is designed to facilitate and promote compliance with these exceptions and exemptions.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Phillips, *Phone:* 202 898–3581.

RIN: 3064–AD80

[FR Doc. 2012–31515 Filed 1–7–13; 8:45 am]

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Part XXIII

Federal Reserve System

Semiannual Regulatory Agenda

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period November 1, 2012 through April 30, 2013. The next agenda will be published in spring 2013.

DATES: Comments about the form or content of the agenda may be submitted any time during the next six months.

ADDRESSES: Comments should be addressed to Robert de V. Frierson, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its fall 2012 agenda as part of the Fall 2012 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda also identifies rules the Board has selected for review under section 610(c) of the Regulatory Flexibility Act, and public comment is invited on those entries. The complete Unified Agenda will be available to the public at the following Web site: *www.reginfo.gov*. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into four sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next six months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Long-Term Actions, reports on matters that have been proposed and are under Board consideration, but a completion date has not been determined. And a fourth section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further.

A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda.

Margaret McCloskey Shanks,
Associate Secretary of the Board.

FEDERAL RESERVE SYSTEM—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
521	Regulation CC—Availability of Funds and Collection of Checks (Docket No. R–1408)	7100–AD68
522	Regulation NN—Retail Foreign Exchange Transactions (Docket No. R–1428)	7100–AD79

FEDERAL RESERVE SYSTEM—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
523	Regulations H and Y—Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, and Transition Provisions. (Docket No. R–1442).	7100–AD87
524	Regulation LL—Savings and Loan Holding Companies and Regulation MM—Mutual Holding Companies (Docket No. R–1429).	7100–AD80

FEDERAL RESERVE SYSTEM—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
525	Regulation KK—Margin and Capital Requirements for Covered Swap Entities (Docket No. R–1415)	7100–AD74

FEDERAL RESERVE SYSTEM—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
526	Regulations H and Y—Regulatory Capital Rules: Standardized Approach for Risk-weighted Assets; Market Discipline and Disclosure Requirements (Docket No. R–1443).	7100–AD88
527	Regulations H and Y—Regulatory Capital Rules: Advanced Approaches Risk-based Capital Rule; Market Risk Capital Rule (Docket No. R–1444).	7100–AD89
528	Regulation OO—Securities Holding Companies (Docket No. R–1430)	7100–AD81

FEDERAL RESERVE SYSTEM (FRS)

Proposed Rule Stage

521. Regulation CC—Availability of Funds and Collection of Checks (Docket No. R–1408)

Legal Authority: 12 U.S.C. 4001 to 4010; 12 U.S.C. 5001 to 5018

Abstract: The Federal Reserve Board (the Board) proposed amendments to Regulation CC to facilitate the banking industry's ongoing transition to fully electronic interbank check collection and return, including proposed amendments to condition a depositary bank's right of expeditious return on the depositary bank agreeing to accept returned checks electronically either directly or indirectly from the paying bank. The Board also proposed amendments to the funds availability schedule provisions to reflect the fact that there are no longer any nonlocal checks. The Board proposed to revise the model forms in appendix C that banks may use in disclosing their funds availability policies to their customers and to update the preemption determinations in appendix F. Finally, the Board requested comment on whether it should consider future changes to the regulation to improve the check collection system, such as decreasing the time afforded to a paying bank to decide whether to pay a check in order to reduce the risk to a depositary bank of needing to make funds available for withdrawal before learning whether a deposited check has been returned unpaid.

Timetable:

Action	Date	FR Cite
Board Requested Comment.	03/25/11	76 FR 16862
Board Expects Further Action.	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dena Milligan, Attorney, Federal Reserve System, Legal Division, *Phone:* 202 452–3900.

RIN: 7100–AD68

522. Regulation NN—Retail Foreign Exchange Transactions (Docket No. R–1428)

Legal Authority: 7 U.S.C. 2(i)(2)(E); 12 U.S.C. 248; 12 U.S.C. 321 to 338; 12 U.S.C. 1818; 12 U.S.C. 3108; * * *

Abstract: The Federal Reserve Board is publishing for comment a regulation to permit banking organizations under its supervision to engage in off-exchange transactions in foreign currency with retail customers. Section 2(c)(2)(E) of the Commodity Exchange Act, as amended by the Dodd-Frank Act, requires U.S. financial institutions to effect these transactions only pursuant to rules adopted by their Federal regulatory authority.

Timetable:

Action	Date	FR Cite
Board Requested Comment.	08/03/11	76 FR 46652
Board Expects Further Action.	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Scott J. Holz, Senior Counsel, Federal Reserve System, Legal Division, *Phone:* 202 452–2966.

RIN: 7100–AD79

FEDERAL RESERVE SYSTEM (FRS)

Final Rule Stage

523. • Regulations H and Y—Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, and Transition Provisions (Docket No. R–1442)

Legal Authority: 12 U.S.C. 24; 12 U.S.C. 36; 12 U.S.C. 92a; 12 U.S.C. 93a; * * *

Abstract: In this Notice of Proposed Rulemaking (NPRM), the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation, (the Agencies) are proposing to revise their risk-based and leverage capital requirements consistent with agreements reached by the Basel Committee on Banking Supervision (BCBS) in "Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems" (Basel III). The proposed revisions would include implementation of a new common equity tier I minimum capital requirement, a higher minimum tier I capital requirement, and, for banking organizations subject to the advanced approaches capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator measure. Additionally, consistent with Basel III, the Agencies are proposing to apply 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 I capital above the amount necessary to meet its minimum risk-based capital requirements. This NPRM also would establish more conservative standards for including an instrument in regulatory capital. As discussed in the proposal, the revisions set forth in this NPRM are consistent with section 171 of the Dodd-Frank Act, which requires the Agencies to establish minimum risk-based and leverage capital requirements.

Timetable:

Action	Date	FR Cite
Board Requested Comment.	08/30/12	77 FR 53059
Board Expects Further Action.	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Anna Lee Hewko, Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation, *Phone:* 202 530–6260.

RIN: 7100–AD87

524. Regulation LL—Savings and Loan Holding Companies and Regulation MM—Mutual Holding Companies (Docket No. R–1429)

Legal Authority: 5 U.S.C. 552; 5 U.S.C. 559; 5 U.S.C. 1813; 5 U.S.C. 1817; 5 U.S.C. 1828; * * *

Abstract: The Dodd-Frank Act Wall Street Reform and Consumer Protection Act (the Act) transferred responsibility for supervision of Savings and Loan Holding Companies (SLHCs) and their non-depository subsidiaries from the Office of Thrift Supervision (OTS) to the Board of Governors of the Federal Reserve System (Board), on July 21, 2011. The Act also transferred supervisory functions related to Federal savings associations and State savings associations to the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC), respectively.

The Board on August 12, 2011, approved an interim final rule for SLHCs, including a request for public comment. The interim final rule transferred from the OTS to the Board the regulations necessary for the Board to supervise SLHCs, with certain technical and substantive modifications. The interim final rule has three components: (1) New Regulation LL (part 238), which sets forth regulations generally governing SLHCs; (2) new Regulation MM (part 239), which sets forth regulations governing SLHCs in mutual form; and (3) technical amendments to existing Board regulations necessary to accommodate the transfer of supervisory authority for SLHCs from the OTS to the Board.

The structure of interim final Regulation LL closely follows that of the

Board's Regulation Y, which governs bank holding companies, in order to provide an overall structure to rules that were previously found in disparate locations. In many instances interim final Regulation LL incorporated OTS regulations with only technical modifications to account for the shift in supervisory responsibility from the OTS to the Board. Interim final Regulation LL also reflects statutory changes made by the Dodd-Frank Act with respect to SLHCs, and incorporates Board precedent and practices with respect to applications processing procedures and control issues, among other matters.

Interim final Regulation MM organized existing OTS regulations governing SLHCs in mutual form (MHCs) and their subsidiary holding companies into a single part of the Board's regulations. In many instances interim final Regulation MM incorporated OTS regulations with only technical modifications to account for the shift in supervisory responsibility from the OTS to the Board. Interim final Regulation MM also reflects statutory changes made by the Dodd-Frank Act with respect to MHCs,.

The interim final rule also made technical amendments to Board rules to facilitate supervision of SLHCs, including to rules implementing Community Reinvestment Act requirements and to Board procedural and administrative rules. In addition, the Board made technical amendments to implement section 312(b)(2)(A) of the Act, which transfers to the Board all rulemaking authority under section 11 of the Home Owner's Loan Act relating to transactions with affiliates and extensions of credit to executive officers, directors, and principal shareholders. These amendments include revisions to parts 215 (Insider Transactions) and part 223 (Transactions with Affiliates) of Board regulations.

The comment period with respect to the interim final rule closed on November 1, 2011, and the Board intends in the future to issue a finalized rule.

Timetable:

Action	Date	FR Cite
Board Requested Comment.	09/13/11	76 FR 56508
Board Expect Further Action.	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amanda K. Allexon, Senior Counsel, Federal Reserve System, Legal Division, *Phone:* 202 452–3818.

RIN: 7100–AD80

FEDERAL RESERVE SYSTEM (FRS)

Long-Term Actions

525. Regulation KK—Margin and Capital Requirements for Covered Swap Entities (Docket No: R–1415)

Legal Authority: 7 U.S.C. 6s; 15 U.S.C. 78 o–10

Abstract: The Office of the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Farm Credit Administration, and the Federal Housing Finance Agency (the Agencies) are requesting comment on a proposal 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 Wall Street Reform and Consumer Protection 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.

Timetable:

Action	Date	FR Cite
Board Requested Comment.	04/12/11	76 FR 27564
Comment Period End.	07/11/11	76 FR 37029
Board Reopened Comment Period.	10/02/12	77 FR 60057
Next Action Undetermined.	.....	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Stephanie Martin, Associate General Counsel, Federal Reserve System, Legal Division, *Phone:* 202 452–3198.

RIN: 7100–AD74

FEDERAL RESERVE SYSTEM (FRS)

Completed Actions

526. • Regulations H and Y—Regulatory Capital Rules: Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements (Docket R–1443)

Legal Authority: 12 U.S.C. 248(a); 12 U.S.C. 321; 12 U.S.C. 322; 12 U.S.C. 323; 12 U.S.C. 324; * * *

Abstract: This Notice of Proposed Rulemaking (NPRM) includes proposed changes to the U.S. banking agencies' (the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation) general risk-based capital requirements for determining risk-weighted assets (that is, the calculation of the denominator of a banking organization's risk-based capital ratios). The proposed changes would revise and harmonize the agencies' rules for calculating risk-weighted assets to enhance risk sensitivity and address weaknesses identified over recent years, including by incorporating certain international capital standards as set forth by the Basel Committee on Banking Supervision. The Agencies also propose alternatives to credit ratings for calculating risk-weighted assets for certain assets, consistent with section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The revisions include methodologies for determining risk-weighted assets for residential mortgages, securitization exposures, and counterparty credit risk. The NPRM also would introduce disclosure requirements that would apply to top-tier banking organizations domiciled in the United States with $50 billion or more in total assets, including disclosures related to regulatory capital instruments.

Timetable:

Action	Date	FR Cite
Merged With 7100 AD87.	08/30/12	77 FR 53059

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Anna Lee Hewko, Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation, *Phone:* 202 530–6260.

RIN: 7100–AD88

527. • Regulations H and Y—Regulatory Capital Rules: Advanced Approaches Risk-Based Capital Rule; Market Risk Capital Rule (Docket No. R–1444)

Legal Authority: 12 U.S.C. 248(a); 12 U.S.C. 321; 12 U.S.C. 322; 12 U.S.C. 323

Abstract: In this Notice of Proposed Rule-making (NPRM), the U.S. banking agencies are proposing to revise the advanced approaches risk-based capital rule to incorporate certain aspects of "Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems" (Basel III) that the agencies would apply only to advanced approach banking organizations. This NPR also proposes other changes to the advanced approaches rule that the agencies believe are consistent with changes made by the Basel Committee on Banking Supervision (BCBS) to its "International Convergence of Capital Measurement and Capital Standards" A Revised Framework" (Basel II), as revised by the BCBS between 2006 and 2009, and with recent consultative papers published by the BCBS. The Agencies also propose to revise the advanced approaches risk-based capital rule to be consistent with Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). These revisions include replacing references to credit ratings with alternative standards of creditworthiness consistent with section 939A of the Dodd-Frank Act. Also, the Board is proposing that the advanced approaches and market risk capital rules apply to top-tier savings and loan holding companies domiciled in the United States that meet the applicable thresholds. In addition, this NPRM would codify the market risk rule consistent with the proposed codification of the other regulatory capital rules across the three proposals.

Timetable:

Action	Date	FR Cite
Merged With 7100 AD87.	08/30/12	77 FR 53059

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Anna Lee Hewko, Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation, *Phone:* 202 530–6260.

RIN: 7100–AD89

528. Regulation OO—Securities Holding Companies (Docket No. R–1430)

Legal Authority: 12 U.S.C. 1850a

Abstract: The Federal Reserve Board (the Board) issued a final rule to implement section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act which permits nonbank companies that own at least one registered securities broker or dealer, and that are required by a foreign regulator or provision of foreign law to be subject to comprehensive consolidated supervision, to register with the Board and subject themselves to supervision by the Board. The final rule is substantially the same as the proposed rule. The final rule outlines the requirements that a securities holding company must satisfy to make an effective election, including filing the appropriate form with the responsible Reserve Bank, providing all additional required information and satisfying the statutory waiting period of 45 days or such shorter period as the Board determines appropriate.

Timetable:

Action	Date	FR Cite
Board Requested Comment.	08/31/11	76 FR 54717
Board Issued Final Rule.	06/04/12	77 FR 32681

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amanda K. Allexon, Senior Counsel, Federal Reserve System, Legal Division, *Phone:* 202 452–3818

RIN: 7100–AD81

[FR Doc. 2012–31517 Filed 1–7–13; 8:45 am]

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FEDERAL REGISTER

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Part XXIV

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is publishing its semiannual regulatory agenda in accordance with Public Law 96–354, "The Regulatory Flexibility Act," and Executive Order 12866, "Regulatory Planning and Review." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on February 13, 2012 (77 FR 8078).

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda. Public comments on NRC's published rulemaking actions are available on the Federal rulemaking Web site at *http://www.regulations.gov*.

The agenda and comments received on rules listed in the agenda are available online at *http://www.regulations.gov* and for public inspection and copying, for a fee, at the NRC's Public Document Room, One White Flint North, 11555 Rockville Pike, Room O1–F21, Rockville, Maryland 20852–2738.

The complete Unified Agenda is available online at *www.reginfo.gov*, in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact: Cindy Bladey, Chief, Rules, Announcements and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–492–3667; email: *Cindy.Bladey@nrc.gov*. Persons outside the Washington, DC, metropolitan area may call, toll-free: 1–800–368–5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: The information contained in this semiannual publication is updated to reflect any action that has occurred on rules since publication of the last NRC semiannual agenda on February 13, 2012 (77 FR 8078). Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this agenda has been updated through October 19, 2012. The date for the next scheduled action under the heading "Timetable" is the date the rule is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. The agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the agenda. In particular, the Commission is considering recommendations from a task force established to examine the NRC's regulatory requirements, programs, processes, and implementation in light of information from the Fukushima Daiichi site in Japan, following the March 11, 2011, earthquake and tsunami.

The NRC agenda lists all open rulemaking actions. Four rules affect small entities.

Dated at Rockville, Maryland, this 19th day of October 2012.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements and Directives Branch, Division of Administrative Services, Office of Administration.

NUCLEAR REGULATORY COMMISSION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
529	Revision of Fee Schedules: Fee Recovery for FY 2013 [NRC–2012–0211] **(Reg Plan Seq No. 117)**	3150–AJ19

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

NUCLEAR REGULATORY COMMISSION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
530	Distribution of Source Material To Exempt Persons and General Licensees and Revision of General License and Exemptions [NRC–2009–0084].	3150–AH15
531	Physical Protection of Byproduct Material [NRC–2008–0120] **(Reg Plan Seq No. 118)**	3150–AI12

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

NUCLEAR REGULATORY COMMISSION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
532	Controlling the Disposition of Solid Materials [NRC–1999–0002]	3150–AH18

NUCLEAR REGULATORY COMMISSION (NRC)

Proposed Rule Stage

529. • Revision of Fee Schedules: Fee Recovery for FY 2013 [NRC–2012–0211]

Regulatory Plan: This entry is Seq. No. 117 in part II of this issue of the **Federal Register**.

RIN: 3150–AJ19

NUCLEAR REGULATORY COMMISSION (NRC)

Final Rule Stage

530. Distribution of Source Material To Exempt Persons and General Licensees and Revision of General License and Exemptions [NRC–2009–0084]

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

Abstract: The proposed rule would amend the Commission's regulations to improve the control over the distribution of source material to exempt persons and to general licensees in order to make part 40 more risk-informed. The proposed rule also would govern the licensing of source material by adding specific requirements for licensing of and reporting by distributors of products and materials used by exempt persons and general licensees. Source material is used under general license and under various exemptions from licensing requirements in part 40 for which there is no regulatory mechanism for the Commission to obtain information to fully assess the resultant risks to public health and safety. Although estimates of resultant doses have been made, there is a need for ongoing information on the quantities and types of radioactive material distributed for exempt use and use under general license. Obtaining information on the distribution of source material is particularly difficult because many of the distributors of source material to exempt persons and generally licensed persons are not currently required to hold a license from the Commission. Distributors are often unknown to the Commission. No controls are in place to ensure that products and materials distributed are maintained within the applicable constraints of the exemptions. In addition, the amounts of source material allowed under the general license in section 40.22 could result in exposures above 1 mSv/year (100 mrem/year) to workers at facilities that are not required to meet the requirements of parts 19 and 20. Without knowledge of the identity and location of the general licensees, it would be difficult to enforce restrictions on the general licensees. This rule also would address Petition for Rulemaking, PRM–40–27 submitted by the State of Colorado and Organization of Agreement States.

Timetable:

Action	Date	FR Cite
NPRM	07/26/10	75 FR 43425
NPRM Comment Period Extended.	11/18/10	75 FR 70618
NPRM Comment Period End.	02/15/11	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Gary C. Comfort, Jr., Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:* 301 415–8106, *Email:* *gary.comfort@nrc.gov.*

RIN: 3150–AH15

531. Physical Protection of Byproduct Material [NRC–2008–0120]

Regulatory Plan: This entry is Seq. No. 118 in part II of this issue of the **Federal Register**.

RIN: 3150–AI12

NUCLEAR REGULATORY COMMISSION (NRC)

Long-Term Actions

532. Controlling the Disposition of Solid Materials [NRC–1999–0002]

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

Abstract: The NRC staff provided a draft proposed rule package on Controlling the Disposition of Solid Materials to the Commission on March 31, 2005, which the Commission disapproved (ADAMS Accession Number: ML051520285). The rulemaking package included a summary of stakeholder comments (NUREG/CR–6682), Supplement 1, (ADAMS Accession Number: ML003754410). The Commission's decision was based on the fact that the Agency is currently faced with several high priority and complex tasks, that the current approach to review specific cases on an individual basis is fully protective of public health and safety, and that the immediate need for this rule has changed due to the shift in timing for reactor decommissioning. The Commission has deferred action on this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Solomon Sahle, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:* 301 415–3781, *Email:* *solomon.sahle@nrc.gov.*

RIN: 3150–AH18

[FR Doc. 2012–31674 Filed 1–7–13; 8:45 am]

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FEDERAL REGISTER

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Part XXV

Securities and Exchange Commission

Semiannual Regulatory Agenda

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33–9367, 34–68140, IA–3498, IC–30256, File No. S7–11–12]

Regulatory Flexibility Agenda

AGENCY: Securities and Exchange Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Securities and Exchange Commission is publishing an agenda of its rulemaking actions pursuant to the Regulatory Flexibility Act (RFA) (Pub. L. 96–354, 94 Stat. 1164) (Sept. 19, 1980). Information in the agenda was accurate on November 2, 2012, the day on which the Commission's staff completed compilation of the data. To the extent possible, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries.

The Commission is now printing in the **Federal Register**, along with our preamble, only those agenda entries for which we have indicated that preparation of a Regulatory Flexibility Act analysis is required.

The Commission's complete RFA agenda will be available online at *www.reginfo.gov*.

DATES: Comments should be received on or before February 7, 2013.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number S7–11–12 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. S7–11–12. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/proposed.shtml*). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Anne Sullivan, Office of the General Counsel, 202–551–5019.

SUPPLEMENTARY INFORMATION: The RFA requires each Federal agency, during April and October of each year, to publish in the **Federal Register** an agenda identifying rules that the agency expects to consider in the next 12 months that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter that is included in the agenda (5 U.S.C. 602(d)). Actions that do not have an estimated date are placed in the long-term category; the Commission may nevertheless act on items in that category within the next 12 months. The agenda includes new entries, entries carried over from prior publications, and rulemaking actions that have been completed (or withdrawn) since publication of the last agenda.

The following abbreviations for the acts administered by the Commission are used in the agenda:

"Securities Act"—Securities Act of 1933
"Exchange Act"—Securities Exchange Act of 1934
"Investment Company Act"—Investment Company Act of 1940
"Investment Advisers Act"—Investment Advisers Act of 1940
"Dodd-Frank Act"—Dodd-Frank Wall Street Reform and Consumer Protection Act

The Commission invites public comment on the agenda and on the individual agenda entries.

By the Commission.

Dated: November 2, 2012.

Elizabeth M. Murphy,

Secretary.

DIVISION OF CORPORATION FINANCE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
533	Rules Governing the Offer and Sale of Securities Through Crowdfunding Under Section 4(6) of the Securities Act of 1933.	3235–AL37
534	Implementation of Titles V and VI of the JOBS Act	3235–AL40
535	Exemptions for Security-Based Swaps	3235–AL17

DIVISION OF CORPORATION FINANCE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
536	Disqualification of Felons and Other "Bad Actors" From Rule 506 Offerings	3235–AK97
537	Elimination of Prohibition on General Solicitation in Rule 506 and Rule 144A Offerings	3235–AL34
538	Short-Term Borrowings	3235–AK72

DIVISION OF CORPORATION FINANCE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
539	Conflict Minerals	3235–AK84
540	Disclosure of Payments By Resource Extraction Issuers	3235–AK85

DIVISION OF INVESTMENT MANAGEMENT—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
541	Purchase of Debt Securities by Business and Industrial Development Companies Relying on an Investment Company Act Exemption.	3235–AL02

DIVISION OF TRADING AND MARKETS—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
542	Broker-Dealer Reports	3235–AK56
543	Transitional Registration as a Municipal Advisor	3235–AK69
544	Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934	3235–AL14
545	Rules for Nationally Recognized Statistical Rating Organizations	3235–AL15

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Corporation Finance

Proposed Rule Stage

533. • Rules Governing the Offer and Sale of Securities Through Crowdfunding Under Section 4(6) of the Securities Act of 1933

Legal Authority: 15 U.S.C. 77a *et seq.*; 15 U.S.C. 78a *et seq.*; Pub. L. 112–108, secs 301 to 305

Abstract: The Division is considering recommending that the Commission implement the requirements of title II of the JOBS Act by prescribing rules governing the offer and sale of securities through crowdfunding under new section 4(6) of the Securities Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sebastian Gomez Abero, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3500, *Email: gomezalberos@sec.gov.*

RIN: 3235–AL37

534. • Implementation of Titles V and VI of the Jobs Act

Legal Authority: Pub. L. 112–106

Abstract: The Division is considering recommending that the Commission propose rules or amendments to rules to implement titles V (Private Company Flexibility and Growth) and VI (Capital Expansion) of the JOBS Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Steven G. Hearne, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3430, *Email: hearnes@sec.gov.*

RIN: 3235–AL40

535. Exemptions for Security-Based Swaps

Legal Authority: 15 U.S.C. 77s; 15 U.S.C. 77aa; 15 U.S.C. 78l(h); 15 U.S.C. 78w(a); 15 U.S.C. 78mm; 15 U.S.C. 78ddd(d)

Abstract: The Commission adopted interim final rules, providing exemptions under the Securities Act, Exchange Act, and Trust Indenture Act of 1939, for those security-based swaps that under previous law were security-based swap agreements and have been defined as "securities" under the Securities Act and the Exchange Act as of July 16, 2011, due solely to the provisions of title VII of the Dodd-Frank Act.

The Division is considering recommending that the Commission propose rules that would enable transactions in security-based swaps to rely on existing exemptions under the Securities Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/11/11	76 FR 40605
Interim Final Rule Effective.	07/11/11	
Interim Final Rule Comment Period End.	08/15/11	
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amy Starr, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3860.

RIN: 3235–AL17

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Corporation Finance

Final Rule Stage

536. Disqualification of Felons and Other "Bad Actors" From Rule 506 Offerings

Legal Authority: 15 U.S.C. 77c(a); 15 U.S.C. 77d; 15 U.S.C. 77s; 15 U.S.C. 77z–3

Abstract: The Commission proposed rules to disqualify securities offerings involving certain "bad actors" from eligibility for the exemptions under Rule 506 of Regulation D, in accordance with section 926 of the Dodd-Frank Act.

Timetable:

Action	Date	FR Cite
NPRM	06/01/11	76 FR 31518
NPRM Comment Period End.	07/14/11	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Johanna Vega Losert, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3460, *Email: losertj@sec.gov.*

RIN: 3235–AK97

537. • Elimination of Prohibition on General Solicitation in Rule 506 and Rule 144a Offerings

Legal Authority: 15 U.S.C. 77a *et seq.*

Abstract: The Commission proposed rules to eliminate the prohibition against general solicitation and general advertising in securities offerings made pursuant to Rule 506 of Regulation D under the Securities Act and Rule 144A under the Securities Act, as mandated by section 210(a) of the Jumpstart Our Business Startups Act.

Timetable:

Action	Date	FR Cite
NPRM	09/06/12	77 FR 54469
NPRM Comment Period End.	10/05/12	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ted Yu, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3500.

Charles Kwon, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3500.

RIN: 3235–AL34

538. Short-Term Borrowings

Legal Authority: 15 U.S.C. 77a *et seq.*; 15 U.S.C. 78a *et seq.*

Abstract: The Commission proposed revisions to rules to enhance the disclosure that registrants provide about short-term borrowings.

Timetable:

Action	Date	FR Cite
NPRM	09/28/10	75 FR 59866
NPRM Comment Period End.	11/29/10	
Final Action	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Christina Padden, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3430.

RIN: 3235–AK72

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Corporation Finance

Completed Actions

539. Conflict Minerals

Legal Authority: 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78o; 15 U.S.C. 78w; Pub. L. 111–203 sec 1502

Abstract: The Commission adopted a new rule pursuant to section 1502 of the Dodd-Frank Act, which added section 13(p) to the Exchange Act. The new rule requires any reporting issuer for which conflict minerals are necessary to the functionality or production of a product manufactured or contracted to be manufactured by that issuer to disclose in a new form whether its conflict minerals originated in the Democratic Republic of the Congo or an adjoining country. If so, the issuer is required to file as an exhibit to this form a separate conflict minerals report.

Timetable:

Action	Date	FR Cite
NPRM	12/23/10	75 FR 80948
NPRM Comment Period End.	01/31/11	
NPRM Comment Period Extended.	02/03/11	76 FR 6110
NPRM Comment Period Extended End.	03/02/11	
Final Action	09/12/12	77 FR 56272
Final Action Effective.	11/13/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Fieldsend, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3430.

RIN: 3235–AK84

540. Disclosure of Payments by Resource Extraction Issuers

Legal Authority: 15 U.S.C. 78q; Pub. L. 203–111 sec 1504

Abstract: The Commission adopted rules pursuant to section 1504 of the Dodd-Frank Act, which added section 13(q) to the Exchange Act. Section 13(q) requires the Commission to adopt rules requiring resource extraction issuers to disclose in their annual reports filed with the Commission payments made to foreign governments or the U.S. federal government for the purpose of the commercial development of oil, natural gas, or minerals.

Timetable:

Action	Date	FR Cite
NPRM	12/23/10	75 FR 80978
NPRM Comment Period End.	01/31/11	
NPRM Comment Period Extended.	02/03/11	76 FR 6111
NPRM Comment Period Extended End.	03/02/11	
Final Action	09/12/12	77 FR 56365
Final Action Effective.	11/13/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Elliot Staffin, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3243.

RIN: 3235–AK85

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Investment Management

Final Rule Stage

541. Purchase of Debt Securities by Business and Industrial Development Companies Relying on an Investment Company Act Exemption

Legal Authority: 15 U.S.C. 80a–6(c); 15 U.S.C. 80a–8; 15 U.S.C. 80a–14(a); 15 U.S.C. 80a–29; 15 U.S.C. 80a–30(a); 15 U.S.C. 80a–37; 15 U.S.C. 77e; 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s(a); Pub. L. 111–203, sec 939; Pub. L. 111–203, sec 939A

Abstract: The Commission proposed (i) to amend two rules (Rules 2a–7 and 5b–3) and four forms (Forms N–1A, N–2, N–3, and N–MFP) under the Investment Company Act that reference credit ratings and (ii) a new rule under that Act that would set forth a credit quality standard in place of a credit rating removed by the Dodd-Frank Act from section 6(a)(5)(A)(iv)(1) of that Act. These proposals would give effect to provisions of section 939A of the Dodd-Frank Act.

The Commission adopted Rule 6a–5 which sets forth a credit quality standard to replace the one removed from section 6(a)(5)(A)(iv)(1) by the Dodd-Frank Act.

Timetable:

Action	Date	FR Cite
NPRM	03/09/11	76 FR 12896
NPRM Comment Period End.	04/25/11	
Final Action	11/23/12	77 FR 70117
Final Action Effective.	12/24/12	
Final Action	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Anu Dubey, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–6792.

RIN: 3235–AL02

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Trading and Markets

Final Rule Stage

542. Broker-Dealer Reports

Legal Authority: 15 U.S.C. 78q

Abstract: The Commission proposed amendments to Rule 17a–5 dealing with, among other things, broker-dealer custody of assets.

Timetable:

Action	Date	FR Cite
NPRM	06/27/11	76 FR 37572
NPRM Comment Period End.	08/26/11	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mark Attar, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–5889, *Email: attarm@sec.gov.*

RIN: 3235–AK56

543. Transitional Registration as a Municipal Advisor

Legal Authority: Pub. L. 111–203, sec 975

Abstract: The Commission adopted an interim final temporary rule to require all municipal advisors to register with it by October 1, 2010, consistent with the Dodd-Frank Act. The rule has been amended and is effective through September 30, 2013.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/08/10	75 FR 54465
Interim Final Rule Effective.	10/01/10	
Interim Final Rule Comment Period End.	10/08/10	
Interim Final Rule Extended.	12/27/11	76 FR 80733
Interim Final Rule Effective Through.	12/31/11	
Interim Final Rule Extended.	09/26/12	77 FR 62185
Interim Final Rule Effective Through.	09/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ira Brandriss, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–5681, *Email: brandrissi@sec.gov.*

RIN: 3235–AK69

544. Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934

Legal Authority: Pub. L. 111–203, sec 939A

Abstract: Section 939A of the Dodd-Frank Act requires the Commission to remove any references to credit ratings from its regulations and to substitute such standards of creditworthiness as the Commission determines to be appropriate. The Commission proposed to amend certain rules and one form under the Securities Exchange Act applicable to broker-dealer financial responsibility, distributions of securities, and confirmations of transactions. The Commission also requested comment on potential standards of creditworthiness for purposes of Exchange Act sections 3(a)(41) and 3(a)(53), which define the terms "mortgage related security" and "small business related security," respectively, as the Commission considers how to implement section 939(e) of the Dodd-Frank Act.

Timetable:

Action	Date	FR Cite
NPRM	05/06/11	76 FR 26550
NPRM Comment Period End.	07/05/11	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Rachel Yura, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–5729, *Email: yurar@sec.gov.*

RIN: 3235–AL14

545. Rules for Nationally Recognized Statistical Rating Organizations

Legal Authority: 15 U.S.C. 78o–7; 15 U.S.C. 78q; 15 U.S.C. 78mm; Pub. L. 111–203, secs 936, 938, and 943

Abstract: The Commission proposed rules and rule amendments to implement certain provisions of the Dodd-Frank Act concerning nationally recognized statistical rating organizations, providers of third-party due diligence services for asset-backed securities, and issuers and underwriters of asset-backed securities.

Timetable:

Action	Date	FR Cite
NPRM	06/08/11	76 FR 33420
NPRM Comment Period End.	08/08/11	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Timothy Fox, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–5687, *Email: foxt@sec.gov.*

RIN: 3235–AL15

[FR Doc. 2012–31518 Filed 1–7–13; 8:45 am]

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H.R. 3477/P.L. 112–219
To designate the facility of the United States Postal Service located at 133 Hare Road in Crosby, Texas, as the Army First Sergeant David McNerney Post Office Building. (Dec. 28, 2012; 126 Stat. 1595)

H.R. 3783/P.L. 112–220
Countering Iran in the Western Hemisphere Act of 2012 (Dec. 28, 2012; 126 Stat. 1596)

H.R. 3870/P.L. 112–221
To designate the facility of the United States Postal Service located at 6083 Highway 36 West in Rose Bud, Arkansas, as the "Nicky 'Nick' Daniel Bacon Post Office". (Dec. 28, 2012; 126 Stat. 1601)

H.R. 3912/P.L. 112–222
To designate the facility of the United States Postal Service located at 110 Mastic Road in Mastic Beach, New York, as the "Brigadier General Nathaniel Woodhull Post Office Building". (Dec. 28, 2012; 126 Stat. 1602)

H.R. 5738/P.L. 112–223
To designate the facility of the United States Postal Service located at 15285 Samohin Drive in Macomb, Michigan, as the "Lance Cpl. Anthony A. DiLisio Clinton-Macomb Carrier Annex". (Dec. 28, 2012; 126 Stat. 1603)

H.R. 5837/P.L. 112–224
To designate the facility of the United States Postal Service located at 26 East Genesee Street in Baldwinsville, New York, as the "Corporal Kyle Schneider Post Office Building". (Dec. 28, 2012; 126 Stat. 1604)

H.R. 5954/P.L. 112–225
To designate the facility of the United States Postal Service located at 320 7th Street in Ellwood City, Pennsylvania, as the "Sergeant Leslie H. Sabo, Jr. Post Office Building". (Dec. 28, 2012; 126 Stat. 1605)

H.R. 6116/P.L. 112–226
To amend the Revised Organic Act of the Virgin Islands to provide for direct review by the United States Supreme Court of decisions of the Virgin Islands Supreme Court, and for other purposes. (Dec. 28, 2012; 126 Stat. 1606)

H.R. 6223/P.L. 112–227
To amend section 1059(e) of the National Defense Authorization Act for Fiscal Year 2006 to clarify that a period of employment abroad by the Chief of Mission or United States Armed Forces as a translator, interpreter, or in a security-related position in an executive or managerial capacity is to be counted as a period of residence and physical presence in the United States for purposes of qualifying for naturalization, and for other purposes. (Dec. 28, 2012; 126 Stat. 1608)

H.J. Res. 122/P.L. 112–228
Establishing the date for the counting of the electoral votes for President and Vice President cast by the electors in December 2012. (Dec. 28, 2012; 126 Stat. 1610)

S. 1379/P.L. 112–229
D.C. Courts and Public Defender Service Act of 2011 (Dec. 28, 2012; 126 Stat. 1611)

S. 2170/P.L. 112–230
Hatch Act Modernization Act of 2012 (Dec. 28, 2012; 126 Stat. 1616)

S. 2367/P.L. 112–231
21st Century Language Act of 2012 (Dec. 28, 2012; 126 Stat. 1619)

S. 3193/P.L. 112–232
Barona Band of Mission Indians Land Transfer Clarification Act of 2012 (Dec. 28, 2012; 126 Stat. 1621)

S. 3311/P.L. 112–233
To designate the United States courthouse located at 2601 2nd Avenue North, Billings, Montana, as the "James F. Battin United States Courthouse". (Dec. 28, 2012; 126 Stat. 1623)

S. 3315/P.L. 112–234
GAO Mandates Revision Act of 2012 (Dec. 28, 2012; 126 Stat. 1624)

S. 3564/P.L. 112–235
Public Interest Declassification Board Reauthorization Act of 2012 (Dec. 28, 2012; 126 Stat. 1626)

S. 3642/P.L. 112–236
Theft of Trade Secrets Clarification Act of 2012 (Dec. 28, 2012; 126 Stat. 1627)

S. 3687/P.L. 112–237
To amend the Federal Water Pollution Control Act to reauthorize the Lake Pontchartrain Basin Restoration Program, to designate certain Federal buildings, and for other purposes. (Dec. 28, 2012; 126 Stat. 1628)

H.R. 5949/P.L. 112–238
FISA Amendments Act Reauthorization Act of 2012 (Dec. 30, 2012; 126 Stat. 1631)

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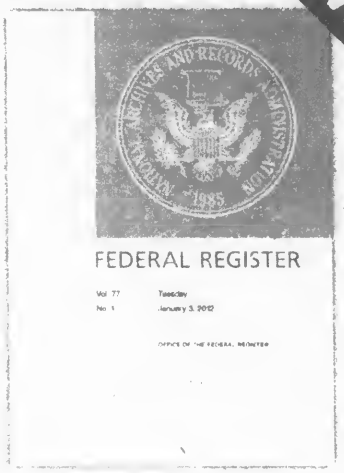

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