



# Federal Register

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**Monday,  
December 7, 2009**

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**Part VII**

**Department of  
Homeland Security**

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**Semiannual Regulatory Agenda**

**DEPARTMENT OF HOMELAND SECURITY (DHS)**

**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 Division, Office of the General Counsel, Department of Homeland Security, Washington, DC 20528.

*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, September 19, 1980) and Executive Order 12866, “Regulatory Planning and Review” (September 30, 1993), 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 May 11, 2009, at 74 FR 21944.

Beginning in fall 2007, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at [www.reginfo.gov](http://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, including DHS’s regulatory plan, is 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 9, 2009.

**Christina E. McDonald,**

*Deputy Associate General Counsel for Regulatory Affairs.*

**U.S. Citizenship and Immigration Services—Proposed Rule Stage**

Sequence Number	Title	Regulation Identifier Number
375	Registration Requirements for Employment-Based Categories Subject to Numerical Limitations ( <b>Reg Plan Seq No. 59</b> ) .....	1615-AB71
376	Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule .....	1615-AB80

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

**U.S. Citizenship and Immigration Services—Final Rule Stage**

Sequence Number	Title	Regulation Identifier Number
377	Commonwealth of the Northern Mariana Islands Transitional Nonimmigrant Investor Classification ( <b>Reg Plan Seq No. 63</b> ) .....	1615-AB75

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

## DHS

## U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
378	Claims Procedures Under the Oil Pollution Act of 1990 (USCG-2004-17697) .....	1625-AA03
379	Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters (USCG-2001-10486) ( <b>Reg Plan Seq No. 66</b> ) .....	1625-AA32
380	Commercial Fishing Industry Vessels (USCG-2003-16158) .....	1625-AA77
381	Inspection of Towing Vessels (USCG-2006-24412) ( <b>Reg Plan Seq No. 67</b> ) .....	1625-AB06

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 Number	Title	Regulation Identifier Number
382	Numbering of Undocumented Barges (USCG-1998-3798) .....	1625-AA14
383	Passenger Weight and Inspected Vessel Stability Requirements (USCG-2007-0030) .....	1625-AB20
384	Great Lakes Pilotage Rates—2010 Annual Review and Adjustment ( <b>Section 610 Review</b> ) .....	1625-AB39

## U.S. Customs and Border Protection—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
385	Importer Security Filing and Additional Carrier Requirements ( <b>Reg Plan Seq No. 69</b> ) .....	1651-AA70

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

## Transportation Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
386	Aircraft Repair Station Security ( <b>Reg Plan Seq No. 72</b> ) .....	1652-AA38

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

## Transportation Security Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
387	Modification of the Aviation Security Infrastructure Fee (ASIF) (Market Share) .....	1652-AA43

## Federal Emergency Management Agency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
388	Update of FEMA's Public Assistance Regulations ( <b>Reg Plan Seq No. 84</b> ) .....	1660-AA51

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

**Department of Homeland Security (DHS)**  
**U.S. Citizenship and Immigration Services (USCIS)**

**Proposed Rule Stage**

**375. REGISTRATION REQUIREMENTS FOR EMPLOYMENT-BASED CATEGORIES SUBJECT TO NUMERICAL LIMITATIONS**

**Regulatory Plan:** This entry is Seq. No. 59 in part II of this issue of the **Federal Register**.

**RIN:** 1615-AB71

**376. ADJUSTMENT OF THE IMMIGRATION AND NATURALIZATION BENEFIT APPLICATION AND PETITION FEE SCHEDULE**

**Legal Authority:** 8 USC 1356(m)

**Abstract:** This rule will adjust the fee schedule for U.S. Citizenship and Immigration Services (USCIS) immigration and naturalization benefit applications and petitions, including nonimmigrant applications and visa petitions. These fees fund the cost of processing applications and petitions

for immigration benefits and services, and USCIS' associated operating costs. USCIS is revising these fees because the current fee schedule does not adequately recover the full costs of services provided by USCIS. Without an adjustment of the fee schedule, USCIS cannot provide adequate capacity to process all applications and petitions in a timely and efficient manner. The fee review is undertaken pursuant to the requirements of the Chief Financial Officers Act of 1990 (CFO Act), 31 U.S.C. 901-03. The CFO Act requires each agency's Chief Financial Officer (CFO) to "review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value." Id. at

902(a)(8). This rule will reflect recommendations made by the DHS CFO and USCIS CFO, as required under the CFO Act.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment Period End	07/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Rendell Jones, Chief Financial Officer, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW., Suite 4018, Washington, DC 20259  
 Phone: 202 272-1969  
 Fax: 202 272-1970  
 Email: rendell.jones@dhs.gov

**RIN:** 1615-AB80

**Department of Homeland Security (DHS)**  
**U.S. Citizenship and Immigration Services (USCIS)**

**Final Rule Stage**

**377. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS TRANSITIONAL NONIMMIGRANT INVESTOR CLASSIFICATION**

**Regulatory Plan:** This entry is Seq. No. 63 in part II of this issue of the **Federal Register**.

**RIN:** 1615-AB75

**Department of Homeland Security (DHS)**  
**U.S. Coast Guard (USCG)**

**Proposed Rule Stage**

**378. CLAIMS PROCEDURES UNDER THE OIL POLLUTION ACT OF 1990 (USCG-2004-17697)**

**Legal Authority:** 33 USC 2713 and 2714

**Abstract:** This rulemaking implements section 1013 (Claims Procedures) and section 1014 (Designation of Source and Advertisement) of the Oil Pollution Act of 1990. An interim rule was published in 1992, and provides the basic requirements for the filing of claims for uncompensated removal costs or damages resulting from the discharge of oil, for the designation of the sources of the discharge, and for the advertisement of where claims are to be filed. The interim rule also includes the processing of natural resource damage (NRD) claims. The

NRD claims, however, were not processed until September 25, 1997, when the Department of Justice issued an opinion that the Oil Spill Liability Trust Fund (OSLTF) is available without further appropriation to pay trustee NRD claims under the general claims provisions of the Oil Pollution Act (OPA) of 1990, 33 U.S.C. 2712(a)(4). Release of this more comprehensive notice of proposed rulemaking has been delayed while the Coast Guard gained experience on NRD claims, as well as other OPA damages. This rulemaking supports the Coast Guard's broad role and responsibility of maritime stewardship.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	08/12/92	57 FR 36314
Correction	09/09/92	57 FR 41104
Interim Final Rule Comment Period End	12/10/92	
Supplemental NPRM	10/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Benjamin White, Project Manager, National Pollution Funds Center, Department of Homeland Security, U.S. Coast Guard, NPFC MS 7100, United States Coast Guard, 4200 Wilson Boulevard, Arlington, VA 20598-7100  
 Phone: 202 493-6863

## DHS—USCG

## Proposed Rule Stage

Email: benjamin.h.white@uscg.mil

RIN: 1625-AA03

**379. STANDARDS FOR LIVING ORGANISMS IN SHIPS' BALLAST WATER DISCHARGED IN U.S. WATERS (USCG-2001-10486)****Regulatory Plan:** This entry is Seq. No. 66 in part II of this issue of the **Federal Register**.

RIN: 1625-AA32

**380. COMMERCIAL FISHING INDUSTRY VESSELS (USCG-2003-16158)****Legal Authority:** 46 USC 4502(a) to 4502(d); 46 USC 4505 and 4506; 46

USC 6104; 46 USC 10603; DHS Delegation No. 0170.1(92)

**Abstract:** This rulemaking would amend commercial fishing industry vessel requirements to enhance maritime safety. The proposed changes would affect vessel stability and watertight integrity, carriage of immersion suits, training, compliance documentation, and safety equipment.**Timetable:**

Action	Date	FR Cite
ANPRM	03/31/08	73 FR 16815
ANPRM Comment Period End	12/15/08	
NPRM	06/00/10	

**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

**381. INSPECTION OF TOWING VESSELS (USCG-2006-24412)****Regulatory Plan:** This entry is Seq. No. 67 in part II of this issue of the **Federal Register**.

RIN: 1625-AB06

**Department of Homeland Security (DHS)  
U.S. Coast Guard (USCG)**

## Long-Term Actions

**382. NUMBERING OF UNDOCUMENTED BARGES (USCG-1998-3798)****Legal Authority:** 46 USC 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 and help prevent future marine pollution. 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 Comment Period End	11/10/04	

Next Action Undetermined

**Regulatory Flexibility Analysis Required:** Yes**Agency Contact:** Patricia Williams, Project Manager, National Vessel Documentation Center, Department of Homeland Security, U.S. Coast Guard, 792 T.J. Jackson Drive, Falling Waters, WV 25419

Phone: 304 271-2506

RIN: 1625-AA14

**383. PASSENGER WEIGHT AND INSPECTED VESSEL STABILITY REQUIREMENTS (USCG-2007-0030)****Legal Authority:** 33 USC 1321(j); 43 USC 1333; 46 USC 2103, 2113, 3205, 3301, 3306, 3307, 3703, 5115, 6101; 49 USC App 1804; EO 11735; EO 12234; Dept of Homeland Security Delegation No 0170.1; PL 103-206, 107 Stat 2439; 49 USC App 1804; EO 11735**Abstract:** The Coast Guard proposes developing a rule that addresses both the stability calculations and the environmental operating requirements for certain domestic passenger vessels. The proposed rule would address the outdated per-person weight averages that are currently used in stability calculations for certain domestic passenger vessels. In addition, the proposed rule would add environmental operating requirements for domestic passenger vessels that could be adversely affected by sudden inclement weather. This rulemaking would increase passenger safety by significantly reducing the risk of certain types of passenger vessels capsizing due to either passenger overloading or

operating these vessels in hazardous weather conditions. This rulemaking would support the Coast Guard's broad role and responsibility of maritime safety.

**Timetable:**

Action	Date	FR Cite
NPRM	08/20/08	73 FR 49244
NPRM Comment Period End	11/18/08	
NPRM Comment Period Reopened	12/08/08	73 FR 74426
Comment Period End	02/06/09	
NPRM Comment Period Reopened	02/18/09	74 FR 7576
Comment Period End	03/20/09	
Final Action	To Be Determined	

**Regulatory Flexibility Analysis Required:** Yes**Agency Contact:** William Peters, Program Manager, Office of Design and Engineering Standards, Systems Engineering Division (CG-5212), Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593-7126  
Phone: 202 372-1371  
Email: william.s.peters@uscg.mil

RIN: 1625-AB20

**384. • GREAT LAKES PILOTAGE RATES—2010 ANNUAL REVIEW AND ADJUSTMENT (SECTION 610 REVIEW)****Legal Authority:** 46 USC 9303(f)

## DHS—USCG

## Long-Term Actions

**Abstract:** The Coast Guard is proposing to update the rates for pilotage on the Great Lakes by 5.07 percent to generate sufficient revenue to cover allowable expenses, target pilot compensation, and returns on investment. The proposed update reflects an August 1, 2010, increase in benchmark contractual wages and benefits, as well as an increase in the ratio of pilots to “bridge hours.” This rulemaking

promotes the Coast Guard strategic goal of maritime safety.

**Timetable:**

Action	Date	FR Cite
NPRM	10/30/09	74 FR 56153
NPRM Comment Period End	11/30/09	
Next Action	Undetermined	

**Regulatory Flexibility Analysis Required:** No

**Agency Contact:** Paul Wasserman, Director, Great Lakes Pilotage (CG-54122), Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7581, Washington, DC 20593-7581  
Phone: 202 372-1535  
Email: paul.m.wasserman@uscg.mil

**RIN:** 1625-AB39

**Department of Homeland Security (DHS)  
U.S. Customs and Border Protection (USCBP)**

## Final Rule Stage

**385. IMPORTER SECURITY FILING  
AND ADDITIONAL CARRIER  
REQUIREMENTS**

**Regulatory Plan:** This entry is Seq. No. 69 in part II of this issue of the **Federal Register**.

**RIN:** 1651-AA70

**Department of Homeland Security (DHS)  
Transportation Security Administration (TSA)**

## Proposed Rule Stage

**386. AIRCRAFT REPAIR STATION  
SECURITY**

**Regulatory Plan:** This entry is Seq. No. 72 in part II of this issue of the **Federal Register**.

**RIN:** 1652-AA38

**Department of Homeland Security (DHS)  
Transportation Security Administration (TSA)**

## Long-Term Actions

**387. MODIFICATION OF THE  
AVIATION SECURITY  
INFRASTRUCTURE FEE (ASIF)  
(MARKET SHARE)**

**Legal Authority:** 49 USC 44901; 49 USC 44940

**Abstract:** The Transportation Security Administration will revise the method for apportioning the Aviation Security Infrastructure Fee (ASIF) among air carriers. The ASIF is a fee imposed on air carriers and foreign air carriers to help pay the Government’s costs of providing civil aviation security services.

Starting in fiscal year 2005, the Aviation and Transportation Security Act (ATSA) (Pub. L. 107-71; Nov. 19, 2001), codified at 49 U.S.C. 44940, authorizes TSA to change the

methodology for imposing the ASIF on air carriers and foreign air carriers from a system based on their 2000 screening costs to a system based on market share or other appropriate measures.

On November 5, 2003, the Transportation Security Administration (TSA) published a notice requesting comment on possible changes in order to allow for open industry and public input. TSA sought comments on issues regarding how to impose the ASIF, and whether, when, and how often the ASIF should be adjusted. The comment period was extended on the notice for an additional 30 days, until February 5, 2004. TSA is considering a market share methodology for implementation.

**Timetable:**

Action	Date	FR Cite
Notice; Requesting Comment—Imposition of the Aviation Security Infrastructure Fee (ASIF)	11/05/03	68 FR 62613
Notice—Imposition of ASIF; Comment Period End	01/05/04	
Notice—Imposition of ASIF; Comment Period Extended	12/31/03	68 FR 75611
Notice—Imposition of ASIF; Extended Comment Period End	02/05/04	
Next Action	Undetermined	

**Regulatory Flexibility Analysis Required:** Yes

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**DHS—TSA****Long-Term Actions**

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**Agency Contact:** Michael Gambone,  
Deputy Director, Office of Revenue,  
Department of Homeland Security,  
Transportation Security Administration,  
Office of Finance and Administration,  
TSA-14, HQ, W12-319, 601 South 12th  
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**RIN:** 1652-AA43

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**Department of Homeland Security (DHS)  
Federal Emergency Management Agency (FEMA)****Proposed Rule Stage**

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**388. UPDATE OF FEMA'S PUBLIC  
ASSISTANCE REGULATIONS**

**Regulatory Plan:** This entry is Seq. No.  
84 in part II of this issue of the **Federal  
Register**.

**RIN:** 1660-AA51

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