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# Presidential Documents

**Title 3—**

## The President

**Proclamation 9073 of December 31, 2013**

## National Mentoring Month, 2014

**By the President of the United States of America**

**A Proclamation**

In every corner of our Nation, mentors push our next generation to shape their ambitions, set a positive course, and achieve their boundless potential. During National Mentoring Month, we celebrate everyone who teaches, inspires, and guides young Americans as they reach for their dreams.

Mentors help children build confidence, gain knowledge, and develop the strength of character to succeed inside and outside of the classroom. They are relatives, teachers, coaches, ministers, and neighbors. Anyone can be a mentor, and every child should have the chance to be a mentee. Young people with mentors have better attendance in school, higher self-esteem, a greater chance of pursuing higher education, and a reduced risk of substance abuse. That is why my Administration is creating new opportunities to give back—from expanding national service, promoting responsible fatherhood, and challenging businesses to grow their mentoring activities, to First Lady Michelle Obama's mentoring initiative, which pairs local high school girls with powerful role models. For more information on how to get involved in a mentoring program, visit www.Serve.gov/Mentor.

America is at its best when we lift each other up, when we pursue our individual goals while never forgetting that we are bound as one Nation and as one people. If we carry this spirit forward, if we take responsibility for our future leaders and give them the tools to succeed, America's best days will always lie ahead.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim January 2014 as National Mentoring Month. I call upon public officials, business and community leaders, educators, and Americans across the country to observe this month with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of December, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2014–00085
Filed 1–6–14; 8:45 am]
Billing code 3295–F4

# Presidential Documents

**Proclamation 9074 of December 31, 2013**

## National Slavery and Human Trafficking Prevention Month, 2014

**By the President of the United States of America**

**A Proclamation**

Over a century and a half after President Abraham Lincoln issued the Emancipation Proclamation, millions remain in bondage—children forced to take part in armed conflict or sold to brothels by their destitute families, men and women who toil for little or no pay, who are threatened and beaten if they try to escape. Slavery tears at our social fabric, fuels violence and organized crime, and debases our common humanity. During National Slavery and Human Trafficking Prevention Month, we renew our commitment to ending this scourge in all its forms.

Because modern-day slavery is a global tragedy, combating it requires international action. The United States is shining a spotlight on the dark corners where it persists, placing sanctions on some of the worst abusers, giving countries incentives to meet their responsibilities, and partnering with groups that help trafficking victims escape from their abusers' grip. We are working with other nations as they step up their own efforts, and we are seeing more countries pass anti-human trafficking laws and improve enforcement.

At home, we are leading by example. My Administration is cracking down on traffickers, charging a record number of perpetrators. We are deploying new technology in the fight against human trafficking, developing the Federal Government's first-ever strategic action plan to strengthen victim services, and strengthening protections against human trafficking in Federal contracts. During the past year, the White House has hosted events on combating human trafficking, bringing together leaders from every sector of society. Together, we came up with new ideas to fight trafficking at the national and grassroots levels.

As we work to dismantle trafficking networks and help survivors rebuild their lives, we must also address the underlying forces that push so many into bondage. We must develop economies that create legitimate jobs, build a global sense of justice that says no child should ever be exploited, and empower our daughters and sons with the same chances to pursue their dreams. This month, I call on every nation, every community, and every individual to fight human trafficking wherever it exists. Let us declare as one that slavery has no place in our world, and let us finally restore to all people the most basic rights of freedom, dignity, and justice.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim January 2014 as National Slavery and Human Trafficking Prevention Month, culminating in the annual celebration of National Freedom Day on February 1. I call upon businesses, national and community organizations, faith-based groups, families, and all Americans to recognize the vital role we can play in ending all forms of slavery and to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of December, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2014–00086
Filed 1–6–14; 8:45 am]
Billing code 3295–F4

# Presidential Documents

**Proclamation 9075 of December 31, 2013**

## National Stalking Awareness Month, 2014

**By the President of the United States of America**

**A Proclamation**

Each January, we draw attention to a crime that will affect 1 in 6 American women at some point in their lives. Although young women are disproportionately at risk, anyone can be a victim of stalking—regardless of age, sex, background, or gender identity. While many victims are stalked by ex-partners, sometimes the perpetrators are acquaintances or even strangers. During National Stalking Awareness Month, we extend our support to victims and renew our commitment to holding their stalkers accountable.

Stalkers seek to intimidate their victims through repeated unwanted contact, including harassing phone calls, text messages, or emails. Cyberstalking is increasingly prevalent, with more than one quarter of stalking victims reporting being harassed through the Internet or electronically monitored. Many victims suffer from anxiety, depression, and insomnia, and some are forced to move or change jobs. Stalking all too often goes unreported, yet it also tends to escalate over time, putting victims at risk of sexual assault, physical abuse, or homicide.

My Administration remains dedicated to pursuing justice for victims of stalking and ensuring survivors receive the support they need. Last March, I was proud to sign the Violence Against Women Reauthorization Act. Every time we renew this landmark legislation, we improve it, and this time was no exception. This renewal expanded protections for Native American and lesbian, gay, bisexual, and transgender victims of stalking, domestic violence, and sexual assault. It amended the Clery Act to require colleges to report crime statistics on stalking, continued to allow relief for immigrant victims, and strengthened support and training programs that have proven effective in helping law enforcement bring offenders to justice.

We also stand behind the tireless advocates who provide essential services to victims. Along with law enforcement, prosecutors, court personnel, and survivors, these devoted women and men are links in a chain that has made a difference—one person, one family, one case at a time. This month, let us resolve to strengthen this chain, bring stalkers to justice, and give hope to everyone who has suffered from this crime.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim January 2014 as National Stalking Awareness Month. I call upon all Americans to recognize the signs of stalking, acknowledge stalking as a serious crime, and urge those affected not to be afraid to speak out or ask for help. Let us also resolve to support victims and survivors, and to create communities that are secure and supportive for all Americans.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of December, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2014–00087
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# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### 18 CFR Part 35

**[RM13–2–000; Order No. 792]**

### Small Generator Interconnection Agreements and Procedures

*Correction*

In rule document 2013–28515 appearing on pages 72340–73354 in the issue of Thursday, December 5, 2013, make the following corrections:

1. On page 73246, in the first column, in footnote 66, ''*See supra* P 0'' should read ''*See supra* P 23''.

2. On the same page, in the same column, in footnote 67, ''*See supra* P 0'' should read ''*See supra* P 22''.

3. On the same page, in the same column, in footnote 69, ''*See supra* P 0'' should read ''*See supra* P 17''.

4. On page 73249, in the third column, in footnote 128, ''*See, e.g., supra* P 0'' should read ''*See, e.g., supra* P 54''.

5. On page 73250, in the second column, in footnote 148, ''*See supra* P 0'' should read ''*See supra* P 39''.

6. On the same page, in the third column, in footnote 149, ''*See infra* P 0'' should read ''*See infra* P 81''.

7. On page 73256, in the third column, in footnote 226, ''*See infra* P 0'' should read ''*See infra* P 237''.

8. On page 73259, in the second column, in footnote 284, ''*See supra* P 0'' should read ''*See supra* P 12''.

9. On page 73260, in the first column, in footnote 296, ''(*see infra* P 0)'' should read ''(*see infra* P 186)''.

10. On page 73262, in the first column, in footnote 317, ''*See infra* P 0'' should read ''*See infra* P 186''.

11. On page 73269, in the second column, in footnote 424, ''*See supra* PP 0–0'' should read ''*See supra* PP 22–23''.

12. On page 73270, in the first column, in footnote 431, ''*See infra* P 0'' should read ''*See infra* P 270''.

[FR Doc. C1–2013–28515 Filed 1–6–14; 8:45 am]

**BILLING CODE 1505–01–D**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[TD 9651]**

**RIN 1545–BL05**

### Computation of, and Rules Relating to, Medical Loss Ratio

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations that provide guidance to Blue Cross and Blue Shield organizations, and certain other qualifying health care organizations, on computing and applying the medical loss ratio added to the Internal Revenue Code by the Patient Protection and Affordable Care Act.

**DATES:** *Effective Date:* These regulations are effective on January 7, 2014.

*Applicability Date:* These regulations apply to taxable years beginning after December 31, 2013.

**FOR FURTHER INFORMATION CONTACT:** Graham R. Green, (202) 317–6995 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### Background

Section 833 of the Internal Revenue Code (Code) provides that Blue Cross and Blue Shield organizations, and certain other qualifying health care organizations, are entitled to: (1) Treatment as stock insurance companies; (2) a special deduction under section 833(b); and (3) computation of unearned premium reserves under section 832(b)(4) based on 100 percent, and not 80 percent, of unearned premiums. This document contains final amendments to 26 CFR part 1 (Income Tax Regulations) under section 833(c)(5). Section 833(c)(5) was added to the Code by section 9016 of the Patient Protection and Affordable Care Act (Affordable Care Act), Public Law 111–148 (124 Stat. 119 (2010)), effective for taxable years beginning after December 31, 2009. Section 833(c)(5) provides that section 833 does not apply to an organization unless the organization's medical loss ratio (MLR) for a taxable year is at least 85 percent. For purposes of section 833, an organization's MLR is its percentage of total premium revenue expended on reimbursement for clinical services provided to enrollees under its policies during such taxable year (as reported under section 2718 of the Public Health Service Act (PHSA)).

The Treasury Department and the IRS issued proposed regulations under section 833(c)(5) on May 13, 2013 (78 FR 27873). The Treasury Department and the IRS received four written comments in response to the notice of proposed rulemaking and notice of public hearing. After consideration of all comments, these final regulations adopt the provisions of the proposed regulations with certain modifications, the most significant of which are highlighted in the Summary of Comments and Explanation of Revisions. All comments are available at *www.regulations.gov* or upon request.

#### Summary of Comments and Explanation of Revisions

*1. Determining the MLR*

The proposed regulations generally provided that an organization's MLR with respect to a taxable year is the ratio, expressed as a percentage, of the MLR numerator to the MLR denominator. The MLR numerator was defined as the organization's total premium revenue expended on reimbursement for clinical services provided to enrollees under its policies for the taxable year. The MLR denominator was defined as the organization's total premium revenue for the taxable year, after excluding Federal and State taxes and licensing or regulatory fees and after accounting for payments or receipts for risk adjustment, risk corridors, and reinsurance. The final regulations retain these definitions.

a. MLR numerator

The proposed regulations provided that the MLR numerator does not include amounts expended for ''activities that improve health care quality.'' Two commenters requested that the MLR numerator include

amounts expended for ''activities that improve health care quality'' as reported under section 2718 of the PHSA, arguing that Congress intended to include amounts expended for ''activities that improve health care quality'' in the MLR numerator. Two other commenters agreed with the proposed rule that amounts expended for ''activities that improve health care quality'' should not be included in the MLR numerator.

The final regulations retain the rule in the proposed regulations because the alternative is not supported by the statute. Section 2718 of the PHSA provides that the MLR numerator is based on both ''reimbursement for clinical services provided to enrollees'' and ''activities that improve health care quality.'' By contrast, the express language of section 833(c)(5) provides that the MLR numerator is based on ''reimbursement for clinical services provided to enrollees'' without any reference to ''activities that improve health care quality.'' Accordingly, the final regulations provide that the MLR numerator in section 833(c)(5) does not include costs for ''activities that improve health care quality.''

b. Computation of MLR

The proposed regulations provided that amounts used for purposes of section 833(c)(5) (that is, total premium revenue and total premium revenue expended on reimbursement for clinical services provided to enrollees) for each taxable year should be determined based on amounts reported under section 2718 of the PHSA for that taxable year and the two preceding taxable years, subject to the same adjustments that apply for purposes of section 2718 of the PHSA. In the preamble to the proposed regulations, the Treasury Department and the IRS requested comments as to whether organizations should, instead of using the three-year period used for purposes of section 2718(b)(1)(B)(ii) of the PHSA, compute their expenses and total premium revenue only for the taxable year for which the computation is being made under section 833(c)(5), and whether adoption of the three-year approach would create difficulties with respect to the computation of the MLR for the 2014 taxable year.

Two commenters suggested that each organization described in section 833(c) be permitted a one-time, permanent election to compute its MLR over either the three-year period provided in the proposed regulations or over a one-year period based on the taxable year. The commenters further suggested that if a three-year period is used, transition relief should be provided to phase in the three-year period.

In describing the MLR computation under section 833(c)(5), the statute provides that the elements in the computation are to be ''as reported under section 2718 of the Public Service Health Act.'' The Treasury Department and the IRS have concluded that this cross reference indicates that Congress intended that, to the extent consistent with the express language of section 833(c)(5), the meaning of terms and the methodology used in the MLR computation under section 833(c)(5) should be consistent with the definition of those same terms and the methodology under section 2718 of the PHSA. Section 2718(b)(1)(B)(ii) of the PHSA and the associated regulations issued by the Department of Health and Human Services use a three-year period to compute the medical loss ratio, allowing certain limited adjustments after the end of the year to determine expenses and premium revenue. (See 45 CFR 158.220(b) and 158.140.) Accordingly, the Treasury Department and the IRS have concluded that amounts used for purposes of section 833(c)(5) for each taxable year should be determined based on amounts reported under section 2718 of the PHSA for that taxable year and the two preceding taxable years, subject to the same adjustments that apply for purposes of section 2718 of the PHSA.

In light of the comments received, the Treasury Department and the IRS have concluded that transition rules to phase in the three-year period provided in these final regulations are appropriate. Accordingly, the final regulations provide that for the first taxable year beginning after December 31, 2013, an organization's MLR will be computed on a one-year basis. Thus, for the first taxable year beginning after December 31, 2013, an organization's MLR is computed based on its total premium revenue expended on reimbursement for clinical services provided to enrollees for its first taxable year beginning after December 31, 2013, and its total premium revenue for its first taxable year beginning after December 31, 2013.

For the first taxable year beginning after December 31, 2014, an organization's MLR will be computed on a two-year basis. Thus, for the first taxable year beginning after December 31, 2014, an organization's MLR is computed based on the sum of its total premium revenue expended on reimbursement for clinical services provided to enrollees for its first taxable year beginning after December 31, 2013, and for its first taxable year beginning after December 31, 2014, and the sum of its total premium revenue for its first taxable year beginning after December 31, 2013, and for its first taxable year beginning after December 31, 2014.

For the first taxable year beginning after December 31, 2015, and for all succeeding taxable years, the final regulations provide that the MLR is determined based on amounts reported under section 2718 of the PHSA for that taxable year and the two preceding taxable years, subject to the same adjustments that apply for purposes of section 2718 of the PHSA.

The final regulations do not adopt the commenters' suggestion to allow organizations to make an election between the three-year period provided in the proposed regulations or the one-year period based on the taxable year. The statutory framework does not contemplate an election or provide for more than one method for computing the MLR. Further, any election would be administratively burdensome for the IRS.

*2. Nonapplication of Section 833 in Case of an Insufficient MLR*

The proposed regulations provided that the consequences of having an MLR of less than 85 percent (an insufficient MLR) are as follows: (1) The organization is not taxable as a stock insurance company by reason of section 833(a)(1), but may be taxable as an insurance company if it otherwise meets the requirements of section 831(c); (2) the organization is not allowed the special deduction set forth in section 833(b); and (3) if the organization qualifies as an insurance company under section 831(c), it must take into account 80 percent, rather than 100 percent, of its unearned premiums under section 832(b)(4) as it applies to other non-life insurance companies.

In response to the proposed regulations, two commenters requested that the consequences of having an insufficient MLR under section 833(c)(5) be limited to the loss of only some of the benefits of section 833. Specifically, commenters posited that an organization that fails the MLR requirement under section 833(c)(5) should not lose its status as an insurance company under section 833(a)(1). Rather, the commenters argued that the organization should only suffer the loss of eligibility for the special deduction in section 833(b) and be subject to the less favorable computation of unearned premium reserves based on 80 percent, rather than 100 percent, of its unearned premiums under section 832(b)(4). Another commenter agreed with the proposed rule that the consequences of

having an insufficient MLR under section 833(c)(5) include the loss of automatic stock insurance company status under section 833(a)(1).

Section 833(c)(5) provides that ''this section [833]'' shall not apply to any organization unless the organization satisfies the MLR requirement in section 833(c)(5). This language does not contemplate disallowance of some, but not all, of the benefits associated with treatment under section 833. Because the benefit of automatic stock insurance company status is provided to section 833(c) organizations in section 833(a)(1), this benefit is lost upon a failure to satisfy the MLR under section 833(c)(5). Accordingly, the Treasury Department and the IRS have concluded that for an organization described in section 833(c) that fails to satisfy the MLR requirement under section 833(c)(5): (1) The organization is not taxable as a stock insurance company by reason of section 833(a)(1), but may be taxable as an insurance company if it otherwise meets the requirements of section 831(c); (2) the organization is not allowed the special deduction set forth in section 833(b); and (3) if the organization qualifies as an insurance company under section 831(c), it must take into account 80 percent, rather than 100 percent, of its unearned premiums under section 832(b)(4) as it applies to other non-life insurance companies.

In the proposed regulations, the Treasury Department and the IRS declined to adopt a proposal to allow an organization that would have otherwise failed to satisfy the MLR by a de minimis amount to pay an amount to the IRS to retain eligibility for the benefits of section 833 because the statutory framework does not contemplate a penalty or other payment to the IRS. The Treasury Department and the IRS requested comments on whether there are other possible means consistent with the statute of mitigating the consequences of having an insufficient MLR.

In response to the proposed regulations, two commenters requested that, in limited circumstances, an organization with an insufficient MLR be permitted to rebate premiums to one of the following to satisfy the section 833(c)(5) MLR requirement: (1) The Secretary of Health and Human Services; (2) policyholders; (3) a State Comprehensive Health Insurance Plan or other health related program, foundation, or guarantee fund association; or (4) a risk adjustment, reinsurance, or risk corridor program under the Affordable Care Act. Another commenter suggested that allowing any rebating of premiums to comply with section 833(c)(5) would fail to address consumers' needs for affordable coverage at the time of purchase. The Treasury Department and the IRS continue to consider whether, and, if so, how to permit organizations to address de minimis failures to satisfy the MLR under section 833(c)(5).

*3. No Material Change*

Commenters requested clarification that an organization's loss of eligibility for treatment under section 833 by reason of section 833(c)(5) will not be treated as a material change in the operations of such organization or in its structure for purposes of section 833(c)(2)(C). Section 833(c) restricts the application of section 833 to any existing Blue Cross or Blue Shield organization, and any other qualifying organization meeting the requirements of section 833(c)(3). Section 833(c)(2)(C) defines the term ''existing Blue Cross or Blue Shield organization'' to mean any Blue Cross or Blue Shield organization if such organization was in existence on August 16, 1986, such organization was determined to be exempt from tax for its last taxable year beginning before January 1, 1987, and no material change has occurred in the operations of such organization or in its structure after August 16, 1986, and before the close of its current taxable year.

The final regulations adopt this suggestion. Consistent with the annual determination of whether an organization's MLR under section 833(c)(5) is at least 85 percent, which allows eligibility for treatment under section 833 to be recovered if lost by reason of section 833(c)(5), the Treasury Department and the IRS have concluded that a change in an organization's eligibility for treatment under section 833 solely by reason of section 833(c)(5) will not be treated as a material change in the operations of such organization or in its structure for purposes of section 833(c)(2)(C).

*4. Accounting for Unearned Premiums*

In Notice 2011–4 (2011–2 IRB 282 (December 29, 2010)) and Rev. Proc. 2011–14 (2011–4 IRB 330 (January 11, 2011)) (both of which are available at *www.irs.gov*), the Treasury Department and the IRS provided procedures for an organization to obtain automatic consent to change its method of accounting for unearned premiums because of the application of section 833(c)(5). Two commenters raised questions about the continued application of Notice 2011–4. The guidance provided in Notice 2011–4 and Rev. Proc. 2011–14 continues to apply in its current form and is not superseded by these final regulations. See § 601.601(d)(2)(ii)(*b*).

**Applicability Date**

These regulations apply to taxable years beginning after December 31, 2013.

**Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and because the regulations do not impose an information collection on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small business. No comments were received.

**Drafting Information**

The principal author of these regulations is Graham R. Green, Office of Associate Chief Counsel (Financial Institutions & Products). However, other personnel from the Treasury Department and the IRS participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended as follows:

## PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.833–1 is added to read as follows:

**§ 1.833–1 Medical Loss Ratio Under Section 833(c)(5).**

(a) *In general.* Section 833 does not apply to an organization unless the organization's medical loss ratio (MLR) for a taxable year is at least 85 percent. Paragraph (b) of this section provides definitions that apply for purposes of section 833(c)(5) and this section. Paragraph (c) of this section provides

rules for computing an organization's MLR under section 833(c)(5). Paragraph (d) of this section addresses the treatment under section 833 of an organization that has an MLR of less than 85 percent. Paragraph (e) of this section provides the effective/applicability date.

(b) *Definitions.* The following definitions apply for purposes of section 833(c)(5) and this section.

(1) *Reimbursement for clinical services provided to enrollees.* The term *reimbursement for clinical services provided to enrollees* has the same meaning as that term has in section 300gg–18 of title 42, United States Code and the regulations issued under that section (see 45 CFR 158.140).

(2) *Total premium revenue.* The term *total premium revenue* means the total amount of premium revenue (excluding Federal and State taxes and licensing or regulatory fees and after accounting for payments or receipts for risk adjustment, risk corridors, and reinsurance under sections 1341, 1342, and 1343 of the Patient Protection and Affordable Care Act, Public Law 111–148 (124 Stat. 119 (2010)) (42 U.S.C. sections 18061, 18062, and 18063)) as those terms are used for purposes of section 300gg–18(b) of title 42, United States Code and the regulations issued under that section (see 45 CFR Part 158).

(c) *Computation of MLR under section 833(c)(5)*—(1) *In general.* Starting with the first taxable year beginning after December 31, 2015, and for all succeeding taxable years, an organization's MLR with respect to a taxable year is the ratio, expressed as a percentage, of the MLR numerator, as described in paragraph (c)(1)(i) of this section, to the MLR denominator, as described in paragraph (c)(1)(ii) of this section.

(i) *MLR numerator.* The numerator of an organization's MLR is the total premium revenue expended on reimbursement for clinical services provided to enrollees under its policies for the taxable year, computed using a three-year period in the same manner as those expenses are computed for the plan year for purposes of section 300gg–18(b) of title 42, United States Code and regulations issued under that section (see 45 CFR Part 158).

(ii) *MLR denominator.* The denominator of an organization's MLR is the organization's total premium revenue for the taxable year, computed using a three-year period in the same manner as the total premium revenue is computed for the plan year for purposes of section 300gg–18(b) of title 42, United States Code and regulations issued under that section (see 45 CFR Part 158).

(2) *Transition rules.* The transition rules in paragraphs (c)(2)(i) and (c)(2)(ii) of this section apply solely for the first taxable year beginning after December 31, 2013, and the first taxable year beginning after December 31, 2014.

(i) *First taxable year beginning after December 31, 2013.* For the first taxable year beginning after December 31, 2013, the numerator of an organization's MLR is the total premium revenue expended on reimbursement for clinical services provided to enrollees under its policies for the first taxable year beginning after December 31, 2013, and the denominator of an organization's MLR is the organization's total premium revenue for the first taxable year beginning after December 31, 2013.

(ii) *First taxable year beginning after December 31, 2014.* For the first taxable year beginning after December 31, 2014, the numerator of an organization's MLR is the sum of the total premium revenue expended on reimbursement for clinical services provided to enrollees under its policies for the first taxable year beginning after December 31, 2013, and for the first taxable year beginning after December 31, 2014, and the denominator of an organization's MLR is the sum of the organization's total premium revenue for the first taxable year beginning after December 31, 2013, and for the first taxable year beginning after December 31, 2014.

(d) *Failure to qualify under section 833(c)(5)*—(1) *In general.* If, for any taxable year, an organization's MLR is less than 85 percent, then beginning in that taxable year and for each subsequent taxable year for which the organization's MLR remains less than 85 percent, paragraphs (d)(1)(i) through (d)(1)(iii) of this section apply.

(i) *Automatic stock insurance company status.* The organization is not taxable as a stock insurance company by reason of section 833(a)(1), but may be taxable as an insurance company if it otherwise meets the requirements of section 831(c);

(ii) *Special deduction.* The organization is not allowed the special deduction set forth in section 833(b); and

(iii) *Premiums earned.* The organization must take into account 80 percent, rather than 100 percent, of its unearned premiums under section 832(b)(4) as it applies to other non-life insurance companies, provided the organization qualifies as an insurance company by meeting the requirements of section 831(c).

(2) *No material change.* An organization's loss of eligibility for treatment under section 833 solely by reason of section 833(c)(5) will not be treated as a material change in the operations of such organization or in its structure for purposes of section 833(c)(2)(C).

(e) *Effective/applicability date.* This section applies to taxable years beginning after December 31, 2013.

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: January 2, 2014.

**Mark J. Mazur,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2014–00092 Filed 1–6–14; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 121018563–3148–02]**

**RIN 0648–XD060**

## Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2014 Bering Sea and Aleutian Islands Pollock, Atka Mackerel, and Pacific Cod Total Allowable Catch Amounts

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; inseason adjustment; request for comments.

**SUMMARY:** NMFS is adjusting the 2014 total allowable catch (TAC) amounts for the Bering Sea and Aleutian Islands (BSAI) pollock, Atka mackerel, and Pacific cod fisheries. This action is necessary because NMFS has determined these TACs are incorrectly specified, and will ensure the BSAI pollock, Atka mackerel, and Pacific cod TACs are the appropriate amounts based on the best available scientific information. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), January 2, 2014, until the effective date of the final 2014 and 2015 harvest specifications for BSAI groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., January 17, 2014.

**ADDRESSES:** You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2012–0210 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=[NOAA-NMFS-2012-0210],* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.
- *Fax:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907–586–7557.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) set the 2014 BSAI pollock TAC at 1,266,100 metric tons (mt), the 2014 BSAI Atka mackerel TAC at 25,379 mt, and the 2014 BSAI Pacific cod TAC at 260,880 mt. In December 2013, the North Pacific Fishery Management Council (Council) recommended a 2014 BSAI pollock TAC of 1,286,075 mt, which is more than the 1,266,100 mt TAC established by the final 2013 and 2014 harvest specifications for groundfish in the BSAI. The Council also recommended a 2014 BSAI Atka mackerel TAC of 32,322 mt, which is more than the 25,379 mt TAC established by the final 2013 and 2014 harvest specifications for groundfish in the BSAI. Furthermore, the Council recommended a 2014 BSAI Pacific cod TAC of 253,894 mt, which is less than the 260,880 mt TAC established by the final 2013 and 2014 harvest specifications for groundfish in the BSAI. In 2014 the Council recommended that the TAC for Pacific cod be split by a Bering Sea TAC of 246,897 and an Aleutian Island TAC of 6,997 mt. The Council's recommended 2014 TACs, and the area and seasonal apportionments, are based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2013, which NMFS has determined is the best available scientific information for these fisheries.

Steller sea lions occur in the same location as the pollock, Atka mackerel, and Pacific cod fisheries and are listed as endangered under the Endangered Species Act (ESA). Pollock, Atka mackerel, and Pacific cod are a principal prey species for Steller sea lions in the BSAI. The seasonal apportionment of pollock, Atka mackerel, and Pacific cod harvest is necessary to ensure the groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification of critical habitat for Steller sea lions. The regulations at § 679.20(a)(5) specify how the BS pollock TAC will be apportioned. The regulations at § 679.20(a)(7) specify how the BSAI Pacific cod TAC will be apportioned. The regulations at § 679.20(a)(8) specify how the BSAI Atka mackerel TAC will be apportioned.

In accordance with § 679.25(a)(1)(iii), (a)(2)(i)(B), and (a)(2)(iv), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2013 SAFE report for this fishery, the current BSAI pollock, Atka mackerel, and Pacific cod TACs are incorrectly specified. Pursuant to § 679.25(a)(1)(iii), the Regional Administrator is adjusting the 2014 BSAI pollock TAC to 1,286,075 mt, the 2014 BSAI Atka mackerel TAC to 32,322 and the 2014 BSAI Pacific cod TAC to 253,894 mt. Therefore, Table 1 of the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) is revised consistent with this adjustment.

Pursuant to § 679.20(a)(5)(i), Table 3 of the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) and reallocations (78 FR 14932, March 8, 2013 and 78 FR 49200, August 13, 2013) is revised for the 2014 BSAI allocations of pollock TAC to the directed pollock fisheries and to the Community Development Quota (CDQ) directed fishing allowances consistent with this adjustment.

TABLE 3—FINAL 2013 AND 2014 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

| Area and sector | 2013 Allocations | 2013 A season [1] | | 2013 B season [1] | 2014 Allocations | 2014 A season [1] | | 2014 B season [1] |
|---|---|---|---|---|---|---|---|---|
| | | A season DFA | SCA harvest limit [2] | B season DFA | | A season DFA | SCA harvest limit [2] | B season DFA |
| Bering Sea subarea | 1,261,900 | n/a | n/a | n/a | 1,267,000 | n/a | n/a | n/a |
| CDQ DFA | 126,600 | 50,640 | 35,448 | 75,960 | 126,700 | 50,680 | 35,476 | 76,020 |
| ICA [1] | 33,699 | n/a | n/a | n/a | 38,770 | n/a | n/a | n/a |
| AFA Inshore | 550,801 | 220,320 | 154,224 | 330,480 | 550,765 | 220,306 | 154,214 | 330,459 |
| AFA Catcher/Processors [3] | 440,640 | 176,256 | 123,379 | 264,384 | 440,612 | 176,245 | 123,371 | 264,367 |
| Catch by C/Ps | 403,186 | 161,274 | n/a | 241,912 | 403,160 | 161,264 | n/a | 241,896 |
| Catch by CVs [3] | 37,454 | 14,982 | n/a | 22,473 | 37,452 | 14,981 | n/a | 22,471 |
| Unlisted C/P Limit [4] | 2,203 | 881 | n/a | 1,322 | 2,203 | 881 | n/a | 1,322 |
| AFA Motherships | 110,160 | 44,064 | 30,845 | 66,096 | 110,153 | 44,061 | 30,843 | 66,092 |
| Excessive Harvesting Limit [5] | 192,780 | n/a | n/a | n/a | 192,768 | n/a | n/a | n/a |

TABLE 3—FINAL 2013 AND 2014 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]—Continued

[Amounts are in metric tons]

| Area and sector | 2013 Allocations | 2013 A season [1] | | 2013 B season [1] | 2014 Allocations | 2014 A season [1] | | 2014 B season [1] |
|---|---|---|---|---|---|---|---|---|
| | | A season DFA | SCA harvest limit [2] | B season DFA | | A season DFA | SCA harvest limit [2] | B season DFA |
| Excessive Processing Limit [6] | 330,480 | n/a | n/a | n/a | 330,459 | n/a | n/a | n/a |
| Total Bering Sea DFA | 1,101,601 | 440,640 | 308,448 | 660,961 | 1,101,530 | 440,612 | 308,428 | 660,918 |
| Aleutian Islands subarea [1] | 6,600 | n/a | n/a | n/a | 19,000 | n/a | n/a | n/a |
| CDQ DFA | 0 | 0 | n/a | 0 | 1,900 | 760 | n/a | 1,140 |
| ICA | 1,600 | 800 | n/a | 800 | 2,000 | 1,000 | n/a | 1,000 |
| Aleut Corporation | 5,000 | 5,000 | n/a | 0 | 15,100 | 11,863 | n/a | 3,237 |
| Bogoslof District ICA [7] | 100 | n/a | n/a | n/a | 75 | n/a | n/a | n/a |

[1] Pursuant to § 679.20(a)(5)(i)(A), the BS subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (3 percent), is allocated as a DFA as follows: Inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the BS subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (2,000 mt), is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the directed pollock fishery.

[2] In the BS subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(*A*)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(*A*)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

[7] The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

**Note:** Seasonal or sector apportionments may not total precisely due to rounding.

Pursuant to § 679.20(a)(8), Table 4 of the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) is revised for the 2014 seasonal and spatial allowances, gear shares, CDQ reserve, incidental catch allowance, and Amendment 80 allocation of the BSAI Atka mackerel TAC.

TABLE 4—FINAL 2013 AND 2014 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

| Sector [1] | Season [2 3 4] | 2013 allocation by area | | | 2014 allocation by area | | |
|---|---|---|---|---|---|---|---|
| | | Eastern Aleutian District/ Bering Sea | Central [5] Aleutian District | Western Aleutian District | Eastern Aleutian District/ Bering Sea | Central [5] Aleutian District | Western Aleutian District |
| TAC | n/a | 16,900 | 7,520 | 1,500 | 21,652 | 9,670 | 1,000 |
| CDQ reserve | Total | 1,808 | 805 | 161 | 2,317 | 1,035 | 107 |
| | A | 904 | 402 | 80 | 1,158 | 517 | 54 |
| | Critical Habitat [5] | n/a | 40 | n/a | n/a | 52 | n/a |
| | B | 904 | 402 | 80 | 1,158 | 517 | 54 |
| | Critical Habitat [5] | n/a | 40 | n/a | n/a | 52 | n/a |
| ICA | Total | 1,000 | 75 | 40 | 1,000 | 75 | 40 |
| Jig [6] | Total | 70 | 0 | 0 | 92 | 0 | 0 |
| BSAI trawl limited access | Total | 1,402 | 664 | 0 | 1,824 | 856 | 0 |
| | A | 701 | 332 | 0 | 912 | 428 | 0 |
| | B | 701 | 332 | 0 | 912 | 428 | 0 |
| Amendment 80 sectors | Total | 12,619 | 5,976 | 1,300 | 16,419 | 7,704 | 853 |
| | A | 6,310 | 2,988 | 650 | 8,210 | 3,852 | 427 |
| | B | 6,310 | 2,988 | 650 | 8,210 | 3,852 | 427 |
| Alaska Groundfish Cooperative [7] | Total [7] | 7,271 | 3,563 | 783 | 9,482 | 4,596 | 500 |
| | A | 3,636 | 1,782 | 392 | 4,741 | 2,298 | 250 |
| | Critical Habitat [5] | n/a | 178 | n/a | n/a | 230 | n/a |
| | B | 3,636 | 1,782 | 392 | 4,741 | 2,298 | 250 |
| | Critical Habitat [5] | n/a | 178 | n/a | n/a | 230 | n/a |
| Alaska Seafood Cooperative [7] | Total [7] | 5,348 | 2,414 | 517 | 6,937 | 3,108 | 353 |
| | A | 2,674 | 1,207 | 259 | 3,469 | 1,554 | 177 |
| | Critical Habitat [5] | n/a | 121 | n/a | n/a | 155 | n/a |
| | B | 2,674 | 1,207 | 259 | 3,469 | 1,554 | 177 |
| | Critical Habitat [5] | n/a | 121 | n/a | n/a | 155 | n/a |

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Regulations at §§ 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to November 1.

[5] Section 679.20(a)(8)(ii)(C) requires the TAC in area 542 shall be no more than 47% of ABC, and Atka mackerel harvests for Amendment 80 cooperatives and CDQ groups within waters 10 nm to 20 nm of Gramp Rock and Tag Island, as described Table 12 to part 679, in Area 542 are limited to no more than 10 percent of the Amendment 80 cooperative Atka mackerel allocation or 10 percent of the CDQ Atka mackerel allocation.

[6] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.
[7] The 2014 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2013. NMFS will post 2014 Amendment 80 allocations when they become available in December 2013.
**Note:** Seasonal or sector apportionments may not total precisely due to rounding.

Pursuant to § 679.20(a)(7), Table 5 of the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) is revised as Table 5a for the 2014 gear shares and seasonal allowances of the BSAI Pacific cod TAC consistent with this adjustment.

TABLE 5a—FINAL 2014 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

| Gear sector | Percent | 2014 share of gear sector total | 2014 share of sector total | 2014 seasonal apportionment | |
|---|---|---|---|---|---|
| | | | | Seasons | Amount |
| BS TAC | ..... | 246,897 | n/a | n/a | n/a |
| BS CDQ | ..... | 26,418 | n/a | see § 679.20(a)(7)(i)(B) | n/a |
| AI TAC | ..... | 6,997 | n/a | n/a | n/a |
| AI CDQ | ..... | 749 | n/a | see § 679.20(a)(7)(i)(B) | n/a |
| Total BSAI non-CDQ TAC [1] | 100 | 226,727 | n/a | n/a | n/a |
| Total hook-and-line/pot gear | 60.8 | 137,850 | n/a | n/a | n/a |
| Hook-and-line/pot ICA [2] | n/a | 500 | n/a | see § 679.20(a)(7)(ii)(B) | n/a |
| Hook-and-line/pot sub-total | n/a | 137,350 | n/a | n/a | n/a |
| Hook-and-line catcher/processor | 48.7 | n/a | 110,016 | Jan 1–Jun 10 | 56,108 |
| | | | | Jun 10–Dec 31 | 53,908 |
| Hook-and-line catcher vessel ≥60 ft LOA | 0.2 | n/a | 452 | Jan 1–Jun 10 | 230 |
| | | | | Jun 10–Dec 31 | 221 |
| Pot catcher/processor | 1.5 | n/a | 3,389 | Jan 1–Jun 10 | 1,728 |
| | | | | Sept 1–Dec 31 | 1,660 |
| Pot catcher vessel ≥60 ft LOA | 8.4 | n/a | 18,976 | Jan 1–Jun 10 | 9,678 |
| | | | | Sept 1–Dec 31 | 9,298 |
| Catcher vessel <60 ft LOA using hook-and-line or pot gear. | 2 | n/a | 4,518 | n/a | n/a |
| Trawl catcher vessel | 22.1 | 50,107 | n/a | Jan 20–Apr 1 | 37,079 |
| | | | | Apr 1–Jun 10 | 5,512 |
| | | | | Jun 10–Nov 1 | 7,516 |
| AFA trawl catcher/processor | 2.3 | 5,215 | n/a | Jan 20–Apr 1 | 3,911 |
| | | | | Apr 1–Jun 10 | 1,304 |
| | | | | Jun 10–Nov 1 | 0 |
| Amendment 80 | 13.4 | 30,381 | n/a | Jan 20–Apr 1 | 22,786 |
| | | | | Apr 1–Jun 10 | 7,595 |
| | | | | Jun 10–Nov 1 | 0 |
| Alaska Groundfish Cooperative | n/a | n/a | 5,657 | Jan 20–Apr 1 | 4,243 |
| | | | | Apr 1–Jun 10 | 1,414 |
| | | | | Jun 10–Nov 1 | 0 |
| Alaska Seafood Cooperative | n/a | n/a | 24,724 | Jan 20–Apr 1 | 18,543 |
| | | | | Apr 1–Jun 10 | 6,181 |
| | | | | Jun 10–Nov 1 | 0 |
| Jig | 1.4 | 3,174 | n/a | Jan 1–Apr 30 | 1,905 |
| | | | | Apr 30–Aug 31 | 635 |
| | | | | Aug 31–Dec 31 | 635 |

[1] The gear shares and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing for Pacific cod in that subarea may be prohibited, even if a BSAI allowance remains.
[2] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2014 based on anticipated incidental catch in these fisheries.
**Note:** Seasonal or sector apportionments may not total precisely due to rounding.

## Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the appropriate allocations for pollock, Atka mackerel, and Pacific cod in the BSAI based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 23, 2013, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Under § 679.25(c)(2), interested persons are invited to submit written

comments on this action to the above address until January 17, 2014.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: January 2, 2014.

**Sean F. Corson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2014–00021 Filed 1–2–14; 4:15 pm]

**BILLING CODE 3510–22–P**

# Proposed Rules

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

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.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2013–1009; Directorate Identifier 2013–NE–35–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Pratt & Whitney Canada Corp. Turboprop Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Pratt & Whitney Canada Corp. (P&WC) turboprop engines. This proposed AD was prompted by in-service events involving the perforation of engine cases as a result of the liberation of power turbine (PT) blades and the fracture/displacement of the PT containment ring. This proposed AD would require installing a reinforcement liner to the PT containment ring and, for certain PT containment rings, adding scallops. We are proposing this AD to prevent uncontained engine failure and damage to the airplane.

**DATES:** We must receive comments on this proposed AD by March 10, 2014.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

For service information identified in this proposed AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Internet: *www.pwc.ca*. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1009; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: 800–647–5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238–7199; email: *robert.green@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–2013–1009; Directorate Identifier 2013–NE–35–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 based on 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 with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

### Discussion

Transport Canada Civil Aviation, which is the aviation authority for Canada, has issued AD CF–2013–33R1, dated November 14, 2013 (referred to hereinafter as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> There have been in-service events involving the perforation of PT6A small series engine cases as a result of the loss of integrity of Power Turbine (PT) Containment Rings under failure loads. Perforation of engine cases has been seen to result from the liberation of PT blades and from fracture/displacement of the PT Containment Ring itself.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1009.

### Relevant Service Information

P&WC has issued Service Bulletin (SB) No. PT6A–72–A1427, Revision 3, dated January 27, 2012. The SB describes procedures for reworking an affected PT containment ring by installing a reinforcement liner and, depending on the part number of the reworked ring, machining scallops into the ring.

### FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of Canada, and is approved for operation in the United States. Pursuant to our bilateral agreement with Canada, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by Transport Canada Civil Aviation and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require installing a reinforcement liner to the PT containment ring and, for

certain PT containment rings, adding scallops.

**Costs of Compliance**

We estimate that this proposed AD affects 1,000 engines of U.S. registry. We also estimate that it would take about 3 hours per engine to comply with this proposed AD. The average labor rate is $85 per hour. Required parts cost about $1,655 per engine. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $1,910,000.

**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 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 this 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 to the extent that it justifies making a regulatory distinction, 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.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

**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 adding the following new airworthiness directive (AD):

**Pratt & Whitney Canada Corp.:** Docket No. FAA–2013–1009; Directorate Identifier 2013–NE–35–AD.

**(a) Comments Due Date**

We must receive comments by March 10, 2014.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Pratt & Whitney Canada Corp. (P&WC) turboprop engines as follows: all model PT6A–20, PT6A–20A, PT6A–20B, PT6A–25, PT6A–28, PT6A–34B, PT6A–36, and PT6A–135 engines; model PT6A–21 engines, serial number (S/N) PCE–25361 and earlier; model PT6A–25A engines, S/N PCE–48757 and earlier; model PT6A–25C engines, S/N PCE–26258 and earlier; model PT6A–27 engines, S/N PCE–42523 and earlier as well as all engines converted to PT6A–27; model PT6A–34 engines, S/N PCE–57303 and earlier as well as all engines converted to PT6A–34; model PT6A–34AG engines, S/N PCE–57312 and earlier as well as all engines converted to PT6A–34AG; model PT6A–114 engines, S/N PCE–17218 and earlier; and model PT6A–135A engines, S/N PCE–35089 and earlier.

**(d) Reason**

This AD was prompted by in-service events involving the perforation of engine cases as a result of the liberation of power turbine (PT) blades and the fracture/displacement of the PT containment ring. We are issuing this AD to prevent uncontained engine failure and damage to the airplane.

**(e) Actions and Compliance**

(1) Comply with this AD within the compliance times specified, unless already done.

(2) Within 24 months after the effective date of this AD, modify the existing PT containment ring. Use paragraph 3., Accomplishment Instructions, of P&WC Service Bulletin (SB) No. PT6A–72–A1427, Revision 3, dated January 27, 2012, to make the modification.

**(f) Credit for Previous Actions**

If you modified the PT containment ring before the effective date of this AD using P&WC SB No. PT6A–72–A1427, Revision 3, dated January 27, 2012, or earlier versions, you have met the requirements of this AD.

**(g) Alternative Methods of Compliance (AMOCs)**

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

**(h) Related Information**

(1) For more information about this AD, contact Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238–7199; email: *robert.green@faa.gov*.

(2) Refer to MCAI Transport Canada Civil Aviation AD CF–2013–33R1, dated November 14, 2013, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1009.

(3) P&WC SB No. PT6A–72–A1427, Revision 3, dated January 27, 2012, pertains to the subject of this AD and can be obtained from P&WC, using the contact information in paragraph (h)(4) of this AD.

(4) For service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Internet: *www.pwc.ca*.

(5) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on January 2, 2014.

**Colleen M. D'Alessandro,**

*Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 2014–00029 Filed 1–6–14; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 870**

**[Docket No. FDA–2013–N–1518]**

## Cardiovascular Devices; Reclassification of Nonroller-Type Cardiopulmonary Bypass Blood Pumps for Cardiopulmonary and Circulatory Bypass; Effective Date of Requirement for Premarket Approval for Nonroller-Type Cardiopulmonary Bypass Blood Pumps for Temporary Ventricular Support

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed order.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing a proposed administrative order to reclassify nonroller-type cardiopulmonary bypass blood pump devices, when used for cardiopulmonary and circulatory bypass, a preamendments class III device, into class II (special controls) and subject to premarket notification based on new information. FDA is also proposing to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for nonroller-type cardiopulmonary bypass blood pump devices for temporary ventricular support. The Agency is also summarizing its proposed findings regarding the degree of risk of illness or injury designed to be eliminated or reduced by requiring the devices to meet the statute's approval requirements when used for temporary ventricular support. In addition, FDA is announcing the opportunity for interested persons to request that the Agency change the classification of any of the devices mentioned in this document based on new information. This action implements certain statutory requirements.

**DATES:** Submit either electronic or written comments on this proposed order by April 7, 2014. FDA intends that, if a final order based on this proposed order is issued, anyone who wishes to continue to market nonroller-type cardiopulmonary bypass blood pump devices for temporary ventricular support will need to file a PMA or a notice of completion of a PDP within 90 days of the effective date of the final order. See section XVII of this document for the proposed effective date of any final order based on this proposed order.

**ADDRESSES:** You may submit comments, identified by Docket No. FDA–2013–N–1518, 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 ways:

- *Mail/Hand delivery/Courier (for paper 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–2013–N–1518 for this rulemaking. 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 Federal Food, Drug, and Cosmetic Act (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 (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), establishes 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 rulemaking 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).

A preamendments device that has been classified into class III and devices found substantially equivalent by means of premarket notification (510(k)) procedures to such a preamendments device or to a device within that type may be marketed without submission of a PMA until FDA issues a final order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval or until the device is subsequently reclassified into class I or class II.

Although, under the FD&C Act, the manufacturer of a class III preamendments device may respond to the call for PMAs by filing a PMA or a notice of completion of a PDP, in practice, the option of filing a notice of completion of a PDP has not been used. For simplicity, although corresponding

requirements for PDPs remain available to manufacturers in response to a final order under section 515(b) of the FD&C Act, this document will refer only to the requirement for the filing and receiving approval of a PMA.

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 608(b) of FDASIA (126 Stat. 1056) amended section 515(b) of the FD&C Act, changing the process for requiring premarket approval for a preamendments class III device from rulemaking to an administrative order.

*A. Reclassification*

FDA is publishing this document to propose the reclassification of nonroller-type cardiopulmonary bypass blood pump devices for cardiopulmonary and circulatory bypass from class III to class II.

Section 513(e) of the FD&C Act governs reclassification of classified preamendments devices. This section provides that FDA may, by administrative order, reclassify a device 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 Co.* 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 action where the reevaluation is made in light of newly available authority (see *Bell,* 366 F.2d at 181; *Ethicon, Inc.* v. *FDA,* 762 F.Supp. 382, 388–391 (D.D.C. 1991)), or in light of changes in ''medical science'' (*Upjohn,* 422 F.2d at 951). Whether data before the Agency are old 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 § 860.7(c)(2) (21 CFR 860.7(c)(2)). (See, e.g., *General Medical Co.* v. *FDA,* 770 F.2d 214 (D.C. Cir. 1985); *Contact Lens Association* v. *FDA,* 766 F.2d 592 (D.C. Cir.), cert. denied, 474 U.S. 1062 (1986).)

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 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 can include 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 for reclassifying a device. 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 to a public docket. FDA has held a meeting of a device classification panel described in section 513(b) of the FD&C Act with respect to nonroller-type cardiopulmonary bypass blood pump devices, and therefore, has met this requirement under section 515(e) of the FD&C Act.

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.

*B. Requirement for Premarket Approval Application*

FDA is proposing to require PMAs for nonroller-type cardiopulmonary bypass blood pump devices for temporary ventricular support.

Section 515(b)(1) of the FD&C Act sets forth the process for issuing a final order requiring PMAs. Specifically, prior to the issuance of a final order requiring premarket approval for a preamendments class III 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. The meeting of the device classification panel described in section 513(b) of the FD&C Act with respect to nonroller-type cardiopulmonary bypass blood pump devices satisfies this requirement under section 515(b)(1) of the FD&C Act.

Section 515(b)(2) of the FD&C Act provides that a proposed order to require premarket approval shall contain: (1) The proposed order, (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device, (3) an opportunity for the submission of comments on the proposed order and the proposed findings, and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(3) of the FD&C Act provides that FDA shall, after the close of the comment period on the proposed order, consideration of any comments received, and a meeting of a device classification panel described in section 513(b) of the FD&C Act, issue a final order to require premarket approval or publish a document terminating the proceeding together with the reasons for such termination. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the FD&C Act, unless the reason for termination is that the device is a banned device under section 516 of the FD&C Act (21 U.S.C. 360f).

Under section 501(f) of the FD&C Act (21 U.S.C. 351(f)), a preamendments class III device may be commercially distributed without a PMA until 90 days after FDA issues a final order (or a final rule under section 515(b) of the FD&C Act if issued prior to the enactment of FDASIA) requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the FD&C Act, whichever is later. For nonroller-type cardiopulmonary bypass blood pump devices, the preamendments class III devices that are the subject of this proposal, the later of these two time periods is the 90-day period. Since these devices were classified in 1980, the 30-month period has expired (45 FR 7959, February 5, 1980). Therefore, if the proposal to require premarket approval for nonroller-type cardiopulmonary bypass blood pump devices for

temporary ventricular support is finalized, section 501(f)(2)(B) of the FD&C Act requires that a PMA for such device be filed within 90 days of the date of issuance of the final order. If a PMA is not filed for such devices within 90 days after the issuance of a final order, the device would be deemed adulterated under section 501(f) of the FD&C Act.

Also, a preamendments device subject to the order process under section 515(b) of the FD&C Act is not required to have an approved investigational device exemption (IDE) (see part 812 (21 CFR part 812)) contemporaneous with its interstate distribution until the date identified by FDA in the final order requiring the filing of a PMA for the device. At that time, an IDE is required only if a PMA has not been filed. If the manufacturer, importer, or other sponsor of the device submits an IDE application and FDA approves it, the device may be distributed for investigational use. If a PMA is not filed by the later of the two dates, and the device is not distributed for investigational use under an IDE, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the FD&C Act, and subject to seizure and condemnation under section 304 of the FD&C Act (21 U.S.C. 334) if its distribution continues. Other enforcement actions include, but are not limited to, the following: Shipment of devices in interstate commerce will be subject to injunction under section 302 of the FD&C Act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the FD&C Act (21 U.S.C. 333). In the past, FDA has requested that manufacturers take action to prevent the further use of devices for which no PMA has been filed and may determine that such a request is appropriate for the class III devices that are the subject of this proposed order, if finalized.

In accordance with section 515(b) of the FD&C Act, interested persons are being offered the opportunity to request reclassification of nonroller-type cardiopulmonary bypass blood pump devices for temporary ventricular support.

## II. Device Description

A nonroller-type blood pump, also referred to as a nonroller-pump (NRP), is a prescription device that uses a method other than revolving rollers to pump blood. While the technologies utilized by NRPs which have been reviewed by the Agency to date include: (1) Centrifugal pumps and (2) catheter-based axial pumps, additional methods for blood propulsion can be anticipated in future devices.

To further delineate types of NRP devices and their intended uses, FDA proposes to rename the devices in this regulation for purposes of consistency and clarity. The term ''NRP Devices for Temporary Cardiopulmonary Bypass'' will be used to designate blood pumps that use nonroller pump technology temporarily (i.e. <6 hours) to propel blood through a cardiopulmonary bypass circuit. The term ''NRP Devices for Temporary Circulatory Bypass'' will be used to designate blood pumps that utilize nonroller pump technology to provide temporary (i.e. <6 hours) circulatory bypass around a planned surgical disruption of the arterial and venous great vessels (i.e. aorta and vena cavae). The term ''NRP Devices for Temporary Ventricular Support'' will be used to designate blood pumps that use nonroller pump technology (e.g. axial or centrifugal flow pumps) to provide temporary (i.e. <6 hours) support of ventricular function resulting from ongoing or anticipated episodes of immediately reversible myocardial dysfunction.

### *A. NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass*

NRP devices in current use for temporary cardiopulmonary and circulatory bypass rely primarily upon centrifugal pump technology that utilizes a rotor to impart energy to the blood in an extracorporeal circuit through centrifugal forces. These pumps house an impeller, magnet, and housing bottom that fit into a drive unit. The motor drive unit holds the disposable blood pump and drives the rotor inside the blood pump with a magnet. These types of pumps have been used as part of an extracorporeal circuit, external to the body and in combination with an oxygenator, to provide cardiopulmonary support for periods lasting less than 6 hours. Additionally, centrifugal pumps can be used in isolation, external to the body but without an oxygenator, to provide temporary circulatory bypass around a planned disruption of the circulatory pathway necessary for open surgical procedures on the aorta or vena cava. Although all currently available devices rely on centrifugal forces to propel blood through these circuits, additional methods for blood propulsion can be anticipated in future devices. For all these future devices, the technology to propel blood as or more efficiently (i.e. adequate volume and with minimal trauma) compared with current technology will be essential in the evaluation for marketing authorization.

### *B. NRP Devices for Temporary Ventricular Support*

NRP devices that pump blood for the purpose of full or partial temporary (i.e. <6 hours) ventricular support may be divided into two broad categories: (1) Those where the temporary NRP device resides within the circulation, and 2) those where the temporary NRP device resides outside the circulation. NRP devices used for temporary ventricular support also typically require percutaneous placement of either catheters (which contain the pump device), or access cannulae. Either or both of these may be required to reside in and/or traverse one or more elements of the circulation (great vessels, valves, septa). Examples include catheter-based microaxial-type pumps comprising a pump motor, cannula, and catheter that connect to a console. Catheter-based microaxial-type pumps are not currently designed to be used with an oxygenator but are temporarily implanted within the heart or vasculature to provide cardiac support by supplementing the function of one or both ventricles, restoring forward flow, and/or allowing the ventricle to rest and repair by decreasing the work and energy demands secondary to ventricular unloading. Centrifugal pump circuits, where the NRP resides outside of the body, have also been used for this purpose following percutaneous placement of inflow and outflow cannulas into the appropriate chambers and vessels. Future development of other pump and cannula technologies to be used for the purpose of temporary ventricular support is anticipated.

## III. Regulatory History of the Device

As discussed in the preamble to the proposed rule to classify these devices into class III (44 FR 13409, March 9, 1979), the Cardiovascular Device Classification Panel (the 1979 Panel) recommended that nonroller-type cardiopulmonary bypass blood pumps be classified into class III because the device is life supporting and is potentially hazardous to life or health even when properly used. The 1979 Panel noted that the device is attached directly to the cardiopulmonary bypass circuit and is used in a clinical environment where excessive leakage current can be a serious hazard. The 1979 Panel further noted that the device is used with other devices in a system that may be hazardous if not satisfactorily assembled, used, or maintained. The 1979 Panel indicated that general controls alone would not

provide sufficient control over the performance characteristics of the device. Additionally, a performance standard would not provide reasonable assurance of the safety and effectiveness of the device; the Panel noted further that there was not sufficient information to establish a standard to provide such assurance. Consequently, the 1979 Panel believed that premarket approval was necessary to assure the safety and effectiveness of the device. In 1980, FDA classified nonroller-type cardiopulmonary bypass blood pumps into class III after receiving no comments on the proposed rule (45 FR 7959, February 5, 1980).

In 1987, FDA published a clarification by inserting language in the codified language stating that no effective date had been established for the requirement for premarket approval for nonroller-type cardiopulmonary bypass blood pumps (52 FR 17732, May 11, 1987).

On July 6, 1993, FDA published a proposed rule to establish an effective date of requirement for premarket approval (i.e. call for PMAs) for nonroller-type cardiopulmonary bypass blood pumps, and provided an opportunity to request a change in classification in the form of a reclassification petition (58 FR 36290). On July 21, 1993, FDA received a reclassification petition from manufacturers of these devices recommending reclassification to class II (special controls). On August 21, 1995, FDA convened the Circulatory System Devices Classification Panel (the 1995 Panel) to review the proposed reclassification and proposed special controls for nonroller-type cardiopulmonary blood pumps for use in cardiopulmonary bypass circuits for periods of up to 6 hours. Reclassification to class II with special controls was supported by the 1995 Panel for nonroller-type cardiopulmonary blood pumps for use in cardiopulmonary bypass circuits for periods of up to 6 hours. FDA did not issue a final regulation codifying the proposed reclassification. In 2004, the July 6, 1993, proposed rule (58 FR 36290) was withdrawn because the proposed rule was no longer considered a viable candidate for final action, due to the length of time that had elapsed since the proposed rule was issued (69 FR 68831, November 26, 2004).

In 2009, FDA published an order for the submission of information on nonroller-type cardiopulmonary bypass blood pumps by August 7, 2009 (74 FR 16214, April 9, 2009). FDA received seven responses to that order from device manufacturers. All manufacturers recommended that nonroller-type cardiopulmonary bypass blood pumps be reclassified to class II. The manufacturers stated that data available in the clinical literature, preclinical and clinical testing, additional knowledge and information regarding the clinical use of the devices, and the overall number of marketed devices provide reasonable assurance of safety and effectiveness of these devices.

As explained further in sections VII and XI of this document, a meeting of the Circulatory System Devices Panel (the 2012 Panel) took place December 6, 2012, to discuss whether nonroller-type cardiopulmonary bypass blood pump devices should be reclassified or remain in class III. The 2012 Panel recommended that nonroller-type cardiopulmonary bypass blood pump devices for cardiopulmonary and circulatory bypass be reclassified to class II with special controls, and nonroller-type cardiopulmonary bypass blood pump devices for temporary ventricular support remain in class III because the device is life-supporting and there was insufficient information to establish special controls for this use. FDA is not aware of new information that would provide a basis for a different recommendation or findings.

## IV. Proposed Reclassification

FDA is proposing that NRP devices used to propel blood within temporary (i.e. less than 6 hours) extracorporeal cardiopulmonary and circulatory bypass circuits be reclassified from class III to class II. In this proposed order, the Agency has identified special controls under section 513(a)(1)(B) of the FD&C Act that, together with general controls applicable to the devices, would provide reasonable assurance of their safety and effectiveness. Absent the special controls identified in this proposed order, general controls applicable to the device are insufficient to provide reasonable assurance of the safety and effectiveness of the device.

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, and taking into account the public health benefit of the use of the device and the nature and known incidence of the risk of the device, FDA, on its own initiative, is proposing to reclassify NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass into class II. FDA believes that this new information is sufficient to demonstrate that the proposed special controls can effectively mitigate the risks to health identified in the next section, and that these special controls, together with general controls, will provide a reasonable assurance of safety and effectiveness for NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass.

Section 510(m) of the FD&C Act authorizes the Agency to exempt class II devices from premarket notification (510(k)) submission. FDA has considered NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass in accordance with the reserved criteria set forth in section 513(a) of the FD&C Act and decided that the device does require premarket notification. Therefore, the Agency does not intend to exempt this proposed class II device from premarket notification (510(k)) submission.

Because NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass can currently be marketed after receiving clearance of an application for premarket notification, and FDA is proposing to reclassify these devices as class II requiring clearance of an application for premarket notification, this order, if finalized, will not require a new premarket submission for NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass.

## 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 NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass and determined that the following risks to health are associated with their use:

- *Alteration in blood composition:* It is essential that the flow characteristics, heat generated by the pump within the extracorporeal circuit, materials, surface finish, and/or cleanliness of the device do not promote blood component trauma. Resulting complications could include bleeding, hemolysis, thrombus formation, and/or complement activation. Improper mechanical design of the device can also result in such complications.
- *Inadequate tissue perfusion:* If the design of the pump is improper, or the pump is unable to pump blood adequately through a cardiopulmonary bypass circuit, inadequate organ perfusion can result. Limb ischemia, access vessel injury, or dissection resulting in ischemia can result from peripheral cardiopulmonary bypass access.
- *Embolism:* Improper design of the device may cause the generation of

gaseous, particular, or thrombotic emboli, which can result in debilitating or fatal complications such as stroke, peripheral emboli, or death.

- *Use beyond intended duration:* Use of the pump beyond the intended duration can result in more frequent and severe adverse effects.
- *Fluid leakage:* If the structural integrity of the pump is compromised, fluid leakage may result.
- *Adverse tissue reaction:* Inadequate compatibility of the patient-contacting materials of the device may cause physical damage to the blood components, or may cause an adverse immunological or allergic reaction in a patient.
- *Infection:* Defects in the design or construction of the device preventing adequate cleaning and/or sterilization can allow pathogenic organisms to be introduced and can cause an infection in a patient.

## VI. Summary of Reasons for Reclassification

If properly manufactured and used as intended, NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass can provide a treatment option for patients when used for cardiopulmonary bypass by providing propulsion of blood through cardiopulmonary bypass circuits or when used for circulatory bypass by allowing planned surgical disruptions of the circulation to avoid distal organ ischemia or venous hypertension. FDA believes NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass should be reclassified from class III to 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, and because general controls themselves are insufficient to provide reasonable assurance of its safety and effectiveness. In addition, there is now adequate effectiveness information sufficient to establish special controls to provide such assurance. FDA believes that the risks to health identified in section V associated with NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass can be mitigated with general and special controls. FDA has identified the risks to health in the table that follows, and the special controls to mitigate these identified risks.

| Identified risk | Mitigation measures |
|---|---|
| Alteration in Blood Composition | Nonclinical Performance/Bench Testing Labeling. |
| Inadequate Tissue Perfusion | Nonclinical Performance/Bench Testing Labeling. |
| Embolism | Nonclinical Performance/Bench Testing Labeling. |
| Duration of Use | Labeling. |
| Fluid Leakage | Nonclinical Performance/Bench Testing. |
| Adverse Tissue Reaction | Biocompatibility. |
| Infection | Sterility and Shelf-Life Testing. |

## VII. Summary of Data Upon Which the Reclassification Is Based

Since the time of the 1979 Panel recommendation, sufficient evidence has been developed to support a reclassification of NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass to class II with special controls. FDA has been reviewing these devices for many years and their risks are well known. FDA conducted a comprehensive review of available literature for NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass. FDA's review found 18 studies, including 1 randomized controlled study (RCT), 1 meta-analysis, 4 cohort studies, and 12 case studies, which provided consistent evidence of the safety and effectiveness of NRP Devices for Temporary Cardiopulmonary Bypass. Further, FDA's review found 23 studies related to NRP Devices for Temporary Circulatory Bypass, including studies related to both venovenous bypass and aortic procedures, which provided consistent evidence of the safety and effectiveness of NRP Devices for Temporary Circulatory Bypass.

The literature data support that the overall complication rates for NRP Devices for Temporary Cardiopulmonary Bypass is similar to that of another class II device type, roller-type cardiopulmonary bypass blood pumps (21 CFR 870.4370). For example, a meta-analysis of 18 RCTs by Saczkowski et al. obtained pooled estimates for a number of clinical outcome measures (Ref. 1). This meta-analysis represented 1,868 adult patients undergoing cardiopulmonary bypass using either a roller pump (907) or a centrifugal pump (961), undergoing predominantly coronary bypass graft surgery (87 percent and 88 percent, respectively). Patients that underwent a cardiopulmonary bypass procedure either using NRPs or roller pumps had no differences in mortality (n = 1,080, odds ratio (OR): 1.05, 95 percent confidence interval (CI): 0.58, 1.88), bleeding (mean difference: −10.26 mL, 95 percent CI: −54.28, 33.75), and blood transfusion (OR: 1.11, 95 percent CI: 0.64, 1.92) at the end of cardiopulmonary bypass or 1 day after the procedure. Similarly, no statistically significant differences were found on other safety endpoints reported (postoperative atrial fibrillation, cerebral damage, platelet count, hemoglobin, white blood cell count, hematocrit, intensive care unit length of stay, hospital length of stay, and neurologic outcomes). Additionally, Parolari et al. published a cohort study of 4,000 patients that demonstrated that patients that had cardiopulmonary bypass with either a centrifugal pump or a roller pump had the same in-hospital mortality (2 percent) (Ref. 2). Multivariate results showed that patients who underwent cardiopulmonary bypass with the centrifugal pump had a reduction in perioperative permanent neurological deficit and perioperative coma of 43 percent and 54 percent, respectively, compared to those patients that had a circuit utilizing a roller pump ($p < 0.05$).

The literature data also support the effectiveness of NRP Devices for Temporary Cardiopulmonary Bypass. Based on FDA's analysis, the most common indicators of effectiveness were length of stay at the hospital, length of stay in the intensive care unit (ICU), and duration of intubation. In Saczkowski's meta-analysis (Ref. 1), no statistically significant differences were found between the NRPs and roller pumps' pooled estimates in intensive care unit length of stay and hospital length of stay. Intubation time among these patients ranged from 8 hours to more than 1 day. Similarly, Zirbel et al. did not find significant differences in a small cohort study in the hospital and ICU length of stay and intubation time among patients on cardiopulmonary bypass with a selected centrifugal pump as compared to those on a roller pump (Ref. 3).

The safety and effectiveness of NRPs Devices for Temporary Circulatory Bypass during surgical procedures on

the descending thoracic or thoracoabdominal aorta have been reported by numerous authors (Refs. 4–9). These devices have supplanted the use of passive shunts (e.g., Gott shunt) due to their ability to provide more reliable and controllable flow to the distal aorta and the organs it perfuses during planned proximal surgical disruptions. In general, centrifugal pumps used for temporary circulatory bypass in these procedures have provided additional margins of safety by allowing for completion of these procedures in a less rushed fashion and without full cardiopulmonary bypass (and full heparinization). Additionally, use of NRPs has been shown to decrease the incidence of distal organ malperfusion and paraplegia, especially during prolonged cross-clamp intervals (>30–45 minutes) and reduce transfusion requirements. Use of NRPs for circulatory bypass has not been associated with significant adverse events related to the centrifugal pump such as thrombosis, thromboembolism, or cannulation-related injuries.

The literature data outlined in this document support a conclusion of reasonable evidence for the safety and effectiveness of cardiopulmonary and circulatory bypass blood pump devices. In addition, bench studies designed to demonstrate the devices' ability to function as intended have been well characterized.

FDA's presentation to the 2012 Panel included a summary of the available safety and effectiveness information for NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass, including identified risks to health drawn from adverse event reports from FDA's Manufacturer and User Facility Device Experience (MAUDE) database and available literature. Based on the available scientific literature, which supports that use of NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass may be beneficial for patients requiring cardiopulmonary or circulatory bypass, FDA recommended to the 2012 Panel that NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass be reclassified to class II (special controls). The 2012 Panel agreed with FDA's conclusion that the available scientific evidence is adequate to support the safety and effectiveness of NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass.

The 2012 Panel also acknowledged that NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass are life-supporting devices and provided the following rationale for recommending that NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass be reclassified to class II: (1) The available scientific evidence supports an adequate assurance of safety and effectiveness for the device; (2) there is evidence that the device provides hemodynamic support; and (3) the recommended special controls will mitigate the health risks associated with the device.

The 2012 Panel agreed with the identified risks to health presented at the meeting but also recommended that limb ischemia, access vessel injury, and dissection resulting in ischemia related to cardiopulmonary bypass access be considered in the risks to health. FDA agrees with the 2012 Panel's recommendation and modified the risks to health accordingly as outlined in section V of this document. Specifically, the definition of ''inadequate tissue perfusion'' was expanded to include these events. The 2012 Panel also agreed with FDA's proposed special controls outlined in section VIII of this document. The 2012 Panel transcript and other meeting materials are available on FDA's Web site (Ref. 10).

## VIII. Proposed Special Controls

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

1. Nonclinical performance testing must provide a reasonable assurance of safety and effectiveness with respect to the operating parameters, dynamic blood damage, heat generation, air entrapment, mechanical integrity, and durability/reliability to perform as intended over the intended duration of 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; and

4. Labeling must include information regarding the duration of use and a detailed summary of the device- and procedure-related complications pertinent to use of the device.

NRP Devices for Temporary Cardiopulmonary and Circulatory Bypass are prescription devices restricted to patient use only upon the authorization of a practitioner licensed by law to administer or use the device. (Proposed 21 CFR 870.4360(a)(1); see 21 CFR 801.109 (Prescription devices)).

## IX. Dates New Requirements Apply

In accordance with section 515(b) of the FD&C Act, FDA is proposing to require that a PMA be filed with the Agency for NRP Devices for Temporary Ventricular Support within 90 days after issuance of any final order based on this proposal. An applicant whose device was legally in commercial distribution before May 28, 1976, or whose device has been found to be substantially equivalent to such a device, will be permitted to continue marketing such class III devices during FDA's review of the PMA provided that the PMA is timely filed. FDA intends to review any PMA for the device within 180 days of the date of filing. FDA cautions that under section 515(d)(1)(B)(i) of the FD&C Act, the Agency may not enter into an agreement to extend the review period for a PMA beyond 180 days unless the Agency finds that ''the continued availability of the device is necessary for the public health.''

An applicant whose device was legally in commercial distribution before May 28, 1976, or whose device has been found to be substantially equivalent to such a device, who does not intend to market such device for temporary ventricular support, and for which the device technology would allow such device to be used for cardiopulmonary or circulatory bypass, may remove such intended use from the device's labeling by initiating a correction within 90 days after issuance of any final order based on this proposal. Under 21 CFR part 806.10(a)(2) a device manufacturer or importer initiating a correction to remedy a violation of the FD&C Act that may present a risk to health is required to submit a written report of the correction to FDA.

FDA intends that under § 812.2(d), the preamble to any final order based on this proposal will state that, as of the date on which the filing of a PMA is required to be filed, the exemptions from the requirements of the IDE regulations for preamendments class III devices in § 812.2(c)(1) and (c)(2) will cease to apply to any device that is: (1) Not legally on the market on or before that date or (2) legally on the market on or before that date but for which a PMA is not filed by that date, or for which PMA approval has been denied or withdrawn.

If a PMA for a class III device is not filed with FDA within 90 days after the date of issuance of any final order requiring premarket approval for the device, the device would be deemed adulterated under section 501(f) of the FD&C Act. The device may be distributed for investigational use only if the requirements of the IDE regulations are met. The requirements for significant risk devices include submitting an IDE application to FDA

for review and approval. An approved IDE is required to be in effect before an investigation of the device may be initiated or continued under § 812.30. FDA, therefore, recommends that IDE applications be submitted to FDA at least 30 days before the end of the 90-day period after the issuance of the final order to avoid interrupting any ongoing investigations.

## X. Proposed Findings With Respect to Risks and Benefits

As required by section 515(b) of the FD&C Act, FDA is publishing its proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring that this device have an approved PMA when used for temporary ventricular support, and (2) the benefits to the public from the use of NRP Devices for Temporary Ventricular Support. These findings are based on the reports and recommendations of the advisory committees (panels) for the classification of these devices along with information submitted in response to the 515(i) Order (74 FR 16214, April 9, 2009), and any additional information that FDA has obtained. Additional information regarding the risks as well as classification associated with this device type is discussed in Section XI of this order and can be found in 44 FR 13409, March 9, 1979; 45 FR 7959, February 5, 1980; 52 FR 17732, May 11, 1987; 58 FR 36290, July 6, 1993; and 69 FR 68831, November 26, 2004.

## XI. Device Subject to the Proposal To Require a PMA—Nonroller-Type Temporary Ventricular Support Blood Pump Devices (21 CFR 870.4360(c))

### *A. Identification*

An NRP Device for Temporary Ventricular Support is a prescription device that uses any method resulting in blood propulsion to provide the temporary (i.e. ≤ 6 hours) ventricular assistance required for support of the systemic and/or pulmonary circulations during periods when there is ongoing or anticipated hemodynamic instability due to immediately reversible alterations in ventricular myocardial function resulting from mechanical or physiologic causes.

### *B. Summary of Data*

The use of NRP Devices for Temporary Ventricular Support does not share the long history of use compared to NRP Devices for Temporary Cardiopulmonary or Circulatory Bypass. Temporary NRP devices, when used for cardiopulmonary or circulatory bypass, are integral to the underlying procedure (e.g., open heart surgery, resection of thoracic aneurysm) itself, making it both possible and safer. When used for temporary ventricular support, the NRP devices introduce the risk of both the blood pump and its access technology in procedures where a substantial portion of patient benefit is derived or thought to be derived from the avoidance of circulatory support or bypass, or from the safer performance of the underlying procedure (e.g., percutaneous coronary intervention, off pump coronary artery bypass). Based on FDA's review of available data, use of the device is associated with significant procedural risks. These risks do not appear to be balanced by a demonstrable clinical benefit. Specifically, based on FDA's review of the published literature, it appears that there are no completed studies regarding use of NRP devices that support the effectiveness for temporary ventricular support. Further, the 2011 American College of Cardiology Foundation/American Heart Association/Society for Cardiovascular Angiography and Interventions (ACCF/AHA/SCAI) Guideline for Percutaneous Coronary Intervention assigned a class IIb, Level C recommendation to the use of temporary ventricular support devices for high-risk percutaneous coronary interventions. A Class IIb, level C indication means that the benefit may outweigh the risk and that the treatment or procedure may be considered. This recommendation's usefulness or efficacy is unknown/unclear/uncertain or not well established and is based only on diverging expert opinion, case studies, or standard of care (Ref. 11). When used for temporary ventricular support, FDA concludes that the safety and effectiveness of NRP devices have not been established by adequate scientific evidence. The benefit/risk profile for NRP Devices for Temporary Ventricular Support indications is unknown. Further, safe and effective performance parameters for the class of devices have not been established by data. For these reasons, FDA does not believe sufficient information exists to establish special controls to provide a reasonable assurance of safety and effectiveness for the devices.

FDA presented findings regarding NRP Devices for Temporary Ventricular Support to the Circulatory System Devices Panel (the Panel) on December 6, 2012. The Panel recommended that available scientific evidence is not adequate to support the safety and effectiveness of NRP Devices Temporary Ventricular Support and that these devices fit the criteria necessary to remain in class III because (1) the devices are life-supporting and (2) insufficient information exists to determine that special controls would provide reasonable assurance of its safety and effectiveness for this use. As a result, the Panel concluded that NRP Devices for Temporary Ventricular Support should remain in class III (subject to premarket approval application). The Panel transcript and other meeting materials are available on FDA's Web site (Ref. 11).

### *C. Risks to Health*

The risks to health for NRP Devices for Temporary Ventricular Support include the risks outlined in section V as well as the following additional risks to health:

- *Structural/tissue damage:* Improper design, placement, or use of the percutaneous device or access cannulae can cause structural or tissue damage to the heart or access vessels, including perforation, dissection, tamponade, and/or valve damage.
- *Intracardiac heat generation:* Improper design of the device may cause excessive heat generation within the heart or great vessels, which can cause tissue damage and can affect hemolysis and thromboembolic potential.
- *Modified flow dynamics:* Improper design or placement of the percutaneous device or cannulae can cause new or different patterns or methods of flow, which can affect hemolysis or thromboembolic potential, or can cause limb ischemia due to the need for peripheral cannulation with large bore cannulae.

These additional risks to health are directly related to the NRP technology that, for temporary use, requires percutaneous placement of either a pump containing catheter or separate inflow and outflow cannulae into the heart or great vessels. For effective use, these pump containing catheters or access cannulae must either reside in and/or traverse one or more elements of the circulation (i.e. great vessels, valves, septa). In contrast, temporary NRP devices that are used as part of an extracorporeal cardiopulmonary bypass or circulatory bypass circuit do not present these risks to health since the actual NRP resides outside of the circulation, and the cannulae required for inflow and outflow are placed under direct visualization into the central circulation during an open surgical procedure without being required to traverse one or more cardiac chambers, septa, or valves for effective use.

*D. Benefits of NRP Devices for Temporary Ventricular Support*

As discussed previously, there is limited scientific evidence regarding the effectiveness of NRP Devices for Temporary Ventricular Support. Because the benefits of NRP Devices for Temporary Ventricular Support are unknown, it is impossible to estimate the direct effect of the devices on patient outcomes. However, NRP Devices for Temporary Ventricular Support have the potential to benefit the public by providing cardiac support, improving hemodynamic stability, reducing myocardial workload and oxygen consumption, and increasing cardiac output. Their use may also allow initiation or completion of complex therapies, recovery of native ventricular function sufficient for weaning of the device, or bridging to more permanent therapies meant to provide long-term hemodynamic support.

**XII. PMA Requirements**

A PMA for NRP Devices for Temporary Ventricular Support must include the information required by section 515(c)(1) of the FD&C Act and include all data and information on: (1) Any risks known, or that should be reasonably known, to the applicant that have not been identified in this document; (2) the effectiveness of the device that is the subject of the application; and (3) full reports of all preclinical and clinical information from investigations on the safety and effectiveness of the device for which premarket approval is sought.

A PMA must include valid scientific evidence to demonstrate reasonable assurance of the safety and effectiveness of the device for its intended use (see § 860.7(c)(1)). In particular, a PMA for the device should discuss the benefits of the device in light of the risks identified in this document. Valid scientific evidence is ''evidence from well-controlled investigations, partially controlled studies, studies and objective trials without matched controls, well-documented case histories conducted by qualified experts, and reports of significant human experience with a marketed device, from which it can fairly and responsibly be concluded by qualified experts that there is reasonable assurance of the safety and effectiveness of a device under its conditions of use. . . . Isolated case reports, random experience, reports lacking sufficient details to permit scientific evaluation, and unsubstantiated opinions are not regarded as valid scientific evidence to show safety or effectiveness.'' (See § 860.7(c)(2)).

**XIII. Opportunity To Request a Change in Classification**

Before requiring the filing of a PMA for a device, FDA is required by section 515(b)(2)(D) of the FD&C Act to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to the classification. Any proceeding to reclassify the device will be under the authority of section 513(e) of the FD&C Act.

A request for a change in the classification of NRP Devices for Temporary Ventricular Support is to be in the form of a reclassification petition containing the information required by 21 CFR 860.123, including new information relevant to the classification of the device.

**XIV. Codification of Orders**

Prior to the amendments by FDASIA, section 513(e) of the FD&C Act provided for FDA to issue regulations to reclassify devices and section 515(b) of the FD&C Act provided for FDA to issue regulations to require approval of an application for premarket approval for preamendments devices or devices found to be substantially equivalent to preamendments devices. Because sections 513(e) and 515(b) as amended require FDA to issue final orders rather than regulations, FDA will continue to codify reclassifications and requirements for approval of an application for premarket approval, resulting from changes issued in final orders, in the Code of Federal Regulations (CFR). Therefore, under section 513(e)(1)(A)(i) of the FD&C Act, as amended by FDASIA, in this proposed order, we are proposing to revoke the requirements in 21 CFR 870.4360 related to the classification of nonroller-type cardiopulmonary bypass blood pump devices as class III devices and to codify the reclassification of nonroller-type cardiopulmonary and circulatory bypass blood pump devices into class II.

**XV. 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.

**XVI. Paperwork Reduction Act of 1995**

This proposed order refers to collections of information that 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 814 have been approved under OMB control number 0910–0231. The collections of information in part 807, subpart E, have been approved under OMB control number 0910–0120. The effect of this order, if finalized, is to shift certain devices from the 510(k) premarket notification process to the PMA process. To account for this change, FDA intends to transfer some of the burden from OMB control number 0910–0120, which is the control number for the 510(k) premarket notification process, to OMB control number 0910–0231, which is the control number for the PMA process. As noted previously, FDA estimates that it will receive three new PMAs as a result of this order, if finalized. Based on FDA's most recent estimates, this will result in 1,038 hours burden increase to OMB control number 0910–0231. FDA also estimates that there will be three fewer 510(k) submissions as a result of this order, if finalized. Based on FDA's most recent estimates, this will result in a 136 hours burden decrease to OMB control number 0910–0120. Therefore, on net, FDA expects a burden hour increase of 901 hours due to this proposed regulatory change.

**XVII. Proposed Effective Date**

FDA is proposing that any final order based on this proposed order become effective 90 days after date of publication of the final order in the **Federal Register**.

**XVIII. 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 submit 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.*

**XIX. 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 the Web site address in this reference

section, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

1. Saczkowski, R., M. Maklin, T. Mesana, et al., ''Centrifugal Pump and Roller Pump in Adult Cardiac Surgery: A Meta-Analysis of Randomized Controlled Trials,'' *Artificial Organs,* vol. 36, pp. 668–676, 2012.
2. Parolari, A., F. Alamanni, M. Naliato, et al., ''Adult Cardiac Surgery Outcomes: Role of the Pump Type,'' *European Journal of Cardiothoracic Surgery,* vol. 18, pp. 575–582, 2000.
3. Zirbel, G.M., M.E. Letson, J.N. Kauffman, et al., ''Hematologic Derangements of Cardiopulmonary Bypass: A Comparison of Two Perfusion Systems,'' *The Journal of Extra-Corporeal Technology,* vol. 22, pp. 15–19, 1990.
4. Schepens, M.A., F.E. Vermeulen, W.J. Morshuis, et al., ''Impact of Left Heart Bypass on the Results of Thoracoabdominal Aortic Aneurysm Repair,'' *The Annals of Thoracic Surgery,* vol. 67, pp. 1963–1967; discussion pp. 1979–1980, 1999.
5. Szwerc, M.F., D.H. Benckart, J.C. Lin, et al., ''Recent Clinical Experience With Left Heart Bypass Using a Centrifugal Pump for Repair of Traumatic Aortic Transection,'' *Annals of Surgery,* vol. 230, pp. 484–490; discussion pp. 490–492, 1999.
6. Ataka, K., M. Okada, C. Yamashita, et al., ''Beneficial Circulatory Support by Left Heart Bypass With a Centrifugal (BioMedicus) Pump for Aneurysms of the Descending Thoracic Aorta,'' *Artificial Organs,* vol. 17, pp. 300–306, 1993.
7. Galla, J.D., M.A. Ergin, A.M. Sadeghi, et al., ''A New Technique Using Somatosensory Evoked Potential Guidance During Descending and Thoracoabdominal Aortic Repairs,'' *Journal of Cardiac Surgery,* vol. 9, pp. 662–672, 1994.
8. Hess, P.J., H.R. Howe, Jr., and F. Robicsek, ''Traumatic Tears of the Thoracic Aorta: Improved Results Using the Bio-Medicus Pump,'' *The Annals of Thoracic Surgery,* vol. 48, pp. 6–9, 1989.
9. Cunningham, I.N., J.C. Laschinger, and F.C. Spencer, ''Monitoring of Somatosensory Evoked Potentials During Surgical Procedures on the Thoracoabdominal Aorta: Clinical Observations and Results,'' *Journal of Thoracic and Cardiovascular Surgery,* vol. 94, pp. 275–285, 1987.
10. The 2012 Panel transcript and other meeting materials are available on FDA's Web site at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/CirculatorySystemDevicesPanel/ucm300073.htm.*
11. Levine, G.N., E.R. Bates, J.C. Blankenship, et al., ''2011 ACCF/AHA/SCAI Guideline for Percutaneous Coronary Intervention: A Report of the American College of Cardiology Foundation/American Heart Association Task Force on Practice Guidelines and the Society for Cardiovascular Angiography and Interventions,'' *Journal of the American College of Cardiology,* vol. 58, pp. e44–e122, 2011.

**List of Subjects in 21 CFR Part 870**

Medical devices, Cardiovascular 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. Revise § 870.4360 to read as follows:

### § 870.4360 Nonroller-type blood pump.

(a) *Cardiopulmonary and circulatory bypass blood pump*—(1) *Identification.* A nonroller-type cardiopulmonary and circulatory bypass blood pump is a prescription device that uses a method other than revolving rollers to pump the blood through an extracorporeal circuit for periods lasting less than 6 hours for the purpose of providing either:

(i) Full or partial cardiopulmonary bypass (i.e. circuit includes an oxygenator) during open surgical procedures on the heart or great vessels, or

(ii) Temporary circulatory bypass for diversion of flow around a planned disruption of the circulatory pathway necessary for open surgical procedures on the aorta or vena cava.

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

(i) Nonclinical performance testing must provide a reasonable assurance of safety and effectiveness with respect to the operating parameters, dynamic blood damage, heat generation, air entrapment, mechanical integrity, and durability/reliability to perform as intended over the intended duration of use;

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

(iii) Sterility and shelf-life testing must demonstrate the sterility of patient-contacting components and the shelf-life of these components; and

(iv) Labeling must include information regarding the duration of use, and a detailed summary of the device- and procedure-related complications pertinent to use of the device.

(b) *Temporary ventricular support blood pump.*—(1) *Identification.* A nonroller-type temporary ventricular support blood pump is a prescription device that uses any method resulting in blood propulsion to provide the temporary ventricular assistance required for support of the systemic and/or pulmonary circulations during periods when there is ongoing or anticipated hemodynamic instability due to immediately reversible alterations in ventricular myocardial function resulting from mechanical or physiologic causes. Duration of use would be less than 6 hours.

(2) *Classification.* Class III (premarket approval).

(c) *Date premarket approval application (PMA) or notice of completion of product development protocol (PDP) is required.* A PMA or notice of completion of a PDP is required to be filed with FDA on or before [A DATE WILL BE ADDED 90 DAYS AFTER DATE OF PUBLICATION OF A FUTURE FINAL ORDER IN THE **Federal Register**], for any temporary ventricular support blood pump that was in commercial distribution before May 28, 1976, or that has, on or before [A DATE WILL BE ADDED 90 DAYS AFTER DATE OF PUBLICATION OF A FUTURE FINAL ORDER IN THE **Federal Register**], been found to be substantially equivalent to any temporary ventricular support blood pump that was in commercial distribution before May 28, 1976. Any other temporary ventricular support blood pump shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: January 2, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–00027 Filed 1–6–14; 8:45 am]

**BILLING CODE 4160–01–P**

**DEPARTMENT OF JUSTICE**

**Bureau of Alcohol, Tobacco, Firearms, and Explosives**

**27 CFR Part 478**

**[Docket No. ATF 51P; AG Order No. 3411–2014]**

**RIN 1140–AA47**

## Amended Definition of ''Adjudicated as a Mental Defective'' and ''Committed to a Mental Institution'' (2010R–21P)

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Department of Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Justice proposes amending Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) regulations to clarify definitions of two categories of persons who are prohibited from receiving, possessing, shipping, or transporting firearms under the Gun Control Act of 1968. The proposed rule would clarify that the statutory term ''adjudicated as a mental defective'' includes persons who are found incompetent to stand trial or not guilty by reason of mental disease or defect, lack of mental responsibility, or insanity, and that the term includes persons found guilty but mentally ill. The Department recognizes that the term ''mental defective'' is outdated, but it is included in the statute and cannot be amended by regulation. The proposed amendments would further clarify that federal, state, local, and military courts are recognized lawful authorities that can find persons incompetent to stand trial or find them not guilty by reason of mental disease or defect, lack of mental responsibility, or insanity. The proposed rule seeks public comments regarding whether the statutory term ''adjudicated as a mental defective'' includes an adjudication that occurred when the person was under the age of 18. This proposed rulemaking would also amend ATF regulations to clarify that the statutory term ''committed to a mental institution'' applies to involuntary inpatient or outpatient treatment. The proposed rule seeks public comments regarding whether the statutory term ''committed to a mental institution'' includes an involuntary commitment that occurred when the person was under the age of 18.

**DATES:** Written comments must be postmarked and electronic comments must be submitted on or before April 7, 2014. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after midnight Eastern Standard Time on the last day of the comment period.

**ADDRESSES:** You may submit comments, identified by docket number ATF 51P, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 648–9741.
- *Mail or Hand Delivery/Courier:* George M. Fodor, Room 6.N–523, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue NE., Washington, DC 20226.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to the Federal eRulemaking portal, *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** George M. Fodor, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue NE., Washington, DC 20226; telephone: (202) 648–7070.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Attorney General has delegated to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) the authority to enforce provisions of the Gun Control Act of 1968 (GCA), codified in chapter 44 of title 18, United States Code (U.S.C.), subject to the direction of the Attorney General and Deputy Attorney General. 28 CFR 0.130(a). Regulations in 27 CFR part 478 implement provisions of the GCA.

Section 922(g) of the GCA prohibits certain persons from shipping or transporting any firearm or ammunition in interstate or foreign commerce, possessing a firearm or ammunition in or affecting commerce, or receiving a firearm or ammunition that has traveled in interstate or foreign commerce. These prohibitions apply to any person who:

(1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of or addicted to any controlled substance;

(4) Has been adjudicated as a mental defective or committed to a mental institution;

(5) Is an alien illegally or unlawfully in the United States or admitted to the United States under a nonimmigrant visa;

(6) Has been discharged from the Armed Forces under dishonorable conditions;

(7) Having been a citizen of the United States, has renounced U.S. citizenship;

(8) Is subject to certain types of court-issued protective orders; or

(9) Has been convicted in any court of a misdemeanor crime of domestic violence.

On September 6, 1996, ATF published in the **Federal Register** a notice of proposed rulemaking (NPRM) in which it proposed definitions for the terms ''adjudicated as a mental defective'' and ''committed to a mental institution'' as used in 18 U.S.C. 922(g)(4) (Notice No. 839; 61 FR 47095). The proposed definition of ''adjudicated as a mental defective'' published at 61 FR 47098 included determinations by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease is a danger to himself or to others or lacks the mental capacity to contract or manage his own affairs. The proposed definition also included a finding of insanity by a court in a criminal case.

In response to the 1996 NRPM, ATF received a number of comments from the public and from federal and state agencies. Some comments suggested additional language to clarify the definition of ''adjudicated as a mental defective'' or included information not originally considered by ATF. Among the comments ATF received was a recommendation from the Department of Defense (DOD) that the definition of ''adjudicated as a mental defective'' be amended to specifically include ''those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to articles 50a and 72b [*sic*] of the Uniform Code of Military Justice, 10 U.S.C. 850a, 876b.'' DOD suggested this addition to conform to the National Defense Authorization Act for 1996, Public Law 104–106, 110 Stat. 186, which amended subchapter IX of the Uniform Code of Military Justice (UCMJ) to include procedures for the commitment of military personnel for reason of a lack of mental responsibility (See Notice No. 839; 62 FR 34634 (June 27, 1997)).

ATF incorporated DOD's suggestion into its final rule published in the

**Federal Register** on June 27, 1997 (Notice No. 839; 62 FR 34634). The 1997 final rule defines ''adjudicated as a mental defective'' as codified at 27 CFR 478.11.

The proposed definition in the 1996 NPRM of ''committed to a mental institution'' read as published at 61 FR 47098. No comments were received regarding this proposed definition, and the final rule contained this definition without change. *See* 27 CFR 478.11.

Congress amended the GCA in 2008 to provide that federal departments or agencies may not provide records of individuals ''adjudicated as a mental defective'' or ''committed to a mental institution'' to the Attorney General for inclusion in the National Instant Criminal Background Check System (NICS) if:

(a) The adjudication or commitment was set aside or expunged, or the person was fully released or discharged from all mandatory treatment, supervision, or monitoring;

(b) The person was found by a court, board, commission, or other lawful authority to no longer suffer from the mental health condition that served as the basis of the initial adjudication or commitment, or was found to be rehabilitated; or

(c) The adjudication or commitment was based solely on a medical finding of disability, without any opportunity for a hearing by a court, board, commission, or other lawful authority, and the person has not otherwise been adjudicated as a mental defective under 18 U.S.C. 922(g)(4).

NICS Improvement Amendments Act of 2007, Public Law 110–180, tit. I, sec. 101(c)(1), 121 Stat. 2559, 2562–63 (2008). A person who falls in one of these exemptions is not prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition that has traveled in interstate or foreign commerce. These exemptions do not apply to any person adjudicated, in any criminal case or under the UCMJ, to be not guilty by reason of insanity or based on lack of mental responsibility, or found incompetent to stand trial. *Id.*

Persons granted relief from disabilities under 18 U.S.C. 925(c) or under a federal or state relief program described in section 101(c)(2)(A) or section 105 of the NICS Improvement Amendments Act of 2007 (18 U.S.C. 922 note) are not considered to have been adjudicated as a mental defective or committed to a mental institution.

## II. Proposed Rule

The Department proposes amending the definition of ''adjudicated as a mental defective'' in 27 CFR 478.11 to clarify that persons found not guilty by reason of mental disease or defect are included in the definition of ''adjudicated as a mental defective.'' The legislative history of the Gun Control Act indicates that Congress intended that the prohibition against the receipt and possession of firearms would apply broadly to ''mentally unstable'' or ''irresponsible'' persons. *See, e.g.,* 114 Cong. Rec. 21780 (1968) (statement of Rep. Sikes); *id.* at 21832 (statement of Rep. Corman); *id.* at 22270 (statement of Rep. Fino); *see also, e.g., id.* at 21791 (statement of Rep. Thompson). This proposed amendment would clarify the application of the definition and specifically identifies those persons found not guilty by reason of mental disease or defect as included within the definition of ''adjudicated as a mental defective.''

The Department also proposes amending the definition of ''adjudicated as a mental defective'' in 27 CFR 478.11 by removing the reference to articles 50a and 72b of the UCMJ and adding ''by a court in a criminal case'' to clarify that the term includes federal, state, local and military courts that can find persons incompetent to stand trial or not guilty by reason of mental disease or defect, lack of mental responsibility, or insanity. This proposal would clarify, rather than alter, the current meaning of the term.

As in the military judicial system, courts in the federal, state, and local judicial systems are responsible for finding individuals incompetent to stand trial or not guilty by reason of insanity, mental disease or defect, or lack of mental responsibility. Federal courts have authority to determine competency to stand trial as well as to issue special verdicts on the basis of a person's mental capacity at the time of the alleged crime. 18 U.S.C. 4241, 4242. Most states also have laws authorizing state courts to find a person either incompetent to stand trial or not guilty by reason of insanity. *See* Bureau of Justice Statistics, State Court Organization (2004), pp. 199–202. This proposed amendment would clarify that being found incompetent to stand trial or not guilty by reason of mental disease or defect, lack of mental responsibility, or insanity by federal, state, local, or military courts constitutes ''adjudicat[ion] as a mental defective.''

The Department also proposes amending the definition of ''adjudicated as a mental defective'' in 27 CFR 478.11 to clarify that the term includes those persons found guilty but mentally ill by a court in a criminal case in a jurisdiction that provides for such a finding. This addition to the definition would acknowledge the States that extend the guilty but mentally ill option to defendants who do not meet criteria for a plea of not guilty by reason of insanity. *E.g.,* Alaska, AS § 12.47.030; Georgia, O.C.G.A. § 17–7–131.

State practices have varied regarding whether, for purposes of a NICS background check, commitments of persons under the age of 18 are treated as qualifying commitments to a mental institution and whether the term ''adjudicated as a mental defective'' includes an adjudication that occurred when the person was under the age of 18. Some States make these records available to the NICS database and others not. In addition, ATF has received inquiries from States seeking greater clarity as to whether these adjudications and commitments qualify. Therefore, we are seeking comment regarding whether individuals ''adjudicated as a mental defective'' or ''committed to a mental institution'' and therefore prohibited from receiving, possessing, shipping, or transporting firearms under the Gun Control Act of 1968 includes commitments or adjudications as a mental defective that occurred when the person was under the age of 18.

In addition, the Department proposes amending the definition of ''committed to a mental institution'' to clarify that involuntary commitment to a mental institution includes both inpatient and outpatient treatment. ATF has received inquiries as to whether the definition applies to involuntary outpatient treatment. Although the term ''committed to a mental institution'' is not defined in 18 U.S.C. 922, the plain language of the statute incorporates both inpatient and outpatient commitments as the statute requires commitment *to* a mental institution, not commitment *in* a mental institution. *See United States* v. *B.H.,* 466 F. Supp. 2d 1139, 1147 (N.D. Iowa 2006). Mental institutions include mental health facilities and the auxiliary mental health services provided through those facilities.

Furthermore, ATF has received inquiries as to whether commitments of persons under the age of 18 are qualifying commitments to a mental institution. ATF is considering clarifying whether the term ''committed to a mental institution'' includes a commitment that occurred when the person was under the age of 18. ATF seeks comments on this option and solicits recommendations for other approaches.

Persons are not considered to have been ''committed to a mental institution'' as a result of a voluntary

admission to a mental institution or a temporary admission for observation unless the temporary admission for observation turns into a qualifying commitment as a result of a formal commitment by a court, board, commission, or other lawful authority. As previously noted, the NICS Improvement Amendments Act of 2007 provides that adjudications and commitments by a federal agency may not be reported to NICS when the adjudication or commitment is expunged, or when other criteria are met.

Furthermore, persons granted relief from disabilities under 18 U.S.C. 925(c) or under a federal or state relief program described in section 101(c)(2)(A) or section 105 of the NICS Improvement Amendments Act of 2007 (18 U.S.C. 922 note) are not considered to have been adjudicated as a mental defective or committed to a mental institution.

## III. Statutory and Executive Order Reviews

### *A. Executive Order 12866 and Executive Order 13563*

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866 (''Regulatory Planning and Review''), section 1(b) (''The Principles of Regulation''), and Executive Order 13563 (''Improving Regulation and Regulatory Review''). The Department has determined that this proposed rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866, and accordingly this proposed rule has been reviewed by the Office of Management and Budget. However, this proposed rule would not have an annual effect on the economy of $100 million or more, nor would it 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. Accordingly, this proposed rule is not an economically significant rulemaking action as defined by Executive Order 12866.

Further, the Department has assessed both costs and benefits of this proposed rule as required by Executive Order 12866, section 1(b)(6), and has made a reasoned determination that the benefits of this proposed rule would justify the costs. The Department believes that the costs that would be associated with compliance with this proposed rule are minimal. A few States may incur added costs to provide the additional records to NICS. However, the proposed rule helpfully would clarify the statutory terms ''adjudicated as a mental defective'' and ''committed to a mental institution'' to prevent the unlawful possession or transfer of firearms to prohibited persons. In addition, as stated above, the Department is seeking comment regarding whether the terms ''adjudicated as a mental defective'' or ''committed to a mental institution'' includes adjudications as a mental defective or commitments that occurred when the person was under the age of 18. Explicitly including such adjudications or commitments within the definitions of these terms may result in state entities providing additional records to the NICS that may affect future NICS background checks and may have public safety benefits. The Department seeks input from the public for assessing the costs and benefits of explicitly including such adjudications or commitments within the definitions of these terms.

### *B. Executive Order 13132*

The proposed rule would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (''Federalism''), the Attorney General has determined that the proposed rule would not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

### *C. Executive Order 12988*

The proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (''Civil Justice Reform'').

### *D. Regulatory Flexibility Act*

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b). Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. 5 U.S.C. 601. The Attorney General has reviewed this proposed rule and, by approving it, certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

### *E. Small Business Regulatory Enforcement Fairness Act of 1996*

This proposed rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996. 5 U.S.C. 804. This proposed rule would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

### *F. Unfunded Mandates Reform Act of 1995*

This proposed rule would not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### *G. Paperwork Reduction Act*

This proposed rule does not contain any new or revisions to existing ''collection[s] of information'' as defined by the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 *et seq.*).

## Public Participation

### *A. Comments Sought*

ATF requests comments on the proposed rule from all interested persons. ATF asks specifically for comments on the clarity of this proposed rule and how it may be made easier to understand. All comments must reference this document docket number (ATF 51P), be legible, and include the commenter's name and complete mailing address. ATF will treat all comments as originals and will not acknowledge receipt of comments.

Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

### *B. Confidentiality*

Comments, whether submitted electronically or on paper, will be available for public viewing at ATF and on the Internet as part of the eRulemaking initiative, and are subject to the Freedom of Information Act.

Commenters who do not want their names or other personal identifying information posted on the Internet should submit their comment by mail or facsimile, along with a separate cover sheet that contains their personal identifying information. Both the cover sheet and comment must reference this docket number (ATF 51P). Information contained in the cover sheet will not be posted on the Internet. Any personal identifying information that appears within the comment will be posted on the Internet and will not be redacted by ATF.

Any material that the commenter considers to be inappropriate for disclosure to the public should not be included in the comment. Any person submitting a comment shall specifically designate that portion (if any) of his comments that contains material that is confidential under law (*e.g.,* trade secrets, processes). Any portion of a comment that is confidential under law shall be set forth on pages separate from the balance of the comment and shall be prominently marked ''confidential'' at the top of each page. Confidential information will be included in the rulemaking record but will not be disclosed to the public. Any comments containing material that is not confidential under law may be disclosed to the public. In any event, the name of the person submitting a comment is not exempt from disclosure.

*C. Submitting Comments*

Submit comments in one of three ways:

- *Mail or Hand Delivery/Courier:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments may be of any length and must appear in a minimum 12 point type (.17 inches), include a complete mailing address, and be signed.
- *Facsimile:* You may submit comments by facsimile transmission to (202) 648–9741. Faxed comments must:

(1) Be legible and appear in a minimum 12 point type (.17 inches);

(2) Be on 8½″ x 11″ paper;

(3) Contain a legible, written signature; and

(4) Be no more than five pages long. ATF will not accept faxed comments that exceed five pages.

- *Federal eRulemaking Portal:* To submit comments to ATF via the Federal eRulemaking portal, visit *http://www.regulations.gov* and follow the instructions for submitting comments.

*D. Request for Hearing*

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director of ATF within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

**Disclosure**

Copies of this proposed rule and the comments received will be available for public inspection through the Federal eGovernment portal, *http://www.regulations.gov*, or by appointment during normal business hours at the ATF Reading Room, Room 1E–062, 99 New York Avenue NE., Washington, DC, 20226; telephone: (202) 648–8740.

**Drafting Information**

The author of this document is George M. Fodor, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives.

**List of Subjects in 27 CFR Part 478**

Administrative practice and procedure, Arms and ammunition, Authority delegations, Customs duties and inspection, Domestic violence, Exports, Imports, Law enforcement personnel, Military personnel, Nonimmigrant aliens, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, and Transportation.

**Authority and Issuance**

Accordingly, for the reasons discussed in the preamble, 27 CFR Part 478 is proposed to be amended as follows:

## PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for 27 CFR Part 478 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C. 3504(h).

■ 2. Revise the definitions of ''Adjudicated as a mental defective'' and ''Committed to a mental institution'' in § 478.11 to read as follows:

**§ 478.11 Meaning of terms.**

* * * * *

Adjudicated as a mental defective.

(a) A determination, order, or similar finding by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:

(1) Is a danger to self or others; or

(2) Lacks the mental capacity to contract or manage his or her own affairs.

(b) The term shall include—

(1) Those persons found not guilty by reason of insanity, mental disease or defect, or lack of mental responsibility by a court in a criminal case;

(2) Those persons found guilty but mentally ill by a court in a criminal case in a jurisdiction that provides for such a finding; and

(3) Those persons found incompetent to stand trial by a court in a criminal case.

(c) The term shall not include—

(1) Any person adjudicated by a department or agency of the Federal Government, if any of the conditions of section 101(c)(1) of the NICS Improvement Amendments Act of 2007 apply; or

(2) Any person who has been adjudicated and subsequently received relief from disabilities under 18 U.S.C. 925(c) or under a program authorized by section 101(c)(2) or section 105(a) of the NICS Improvement Amendments Act of 2007.

* * * * *

Committed to a mental institution.

(a) A formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes an involuntary commitment to a mental institution for inpatient or outpatient treatment. The term includes an involuntary commitment for mental defectiveness, *i.e.,* mental illness, to a mental institution. It also includes a commitment to a mental institution for other reasons, such as for drug use.

(b) The term does not include a person in a mental institution solely for observation or evaluation, a voluntary admission to a mental institution, or voluntary outpatient treatment. The term shall not include any person so committed by a department or agency of the Federal Government, if any of the conditions of section 101(c)(1) of the NICS Improvement Amendments Act of 2007 apply, or any person who has received relief from disabilities under a program authorized by section 101(c)(2) or section 105(a) of that Act or under 18 U.S.C. 925(c).

* * * * *

Dated: January 2, 2014.

**Eric H. Holder, Jr.,**

*Attorney General.*

[FR Doc. 2014–00039 Filed 1–3–14; 4:15 pm]

**BILLING CODE 4410–FY–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### 29 CFR Part 1904

**[Docket No. OSHA–2013–0023]**

**RIN 1218–AC49**

### Improve Tracking of Workplace Injuries and Illnesses

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** OSHA is extending the comment period on the proposed rule entitled, ''Improve Tracking of Workplace Injuries and Illnesses,'' which would amend the recordkeeping regulations to add requirements for the electronic submission of injury and illness records employers are already required to keep under OSHA's regulations for recording and reporting occupational injuries and illnesses.

**DATES:** The comment period for the proposed rule published November 8, 2013, at 78 FR 67254, is extended. Comments must be submitted (postmarked, sent or received) by March 8, 2014.

**ADDRESSES:** You may submit comments, identified by Docket No. OSHA–2013–0023, by any one of the following methods:

*Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the instructions on-line for making electronic submissions.

*Fax:* If your comments, including attachments, do not exceed 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

*Mail, hand delivery, express mail, messenger or courier service:* You must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2013–0023, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., e.t.

*Instructions:* All submission must include the docket number (Docket No. OSHA–2013–0023) or RIN number (RIN 1218–AC49) for this rulemaking. Because of security-related procedures, submission by regular mail may result in significant delay. Please contact the OSHA Docket Office about security procedures for hand delivery, express delivery, messenger or courier.

All comments, including any personal information you provide, are placed in the public docket without change and may be made available on *http://www.regulations.gov.* Therefore, OSHA cautions you about submitting personal information such as social security numbers and birthdates.

*Docket:* To read or download submissions in response to the proposed rule, go to Docket No. OSHA–2013–0023 at: *http://www.regulations.gov.* All submissions are listed in the *http://www.regulations.gov* index, however, some information (e.g., copyrighted material) is not publicly available to read or download through that Web page. All submissions, including copyrighted material, are available for inspections and copying at the OSHA Docket Office.

Electronic copies of this **Federal Register** document are available at *http://www.regulations.gov.* This document, as well as news releases and other relevant information, also are available at OSHA's Web page at *http://www.osha.gov.*

**FOR FURTHER INFORMATION CONTACT:** *Press inquiries:* Frank Meilinger, Director, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999; email: *meilinger.francis2@dol.gov.*

*For general and technical information:* Miriam Schoenbaum, OSHA Office of Statistical Analysis, Room N–3507, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1841; email: *schoenbaum.miriam@dol.gov.*

**SUPPLEMENTARY INFORMATION:**

On November 8, 2013, OSHA published a proposed rule to revise its regulation on Occupational Injury and Illness Recording and Reporting (Recordkeeping) (78 FR 67254). The proposal would amend the recordkeeping regulations to add requirements for the electronic submission of injury and illness information employers are already required to keep under OSHA's regulations for recording and reporting occupational injuries and illnesses. The proposal set a February 6, 2014 deadline for submitting written comments.

OSHA has received a request from the National Association of Home Builders (NAHB) to extend the comment period an additional 90 days. NAHB's reasons for requesting an extension include the overlap with the proposed crystalline silica rulemaking, which will also affect the construction industry. Further, the request stated that informing home builders and coordinating their responses will take time and effort beyond the 90 days provided.

OSHA has decided to extend the deadline for submitting comments to March 8, 2014, which provides stakeholders an additional 30 days. The extension ensures that stakeholders will have a full 120 days to submit comments, which OSHA believes is adequate for this limited rulemaking. The extension also ensures that stakeholders who attend the January 9, 2014, public meeting on the proposed rule will have an opportunity to incorporate into their comments their views on relevant information presented at the meeting.

**Authority and Signature**

This document was prepared under the direction of David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under the authority of Sections 8 and 24 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 673), 5 U.S.C. 553, and Secretary of Labor's Order No. 41–2012 (77 FR 3912).

Signed at Washington, DC, on January 2, 2014.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2014–00010 Filed 1–6–14; 8:45 am]

**BILLING CODE 4510–26–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R04–OAR–2013–0760; FRL–9905–12–Region 4]**

### Approval and Promulgation of Implementation Plans; State of Florida New Source Review—Prevention of Significant Deterioration

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the Florida State Implementation Plan (SIP), submitted by the Florida Department of Environmental Protection (FDEP), Division of Air Resources Management, to EPA on December 19, 2013. The SIP revision modifies FDEP's New Source

Review (NSR) Prevention of Significant Deterioration (PSD) permitting regulations to provide FDEP with the authority to issue PSD permits governing greenhouse gas (GHG) emissions, to establish appropriate emission thresholds for determining which new stationary sources and modifications to existing stationary sources become subject to Florida's PSD permitting requirements for their GHG emissions, and to provide for the implementation of GHG Plantwide Applicability Limits (PALs) on a $CO_2e$ basis. EPA is proposing approval of Florida's December 19, 2013, SIP revision because the Agency has determined that the SIP revision is in accordance with the Clean Air Act (CAA or Act) and EPA regulations regarding the PSD permitting program. EPA also is proposing that upon final approval of the December 19, 2013, SIP revision, EPA will rescind the GHG PSD Federal Implementation Plan (FIP) for Florida that was put in place to ensure the availability of a permitting authority for GHGs in Florida.

**DATES:** Comments must be received on or before February 6, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2013–0760 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2013–0760, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Hand Delivery or Courier: Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. ''EPA–R04–OAR–2013–0760.'' EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the Florida SIP, contact Ms. Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bradley's telephone number is (404) 562–9352; email address: *bradley.twunjala@epa.gov.* For information regarding NSR and GHG permitting, contact Ms. Yolanda Adams, Air Permits Section, at the same address above. Ms. Adams' telephone number is (404) 562–9214; email address: *adams.yolanda@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

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I. What action is EPA proposing?
II. What is the background for EPA's proposed action?
III. What is EPA's analysis of Florida's SIP revision?
IV. Proposed Actions
V. Statutory and Executive Order Reviews

## I. What action is EPA proposing?

On December 19, 2013, FDEP submitted a SIP revision to EPA for approval into the Florida SIP to adopt rules equivalent to Federal requirements for NSR PSD permitting. The SIP revision consists of changes to the FDEP Air Quality Regulations, at Chapter 62–210, Florida Administrative Code (F.A.C.), *Stationary Sources—General Requirements, Section 200—Definitions (rule 62–210.200).* The December 19, 2013, SIP revision changes the definition of ''*PSD pollutant''* to provide Florida with the authority to regulate GHGs [1] under its PSD program as well as to establish the appropriate emission thresholds for determining which new stationary sources and modification projects become subject to the State's PSD permitting requirements for their GHG emissions as promulgated in the GHG Tailoring Rule, 75 FR 31514 (June 3, 2010).[2] Florida's December 19, 2013, submission also incorporates by reference [3] (IBR) the GHG PAL provisions that were promulgated in EPA's July 12, 2012, Step 3 GHG Tailoring Rule.[4] In addition, EPA is proposing that upon final approval of the December 19, 2013, SIP revision, EPA will rescind the GHG PSD FIP for

[1] Throughout this document, where appropriate, EPA will use the acronyms ''GHG'' and ''GHGs'' to express the term greenhouse gas or greenhouse gases, respectively.

[2] ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule.'' 75 FR 31514 (June 3, 2010) (GHG Tailoring Rule)

[3] Throughout this rulemaking the acronym IBR means ''incorporate by reference'' or ''incorporates by reference.''

[4] ''Prevention of Significant Deterioration and Title V Operating Permit Greenhouse Gas (GHG) Tailoring Rule Step 3 and GHG Plantwide Applicability Limits.'' 77 FR 41051 (July 12, 2012) (Step 3 GHG Tailoring Rule).

Florida that was put in place to ensure the availability of a permitting authority for GHGs in Florida. *See* 75 FR 82246 (December 30, 2010). For more information on Florida's FIP see section III of this rulemaking. EPA's proposed approval of Florida's December 19, 2013, SIP revision includes approval of the GHG PSD Permit Transition Plan described in section IV.D. of this rulemaking. Pursuant to section 110 of the CAA, EPA is proposing to approve these changes into the Florida SIP.[5]

## II. What is the background for EPA's proposed action?

This section briefly summarizes EPA's GHG-related actions that provide the background for this action. Please see the preambles for the identified GHG-related rulemakings for more information.

### *A. EPA's GHG Tailoring Rule, SIP Call, and FIP*

Beginning in 2010, EPA promulgated a series of actions pertaining to the regulation of GHGs that, although for the most part are distinct from one another, established the overall framework for today's proposed action on the Florida SIP. Four of these actions include, as they are commonly called, the ''Endangerment Finding'' and ''Cause or Contribute Finding,'' (which EPA issued in a single final action);[6] the ''Johnson Memo Reconsideration;''[7] the ''Light-Duty Vehicle Rule;''[8] and the GHG Tailoring Rule. Taken together and in conjunction with the CAA, these actions established regulatory requirements for GHGs emitted from new motor vehicles and new motor vehicle engines; determined that such regulations, when they took effect on January 2, 2011, subjected GHGs emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis. EPA took this last action in the GHG Tailoring Rule, which, more specifically, established appropriate GHG emission thresholds for determining the applicability of PSD requirements to GHG-emitting sources. In the GHG Tailoring Rule, EPA tailored the applicability criteria that determine which GHG emission sources become subject to the PSD program of the CAA to relieve overwhelming permitting burdens that would, in the absence of the rule, fall on permitting authorities and sources. *See* 75 FR 31514 (June 3, 2010). As EPA explained in the GHG Tailoring Rule, the threshold limitations are necessary because without them PSD would apply to all stationary sources that emit or have the potential to emit more than 100 or 250 tons of GHG per year as of January 2, 2011. January 2, 2011, was the date when EPA's Light-Duty Vehicle Rule took effect, imposing control requirements for the first time on carbon dioxide and other GHGs.

In the GHG Tailoring Rule, EPA requested that permitting authorities confirm whether their SIPs provide authority to implement the GHG Tailoring Rule thresholds. *See* 75 FR at 31582. FDEP provided a letter (commonly referred to as the 60-day letter) to EPA on July 2, 2010, explaining: ''[F]lorida's PSD permitting program is limited to those pollutants identified in our state rules as, '*PSD pollutant,*' a term that does not include GHGs. In order to incorporate GHGs into our PSD permitting program, we will need to amend our state rules and submit a SIP revision to EPA.'' *See* Docket ID: EPA–R04–OAR–2013–0760 for a copy Florida's 60-day letter.

On September 2, 2010, EPA issued proposed findings of substantial inadequacy[9] and a proposed ''SIP call'' for Florida and other states with SIP-approved PSD programs that did not apply PSD to GHGs. *See* 75 FR 53883. The purpose of the SIP call was to require these states to revise their SIPs by a specific deadline to ensure that their PSD program covered GHG-emitting sources. In the proposed SIP call, EPA requested that each SIP call state confirm to EPA that its SIP did not apply the PSD program to GHGs. *Id.* at 53896. EPA further requested that each SIP call state identify the deadline that they would accept for submitting their corrective SIP revision. *Id.* In response, FDEP submitted a letter (referred to as the 30-day letter) to EPA on October 1, 2010, reiterating that Florida's SIP did not apply PSD permitting requirements to sources of GHG. *See* 75 FR 53883. Florida explained that PSD permitting applicability in the State was established based on the application of the terms ''*PSD pollutant,*'' ''*major stationary source,*'' ''*major modification*'' and ''*significant emission rates*'' (the key term being ''*PSD pollutant*''). The definition of ''*PSD pollutant*'' is limited by a state rule to a finite set of pollutants which did not include GHG. Florida also indicated it did not oppose the SIP call's establishment of a December 22, 2013, deadline to submit a corrective SIP revision. *See* Docket ID: EPA–R04–OAR–2013–0760 for Florida's 30-day letter.

In December 2010, EPA promulgated additional rulemakings to implement the new GHG PSD SIP program. Recognizing that some states had SIP-approved PSD programs that did not apply PSD to GHGs, EPA finalized the findings of substantial inadequacy and GHG SIP call[10] for Florida and 14 other state and local permitting authorities where the existing SIP-approved PSD program did not provide authority to regulate GHGs. The SIP call required the 15 state and local permitting authorities to revise their SIPs by a specific deadline to ensure that their PSD program covered GHG emitting sources. In the SIP call, EPA explained that if a state identified in the SIP call failed to submit the required corrective SIP revision by the applicable deadline, the Agency would promulgate a FIP under CAA section 110(c)(1)(A) for that state to govern PSD permitting for GHGs.

FDEP, along with several other state and local permitting authorities, did not submit a corrective SIP revision to apply its PSD program to sources of GHG by the specified deadline cited in the SIP call. Therefore on December 29, 2010,[11] EPA published a finding of failure to submit the required SIP revision by the specified deadline and then

[5] EPA also promulgated the GHG Tailoring Rule for the title V operating permit program in the rulemaking entitled ''Action To Ensure Authority To Implement Title V Permitting Programs Under the Greenhouse Gas Tailoring Rule,'' 75 FR 82254 (December 30, 2010). However, today's action does not affect Florida's title V program.

[6] ''Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act.'' 74 FR 66496 (December 15, 2009).

[7] ''Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs.'' 75 FR 17004 (April 2, 2010).

[8] ''Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule.'' 75 FR 25324 (May 7, 2010).

[9] When Federal permitting requirements change, as they did when EPA's GHG emissions standards for light-duty vehicles took effect on January 2011, states may need to modify their SIPs to meet the new requirements. Assuring that each state and local permitting agency has the authority to permit GHGs requires SIP changes in a number of states. In the final SIP call rule, EPA found that PSD permitting regulations in 15 state and local permitting agencies states do not meet CAA requirements because their programs at the time did not cover GHG emissions. In these states, at the time of the GHG SIP call, neither EPA nor the state had authority to issue a PSD permit to sources of GHG emissions.

[10] ''Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call,'' Final Rule.'' 75 FR 77698 (December 13, 2010) (GHG SIP call).

[11] ''Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure To Submit State Implementation Plan Revisions Required for Greenhouse Gases,'' 75 FR 81874 (December 29, 2010).

promulgated the GHG PSD FIP.[12] EPA explained in the SIP call and GHG PSD FIP that the purpose of the two rulemakings and their expedited schedules was to ensure that GHG-emitting sources in the affected states, including Florida, would have a permitting authority (i.e., EPA) to act on the GHG PSD permit applications by January 2, 2011 (date that GHGs became subject to PSD). EPA also emphasized that its ''overarching goal is to assure that in every instance, it will be the state that will be the permitting authority,'' and that as a result, EPA sought to return permitting authority to the states as soon as possible. *See* 75 FR at 77717.

*B. Step 3 GHG Tailoring Rule*

In the June 3, 2010, GHG Tailoring Rule, EPA established a phased-in approach to implementing CAA permitting requirements to regulate GHG-emitting sources through the PSD program (referred to as Steps 1 and 2). *See* 75 FR 31514. Step 1,[13] which took effect on January 2, 2011; and Step 2,[14] which took effect on July 1, 2012, and incorporated Step 1, established the PSD and title V applicability thresholds at what EPA calls the 100,000/75,000 levels, which refers to the number of tons per year (tpy) in carbon dioxide equivalent ($CO_2e$) [15] basis. Also in the GHG Tailoring Rule, EPA made regulatory commitments for a subsequent action (or Step 3) to propose or solicit comment on lowering the 100,000/75,000 threshold on the basis of three criteria that concerned whether the permitting authorities had the necessary time to develop greater administrative capacity due to an increase in resources or permitting experience, as well as whether the EPA and the permitting authorities had developed effective strategies to streamline the issuance of permits. However, after assessing the progress of GHG permitting, EPA determined that the three criteria mentioned above had not been met because neither the Agency nor the states have made sufficient progress developing sufficient capacity or streamlining mechanisms to handle a larger number of permits than Steps 1 and 2 require. As a result, on July 12, 2012, EPA finalized the Step 3 GHG Tailoring Rule [16] determining not to lower the current, 100,000/75,000 applicability thresholds to bring additional sources into the PSD and title V permitting programs (or apply PSD and title V permitting requirements to additional, smaller sources of GHG emissions).[17] *See* 77 FR 41051.

In the Step 3 GHG Tailoring Rule, EPA also finalized an approach to assist state and local permitting authorities in streamlining the administration of PSD permits for GHGs through the PALs.[18] This approach will improve the usefulness of PALs for GHG emissions by allowing GHG PALs to be established on a $CO_2e$ basis in addition to the already available mass-basis.[19] EPA also revised its regulations at 40 CFR 52.21 to allow a source that emits or has the potential to emit GHGs at levels above 100,000 tpy $CO_2e$ but that has emissions of other regulated pollutants at minor source levels (or GHG-only source) to apply for a GHG PAL while still maintaining its minor source status.[20] Florida's December 19, 2013, SIP revision IBR EPA's Step 3 Tailoring Rule related to the GHG PAL permitting regulations. *See* section IV for EPA's analysis of Florida's SIP submission.

## III. What is EPA's analysis of Florida's SIP revision?

This section summarizes EPA's analysis of the changes being proposed for inclusion into the Florida SIP. Chapter 62–210, F.A.C. entitled ''*Stationary Sources—General Requirements,*'' contains definitions of terms (at Rule 62–210.200, F.A.C.) used in Chapter 62–212, F.A.C., as well as other stationary source rules. Chapter 62–210, F.A.C., also establishes general permitting, public notice, reporting, and permit application requirements. Chapter 62–212, F.A.C., entitled ''*Stationary Sources—Preconstruction Review*'' contains specific preconstruction permitting requirements for various types of air construction permits, including minor source permits, PSD permits, nonattainment new source review (NNSR) permits, and PAL permits. Rule 62–212.400, F.A.C. contains the State's PSD preconstruction review program as required under part C of title I of the CAA. The PSD program applies to major stationary sources or modifications constructing in areas that are designated as attainment or unclassifiable with respect to the national ambient air quality standards (NAAQS). The current changes to Chapter 62– 210, F.A.C., which EPA is now proposing to approve into the Florida SIP, were submitted to update the existing Florida regulations to be consistent with the regulation of GHG-emitting sources under the Federal PSD permitting program.

*A. Florida's PSD Permitting Program*

Florida's NSR permitting program is based on the application of the term ''*PSD pollutant*'' at Rule 62–210.200(234), F.A.C. Florida defines ''*PSD pollutant*'' [21] as any pollutant

[12] ''Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan,'' 75 FR 82246 (December 30, 2010) (GHG PSD FIP).

[13] Under Step 1 of the Tailoring Rule, PSD requirements apply to sources' GHG emissions if the sources were subject to PSD anyway due to their non-GHG regulated air pollutants (''anyway'' sources) and emit or have the potential to emit at least 75,000 tons per year (tpy) (not defined until the next page) $CO_2e$ not defined until the next page. For title V, existing sources with, or new sources obtaining, title V permits are required to address GHG emissions in those permits as necessary.

[14] Under Step 2, PSD applies to the largest GHG-emitting sources that are not ''anyway'' sources and that are either new sources that emit or have the potential to emit at least 100,000 tpy $CO_2e$ or existing sources that emit at that level and that undertake modifications that increase emissions by at least 75,000 tpy $CO_2e$, and also emit at least 100/250 tpy of GHGs on a mass basis. In addition, under Step 2, title V applies to existing sources that are not ''anyway'' sources that emit or have the potential to emit 100,000 tpy ($CO_2e$).

[15] $CO_2e$ is a common metric used to evaluate the six constituent gases (including carbon dioxide, methane, nitrous oxide, hydofluorocarbons, perfluorocarbons and sulfur hexafluoride) and in the case of the GHG Tailoring rule to determine PSD applicability. A source's GHG emissions are calculated on a $CO_2e$ basis by multiplying the mass emissions of any of the six GHGs that the source emits by that gas's global warming potential and then summing the $CO_2e$ for each GHG emitted by the source. This sum, expressed in terms of tpy $CO_2e$, is then compared to the applicable $CO_2e$-based permitting threshold to determine whether the source is subject to PSD and title V requirements.

[16] ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule Step 3 and GHG Plant-wide Applicability Limits,'' 77 FR 41051, (July 12, 2012) (the Step 3 GHG Tailoring Rule).

[17] Currently, new facilities with GHG emissions of at least 100,000 tpy $CO_2e$ and existing facilities with at least 100,000 tpy $CO_2e$ making changes that would increase GHG emissions by at least 75,000 tpy $CO_2e$, are required to obtain PSD permits. Facilities that must obtain a PSD permit anyway, to cover other regulated pollutants, must also address GHG emissions increases of 75,000 tpy CO2e or more. New and existing sources with GHG emissions above 100,000 tpy CO2e must also obtain operating permits.

[18] A PAL is an emissions limit applied source-wide rather than to specific emissions points. With a PAL, a source can make changes to the facility without triggering PSD permitting requirements as long as emissions do not increase above the limit established by the PAL. This allows companies to respond rapidly to changing market conditions while protecting the environment.

[19] Under EPA's interpretation of the Federal PAL provisions, PALs are already available under PSD for non-GHG pollutants and for GHGs on a mass basis. The Step 3 Tailoring Rule revised the PALs regulations and *subject to regulation* provisions at 40 CFR 52.21 to provide GHG sources with the same kind of flexibility sources currently had for other regulated NSR pollutants by allowing sources the option to establish a $CO_2e$-based PAL using the $CO_2e$-based emission. *See* 77 FR at 41060.

[20] EPA did not finalize its proposed streamlining measure of providing regulatory authority for the EPA or a delegated agency to issue synthetic minor limitations for GHG in areas subject to a PSD FIP for GHGs or other streamlining measures.

[21] Florida adopted into its SIP the term ''*PSD pollutant*'' (which references significant emissions

Continued

listed as having a ''*significant emission rate''* as defined in Rule 62–210.200. Florida references the term ''*PSD pollutant''* within many key NSR definitions in Rule 62–210.200, F.A.C., and its PSD rule, 62–212.400, F.A.C., to trigger program applicability, including: ''*Baseline Actual Emissions,''* ''*Major Modification,''* ''*Major Stationary Source,''* ''*Net Emissions Increase,''* and ''*Projected Actual Emissions.''* The applicability of Florida's SIP-approved PSD program depends on whether a new ''*major stationary source''* or ''*major modification''* of any existing major stationary source will result in significant emissions of a ''*PSD pollutant.''* The terms ''*major stationary source''* and ''*major modification''* defined in SIP Rule 62–210.200, F.A.C. references the term ''*PSD pollutant.''* As mentioned above, Florida indicated in its October 1, 2010, correspondence to EPA that its PSD permitting program was limited to those pollutants identified in the State as a ''*PSD pollutant,''* a term that does not include GHG. Florida went on to convey that because GHGs were not included in the SIP definition of ''*significant emissions rate,''* they were not deemed qualified as a ''*PSD pollutant(s)''* under Florida's PSD program. Absent a corrective SIP revision, FDEP did not have the authority to apply PSD requirements to GHG emitting sources as they became ''*subject to regulation''* under the CAA on January 2, 2011. Florida did not make its December 22, 2010, GHG corrective SIP revision deadline resulting in EPA issuing a finding of failure to submit on December 29, 2010, and the GHG PSD FIP on December 30, 2010, to ensure that GHG-emitting sources in Florida would have an available permitting authority (i.e., EPA).

rate) to replace the term ''*NSR Pollutant''* at Rule 62–210.200, F.A.C. as part of its February 3, 2006, SIP submission to adopt the 2002 NSR Reform permitting provisions. *See* 73 FR 36435 (June 27, 2008). FDEP provided an equivalency demonstration establishing the definitions of ''*PSD pollutant''* and ''*significant emissions rate*'' as being equivalent to the Federal definition of ''regulated NSR pollutant'' since they included all pollutants for which a NAAQS had been promulgated thus far, all precursors for such pollutants which had thus far been identified by the Administrator, all pollutants subject to standards promulgated under section 111 of the Act, and all pollutants thus far regulated under the Act. Florida's definitions however lacked the catch-all phrase ''*subject to regulation,''* which is part of the Federal definition of ''regulated NSR pollutant.'' Florida explained that any pollutant or precursor that needed to be identified as a PSD pollutant in the future, if a new pollutant became ''*subject to regulation,''* would be adopted into the SIP soon after it became regulated.

*B. Florida's Revision to PSD pollutant*

Under EPA's PSD program, ''*regulated NSR pollutant''* is defined as several categories of pollutants (including, in general, NAAQS pollutants and precursors, pollutants regulated under CAA section 111 New Source Performance Standards, Class I or II substances regulated under title VI of the CAA) and a catch-all category, ''[a]ny pollutant that otherwise is ''*subject to regulation''* under the Act.'' *E.g.,* 40 CFR 52.21(b)(50)(iv). As part of the mechanism to implement the GHG tailoring approach for PSD, EPA promulgated a definition for this catch-all phrase ''*subject to regulation''*[22] in the GHG Tailoring Rule as found within ''*regulated NSR pollutant''* (which in turn is part of EPA's definition for ''*major stationary source''* and ''*major modification,''* central to PSD applicability). Therefore, the term ''*subject to regulation''* as referenced in the definition of ''*regulated NSR pollutant''* at 40 CFR 52.21(b)(50)(iv) triggers the circumstances under which GHGs are a ''*regulated NSR pollutant.''* In addition to defining ''*subject to regulation''* for the PSD program, the GHG Tailoring Rule revised the term ''*regulated NSR pollutant''* at (40 CFR 52.21(b)(50)) to reference ''*subject to regulation''* at 40 CFR. 52.21(b)(49); and define (at 40 CFR 51.166 and 52.21) the terms ''greenhouse gases,'' and ''tpy $CO_2$ equivalent emissions.'' The 2010 rule also specified the methodology for calculating an emissions increase for GHG, the applicable thresholds for GHG emissions subject to PSD and the schedule for when the applicability thresholds would take effect. *See* 75 FR at 31606–31607.

Florida's December 19, 2013, SIP submission revises the definition of ''*PSD pollutant''* at 62–210.200 to incorporate the term *''regulated NSR pollutant''* as defined in 40 CFR 52.21(b)(50), which in turn references the term ''*subject to regulation''* (defined at 40 CFR 52.21(b)(49)) at 40 CFR 52.21(b)(50)(iv). This SIP revision became effective on October 23, 2013. Florida's revision triggers the circumstances under which GHGs are a ''*PSD pollutant''* under the State's PSD program. In relevant part, Florida's revised definition of ''*PSD pollutant''* provides:

> 62–210.200—PSD pollutant—(a) Any pollutant listed as having a significant emission rate as defined in Rule 62–210.200, F.A.C.; and (b) Any Regulated NSR Pollutant as defined at 40 CFR 52.21(b)(50) and as adopted and incorporated by reference at Rule 62–204.800, F.A.C.

*C. Incorporation by Reference*

As Florida mentions in its December 19, 2013, SIP submission, its amendment to ''*PSD pollutant''* to IBR the phrase ''Any Regulated NSR Pollutant'' as defined at 40 CFR 52.21(b)(50) does not, in and of itself, provide Florida the authority to regulate GHGs in its PSD program. Florida's State Rule 62–204.800, F.A.C., IBR the Federal Code of Federal Regulations (CFR) (including 40 CFR 52.21) into the Florida regulations.[23] To ''activate'' the applicability of a Federal rule within Florida's regulations, the state references Rule 62–204.800, F.A.C. within the state regulations (such as 62–210.200).[24] The previous IBR of Federal provisions at 40 CFR 52.21 into State Rule 62–204.800, F.A.C. predated EPA's adoption of the GHG Tailoring Rule and the Step 3 GHG Tailoring Rule. In order for the IBR of EPA's updated definition of ''Any Regulated NSR Pollutant'' at 40 CFR 52.21(b)(50) to be applicable in Florida's regulations, FDEP amended State Rule 62.204.800, F.A.C., to IBR 40 CFR 52.21, Subpart A as of July 1, 2011, and July 12, 2012. This amendment to Rule 62–204.800 became state effective on December 17, 2013.[25] This change incorporates into the F.A.C. the applicable GHG regulations established in the GHG Tailoring Rule and the Step 3 GHG Tailoring Rule. Therefore, Florida's amendment to the definition of ''*PSD pollutant''* at Rule 62–210.200, F.A.C., provides Florida the authority to

[22] EPA defined the phrase ''*subject to regulation''* so that the GHGs emitted by sources that fall below the thresholds or scope established in Steps 1 and 2 are not treated as ''*subject to regulation,''* and therefore do not trigger PSD for the sources that emit them.

[23] When FDEP incorporates by reference a Federal regulation, any subsequent change to the Federal CFR is not automatically incorporated into Florida's rules. *See* Section 120.54(1)(i)1., F.S. (''A rule may incorporate material by reference but only as the material exists on the date the rule is adopted.'').

[24] The incorporation by reference of the CFR (such as 40 CFR 52.21) at 62.204.800 does not by itself make those regulations applicable within Florida's SIP regulations; it's the actual reference to State Rule 62.204.800 within Florida regulations that makes the Federal regulation applicable. In other words, Rule 62–204.800, F.A.C., is the mechanism Florida uses to make specific Federal requirement applicable within SIP-approved regulations.

[25] Florida's Rule 62–204.800, F.A.C., is a state law. Therefore the amendment to update the IBR date for 40 CFR 52.21 at 62–204.800 is not part of the State's December 19, 2013, SIP revision. However, as noted, without it the reference to 40 C.F.R. 52.21(b)(50) in the definition of ''*PSD pollutant''* would be referring to an older version of 40 CFR 52.21 which did not include the GHG Tailoring Rule's regulatory amendments for regulated NSR pollutant and the inclusion of ''*subject to regulation''* (nor the Step 3 GHG Tailoring Rule).

regulate GHG under the PSD program and establishes in the Florida SIP the thresholds for GHG permitting. These changes also IBR the GHG PAL provisions established in the July 12, 2012, Step 3 GHG Tailoring Rule allowing GHG PALs to be established on a $CO_2e$ basis in addition to the already available mass-basis and allow a GHG-only source to apply for a GHG PAL while still maintaining its minor source status.[26]

*D. GHG PSD Permit Transition*

As explained in today's proposed notice, Florida is subject to the FIP for PSD permitting of GHG emissions. EPA remains the sole PSD permitting authority for GHG-emitting sources in Florida until EPA finalizes its proposed approval of the December 19, 2013, SIP revision into the Florida SIP. EPA proposes that upon finalization of Florida's GHG SIP revision, EPA will rescind the GHG PSD FIP for Florida at 40 CFR 52.37.

As part of Florida's December 19, 2013, SIP revision, Florida included a GHG PSD Permit Transition Plan. *See* GHG Transition Plan in Appendix B of Florida's December 19, 2013, submission in the Docket for today's proposed rulemaking using Docket ID: EPA–R04–OAR–2013–0760. Specifically, under FDEP's Permit Transition Plan, FDEP would exercise its authority to administer and enforce GHG PSD permits issued by EPA under its FIP to sources located in the State of Florida. This would include authority for the general administration of these existing permits, authority to process and issue any and all subsequent PSD permit actions relating to such permits including, but not limited to, modifications, amendments, or revisions of any nature, and the authority to enforce such permits. Pursuant to the criteria under section 110(a)(2)(E)(i) of the CAA, we have determined that Florida has the authority, personnel, and funding to implement the PSD program for GHGs for existing EPA-issued permits. Therefore, EPA proposes that concurrent with EPA's approval of Florida's GHG PSD program into the SIP, EPA will transfer existing EPA-issued GHG permits for Florida sources to FDEP for administration and enforcement. To date, EPA has issued two final PSD permits and has five pending PSD applications in various stages of processing. *See* Appendix B, Attachment 2 of Florida's December 19, 2013, SIP revision.[27] EPA will provide a list of all EPA-issued permits and a copy of each permit record (if requested) to FDEP prior to the effective date of the final SIP approval.

In order to promote an orderly transition of the GHG PSD program from the EPA to Florida, the efficient use of Florida's and EPA's resources, and certainty for the regulated community and the public, and consistent with FDEP's proposed GHG PSD permit transition plan, EPA proposes to retain PSD permit implementation authority (under 40 CFR 52.21) for pending applications, draft permits, and final permits for which final agency action has not been taken or for which all administrative and judicial appeals processes pursuant to 40 CFR 124 (including any associated remand actions) have not been completed by the effective date of EPA's final action to approve FDEP's SIP submittal. FDEP would assume full responsibility for the administration and implementation of such GHG PSD permits immediately upon notification from EPA that all administrative and judicial appeals processes and any associated remand actions have been completed or concluded for any such permit application. Applicants with pending GHG PSD permit applications before EPA, including those for which EPA has proposed draft permits or issued final permits that have not yet become effective or have not yet completed the appeals processes pursuant to 40 CFR part 124, may elect to withdraw their applications from EPA and resubmit to FDEP for review and processing. Upon the effective date of EPA's final action to approve the SIP submittal, FDEP will immediately assume full responsibility for new GHG PSD applications for Florida sources. As such, new applications will be submitted to and processed by FDEP's Division of Air Resource Management.

## IV. Proposed Actions

Florida's December 19, 2013, SIP submission amends the State's definition of ''*PSD pollutant''* to provide Florida with the authority to regulate GHG under its PSD program, to establish PSD applicability thresholds for GHG emissions at the same emissions thresholds and in the same timeframes as those specified by EPA in the GHG Tailoring Rule, and to provide for the implementation of GHG PALs on a $CO_2e$ basis. In today's action, pursuant to section 110 of the CAA, EPA is proposing to approve these changes into the Florida SIP.[28]

In addition, EPA is proposing that upon finalization of Florida's GHG SIP revision, EPA will rescind the Florida GHG FIP at 40 CFR 52.37. EPA notes that finalization of this portion of today's proposal may follow our finalized approval of the SIP revisions via a separate Administrator-signed action. EPA remains the sole PSD permitting authority for GHG-emitting sources in Florida until EPA finalizes its proposed approval of the December 19, 2013, SIP revision into the Florida SIP.

EPA's approval of Florida's December 19, 2013, SIP revision includes approval of FDEP's GHG PSD Permit Transition Plan, under which EPA will transfer existing EPA-issued GHG permits for Florida sources to Florida for administration and enforcement. EPA proposes to retain PSD permit implementation authority (under 40 CFR 52.21) for pending GHG permit applications, draft permits, and final permits for which final agency action has not been taken or for which all administrative and judicial appeals processes pursuant to 40 CFR part 124 (including any associated remand actions) have not been completed by the effective date of EPA's final action to approve Florida's SIP submittal. Florida would assume full responsibility for the administration and implementation of such GHG PSD permits immediately upon notification from EPA that all administrative and judicial appeals processes and any associated remand actions have been completed or concluded for any such permit application.

EPA has made the preliminary determination that Florida's December 19, 2013, SIP revision is consistent with EPA's PSD regulations for GHG-emitting sources as promulgated in the GHG Tailoring Rule, Step 3 GHG Tailoring Rule and section 110 of the CAA. Therefore, EPA is proposing to approve the GHG PSD permitting revision into the Florida SIP.

## V. Statutory and Executive Order Reviews

Under the CAA, 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,

[26] EPA adopted the PAL regulations into the Florida SIP on June 27, 2008, at Rule 62–212.720, F.A.C., as part of the State's February 3, 2006, SIP submission to adopt the 2002 NSR Reform permitting provisions. *See* 73 FR 36435.

[27] Since the date of Florida's GHG Permit Transition Plan, EPA Region 4 issued a second GHG permit on December 18, 2013 for a total of two GHG issued permits.

[28] The GHG Tailoring Rule also applies to the title V program, which requires operating permits for existing sources. However, today's action does not affect Florida's title V program.

EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions merely approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these proposed 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, as appropriate, disproportionate human health or environmental effects, using practicable 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.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Greenhouse Gas, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: December 23, 2013.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2014–00041 Filed 1–6–14; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### 45 CFR Part 164

### Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and the National Instant Criminal Background Check System (NICS)

**AGENCY:** Office for Civil Rights, Department of Health and Human Services.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Health and Human Services (HHS or ''the Department'') is issuing this notice of proposed rulemaking to modify the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule to expressly permit certain HIPAA covered entities to disclose to the National Instant Criminal Background Check System (NICS) the identities of individuals who are subject to a Federal ''mental health prohibitor'' that disqualifies them from shipping, transporting, possessing, or receiving a firearm. The NICS is a national system maintained by the Federal Bureau of Investigation (FBI) to conduct background checks on persons who may be disqualified from receiving firearms based on federally prohibited categories or State law. Among the persons subject to the Federal mental health prohibitor are individuals who have been involuntarily committed to a mental institution; found incompetent to stand trial or not guilty by reason of insanity; or otherwise have been determined by a court, board, commission, or other lawful authority to be a danger to themselves or others or to lack the mental capacity to contract or manage their own affairs, as a result of marked subnormal intelligence or mental illness, incompetency, condition, or disease. Under this proposal, only covered entities with lawful authority to make adjudication or commitment decisions that make individuals subject to the Federal mental health prohibitor, or that serve as repositories of information for NICS reporting purposes, would be permitted to disclose the information needed for these purposes. This disclosure would be restricted to limited demographic and certain other information and would not include medical records, or any mental health information beyond the indication that the individual is subject to the Federal mental health prohibitor. HHS notes that the Department of Justice (DOJ) has proposed clarifications to the regulatory definitions relevant to the Federal mental health prohibitor. The DOJ proposal is published elsewhere in this issue of the **Federal Register**. While commenters should consider this proposed regulation in light of the clarifications proposed in DOJ's proposal, we note that those clarifications would not change how this proposed HIPAA permission would operate.

**DATES:** Submit comments on or before March 10, 2014.

**ADDRESSES:** Written comments may be submitted through any of the methods specified below. Please do not submit duplicate comments.

- *Federal eRulemaking Portal:* You may submit electronic comments at *http://www.regulations.gov.* Follow the instructions for submitting electronic comments. Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.
- *Regular, Express, or Overnight Mail:* You may mail written comments (one original and two copies) to the following address only: U.S. Department of Health and Human Services, Office for Civil Rights, *Attention:* HIPAA Privacy Rule and NICS, Hubert H. Humphrey Building, Room 509F, 200 Independence Avenue SW., Washington, DC 20201.
- *Hand Delivery or Courier:* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) to the following address only: Office for Civil Rights, Attention: HIPAA Privacy Rule and NICS, Hubert H. Humphrey Building, Room 509F, 200 Independence Avenue SW., Washington, DC 20201. (Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without federal government identification, commenters are encouraged to leave their comments in the mail drop slots located in the main lobby of the building.)

*Inspection of Public Comments:* All comments received before the close of the comment period will be available for public inspection, including any personally identifiable or confidential business information that is included in a comment. We will post comments received before the close of the comment period at *http://www.regulations.gov.* Because

comments will be made public, they should not include any sensitive personal information, such as a person's social security number; date of birth; driver's license number, State identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information, or any non-public corporate or trade association information, such as trade secrets or other proprietary information.

**FOR FURTHER INFORMATION CONTACT:** Andra Wicks, 202–205–2292.

**SUPPLEMENTARY INFORMATION:**

## I. Background

On January 16, 2013, President Barack Obama announced 23 executive actions aimed at curbing gun violence across the nation. Those actions include efforts by the Federal government to strengthen the national background check system, and a specific commitment to ''[a]ddress unnecessary legal barriers, particularly relating to the Health Insurance Portability and Accountability Act, that may prevent States from making information available to the background check system.'' The National Instant Criminal Background Check System (NICS) is the system used to determine whether a potential firearms recipient is statutorily prohibited from possessing or receiving a firearm. The Department developed this NPRM to propose a modification to the HIPAA Privacy Rule to permit certain covered entities to disclose to the NICS the identities of persons who are not allowed to possess or receive a firearm because they are subject to the Federal mental health prohibitor. The Department, through this NPRM, is soliciting public input on various issues, including whether it should modify the HIPAA Privacy Rule to permit covered entities to disclose to the NICS the identities of persons prohibited by State law from possessing or receiving a firearm for reasons related to mental health.

### *The National Instant Criminal Background Check System (NICS)*

The Brady Handgun Violence Prevention Act of 1993, Public Law 103–159, and its implementing regulations, are designed to prevent the transfer of firearms by licensed dealers to individuals who are not allowed to possess or receive them as a result of restrictions contained in either the Gun Control Act of 1968, as amended (Title 18, United States Code, Chapter 44), or State law. The Gun Control Act identifies several categories (known as ''prohibitors'') of individuals [1] who are prohibited from engaging in the shipment, transport, receipt, or possession of firearms, including convicted felons and fugitives. Most relevant for the purposes of this NPRM is the Federal mental health prohibitor, which, pursuant to Department of Justice (DOJ) regulations, applies to individuals who have been involuntarily committed to a mental institution, for reasons such as mental illness or drug use; [2] found incompetent to stand trial or not guilty by reason of insanity; or otherwise have been adjudicated by a court, board, commission, or other lawful authority to be a danger to themselves or others or unable to manage their own affairs, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease.[3]

The Brady Act established the NICS to help enforce these prohibitions, as well as State law prohibitions on the possession or receipt of firearms.[4] The NICS Index, a database administered by the Federal Bureau of Investigation (FBI), collects and maintains certain identifying information about individuals who are subject to one or more Federal prohibitors and thus are ineligible to purchase firearms.[5] As of 2012, the NICS Index also contains information on persons who are subject to State law prohibitions on the possession or receipt of firearms. The minimum information required in a NICS Index record consists of: The name of the ineligible individual; the date of birth; sex; and codes indicating the applicable prohibitor, the submitting entity, and the agency record supporting the prohibition. For individuals subject to the Federal mental health prohibitor, only the fact that the individual is subject to that prohibitor is submitted to the NICS; underlying diagnoses, treatment records, and other identifiable health information are not provided to or maintained by the NICS. A NICS background check queries the NICS Index and certain other national databases [6] to determine whether a prospective buyer's identifying information matches any prohibiting records contained in the databases. The NICS Index can be accessed only for the limited purposes authorized by regulation (see 28 CFR 25.6(j)) and cannot be used for other purposes, including general law enforcement activities.

The potential transfer of a firearm from a Federal Firearms Licensee (FFL) to a prospective buyer proceeds as follows: First, the prospective buyer is required to provide personal information on a Firearms Transaction Record (ATF Form 4473). Unless the prospective buyer has documentation that he or she qualifies for an exception to the NICS background check

[1] See 18 U.S.C. 922(g) and (n) and implementing regulations at 27 CFR 478.11 and 27 CFR 478.32.

[2] The regulation, at 27 CFR 478.11, defines ''Committed to a mental institution'' as: A formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily, commitment for mental defectiveness or mental illness, as well as commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution. Note that DOJ has proposed clarifications to this regulatory language, which are published elsewhere in this issue of the **Federal Register**.

[3] The term used in the statute, ''adjudicated as a mental defective,'' is defined by regulation to include: ''(a) A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease: (1) Is a danger to himself or to others; or (2) lacks the mental capacity to contract or manage his own affairs.'' The term includes a finding of insanity in a criminal case, and a finding of incompetence to stand trial or a finding of not guilty by reason of lack of mental responsibility pursuant to the Uniform Code of Military Justice. 27 CFR 478.11. Note that DOJ has proposed clarifications to this regulatory language, which are published elsewhere in this issue of the **Federal Register**. We also note that having ''marked subnormal intelligence or mental illness, incompetency, condition, or disease,'' is one necessary element of a determination that an individual (other than an individual who has been involuntarily committed) is subject to the Federal mental health prohibitor. To be subject to the Federal mental health prohibitor, such an individual also must be adjudicated to pose a danger to self or others or lack the mental capacity to contract or manage their own affairs.

[4] See 28 CFR 25.1 through 25.11 (establishing NICS information system specifications and processes) and 27 CFR part 478 (establishing requirements and prohibitions for commerce in firearms and ammunition, including requirements related to conducting NICS background checks).

[5] Additionally, in 2012 the NICS Index began to include the identities of persons who are prohibited from possessing or acquiring firearms by State law, which in some cases may be more restrictive than Federal law. See Statement Before the Senate Judiciary Committee, Subcommittee on Crime and Terrorism at a hearing entitled, ''THE FIX GUN CHECKS ACT: BETTER STATE AND FEDERAL COMPLIANCE, SMARTER ENFORCEMENT'' (November 15, 2011), by David Cuthbertson, Assistant Director, Criminal Justice Information Services Division, Federal Bureau of Investigation. Testimony available at: *http://www.justice.gov/ola/testimony/112-1/11-15-11-fbi-cuthbertson-testimony-re-the-fix-gun-checks-act.pdf.*

[6] The other databases include the Interstate Identification Index, which contains criminal history record information; and the National Crime Information Center, which includes, e.g., information on persons subject to civil protection orders and arrest warrants. Additional information is available at, *http://www.fbi.gov/about-us/cjis/nics/general-information/nics-overview.*

requirement under 18 U.S.C. 922(t)(3),[7] the FFL contacts the NICS—electronically, by telephone, or through a State level point of contact—and provides certain identifying information about the prospective buyer from ATF Form 4473.[8] Within about 30 seconds, the FFL receives a response that the prospective firearm transfer may proceed or is delayed. The transfer is delayed if the prospective buyer's information matches a record contained in one of the databases reviewed. If there is a match, a NICS examiner reviews the record to determine whether the information it contains is, in fact, prohibiting, and then either: (1) If the record does not contain prohibiting information, advises the FFL to proceed with the transaction; (2) if the record does contain prohibiting information, denies the transaction (due to ineligibility); or (3) if it is unclear based solely on the existing information in the record whether it is prohibiting, delays the transaction pending further research.[9] The NICS examiner does not disclose the reason for the determination to the FFL (e.g., the FFL would not learn that the individual was ineligible due to the Federal mental health prohibitor). In case of a delay, if the NICS examiner does not provide a final instruction to the FFL within three business days of the initial background check request, the FFL may proceed with the transaction if it chooses to do so.[10]

Although FFLs are required in most cases to request a background check through the NICS before transferring a firearm to a prospective buyer,[11] Federal law does not require State agencies to report to the NICS the identities of individuals who are prohibited from purchasing firearms, and not all States report complete information to the NICS or the databases checked by it. Following the shooting at Virginia Tech University in 2007, and other tragedies involving the illegal use of firearms, Congress enacted the NICS Improvement Amendments Act (NIAA) of 2008, Public Law 110–180. Among other provisions, the NIAA requires Federal agencies to make accessible to the NICS the identities of individuals known by the agencies to be subject to one or more prohibitors, and it authorizes incentive grants for States to provide such information when it is in their possession.[12] In addition, some States enacted legislation requiring the reporting of the identities of ineligible individuals to databases accessible to the NICS or to a State level repository responsible for submitting information to the relevant databases. Although the States generally report criminal history and related information to the appropriate FBI-maintained databases that are checked by the NICS, many States continue to report little if any information to the NICS Index, so the NICS does not have access to complete information about all individuals who are subject to one or more of the Federal prohibited categories or prohibited from possessing or receiving firearms under State law.[13]

*The HIPAA Privacy Rule and NICS Reporting*

The Privacy Rule, promulgated under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Title II, Subtitle F—Administrative Simplification, Public Law 104–191, establishes federal protections to ensure the privacy and security of protected health information and establishes an array of individual rights with respect to one's own health information. HIPAA applies to covered entities, which include health plans, health care clearinghouses, and health care providers that conduct certain standard transactions (such as billing insurance) electronically. HIPAA covered entities may only use and disclose protected health information with the individual's written authorization, or as otherwise expressly permitted or required by the HIPAA Privacy Rule.

The Privacy Rule seeks to balance individuals' privacy interests with important public policy goals including public health and safety. In doing so, the Privacy Rule allows, subject to certain conditions and limitations, uses and disclosures of protected health information without individuals' authorization for certain law enforcement purposes, to avert a serious threat to health or safety, and where required by State or other law, among other purposes. See 45 CFR 164.512.

As stated above, individuals who are subject to the Federal mental health prohibitor are ineligible to purchase a firearm because they have been ''committed to a mental institution'' or ''adjudicated a mental defective'', 18 U.S.C. 922(g)(4). DOJ regulations define these categories to include persons who have been involuntarily committed to a mental institution for reasons such as mental illness or drug use; have been found incompetent to stand trial or not guilty by reason of insanity; or otherwise have been adjudicated by a court, board, commission, or other lawful authority to be a danger to themselves or others or unable to manage their own affairs, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease.[14] Records of individuals adjudicated as incompetent to stand trial, or not guilty by reason of insanity, originate with entities in the criminal justice system, and these entities are not HIPAA covered entities. Likewise, involuntary civil commitments usually are made by court order, and thus, records of such formal commitments typically originate with entities in the justice system. In addition, many adjudications determining that individuals pose a danger to themselves or others, or are incapable of managing their own affairs, occur through a legal process in the court system.

However, because of the variety of State laws, there may be State agencies, boards, commissions, or other lawful authorities outside the court system that are involved in some involuntary commitments or mental health adjudications that make an individual subject to the Federal mental health prohibitor. Moreover, we understand that some States have designated repositories to collect and report to the

[7] These exceptions are listed in the ATF regulation at 27 CFR 478.102(d). For example, a NICS check would not be required where the potential recipient of a firearm has presented a valid State permit or license, provided conditions at 27 CFR 478.102(d)(1) are met.

[8] The form collects the prospective buyer's name; demographic information such as address, place and date of birth, gender, citizenship, race and ethnicity; and ''yes'' or ''no'' answers to questions about the person's criminal history and other potential prohibitors. The form is available at *http://www.atf.gov/forms/download/atf-f-4473-1.pdf.*

[9] For example, a ''delay'' response may mean that further research is required because potentially prohibitive criteria exist, but the matched records are incomplete, See Federal Bureau of Investigation (FBI) Fact Sheet at: *www.fbi.gov/about-us/cjis/nice/general-information/fact-sheet.*

[10] Some States have waiting periods that also must be complied with before a firearm may be transferred, regardless of whether a proceed response from NICS is received by the FFL within three business days.

[11] See 27 CFR 478.102. Exceptions to this requirement are referenced in FN 7 above, and listed in the regulation at 27 CFR 478.102(d).

[12] Eligibility for these grants is limited to States that have implemented a relief from disabilities program for individuals who are prohibited from possessing or receiving firearms for mental health reasons. Such programs must provide that a State court, board, commission, or other lawful authority shall grant the relief if, based on the circumstances regarding the disabilities and the person's record and reputation, the person is not likely to pose a danger to public safety, and granting the relief would not be contrary to the public interest. See Public Law 110–180, Section 105.

[13] The same is true of the other two databases accessed during a NICS Check, the III and NCIC. State participation and reporting to those databases is also not required.

[14] As noted above, DOJ has proposed clarifications to the regulatory language relevant to these two categories; the DOJ proposal is published elsewhere in this issue of the **Federal Register**.

NICS the identities of individuals subject to the Federal mental health prohibitor. We currently do not have sufficient data to determine to what extent any of these lawful authorities or repositories also may be a HIPAA covered entity (e.g., a State health agency).

Even in circumstances where records are subject to HIPAA—for example, where the record of an involuntary commitment or mental health adjudication originates with a HIPAA covered entity, or the HIPAA covered entity is the State repository for such records—there are ways in which the Privacy Rule permits the reporting to the NICS. In particular, the Privacy Rule permits the covered entity to disclose the information to the NICS to the extent the State has enacted a law requiring (not merely authorizing) such reporting.[15] Alternatively, where there is no State law requiring reporting, the Privacy Rule permits a HIPAA covered entity that performs both health care and non-health care functions (e.g., NICS reporting) to become a hybrid entity and thus, have the HIPAA Privacy Rule apply only to its health care functions. The entity achieves hybrid entity status by designating its health care components as separate from other components, documenting that designation, and implementing policies and procedures to prevent unauthorized access to protected health information by the entity's non-covered components. Thus, an entity that has designated itself a hybrid entity, in accordance with the Privacy Rule,[16] can report prohibitor information through its non-HIPAA covered NICS reporting unit without restriction under the Privacy Rule.

However, many States still are not reporting to the NICS essential information on persons prohibited from possessing firearms for reasons related to mental health. Thus, concerns have been raised that the HIPAA Privacy Rule's restrictions on covered entities' disclosures of protected health information may be preventing certain States from reporting the relevant information to the NICS. Further, in July 2012, the U.S. Government Accountability Office (GAO) reported to Congress on the results of a survey of six States that it had assessed as part of a performance audit of the progress made by DOJ and the States in implementing the NIAA.[17] In the report, the GAO wrote that, ''. . . officials from 3 of the 6 States we reviewed said that the absence of explicit State-level statutory authority to share mental health records was an impediment to making such records available to NICS.'' [18] The report also stated that, although the number of records provided by the States to the NICS had increased by 800 percent between 2004 and 2011, this increase was largely due to efforts by only 12 States. The report raised the possibility that States that do not report to the NICS the identities of individuals who are prohibited from possessing firearms for reasons related to mental health may experience challenges to reporting related to the HIPAA Privacy Rule.

## II. The ANPRM

### *Background*

On April 23, 2013, the Department published an Advance Notice of Proposed Rulemaking (ANPRM) requesting public input on these issues (78 FR 23872). The ANPRM explained that the Department was considering creating an express permission in the HIPAA Privacy Rule for reporting information relevant to the Federal mental health prohibitor to the NICS by those HIPAA covered entities responsible for involuntary commitments or the adjudications that would subject individuals to the Federal mental health prohibitor, or that are otherwise designated by the States to report to the NICS. In the ANPRM, the Department indicated that such an amendment might produce clarity regarding the Privacy Rule and help make it as simple as possible for States to report the identities of such individuals to the NICS.

The ANPRM stated that, in crafting the elements of an express permission, the Department would consider limiting the information to be disclosed to the minimum information necessary for NICS purposes, such as the names of the individuals who are subject to the Federal mental health prohibitor, demographic information such as dates of birth, and codes identifying the reporting entity and the relevant prohibitor. We indicated that the NICS does not include, and we would not consider permitting the disclosure of, an individual's treatment record or any other clinical or diagnostic information for this purpose. In addition, we would consider permitting disclosures for NICS purposes only by those covered entities that order involuntary commitments, perform relevant mental health adjudications, or are otherwise designated as State repositories for NICS reporting purposes.

To inform our efforts to address any issues in this area, we requested comments on a series of questions concerning the nature and scope of the problem of underreporting. The questions included:

- The nature and extent of States' participation in NICS reporting;
- To what extent HIPAA is perceived as a barrier to reporting, and specific examples of situations in which reporting to the NICS is hindered by HIPAA requirements;
- Steps States may have taken to address HIPAA challenges for reporting, including any statutory or regulatory changes at the State level;
- Whether States had designated any HIPAA covered agencies as repositories of information for NICS reporting purposes and, if so, how the States have addressed HIPAA requirements while reporting;
- Whether certain HIPAA covered entities in the States have authority to order involuntary commitments or perform other adjudications that make an individual subject to the Federal mental health prohibitor;
- Whether additional, non-HIPAA related barriers to reporting exist;
- Whether there are privacy protections in place for data collected for NICS reporting purposes, and whether or how State public records laws would apply to the information;
- Whether creating an express permission would have implications for treatment, and whether there would be ways to mitigate any unintended consequences of creating such a permission; and
- How HHS could disseminate information or provide additional guidance on the HIPAA Privacy Rule to address confusion about HIPAA that may affect reporting to the NICS.

We requested comments from all stakeholders on these issues, including HIPAA covered entities; agencies of State, territorial, and tribal governments; law enforcement officials; individuals; and consumer advocates and groups.

[15] See 45 CFR 164.512(a). Note that disclosures for NICS purposes would not fall under the Privacy Rule's provisions permitting disclosures for law enforcement purposes (which apply to specific law enforcement inquiries) or to avert a serious threat to health or safety (which require an imminent threat of harm). See 45 CFR 164.512(f) and (j).

[16] See 45 CFR 164.103, 164.105.

[17] See GAO–12–684, Gun Control: Sharing Promising Practices and Assessing Incentives Could Better Position Justice to Assist States in Providing Records for Background Checks.

[18] We note that the GAO Report uses the term ''mental health records'' to refer to identifying information on individuals who are subject to the Federal mental health prohibitor. To avoid implying that mental health records are collected by NICS, the Department uses the terms ''identities,'' ''information,'' or ''data'' in place of ''mental health records.'' GAO–12–684, p. 12.

## III. Public Comments on the ANPRM

### Introduction

The Department received over 2,050 comments in response to the ANPRM. Commenters included individuals, State agencies, health care providers, professional organizations, consumer advocacy groups, and other stakeholders.

Individuals generally expressed concern that the NICS, the Federal mental health prohibitor, and the contemplated HIPAA permission, would infringe on their Second Amendment right to bear arms and the right to be afforded due process of law under the U.S. Constitution

Many individual commenters, as well as health care providers, organizations representing providers, and consumer advocacy groups, emphasized the importance of protecting individuals' health information privacy and raised concerns regarding the possible adverse consequences an express permission could have on the patient-provider treatment relationship and individuals' willingness to seek needed mental health care. Other commenters supported the proposal as removing a perceived barrier to an important and necessary public safety measure. Four State agencies and several organizations representing State officials and State-based professional organizations responded to the specific questions in the ANPRM regarding how NICS reporting occurs in those specific States and their perceptions of HIPAA-related barriers or other challenges related to NICS reporting. We discuss these comments, along with others, in more detail below.

### Summary of Comments and Responses

*A. Concerns Regarding the NICS and the Federal Mental Health Prohibitor*

As noted above, a majority of individual commenters voiced general concern that NICS reporting would lead to infringements on individuals' rights to bear arms and to receive due process of law under the Constitution. Some commenters voiced opposition to any restriction on their right to bear arms.

Many commenters raised concerns with the Federal mental health prohibitor category itself. Some, while supportive of the general proposition that individuals who pose a risk of harm to themselves or others should not have access to firearms, expressed concern that the Federal mental health prohibitor was overly broad and would result in individuals being reported to the NICS Index who do not pose a threat to society. A number of these commenters expressed concern regarding the standard used to determine whether individuals should be reported to the NICS, including those adjudicated as ''lack[ing] the mental capacity to contract or manage his own affairs'' under 27 CFR 478.11. Several commenters were especially concerned that the prohibitor might include individuals who are adjudicated as temporarily unable to independently manage their Veterans or Supplemental Security Income (SSI) benefits.

Further, many commenters asserted that mental illness is not an effective predictor of gun violence, and that there is no direct correlation between reporting individuals with mental illnesses to the NICS Index and a reduction in gun violence. Several commenters added that studies have shown that individuals with mental disorders are more likely to be the victims of violent crime by others than the perpetrators. In addition, some commenters specifically objected to individuals that fall within the Federal mental health prohibitor being reported to the NICS on the grounds that the NICS is a ''criminal'' database.

Many commenters expressed concerns about whether individuals who are subject to the Federal mental health prohibitor receive due process. For example, many individuals were concerned that an individual would be reported to the NICS without a formal adjudication through the judicial system. A few commenters argued that any determination that would subject an individual to the Federal mental health prohibitor should include a review by one or more mental health professionals. In general, commenters urged the Department to allow reporting of only those involuntary commitments that involve due process of law.

State officials and many other commenters emphasized the importance of establishing mechanisms to remove an individual's name from the NICS when the basis for their inclusion no longer applies. Some of these commenters also expressed concern about the difficulty, including the cost and time involved, of getting an erroneous submission removed from the NICS database. Several commenters noted that individuals whose conditions or circumstances change would not have a process to seek removal from the NICS.

A few commenters suggested that, in addition to the minimum information currently needed to report an individual to the NICS, covered entities should also be permitted to disclose the date of the disqualifying event. This, they asserted, would make it easier for individuals to determine whether the report was made erroneously.

We acknowledge the concerns of these commenters. However, this proposed rule would not affect the scope of the NICS or the Federal mental health prohibitor. Rather, the rule is intended to address perceptions that HIPAA creates a barrier to entities reporting information to the NICS. More specifically, it would create a way in which covered entities involved in reporting or collecting NICS data may disclose, consistent with the Privacy Rule, the information needed for NICS reporting. It will not expand the categories of prohibited persons or modify other Federal or State laws pertaining to firearms purchases, but would be limited to those covered entities that currently perform the adjudications that make individuals subject to the Federal mental health prohibitor, or that collect information regarding such adjudications on behalf of a State.

Further, the Department clarifies that the proposed HIPAA permission for NICS reporting would be limited to reporting of individuals who are subject to the Federal mental health prohibitor, as defined in Federal law and regulations. DOJ regulations state that this would not include individuals in a mental institution for observation or admitted voluntarily. See 27 CFR 478.11 (Definitions).[19] Thus, individuals who are subject to the Federal mental health prohibitor are afforded the opportunity for judicial review or other due process.

We acknowledge the commenters' concerns with respect to opportunities for remediation and note that individuals who believe they are wrongly denied the purchase of a firearm can visit *https://forms.fbi.gov/nics-appeals-request-form* to find out more information and appeal their denial. Further, some States have implemented programs providing for relief from disabilities under the Federal mental health prohibitor. Relief from disabilities is a process by which an individual, who would otherwise be prohibited from purchasing a firearm under the Federal mental health prohibitor, may apply to the lawful authority in the State where the commitment or adjudication occurred for relief. The lawful authority must grant relief if it can be established that the circumstances regarding the disability and the applicant's record and reputation are such that the applicant

[19] DOJ has proposed clarifications to 27 CFR 478.11. The DOJ proposal is published elsewhere in this issue of the **Federal Register**. The proposed regulatory text would not alter this aspect of the definition of ''committed to a mental institution.''

will not be likely to act in a manner dangerous to public safety, and the granting of relief would not be contrary to the public interest. States' processes for granting relief vary.

*B. Comments Regarding NICS Reporting Barriers and Creating an Express Permission in the HIPAA Privacy Rule*

1. State Processes for Reporting to the NICS

Health agencies from three States responded to the ANPRM's specific questions regarding NICS reporting in those States. An official from the Washington State Department of Social and Health Services explained that a HIPAA covered State agency had been responsible for reporting to the NICS until 2009, when a new State law transferred reporting responsibility to the State's Administrative Office of the Courts. Officials from the Colorado Department of Health Care Policy and Financing and the North Carolina Department of Health and Human Services stated that non-HIPAA covered entities in those States are responsible for reporting to the NICS (the State Bureau of Investigation and the county Clerks of Court, respectively). Three of the State agency commenters added that entities in their States also do not experience any other, non-HIPAA related, barriers to reporting to the NICS.

2. Creating an Express Permission

Two of the State agency commenters agreed with our statement in the ANPRM that creating an express permission in HIPAA for disclosures to the NICS would resolve any perceived ambiguity and be generally beneficial. Several other commenters agreed, and asserted that an individual's right to the privacy of his or her medical records should not be placed ahead of the safety and welfare of the population as a whole. A few commenters noted that HIPAA was intended to protect the privacy of individuals' health information, not to protect individuals from being identified as potential threats to others.

In addition, the Law Center to Prevent Gun Violence reported that, while a majority of States have enacted laws relating to reporting information to the NICS or a State repository, HIPAA continues to be cited as a perceived barrier to reporting to the NICS in a number of States. This commenter suggested that the perception of a barrier may arise because HIPAA's permission for uses and disclosures that are required by law would not permit HIPAA covered entities to disclose information for NICS purposes in States that have enacted laws authorizing, but not requiring, such reporting. Further complicating disclosures to the NICS, according to this commenter, is the fact that at least eleven States rely, at least in part, on a mental health facility to report information on individuals in a prohibited category. This commenter reported that all of those States have statutes requiring such reporting, but noted that some of the State laws only require reporting to State repositories, and not to the NICS database. Finally, the National Center for State Courts asserted that reporting to the NICS by entities in a State's judicial system can be challenging due to varying interpretations as to whether or when HIPAA may affect such reporting. This commenter felt an express permission under HIPAA would help resolve this perceived ambiguity.

Some commenters agreed that, if a permission were created, HIPAA's minimum necessary provisions should apply to any disclosures for reporting to the NICS database. These commenters appreciated the Department's assurance that an individual's treatment record, or any other clinical or diagnostic information, is not needed for the NICS, and we would not consider permitting the disclosure of such information under a proposed rule.

In addition, several commenters urged that any HIPAA exception be limited to reporting of ''commitments'' as defined by 27 CFR 478.11, as these commenters noted, there exists a great variance under State law as to what constitutes a commitment. Several commenters requested clarification on what constitutes a commitment under the Federal mental health prohibitor. One commenter specifically urged the Department to not amend the HIPAA Privacy Rule until the DOJ revises the Gun Control Act regulations to clarify the standards under which an individual becomes subject to a statutory prohibitor.[20]

A number of commenters argued that the proposed permission was unnecessary, some agreeing with the ANPRM's statement that HIPAA's existing permissions (e.g., for uses and disclosures required by State law) largely permit NICS reporting to take place. However, it should be noted that several commenters expressed, and thus may have based their comments on, the misconception that the Privacy Rule's permission to disclose for public health purposes, law enforcement purposes, or to prevent a serious and imminent threat, currently allow for disclosures to the NICS. As we noted in the ANPRM, NICS reporting would not be consistent with the conditions the HIPAA Privacy Rule places on such uses and disclosures. See conditions listed at 45 CFR 164.512(b), (f), and (j).

Many commenters believed a change to the Privacy Rule to be unnecessary because the information generally is reported to the NICS by non-HIPAA covered entities. One commenter pointed out that, even in States that allow mental health providers to commit individuals without prior adjudication, in which case a HIPAA covered provider might be the sole possessor of certain information related to the Federal mental health prohibitor, such information eventually must be shared with the court system, usually within a designated timeframe. This commenter and others argued that it would be more appropriate for a court system, rather than providers, to report information for NICS purposes. A few commenters suggested that, where records relevant to the Federal mental health prohibitor are not available to a judicial agency, another State agency or a State's Office of Attorney General should be responsible for reporting.

Some commenters were opposed to the creation of any express permission. Many mental health advocates and individual commenters voiced concern that an express HIPAA permission for reporting to the NICS information relevant to the Federal mental health prohibitor would reinforce and exacerbate the stigma surrounding mental illness. In addition, many commenters expressed concern that creating an express permission to disclose information for NICS purposes would harm the patient-provider relationship and discourage some individuals from seeking needed mental health treatment, due to fear that their doctor might disclose otherwise confidential communications about particularly sensitive information, such as mental health treatment information. Some commenters expressed particular concern that a change to the Privacy Rule would adversely affect veterans by deterring individuals with post traumatic stress disorder (PTSD) and other mental health issues from seeking mental health services for fear of losing their firearms.

After considering the comments we received, we agree that the creation of an express permission in the HIPAA Privacy Rule to disclose information relevant to the Federal mental health prohibitor for NICS purposes is

[20] We note that DOJ has proposed clarifications to the relevant regulations defining the categories of persons who are prohibited from possessing firearms. The DOJ proposal is published elsewhere in this issue of the **Federal Register**.

necessary to address ambiguity and ensure relevant information can be reported for this important public safety purpose. Thus, as discussed more fully below, we propose to permit certain covered entities to disclose limited information for NICS reporting purposes.

It is important to note that a mental health diagnosis does not, in itself, make an individual subject to the Federal mental health prohibitor, which requires an involuntary commitment or adjudication that the individual poses a danger to self or others or lacks the mental capacity to contract or manage their own affairs. For example, with respect to the Federal mental health prohibitor, concerns about veterans being reported to the NICS based solely on a diagnosis of PTSD are misplaced. Still, we acknowledge commenters' concerns about possible detrimental effects of an express NICS disclosure provision on individuals' relationships with their health care providers, or on individuals' willingness to seek care in the first place. We agree that encouraging individuals to obtain appropriate treatment is critical to both individuals' health and the public's safety. Therefore, we have narrowly drawn this proposed permission such that it would not apply to the vast majority of treating health care providers, who do not perform the formal involuntary commitments or other adjudications that make an individual subject to the Federal mental health prohibitor, and do not serve as repositories of information about such commitments and adjudications. Those health care providers do not report to the NICS currently and this would not change under the proposed rule.

The Department has carefully tailored the proposed permission to generally apply to entities that are not directly involved in treatment to minimize any potential adverse unintended consequences, such as discouraging individuals from seeking mental health treatment due to concerns that their provider might report them to the NICS. Instead, as we explain more fully below in the description of the rule, only those HIPAA covered entities that conduct the involuntary commitments or other adjudications that make an individual subject to the Federal mental health prohibitor, or that serve as repositories of information about such adjudications, would be permitted to rely on the proposed express permission to disclose information for NICS reporting purposes.[21]

The Department is soliciting comment on whether the permission should instead be broad enough to also include reporting of persons to the NICS who are subject to State firearm prohibitions, in light of the many State laws that restrict firearms possession for mental health related reasons. It is possible that extending the permission in this way would expand the number of potential reporting entities to include more covered entities that provide treatment. We describe the potential implications of expanding the scope of the permission to include State law prohibitors more fully below.

In addition, the proposed provision would permit those entities to disclose only the minimum necessary information for NICS reporting purposes. NICS does not access or maintain diagnostic or clinical information, so such information would not be considered the minimum necessary. The Department is soliciting comment on whether to permit the disclosure of certain additional identifying information (but not to include diagnostic or clinical information) that would help the NICS make accurate matches or rule out matches based on the additional information. These additional identifiers are discussed below in the description of the proposed rule.

We believe that the proposed change would appropriately protect and preserve individuals' privacy interests, the patient-provider relationship, and the public's health and safety. We emphasize that most covered entities, including treating providers who do not also perform formal involuntary commitments or other adjudications that make an individual subject to the Federal mental health prohibitor, as well as business associates, will not be disclosing information about individuals directly to the NICS under this proposal. We expect most reporting to continue to be done by the judicial system. However, where the judicial system lacks the information needed, or where the judicial system is not the appropriate entity to report individuals to the NICS, this proposal, if finalized, will give States and covered entities additional flexibility to ensure accurate information is reported to the NICS.

*C. Other Comments*

1. Privacy, Security, and Uses of NICS Information

A few commenters requested information on whether information in the NICS can be accessed by government officials for purposes other than firearm purchase background checks. In addition, some commenters raised concerns regarding the privacy and security protections afforded to information reported to the NICS, including protections for that information when held by States and while in transit.

The relevant regulations permit NICS background checks in conjunction with the transfer of a firearm, issuance of firearm or explosives permits or licenses, as well as in conjunction with ATF civil or criminal law enforcement investigations relating to the Gun Control Act or National Firearms Act. See 28 CFR 25.6(j).[22] The NICS cannot be used for purposes beyond those articulated in the governing regulations, including for general law enforcement activities.

The DOJ regulations make clear that FFLs can initiate NICS background checks only in connection with a firearm transaction requiring a NICS background check. FFLs are prohibited from initiating a query to the NICS for any other purpose. Further, when an individual prohibited from possessing a firearm attempts to obtain a firearm from an FFL, the FFL receives a response indicating only that the transfer has been denied or delayed pending further review, but does not have access to information about the applicable prohibitor or any other additional information regarding the reason for the delay or denial.

With respect to the privacy and security of information reported for NICS purposes, the DOJ has established policies and procedures for ensuring the privacy and security of NICS data in its possession, including physical security and safeguards, such as access restrictions. Further, the DOJ requires State and local law enforcement agencies involved in conducting background checks to observe certain security policies and procedures when processing NICS background checks.

Finally, in response to a question in the ANPRM about the confidentiality of information that has been collected by a repository for NICS reporting, several commenters, including officials from North Carolina, Washington, and

[21] We note that other provisions of the HIPAA Privacy Rule that permit covered entities to disclose information for public policy purposes remain in effect. Thus, where a HIPAA covered entity, including an entity not falling within the proposed provision, is required by law to disclose to the NICS, such disclosures would continue to be permitted under the Privacy Rule.

[22] See Gun Control Act, 18 U.S.C. Chapter 44; National Firearms Act, 26 U.S.C. Chapter 53; see also 28 CFR 25.6(j), 63 FR 58303, 58308–58309.

Colorado, indicated that the individually identifiable information collected for NICS reporting could not be made publicly available under State public records laws. Further, we note that to the extent a HIPAA covered entity is maintaining and reporting information relevant to the Federal mental health prohibitor that is protected health information (including demographic information), such entities must continue to protect the information in accordance with the HIPAA Privacy and Security Rules, which includes ensuring appropriate safeguards to protect the information as it is maintained and transmitted.

2. Improving the Current Mental Health System and Enforcement of Other Laws

Several commenters recommended better tracking of firearms and better enforcement of existing laws in place of a HIPAA modification. Other commenters urged the Department to focus on improving the current mental health care system in order to reduce gun violence associated with mental illness.

The Department continues to support efforts by the Administration to dispel stigmas relating to mental illness and to encourage individuals to seek voluntary mental health treatment. With the implementation of the Affordable Care Act, millions of Americans who did not previously have coverage will receive coverage for mental health services. Additionally, the Administration has improved access to mental health services for veterans and has supported initiatives to train more mental health professionals and help educators recognize students showing signs of mental illness and refer them to appropriate services.

3. Application of a HIPAA Permission to Other Prohibitors

Several commenters requested clarification on whether disclosures for NICS reporting under the proposed rule would be limited to the Federal mental health prohibitor or if covered entities could disclose protected health information related to any of the Federal prohibitors under the Gun Control Act. Some other commenters recommended that the Department amend the HIPAA Privacy Rule to expressly permit such reporting with respect to all of the Federal prohibitors. A few commenters also urged the Department to extend any express permission under the HIPAA Privacy Rule for NICS reporting to include prohibitor categories that State laws have enacted, which may extend beyond the Federal prohibitors. Some commenters suggested creating a provision permitting reporting related to other factors they perceive as associated with gun violence, such as domestic violence and substance abuse.

The Department does not propose to expand the proposed permission to apply to information about individuals who are subject to the other prohibitors listed at 18 U.S.C. 922. HIPAA covered entities are unlikely to have information related to the other Federal prohibitors, with the possible exception of the drug use prohibitor, for which we understand criminal records to be the primary source of information for the NICS. We note that, to the extent that individuals' drug use results in their being involuntarily committed, those individuals would be subject to the Federal mental health prohibitor and this proposed permission would apply.

Some States have enacted their own laws prohibiting the possession or receipt of firearms for reasons related to mental health and may prohibit the purchase or possession of a firearm by additional individuals who are not otherwise subject to the Federal mental health prohibitor. For example, some States may temporarily prohibit firearm possession by individuals who have voluntarily committed themselves to inpatient treatment, which currently does not make an individual subject to the Federal mental health prohibitor. As noted above, some States currently collect and report to the NICS the identities of individuals who are subject to State prohibitors, as well as the Federal prohibitors. To the extent that States have enacted their own prohibitions related to mental health, State law may also reduce barriers by requiring reporting to the NICS by those making the mental health assessments that make individuals subject to a State prohibition. However, the Department requests comment on whether HIPAA is perceived as a barrier to reporting to the NICS information about individuals who are subject to State law firearm prohibitions and whether the final rule should address this barrier.

Although the NICS has a role in helping to enforce State firearms prohibitions intended to keep firearms out of the hands of certain individuals for reasons related to mental health, the NICS Index currently does not contain information about all individuals who are subject to such prohibitions. The Department seeks comment on whether the proposed permission should be broadened to include information relevant to those State law prohibitions, as well as information relevant to the Federal mental health prohibitor. Expanding the permission would ensure that relevant State law prohibitor information could be reported to NICS in States that do not otherwise require the reporting. At the same time, however, there are implications to expanding the permission to encompass State law prohibitors, which may be broader than the Federal mental health prohibitor. For example, if more entities in States with their own prohibitors have the authority to make determinations that subject individuals to a firearms prohibition, there would be an increased likelihood that more treating providers would be permitted to report information to the NICS. In addition, there may be State laws that prohibit the possession or receipt of a firearm by individuals with particular mental health diagnoses or an assessment of ''dangerousness'' with correspondingly different procedural protections for individuals. The Department is seeking comment on whether these concerns are borne out in any States and whether the proposed permission should be broadened to include information relevant to those State law prohibitions.

4. Notice

A few commenters asked whether individuals would be notified if their provider disclosed their protected health information for NICS reporting purposes. If such notification were not required, commenters recommended that there be a way for individuals to find out that their provider disclosed their information for such purposes. One commenter asked whether covered entities would be required to revise their Notice of Privacy Practices to inform individuals that the entities might make disclosures for NICS reporting purposes.

We are not proposing new notification requirements.[23] Further, the Department would not require covered entities to revise their Notices of Privacy Practices to specifically reference this new provision. Existing notices that more generally refer to the types of disclosures each covered entity is permitted to make, including disclosures for the public policy purposes under 45 CFR 164.512, would suffice.

5. HHS Authority

Several commenters argued that any amendment to HIPAA to provide an express permission for reporting to the NICS database should be passed by

[23] We note that individuals who have tried to purchase a firearm and been denied can appeal to the FBI (and, in some States, to the NICS Point of Contact for the State), and learn the reason for the denial, if they believe they have been erroneously reported.

Congress, not created by HHS. These commenters argued that the Administration would overstep its authority if it adopted a regulatory change that Congress chose not to enact and that this would violate the principle of separation of powers. Additionally, several commenters argued that under the principle of federalism, regulation of firearms should be left to the States.

We note that Congress, when it enacted HIPAA, provided the Department with general authority to determine the permissible uses and disclosures of covered entities and modify the HIPAA standards as appropriate. It is under this authority that the Department has proposed to modify the Privacy Rule to permit certain disclosures for the purpose of NICS reporting.

6. Additional Guidance

Several commenters asked for additional guidance materials, training, and other outreach efforts from the Department to help covered entities, State agency officials, State legislatures, and State judiciaries better understand HIPAA's permitted and required disclosures. Some commenters specifically cited HIPAA as a perceived barrier to State legislatures passing laws requiring NICS reporting due to misconceptions about HIPAA preempting State law, and requested that the Department conduct outreach to explain HIPAA's preemption provisions. Other commenters urged the Department to increase its outreach efforts to encourage individuals to seek voluntary mental health services.

The Department anticipates issuing guidance to both address misconceptions (e.g., such as the perception that HIPAA is a barrier to State legislatures passing laws requiring reporting) and to help covered entities comply with the rule. With respect to the latter, we intend to work with DOJ to issue additional guidance on the categories within the Federal mental health prohibitor,[24] variations in State law, and when and how the HIPAA permission would apply. We will continue to evaluate additional areas that may benefit from further guidance.

Finally, the Department will continue its efforts to increase access to, and utilization of, needed mental health care services.

[24] We note that DOJ has proposed clarifications to the regulatory definitions relevant to the Federal mental health prohibitor. The DOJ proposal is published elsewhere in this issue of the **Federal Register**.

## IV. Overview of the Proposed Rule

We are proposing to revise 45 CFR 164.512 of the Privacy Rule by adding a new category of permitted disclosures to 45 CFR 164.512(k), which addresses uses and disclosures for specialized government functions. The new provisions at (k)(7) would permit certain covered entities to disclose the minimum necessary demographic and other information for NICS reporting purposes, which would not include clinical, diagnostic, or other mental health information.

There is a strong public safety need for this information to be accessible to the NICS, and some States are currently under-reporting or not reporting this information at all. From what we understand, and what we have heard from commenters, most of the information relevant to the Federal mental health prohibitor is held by entities that are not covered by HIPAA. For those few HIPAA covered entities that may be involved in the relevant commitments or adjudications, the Privacy Rule contains paths for disclosure, but these do not appear to be sufficient. Therefore, we propose to add another, narrowly tailored, permission for HIPAA covered entities that perform the commitments or adjudications that make individuals subject to the Federal mental health prohibitor, or that act as repositories of NICS records on behalf of a State, to use and disclose certain information for NICS reporting purposes. To the extent that some covered entities may perform adjudicatory or repository functions in States that have not enacted laws requiring reporting to the NICS, and a subset of those may be unable to achieve hybrid entity status for administrative or other reasons, this permission would remove a barrier to their reporting and provide clarity. Importantly, the proposed permission would focus on those entities performing the relevant commitment, adjudicatory or repository functions, not on those performing solely treatment functions.

We note that the proposed modification to the Privacy Rule would merely permit, and not require, covered entities to report to the NICS. In addition, it would not place additional limitations on or otherwise affect the currently existing permitted uses and disclosures of protected health information under the Privacy Rule. Thus, for example, the Rule's current permissions for uses and disclosures required by other law, including State law, would remain unchanged, as would provisions permitting uses and disclosures for law enforcement purposes as part of a specific investigation, or to avert a serious and imminent threat. See 45 CFR 164.512(a), (f), and (j).

## V. Description of the Proposed Rule

The following describes the specific provisions of the proposed rule. Those interested in commenting on the proposed rule can assist the Department by preceding discussion of any particular topic with a citation or reference to the aspect of the proposed rule being discussed. While we request comment on several specific questions, we welcome comments on any aspect of the proposed rule.

*General Rule*

Paragraph (k)(7) would permit uses and disclosures of protected health information for purposes of reporting to the NICS or a State-designated entity the identities of individuals who are subject to the Federal mental health prohibitor under 18 U.S.C. 922(g)(4), provided the conditions in the remaining paragraphs under (k)(7) are met. We do not intend with this paragraph to require formal designations by the States, but we would expect States to be able to identify the responsible entity. We request comment on whether the proposed language encompasses all entities that are responsible for reporting to, or otherwise collecting information for, the NICS on behalf of the States.

The proposed permission would not permit covered entities to use or disclose the protected health information of individuals who are subject to one or more of the other prohibitors listed at 18 U.S.C. 922(g), as the lack of an express HIPAA permission for reporting information relevant to the Federal mental health prohibitor is a limited problem and we have not heard that there is a similar issue with respect to the other prohibitors. Thus, for example, a covered entity would not be able to use this permission to use or disclose information about an individual who is an unlawful user of or addicted to any controlled substance (18 U.S.C. 922(g)(3)), except to the extent the individual is also subject to the Federal mental health prohibitor. We note that other laws may impact disclosures related to the other prohibitors, including 18 U.S.C. 922(g)(3).

We propose to limit the permission to uses and disclosures about individuals who are subject to the Federal mental health prohibitor. As discussed above, we request comment on the scope of the permission, specifically with regard to whether the permission should be

broadened to allow covered entities to disclose the identities of individuals who are prohibited by Federal or State law from possessing or receiving firearms for reasons related to mental health.

*Applicability*

Paragraph (k)(7)(i) would apply the express permission only to covered entities that function as repositories of information relevant to the Federal mental health prohibitor on behalf of a State, or that are responsible for ordering the involuntary commitments or other adjudications that make an individual subject to the Federal mental health prohibitor. The Federal prohibitor regulations define an involuntary commitment as a formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. It does not apply to individuals in a psychiatric facility for observation or who have been admitted voluntarily. The other applicable adjudications include determinations by a court, board, commission, or other lawful authority that persons are a danger to themselves or others, or lack the mental capacity to contract or manage their own affairs, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease. See 27 CFR 478.11 (Definitions).[25] This NPRM refers to the involuntary commitments and other applicable adjudications as, collectively, ''adjudications that make an individual subject to the Federal mental health prohibitor.''

Our understanding is that lawful authority for performing such adjudications and repository functions rests, for the most part, with entities that operate outside the scope of HIPAA. However, in the interest of public safety, we want to ensure that relevant adjudications can be reported in the small subset of States in which HIPAA covered entities may make, or collect and report records of, these determinations.

In permitting only entities involved in these adjudicatory or repository/reporting functions to use or disclose Federal mental health prohibitor information for NICS purposes, the proposal would not create a permission for most treating providers to disclose protected health information about their own patients for these purposes. We agree with the commenters who argued that encouraging voluntary treatment is critical to ensuring positive outcomes for individuals' health as well as the public's safety. We also agree with the many commenters who asserted that non-health care entities should and currently do bear primary responsibility for collection and reporting of information relevant to the Federal mental health prohibitor in most States. However, where a HIPAA covered entity is a board, commission, or other lawful authority that makes adjudications that result in individuals being subject to the Federal mental health prohibitor, we believe those entities are most likely to hold records of the relevant adjudications.

We request public comment on the extent to which some States may have vested responsibility for Federal mental health prohibitor reporting in HIPAA covered entities, to what extent records needed for NICS reporting are created or maintained by covered entities, and whether there are circumstances in which health care providers would need to report the identity of an individual subject to the Federal mental health prohibitor to a State designated records repository or directly to the NICS. We also request comment on the types of additional guidance from OCR and/or the NICS that would be helpful for understanding to which covered entities, and under what circumstances, the proposed permission would apply.

*Recipients of Information Disclosures*

Paragraph (k)(7)(ii) would provide that a covered entity identified in (k)(7)(i) may use or disclose Federal mental health prohibitor information for NICS purposes either directly to the NICS or to an entity designated by the State as a repository of data for purposes of reporting to the NICS. By clearly delimiting the permitted recipients of such disclosures, the rule would ensure that covered entities do not exceed the intended scope of the permission by disclosing information relevant to the Federal mental health prohibitor to, for example, law enforcement agencies that do not operate as repositories of data for purposes of reporting to the NICS. Again, as stated above, the Privacy Rule's existing permissions to use or disclose protected health information for specific law enforcement investigations, as provided in 45 CFR 164.512(f), would remain unchanged. We request comment on whether there are States in which a type of entity not described in this proposed paragraph is responsible for NICS reporting and needs to be able to receive NICS data from a HIPAA covered entity.

*Limitations on the Information Used or Disclosed*

Paragraph (k)(7)(iii) would strictly limit the information used or disclosed for NICS reporting purposes to the minimum necessary for such purposes. The Privacy Rule requires uses and disclosures of protected health information to be limited to the minimum necessary for their intended purpose, and in the proposed regulation text, we make clear that only limited demographic and other information would constitute the minimum necessary for NICS reporting. At this time, we would consider the minimum necessary information to include an individual's name; date of birth; sex; a code or notation indicating that the individual is subject to the Federal mental health prohibitor; a code or notation representing the reporting entity; and a code identifying the agency record supporting the prohibition. The proposed modification would not permit the use or disclosure of clinical or diagnostic information for NICS reporting purposes. We request comment on whether, and in what circumstances, HIPAA covered entities or other entities such as courts currently report to a records repository or directly to the NICS information that is not listed in the proposed paragraph.

We are also considering permitting the disclosure of some or all the following additional data elements, which are optional fields for a NICS Index entry, as part of the minimum necessary for NICS reporting purposes: Social Security number, place of birth, State of residence, height, weight, eye color, hair color, and race. From what we understand, these elements are not included in every NICS record, but often are used to confirm that a prospective firearm recipient matches a record searched by the NICS or to eliminate ''false positive'' background check results. We request public comment on this issue.

## VI. Regulatory Analyses

*A. Introduction*

We have prepared a regulatory impact statement in compliance with Executive Order 12866 (September 1993, Regulatory Planning and Review), Executive Order 13563 (January 2011, Improving Regulation and Regulatory Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), the Unfunded Mandates Reform Act of 1995 (UMRA) (March 22, 1995, Pub. L. 104–4), and Executive Order 13132 on Federalism.

[25] Note that DOJ has proposed clarifications to this regulation; the DOJ proposal is published elsewhere in this issue of the **Federal Register**.

1. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 135643 direct agencies to assess all 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 135634 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this rule has been reviewed by the Office of Management and Budget.

A regulatory impact analysis must be prepared for all major rules that have economically significant effects ($100 million or more in any one year) 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 government or communities (58 FR 51741). Because the proposed rule does not contain any new requirements for covered entities, we estimate that the rule will be cost neutral. We request comment on our assumptions and information on the nature of any unanticipated costs that covered entities may incur as a result of the rule.

Although we expect the economic impact of the rule, including non-quantifiable costs and savings discussed in the regulatory analysis below, to be less than $100 million annually, we nevertheless conducted an analysis of the costs of the proposed rule.

2. Entities Subject to the Rule

This proposed rule would apply only to covered entities that are responsible for ordering involuntary commitments or conducting other adjudications that make individuals subject to a Federal prohibition against possessing firearms under 18 U.S.C. 922(g)(4) (the Federal mental health prohibitor), or that are otherwise designated by a State to report the identities of such individuals to the NICS. We do not have sufficient data to determine the number of affected entities, but, based on the information available to us, we believe there would be very few. Our understanding is that, for the most part, formal adjudications and repository functions of this nature are conducted by entities, such as court systems or law enforcement agencies, that are not covered by HIPAA. We welcome public comment on the number of covered entities that might be affected by this rule.

*B. Why is this rule needed?*

This proposed rule is needed to ensure that, where HIPAA covered entities make adjudications causing individuals to become subject to the Federal mental health prohibitor, or serve as repositories of records of such adjudications on behalf of States, those covered entities can report the identities of those individuals to the NICS. Specific permission under the Privacy Rule for these disclosures is necessary to the extent that some States have not enacted laws requiring reporting to the NICS, but a covered entity in the State is nevertheless responsible for such reporting. Importantly, the proposed rule would permit only a small subset of HIPAA covered entities (i.e., those that perform the relevant mental health adjudications or repository functions) to use or disclose only limited, non-clinical information, for NICS purposes. This narrowly tailored permission would permit these important uses or disclosures for public safety to occur while maintaining a separation between reporting functions and the mental health treatment a patient might be receiving.

*C. Qualitative Analysis of Unquantified Costs*

The rule would be cost neutral with respect to HIPAA covered entities. The rule would not require entities that already have a NICS reporting process in place to change their current system and would not create new reporting or recordkeeping requirements for any covered entity. The small number of covered entities that would be newly permitted to report to the NICS or a State repository under the rule could begin reporting and may need to develop policies and procedures to do so. As the Privacy Rule only allows the use or disclosure of information, and does not require it, any resulting burden of reporting and associated procedures is attributable to the Federal statutory mental health prohibitor and the NICS system itself. See 28 CFR Part 25, Subpart A (*http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title28/28cfr25_main_02.tpl*). We acknowledge that those entities that choose to begin reporting may wish to address this change in their HIPAA policies and procedures, as well as explain their procedures to office staff. However, the rule would not require any changes to existing HIPAA policies and procedures. In addition, with respect to training, the rule would not require workforce training beyond what is already required under the HIPAA Privacy and Security Rules, and we do not expect that such entities that choose to report under the rule would do more than ensure that their office staff have copies of the new policies and procedures. We request comment on these assumptions and on the number of entities that might begin to report to the NICS for the first time, if any.

To the extent that the rule would permit some covered entities to report to the NICS for the first time, there may be an increase in the number of individuals whose identities are newly included in the NICS and who are denied a firearm transfer as a result. As a result, there may be a concomitant increase in applications for relief from disabilities in states that provide such a relief program. However, any burden to individuals completing and submitting the relief application form is attributed to the procedures established by the State where the commitment or adjudication occurred. The procedures for applying for relief in States that have established mental health relief from disabilities programs pursuant to the NICS Improvement Amendments Act of 2007 vary. We received a number of comments on the ANPRM asserting that creating an express permission in the Privacy Rule for NICS reporting would discourage individuals from seeking needed mental health care. We appreciate these concerns and agree with commenters who asserted that individuals' health and the public's safety are best served by encouraging appropriate treatment. We also recognize that discouraging treatment could increase the burden of untreated mental conditions to individuals, in the form of increased suffering and loss of productivity; to the health care system, when individuals with untreated mental illness need emergency hospitalization, for example; and to the public's safety. However, the majority of these commenters expressed the mistaken belief that the proposed permission would allow or require mental health care providers to report diagnostic or clinical information to the NICS. Many of these commenters also voiced concern that an express permission under HIPAA would potentially increase burdens on providers. Although one commenter suggested that an express permission under HIPAA would help lessen concerns about provider liability for disclosures related to NICS reporting, many more commenters expressed concern that

creating an express permission might lead providers to over report their patients due to a fear of liability for failing to report a patient who later commits an act of gun violence.

As explained above, we have carefully and narrowly tailored the proposed rule to apply only to a small number of covered entities that may be responsible for the adjudications that make an individual subject to the Federal mental health prohibitor, or that serve as repositories of data about such adjudications. As such, the proposed rule generally would maintain a separation between treatment functions and NICS reporting functions. In addition, the rule would not permit the use or disclosure of any diagnostic or clinical information, or any other information about an individual that is not the minimum necessary for NICS reporting purposes. Because of these strict limitations on the permitted uses and disclosures, we believe that individuals would not be dissuaded from seeking needed mental health care services as a result of the proposed rule. We welcome comment on this assumption.

Finally, we recognize the intangible burden to individuals of the stigma associated with mental health conditions. We again emphasize, as we did in the ANPRM, that individuals with treated mental health conditions as a group have not been shown to pose an increased risk of gun violence against others compared with the general population, and are in fact more likely to be victims of violence than other members of the general population. We note further that the Federal mental health prohibitor does not apply to all individuals with mental health conditions, but instead a subset of individuals who have been involuntarily committed or otherwise adjudicated to be a danger to themselves or others, or unable to manage their own affairs, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease. With this proposed rule, the Department is not adopting or endorsing the idea that individuals with mental health conditions pose a danger to society. Rather, the rule would permit a limited number of HIPAA covered entities to report to the NICS the identities of individuals in a particular subcategory of persons who are currently prohibited by Federal law from possessing firearms. This permission would facilitate the enforcement of prohibitions that were established by the Gun Control Act. Therefore, we do not expect that this proposed rule would exacerbate stigma associated with mental health conditions.

We request comment on this assumption and on any other costs that may be associated with the rule.

*D. Qualitative Analysis of Unquantified Benefits*

While we believe that there may be benefits to public safety as a result of the rule, we are not able to monetize the value of such benefits.

For example, the rule may result in increased reporting to the NICS of individuals who may pose a risk of gun violence related to a serious mental health condition. To the extent that this rule would permit covered entities to report those individuals' identities for NICS purposes, resulting in denial of firearms to those who are prohibited from possessing firearms under Federal law, the rule would provide a public safety benefit. However, we do not have information about whether, or how many, covered entities would begin to report or increase reporting to the NICS as a result of the rule.

An additional benefit of the rule would be to alleviate the concerns of State lawmakers who, according to a handful of commenters, may be reluctant to pursue legislation requiring entities to report Federal mental health prohibitor information for NICS purposes because of a misconception that the HIPAA Privacy Rule would preempt such requirements. As explained more fully above, the Privacy Rule permits uses and disclosures that are required by law. To the extent that State lawmakers harbor this misconception, this rule would serve both to clarify HIPAA's preemption provisions and provide an avenue for NICS reporting that may obviate a need to enact legislation at the State level.

We welcome comment on any of these issues.

*E. Additional Regulatory Analyses*

1. Regulatory Flexibility Act

The RFA requires agencies to analyze and consider options for reducing regulatory burden if a rule will impose a significant burden on a substantial number of small entities. The act requires the head of the agency to either certify that the rule would not impose such a burden or perform a regulatory flexibility analysis and consider alternatives to lessen the burden. For the reasons explained more fully above in the summary of costs and benefits, it is not expected that the rule would result in compliance costs for covered entities of any size because the rule would not impose new requirements.

2. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates would require spending in any one year $100 million in 1995 dollars, updated annually for inflation. In 2013, that threshold is approximately $150 million dollars. UMRA does not address the total cost of a rule. Rather, it focuses on certain categories of cost, mainly those ''Federal mandate'' costs resulting from: (1) Imposing enforceable duties on State, local, or Tribal governments, or on the private sector; or (2) increasing the stringency of conditions in, or decreasing the funding of, State, local, or Tribal governments under entitlement programs. As this proposed rule would not impose enforceable duties or affect entitlement programs, UMRA does not require us to prepare an analysis of the costs and benefits of the rule. Nonetheless, we have done so in accordance with Executive Orders 12866 and 13563, and present this analysis in sections C and D above.

3. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications.

The Federalism implications of the HIPAA Privacy and Security Rules were assessed as required by Executive Order 13132 and published as part of the preambles to the final rules on December 28, 2000 (65 FR 82462, 82797) and February 20, 2003 (68 FR 8334, 8373), respectively. This proposed rule would not impose requirements, or any associated costs, on State and local governments. Regarding preemption, the preamble to the final Privacy Rule explained that the HIPAA statute dictates the relationship between State law and Privacy Rule requirements. Therefore, the Privacy Rule's existing preemption provisions do not raise Federalism issues, and these provisions would not be affected by this proposed rule. In addition, we again emphasize that the proposed modification to the rule would not require covered entities to make disclosures that are prohibited by State law, nor would it prevent disclosures required by State law. For these reasons, the rule would not have Federalism implications.

*F. Accounting Statement*

Whenever a rule is considered a significant rule under Executive Order 12866, we are required to develop an accounting statement indicating the costs associated with the rule. As explained above in the RIA, we expect that the rule would be cost neutral. However, we invite comment on potential costs associated with the rule, including costs to covered entities that choose to amend written HIPAA policies and procedures or train staff.

**VII. Collection of Information Requirements**

This proposed rule does not contain new requirements for information collections (i.e., reporting, recordkeeping, and third-party disclosures) under the Paperwork Reduction Act.

**List of Subjects in 45 CFR Part 164**

Administrative practice and procedure, Computer technology, Electronic information system, Electronic transactions, Employer benefit plan, Health, Health care, Health facilities, Health insurance, Health records, Hospitals, Medicaid, Medical research, Medicare, Privacy, Reporting and recordkeeping requirements, and Security.

For the reasons set forth in the preamble, the Department of Health and Human Services proposes to amend 45 CFR Subtitle A, Subchapter C, part 164, as set forth below:

## PART 164—SECURITY AND PRIVACY

■ 1. The authority citation for part 164 continues to read as follows:

**Authority:** 42 U.S.C. 1302(a); 42 U.S.C. 1320d–1320d–9; sec. 264, Pub. L. 104–191, 110 Stat. 2033–2034 (42 U.S.C. 1320d–2(note)); and secs. 13400–13424, Pub. L. 111–5, 123 Stat. 258–279.

■ 2. Amend § 164.512 by adding paragraph (k)(7) to read as follows:

**§ 164.512 Uses and disclosures for which an authorization or opportunity to agree or object is not required.**

* * * * *

(k) * * *

(7) *National Instant Criminal Background Check System.* A covered entity may use or disclose protected health information for purposes of reporting to the National Instant Criminal Background Check System the identity of an individual who is prohibited from possessing a firearm under 18 U.S.C. 922(g)(4), provided the covered entity:

(i) Is a State agency or other entity that is, or contains an entity that is:

(A) An entity designated by the State to report, or which collects information for purposes of reporting, on behalf of the State, to the National Instant Criminal Background Check System; or

(B) A court, board, commission, or other lawful authority that makes the commitment or adjudication that causes an individual to become subject to 18 U.S.C. 922(g)(4).

(ii) Discloses the information to:

(A) The National Instant Criminal Background Check System; or

(B) An entity designated by the State to report, or which collects information for purposes of reporting, on behalf of the State, to the National Instant Criminal Background Check System; and

(iii) (A) Discloses only the limited demographic and certain other information needed for purposes of reporting to the National Instant Criminal Background Check System; and

(B) Does not disclose diagnostic or clinical information for such purposes.

* * * * *

Dated: December 31, 2013.

**Kathleen Sebelius,**

*Secretary.*

[FR Doc. 2014–00055 Filed 1–3–14; 4:15 pm]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**[Docket No. FWS–R4–ES–2013–0015; 4500030113]**

**RIN 1018–AZ47**

## Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Leavenworthia exigua var. laciniata

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the May 24, 2013, proposed designation of critical habitat for *Leavenworthia exigua* var. *laciniata* (Kentucky glade cress) under the Endangered Species Act of 1973, as amended (Act). We also announce the availability of a draft economic analysis (DEA) of the proposed designation and an amended required determinations section of the proposal. For this action, our DEA consists of an incremental effects memorandum considering the probable incremental economic impacts that may result from the proposed designation of critical habitat and a screening analysis of the probable effects of the designation of critical habitat for the Kentucky glade cress. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule, the associated DEA, and the amended required determinations section. Comments previously submitted need not be resubmitted, as they will be fully considered in our determination on this rulemaking action.

**DATES:** The comment period for the proposed rule published May 24, 2013, at 78 FR 31479, is reopened. We will consider comments received or postmarked on or before February 6, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

**ADDRESSES:** *Document availability:* You may obtain copies of the proposed rule and the DEA on the Internet at *http://www.regulations.gov* at Docket Number FWS–R4–ES–2013–0015, or by mail from the Kentucky Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

*Written comments:* You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. Submit comments on the critical habitat proposal and associated DEA by searching for Docket No. FWS–R4–ES–2013–0015, which is the docket number for this rulemaking.

(2) *By hard copy:* Submit comments on the critical habitat proposal and DEA by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2013–0015; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Lee Andrews, Field Supervisor, U.S. Fish and Wildlife Service, Kentucky Ecological Services Field Office, J.C. Watts Federal Building, 330 W.

Broadway, Rm. 265, Frankfort, KY 40601; by telephone 502–695–0468; or by facsimile 502–695–1024. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**Public Comments**

We will accept written comments and information during this reopened comment period on our proposed designation of critical habitat for *L. exigua* var. *laciniata* that was published in the **Federal Register** on May 24, 2013 (78 FR 31479), our DEA of the proposed designation, and the amended required determinations provided in this document. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat is not prudent.

(2) Specific information on:

(a) The distribution of the *L. exigua* var. *laciniata*;

(b) The amount and distribution of *L. exigua* var. *laciniata* habitat;

(c) What areas occupied by the species at the time of listing that contain features essential for the conservation of the species we should include in the designation and why; and

(d) What areas not occupied at the time of listing are essential to the conservation of the species and why.

(3) Land use designations and current or planned activities in the subject areas and their probable impacts on proposed critical habitat.

(4) Information on the projected and reasonably likely impacts of climate change on *L. exigua* var. *laciniata* and proposed critical habitat.

(5) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation; in particular, we seek information on the benefits of including or excluding areas that exhibit these impacts.

(6) Information on the extent to which the description of economic impacts in the DEA is a reasonable estimate of the likely economic impacts.

(7) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in the DEA, and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed critical habitat designation.

(8) Whether any areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act.

(9) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

If you submitted comments or information on the proposed rule (78 FR 31479) during the initial comment period from May 24, 2013, to July 23, 2013, please do not resubmit them. We will incorporate them into the public record as part of this comment period, and we will fully consider them in the preparation of our final determination. Our final determination concerning critical habitat will take into consideration all written comments and any additional information we receive during both comment periods. On the basis of public comments, we may, during the development of our final determination, find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion.

You may submit your comments and materials concerning the proposed critical habitat rule or DEA by one of the methods listed in the **ADDRESSES** section. We request that you send comments only by the methods described in the **ADDRESSES** section.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed critical habitat rule and DEA, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0015, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Kentucky Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule and the DEA on the Internet at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0015, or by mail from the Kentucky Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

**Background**

It is our intent to discuss only those topics directly relevant to the designation of critical habitat for *L. exigua* var. *laciniata* in this document. For more information on *L. exigua* var. *laciniata* or its habitat, refer to the proposed listing rule published in the **Federal Register** on May 24, 2013 (78 FR 31498), which is available online at *http://www.regulations.gov* (at Docket Number FWS–R4–ES–2013–0069) or from the Kentucky Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

*Previous Federal Actions*

On May 24, 2013, we published a proposed rule to designate critical habitat for the species (78 FR 31479). We proposed to designate approximately 2,053 acres (ac) (830 hectares (ha)) in six units located in Bullitt and Jefferson Counties, Kentucky, as critical habitat. That proposal had a 60-day comment period, ending July 23, 2013. For more information on previous Federal actions concerning *L. exigua* var. *laciniata,* refer to the proposed designation of critical habitat published in the **Federal Register** on May 24, 2013 (78 FR 31479).

*Critical Habitat*

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting critical habitat must consult

with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

**Consideration of Impacts Under Section 4(b)(2) of the Act**

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion of an area we consider, among other factors, the additional regulatory benefits that an area would receive through the analysis under section 7 of the Act addressing the destruction or adverse modification of critical habitat as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies); the educational benefits of identifying areas containing essential features that aid in the recovery of the listed species; and any ancillary benefits triggered by existing local, State, or Federal laws as a result of the critical habitat designation.

When considering the benefits of excluding a particular area, we consider, among other things, whether exclusion of a specific area is likely to incentivize or result in the conservation of the species and its habitat; the continuation, strengthening, or encouragement of partnerships; or implementation of a conservation or management plan for the species and its habitat. In the case of *L. exigua* var. *laciniata,* the benefits of critical habitat include public awareness of the presence of *L. exigua* var. *laciniata* and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for *L. exigua* var. *laciniata* due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by Federal agencies.

We have not proposed to exclude any areas from critical habitat. However, the final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment period and information about the economic impact of designation. To consider information related to economic impact, we have prepared a draft economic analysis (DEA) concerning the proposed critical habitat designation, which is available for review and comment (see **ADDRESSES**).

**Consideration of Economic Impact**

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. To assess the probable economic impacts of a designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate the impacts that a specific critical habitat designation may have on restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat for this particular species. The probable economic impact of a proposed critical habitat designation is analyzed by comparing scenarios ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, which includes the existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users potentially affected by the designation of critical habitat (e.g., under the Federal listing as well as other Federal, State, and local regulations). The baseline, therefore, represents the impacts of all efforts attributable to the listing of the species under the Act (i.e., conservation of the species and its habitat incurred regardless of whether critical habitat is designated). The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts would not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct an optional section 4(b)(2) exclusion analysis.

For this particular designation, we developed an incremental effects memorandum (IEM) considering the probable incremental economic impacts that may result from the proposed designation of critical habitat. The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for the Kentucky glade cress (IEc 2013, entire). The purpose of the screening analysis is to filter out the geographic areas in which the critical habitat designation is unlikely to result in probable incremental economic impacts. In particular, the screening analysis considers baseline costs (i.e., absent critical habitat designation) and includes probable economic impacts where land and water use may be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the species. The screening analysis filters out particular areas of critical habitat that are already subject to such protections and are, therefore, unlikely to incur incremental economic impacts. Ultimately, the screening analysis allows us to focus our analysis on evaluating the specific areas or sectors that may incur probable incremental economic impacts as a result of the designation. The screening analysis also assesses whether units are unoccupied by the species and may require additional management or conservation efforts as a result of the critical habitat designation and may incur incremental economic impacts. This screening analysis, combined with the information contained in our IEM, is what we consider our DEA of the proposed critical habitat designation for the Kentucky glade cress and is summarized in the narrative below.

Executive Orders 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly impacted entities, where practicable and reasonable. We assess to the extent practicable the probable impacts, if sufficient data are available, to both directly and indirectly impacted entities. As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation. In our IEM dated September 9, 2013, we identified probable incremental economic impacts associated with the following categories of activities: (1) Residential and commercial development; (2) transportation

projects; (3) recreational activities; (4) agricultural activities; (5) utility projects; and (6) commercial timber harvest. We considered each industry or category individually. Additionally, we considered whether the activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement; designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where the Kentucky glade cress is present, Federal agencies already are required to consult with the Service under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If we finalize the proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process. Therefore, disproportionate impacts to any geographic area or sector are not likely as a result of this critical habitat designation.

In our IEM, we attempted to clarify the distinction between the effects that would result from the species being listed and those attributable to the critical habitat designation (i.e., difference between the jeopardy and adverse modification standards) for the Kentucky glade cress critical habitat. Because the designation of critical habitat for the Kentucky glade cress was proposed concurrently with the listing, it has been our experience that it is more difficult to discern which conservation efforts are attributable to the species being listed and those which would result solely from the designation of critical habitat. However, the following specific circumstances in this case help to inform our evaluation: (1) The essential physical and biological features identified for critical habitat are the same features essential for the life requirements of the species, and (2) any actions that would result in sufficient harm or harassment to constitute jeopardy to the Kentucky glade cress would also likely adversely affect the essential physical and biological features of critical habitat. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for this species.

The proposed critical habitat designation for the Kentucky glade cress totals 2,053 ac (830 ha) in six units, consisting of 18 subunits, that are all occupied by the species. All of the units and subunits are privately owned except for unit 1, which is owned by the Louisville/Jefferson County Metropolitan Government, and subunit 4B, where the Kentucky State Nature Preserve Commission owns a 20-acre conservation easement (Fish and Wildlife Service 2013). Inclusive of all units, any actions that may affect the species or its habitat would also affect designated critical habitat, and it is unlikely that any additional conservation efforts would be recommended to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of the Kentucky glade cress. In general, because the glade cress is a narrow endemic species, the quality of its habitat is closely linked to the species' survival and conservation measures would be, in most cases, addressed through the consultation recommendations as necessary to avoid jeopardizing the continued existence of the Kentucky glade cress (Fish and Wildlife Service 2013). Therefore, in our DEA, we determined that in most circumstances, these costs of the proposed critical habitat designation would predominantly be administrative in nature and would not be significant.

Federal action agencies will most likely incur incremental costs associated with section 7 consultations. In the DEA, we determined that few activities will lead to section 7 consultation because this species is an upland plant with no occurrences on Federal lands. Future section 7 consultation is likely to be infrequent. Activities we expect to be subject to consultation may involve the development in the Louisville, Kentucky/Jefferson County metropolitan area, which is predicted to grow substantially through year 2050. Critical habitat may impact property values indirectly if developers assume the designation will limit the potential use of that land. However, the designation of critical habitat is not likely to result in an increase of consultations. Therefore, the incremental administrative burden resulting from the designation is unlikely to reach $100 million in a given year based on the small number of anticipated consultations and pre-consultation costs. The $100 million threshold is established by Executive Order 12866, which directs agencies to assess the potential costs and benefits of regulatory actions and quantify those costs and benefits if that action may have an effect on the economy of $100 million or more annually.

As we stated earlier, we are soliciting data and comments from the public on the DEA, as well as all aspects of the proposed rule and our amended required determinations. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

**Required Determinations—Amended**

In our May 24, 2013, proposed rule (78 FR 31479), we indicated that we would defer our determination of compliance with several statutes and executive orders until we had evaluated the probable effects on landowners and stakeholders and the resulting probable economic impacts of the designation. Following our evaluation in the DEA of the probable incremental economic impacts resulting from the designation of critical habitat for the Kentucky glade cress, we have amended or affirmed our determinations below. Specifically, we affirm the information in our proposed rule concerning Executive Orders (E.O.s) 12866 and 13563 (Regulatory Planning and Review), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), E.O. 13211 (Energy Supply, Distribution, or Use), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951). However, based on our evaluation of the probable incremental economic impacts of the proposed designation of critical habitat for the Kentucky glade cress, we are amending our required determination concerning the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and E.O. 12630 (Takings).

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the

head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

The Service's current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are only required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself, and, therefore, are not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried by the agency is not likely to adversely modify critical habitat. Therefore, under these circumstances only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Under these circumstances, it is our position that only Federal action agencies will be directly regulated by this designation. Federal agencies are not small entities, and to this end, there is no requirement under RFA to evaluate the potential impacts to entities not directly regulated. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that, if promulgated, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed critical habitat designation would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

*E.O. 12630 (Takings)*

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for Kentucky glade cress in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding, assistance, or require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. The DEA found that no significant economic impacts are likely to result from the designation of critical habitat for the Kentucky glade cress. Because the Act's critical habitat protection requirements apply only to Federal agency actions, few conflicts between critical habitat and private property rights should result from this designation. Based on information contained in the economic analysis assessment and described within this document, it is not likely that economic impacts to a property owner would be of a sufficient magnitude to support a takings action. Therefore, we conclude that this designation of critical habitat for the Kentucky glade cress does not pose significant takings implications for lands within or affected by the designation.

## Authors

The primary authors of this notice are the staff members of the Kentucky Ecological Services Field Office, Southeast Region, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

## Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 20, 2013.

**Rachel Jacobson,**

*Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2013–31575 Filed 1–6–14; 8:45 am]

**BILLING CODE 4310–55–P**

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**[Docket No. FWS–R2–ES–2012–0035; 4500030113]**

**RIN 1018–AY22**

## Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Georgetown Salamander and Salado Salamander

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; notice of availability and reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on our August 22, 2012 (77 FR 50768), proposed listing rule for the Georgetown salamander (*Eurycea naufragia*) and Salado salamander (*Eurycea chisholmensis*) under the Endangered Species Act of 1973, as amended. We also announce the availability of the City of Georgetown's final ordinances for water quality and urban development. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule and the new city ordinances. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

**DATES:** The comment period for the proposed rule published August 22, 2013, at 77 FR 50768, is reopened. The comment period end date is January 22, 2014. We request that comments be submitted by 11:59 p.m. Eastern Time on the closing date.

**ADDRESSES:** *Document availability:* You may obtain copies of the City of Georgetown's final ordinances, the proposed rule, the 6-month extension, and other supporting documents on the

Internet at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2012–0035, at *http://www.fws.gov/southwest/es/austintexas/ESA_Sp_Salamanders.html,* or by mail from the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

*Submitting comments:* You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. In the Search box, enter FWS–R2–ES–2012–0035, which is the docket number for the proposed listing rule. Then, in the Search panel on the left side of the screen, under the Document Type heading, check on the Proposed Rules link to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2012–0035; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Adam Zerrenner, Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Rd, Suite 200, Austin, TX 78758; by telephone 512–490–0057; or by facsimile 512–490–0974. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

## Background

On August 22, 2012, we published in the **Federal Register** a proposed rule (77 FR 50768) to list the Austin blind salamander (*Eurycea waterlooensis*), Georgetown salamander (*Eurycea naufragia*), Jollyville Plateau salamander (*Eurycea tonkawae*), and Salado salamander (*Eurycea chisholmensis*) as endangered species under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). For a description of previous Federal actions concerning these salamanders, please refer to the proposed rule. That proposal had a 60-day comment period, ending October 22, 2012. We held a public meeting and hearing in Round Rock, Texas, on September 5, 2012, and a second public meeting and hearing in Austin, Texas, on September 6, 2012. On January 25, 2013, we reopened the public comment period on the August 22, 2012, proposed listing and critical habitat designation, announced the availability of a draft economic analysis, and published an amended required determinations section of the proposal (78 FR 5385). On August 20, 2013, we published a final rule listing the Austin blind salamander as endangered and the Jollyville Plateau salamander as threatened (78 FR 51278) and provided notice of extension of our final determination for the Georgetown and Salado salamanders pursuant to section 4(b)(6) of the Act and reopened the comment period (78 FR 51129). That comment period closed on September 19, 2013.

Since that time, the City of Georgetown, Texas, has prepared and finalized ordinances for the Georgetown salamander. All 14 of the known Georgetown salamander locations are within the City of Georgetown's jurisdiction for residential and commercial development. The enacted ordinances are directed at alleviating threats to the Georgetown salamander from urban development by requiring geologic assessments prior to construction, establishing occupied site protections through stream buffers, maintaining water quality through best management practices, developing a water quality management plan for the City of Georgetown, and monitoring occupied spring sites by an adaptive management working group. The Service would like to consider the ordinances in its final listing determination. As such, we are reopening the comment period to allow the public an opportunity to provide comment on the application of the City of Georgetown's ordinances to our determination of status under section 4(a)(1) of the Act, and the likelihood of implementation and effectiveness of the ordinances.

For more detailed information or to obtain copies of the City of Georgetown's new ordinances, go to *http://www.regulations.gov* and search for Docket Number FWS–R2–ES–2012–0035, *http://www.fws.gov/southwest/es/austintexas/ESA_Sp_Salamanders.html,* or you may obtain copies by mail from the Austin Ecological Field Services Office (see **FOR FURTHER INFORMATION CONTACT**).

## Public Comments

We will accept written comments and information during this reopened comment period on our proposed listing for the Georgetown and Salado salamanders that was published in the **Federal Register** on August 22, 2012 (77 FR 50768). We will consider information and recommendations from all interested parties. We intend that any final action resulting from this proposal be as accurate as possible and based on the best available scientific and commercial data. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, general public, and other interested parties. We particularly seek comments regarding application of the City of Georgetown's ordinances to our determination of status under section 4(a)(1) of the Act, particularly comments or information to help us assess the certainty that the ordinances will be effective in conserving the Georgetown salamander and will be implemented.

If you previously submitted comments or information on the proposed rule, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in the preparation of our final determination. Our final determination concerning this proposed listing will take into consideration all written comments and any additional information we received.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R2–ES–2012–0035, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2012–0035, or

by mail from the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

**Authority**

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 30, 2013.

**Stephen Guertin,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2014–00034 Filed 1–6–14; 8:45 am]

**BILLING CODE 4310–55–P**

# Notices

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

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 and Nutrition Service

### Summer Food Service Program 2014 Reimbursement Rates

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice informs the public of the annual adjustments to the reimbursement rates for meals served in the Summer Food Service Program for Children. These adjustments address changes in the Consumer Price Index, as required under the Richard B. Russell National School Lunch Act. The 2014 reimbursement rates are presented as a combined set of rates to highlight simplified cost accounting procedures. The 2014 rates are also presented individually, as separate operating and administrative rates of reimbursement, to show the effect of the Consumer Price Index adjustment on each rate.

**DATES:** *Effective Date:* January 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** Tina Namian, Policy and Program Development Division, Child Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Suite 1206, Alexandria, Virginia 22302, 703–305–2590.

**SUPPLEMENTARY INFORMATION:** The Summer Food Service Program (SFSP) is listed in the Catalog of Federal Domestic Assistance under No. 10.559 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, and final rule-related notice published at 48 FR 29114, June 24, 1983.)

In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3518, no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This notice is not a rule as defined by the Regulatory Flexibility Act, 5 U.S.C. 601–612, and thus is exempt from the provisions of that Act. Additionally, this notice has been determined to be exempt from formal review by the Office of Management and Budget under Executive Order 12866.

#### Definitions

The terms used in this notice have the meaning ascribed to them under 7 CFR Part 225 of the SFSP regulations.

#### Background

This notice informs the public of the annual adjustments to the reimbursement rates for meals served in SFSP. In accordance with sections 12(f) and 13, 42 U.S.C. 1760(f) and 1761, of the Richard B. Russell National School Lunch Act (NSLA) and SFSP regulations under 7 CFR Part 225, the United States Department of Agriculture announces the adjustments in SFSP payments for meals served to participating children during calendar year 2014.

The 2014 reimbursement rates are presented as a combined set of rates to highlight simplified cost accounting procedures. Reimbursement is based solely on a ''meals times rates'' calculation, without comparison to actual or budgeted costs.

Sponsors receive reimbursement that is determined by the number of reimbursable meals served multiplied by the combined rates for food service operations and administration. However, the combined rate is based on separate operating and administrative rates of reimbursement, each of which is adjusted differently for inflation.

#### Calculation of Rates

The combined rates are constructed from individually authorized operating and administrative reimbursements. Simplified procedures provide flexibility, enabling sponsors to manage their reimbursements to pay for any allowable cost, regardless of the cost category. Sponsors remain responsible, however, for ensuring proper administration of the Program, while providing the best possible nutrition benefit to children.

The operating and administrative rates are calculated separately. However, the calculations of adjustments for both cost categories are based on the same set of changes in the *Food Away From Home* series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor. They represent a 2.1 percent increase in this series for the 12 month period, from November 2012 through November 2013 (from 240.038 in November 2012 to 244.97 in November 2013).

#### Table of 2014 Reimbursement Rates

Presentation of the 2014 maximum per meal rates for meals served to children in SFSP combines the results from the calculations of operational and administrative payments, which are further explained in this notice. The total amount of payments to State agencies for disbursement to SFSP sponsors will be based upon these adjusted combined rates and the number of meals of each type served. These adjusted rates will be in effect from January 1, 2014 through December 31, 2014.

SUMMER FOOD SERVICE PROGRAM 2014 REIMBURSEMENT RATES (COMBINED)

| Per meal rates in whole or fractions of U.S. dollars | All states except Alaska and Hawaii | | Alaska | | Hawaii | |
|---|---|---|---|---|---|---|
| | Rural or self-prep site | All other types of sites | Rural or self-prep sites | All other types of sites | Rural or self-prep sites | All other types of sites |
| Breakfast | 2.0225 | 1.9850 | 3.2750 | 3.2150 | 2.3625 | 2.3200 |
| Lunch or Supper | 3.5450 | 3.4875 | 5.7425 | 5.6500 | 4.1425 | 4.0750 |
| Snack | 0.8400 | 0.8225 | 1.3575 | 1.3275 | 0.9775 | 0.9550 |

**Operating Rates**

The portion of the SFSP rates for operating costs is based on payment amounts set in section 13(b)(1) of the NSLA, 42 U.S.C. 1761(b)(1). They are rounded down to the nearest whole cent, as required by section 11(a)(3)(B) of the NSLA, 42 U.S.C. 1759a(a)(3)(B).

SUMMER FOOD SERVICE PROGRAM OPERATING COMPONENT OF 2014 REIMBURSEMENT RATES

| Operating rates in U.S. dollars, rounded down to the nearest whole cent | All states except Alaska and Hawaii | Alaska | Hawaii |
|---|---|---|---|
| Breakfast | 1.84 | 2.98 | 2.15 |
| Lunch or Supper | 3.21 | 5.20 | 3.75 |
| Snack | 0.75 | 1.21 | 0.87 |

**Administrative Rates**

The administrative cost component of the reimbursement is authorized under section 13(b)(3) of the NSLA, 42 U.S.C. 1761(b)(3). Rates are higher for sponsors of sites located in rural areas and for ''self-prep'' sponsors that prepare their own meals, at the SFSP site or at a central facility, instead of purchasing them from vendors. The administrative portion of SFSP rates are adjusted, either up or down, to the nearest quarter-cent.

SUMMER FOOD SERVICE PROGRAM ADMINISTRATIVE COMPONENT OF 2014 REIMBURSEMENT RATES

| Administrative rates in U.S. dollars, adjusted, up or down, to the nearest quarter-cent | All states except Alaska and Hawaii | | Alaska | | Hawaii | |
|---|---|---|---|---|---|---|
| | Rural or self-prep site | All other types of sites | Rural or self-prep sites | All other types of sites | Rural or self-prep sites | All other types of sites |
| Breakfast | 0.1825 | 0.1450 | 0.2950 | 0.2350 | 0.2125 | 0.1700 |
| Lunch or Supper | 0.3350 | 0.2775 | 0.5425 | 0.4500 | 0.3925 | 0.3250 |
| Snack | 0.0900 | 0.0725 | 0.1475 | 0.1175 | 0.1075 | 0.0850 |

**Authority:** Sections 9, 13, and 14, Richard B. Russell National School Lunch Act, 42 U.S.C. 1758, 1761, and 1762a, respectively.

Dated: January 2, 2013.

**Audrey Rowe,**

*FNS Administrator.*

[FR Doc. 2014–00032 Filed 1–6–14; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–928]**

### Uncovered Innerspring Units From the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review; 2012–2013

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (''the Department'') is partially rescinding the administrative review of the antidumping duty order on uncovered innerspring units from the People's Republic of China (''PRC'') for the period February 1, 2012, through January 31, 2013, based on the withdrawal of certain requests for review.

**DATES:** *Effective Date:* January 7, 2014.

**FOR FURTHER INFORMATION CONTACT:** Steven Hampton, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0116.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 1, 2013, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on uncovered innerspring units from the PRC.[1] Pursuant to requests from Petitioner,[2] the Department initiated an administrative review with respect to five exporters [3] for the period February 1, 2012, through January 31, 2013.[4] The deadline for a party to withdraw a request for review was June 27, 2013.[5]

On March 28, 2013, Petitioner withdrew its review request with respect to Tai Wa Hong and Goldon Singapore.[6] On April 3, 2013, Petitioner withdrew its review request with respect to Macau Commercial.[7] The Department notes that Tai Wa Hong and Macau Commercial are known collectively as the ''Tai Wa Hong Group.'' [8] No other party requested an administrative review of Tai Wa Hong, Macau Commercial, or Goldon Singapore. Thus, Goldon Malaysia and Ta Cheng are the only entities for which a review request remains outstanding.

**Partial Rescission of Review**

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested the

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 78 FR 7397 (February 1, 2013).

[2] Leggett & Platt, Inc. (hereinafter, ''Petitioner'').

[3] Petitioner requested a review of Goldon Bedding Manufacturing Sdn. Bhd. (''Goldon Malaysia''), Goldon International (Singapore) Pte. Ltd. (''Goldon Singapore''), Macau Commercial and Industrial Spring (''Macau Commercial''), Ta Cheng Coconut Knitting (''Ta Cheng''), and Tai Wa Hong.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 19197 (March 29, 2013) (''*Initiation Notice*'').

[5] *See id.* at 19198.

[6] *See* Letter from Petitioner regarding Partial Withdrawal of Request for Antidumping Administrative Review of the Antidumping Duty Order on Uncovered Innerspring Units from the People's Republic of China, March 28, 2013.

[7] *See* Letter from Petitioner regarding Partial Withdrawal of Request for Antidumping Administrative Review of the Antidumping Duty Order on Uncovered Innerspring Units from the People's Republic of China, April 3, 2013.

[8] *See Uncovered Innerspring Units from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 17635, 17636 (March 22, 2013).

review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. In this segment, Petitioner's withdrawals of its review requests of Tai Wa Hong, Macau Commercial, and Goldon Singapore were submitted within the 90-day deadline, and no other party requested an administrative review of these entities. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding the administrative review of the antidumping duty order on uncovered innerspring units from the PRC covering the period February 1, 2012, through January 31, 2013, with respect to Tai Wa Hong, Macau Commercial, and Goldon Singapore. However, the review will continue with respect to the other entities for which a review was requested and initiated (*i.e.,* Goldon Malaysia and Ta Cheng).

**Assessment**

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice of partial rescission of the administrative review.

**Notifications**

This notice 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 presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a final reminder to parties subject to the administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or 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.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: December 26, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2014–00025 Filed 1–6–14; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Advisory Committee on Supply Chain Competitiveness Solicitation of Nominations for Membership

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of an Opportunity To Apply for Membership on the Advisory Committee on Supply Chain Competitiveness.

**SUMMARY:** The Department of Commerce, International Trade Administration (ITA), is requesting nominations to fill vacancies on the Advisory Committee on Supply Chain Competitiveness (Committee). The Committee was established under the Federal Advisory Committee Act, 5 U.S.C. App. The Committee was first chartered on November 21, 2011. The Department of Commerce rechartered the Committee for another two-year term beginning on November 20, 2013, with modifications to the charter to clarify the scope of issues on which the Committee advises the Secretary, including supply chain competitiveness issues related to trade programs, freight movement and policy, information and data systems associated with system performance measurement, regulatory issues, and infrastructure finance, and to increase the maximum membership from 40 to 45 members. The Committee advises the Secretary on the necessary elements of a comprehensive policy approach to supply chain competitiveness designed to support U.S. export growth and national economic competitiveness, encourage innovation, facilitate the movement of goods, and improve the competitiveness of U.S. supply chains for goods and services in the domestic and global economy; and provides advice to the Secretary on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. The Department is seeking nominations to fill vacancies on the Committee.

**DATES:** Nominations for membership must be received on or before February 21, 2014.

**ADDRESSES:** Richard Boll, Office of Supply Chain, Professional & Business Services, Room 11014, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; phone 202–482–1135; email: *richard.boll@trade.gov*.

**FOR FURTHER INFORMATION CONTACT:** Richard Boll, Office of Supply Chain, Professional & Business Services, Room 11014, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; phone 202–482–1135; email: *richard.boll@trade.gov*. Please visit the Advisory Committee on Supply Chain Competitiveness Web site at: *http://ita.doc.gov/td/sif/dsct/acscc/*.

**SUPPLEMENTARY INFORMATION:** The Department of Commerce is seeking nominations to fill vacancies on the Committee. The Committee was established on November 21, 2011, and the Committee was rechartered on November 20, 2013. The new charter increased the maximum membership of the Committee to forty-five (45) members. Members will serve for a two-year term and will be selected in accordance with applicable Department of Commerce Guidelines based upon their ability to advise the Secretary of Commerce on the necessary elements of a comprehensive policy approach to supply chain competitiveness designed to support U.S. export growth and national economic competitiveness, encourage innovation, facilitate the movement of goods, and improve the competitiveness of U.S. supply chains for goods and services in the domestic and global economy; and to provide advice to the Secretary on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. The Committee provides detailed policy and technical advice, information, and recommendations to the Secretary regarding:

(1) national, state, or local factors in trade programs and policies that affect the efficient domestic and international operation and competitiveness of U.S. global supply chains from point of origin to destination;

(2) elements of national policies affecting the movement of goods, infrastructure, investment, and regulatory factors that affect supply chain competitiveness and sustainability; and

(3) information and data systems to generate metrics that can be used to quantify and improve supply chain performance.

Members shall be selected in a manner that ensures that the Committee remains balanced in terms of product and service lines and reflects the diversity of the supply chain sector, including in terms of geographic location and company size.

Members of the Committee shall represent companies, organizations, and stakeholders involved in the U.S. supply chain, with at least one individual representing each of the following: supply chain firms or their associations; users of supply chains (e.g., retailers, distributors, manufacturers or other sectors); freight transportation providers; ports; and academia. Representatives from the retail, airport, energy, logistics and freight forwarding, and big data analysis sectors are encouraged to apply.

Other than the experts from academia, all members shall serve in a representative capacity, expressing the views and interests of a U.S. company or U.S. organization, as well as its particular sector. Members serving in such a representative capacity are not Special Government Employees. The members from academia serve as experts and therefore are Special Government Employees (SGEs) and shall be subject to the ethical standards applicable to SGEs.

Each member of the Committee must be a U.S. citizen, not a federally-registered lobbyist, and not registered as a foreign agent under the Foreign Agents Registration Act. All appointments are made without regard to political affiliation. Self-nominations will be accepted.

Members of the Committee will not be compensated for their services or reimbursed for their travel expenses. The Committee shall meet as often as necessary as determined by the DFO, but not less than once per year.

Members shall serve at the pleasure of the Secretary.

All nominations for membership on the Committee should provide the following information:

(1) Name, title, and relevant contact information (including phone, fax, and email address) of the individual requesting consideration;

(2) An affirmative statement that the applicant is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938; and

(3) An affirmative statement that the applicant is not a federally-registered lobbyist, and that the applicant understands that if appointed, the applicant will not be allowed to continue to serve as a Committee member if the applicant becomes a federally-registered lobbyist.

*In addition to the above requirements for all nominations, nominations for representatives of* companies, organizations, and stakeholders involved in the U.S. supply chain, including *supply chain firms or their associations; users of supply chains (e.g., retailers, distributors, manufacturers, or other sectors); freight transportation providers; and ports, should also provide the following information:*

(1) A sponsor letter on the letterhead of the sponsoring U.S. company or U.S. organization to be represented, containing a brief description why the nominee should be considered for membership;

(2) Short biography of nominee including credentials;

(3) Brief description of the U.S. company or U.S. organization to be represented and its activities and size (number of employees or members and annual sales, if applicable); and

(4) An affirmative statement that the applicant meets all Committee eligibility requirements for representative members, including that the applicant represents a U.S. company or U.S. organization.

a. For purposes of Committee eligibility, a U.S. company is at least 51 percent owned by U.S. persons.

b. For purposes of Committee eligibility, a U.S. organization is controlled by U.S. persons, as determined based on its board of directors (or comparable governing body), membership, and funding sources, as applicable.

*In addition to the above requirements for all nominations, nominations for experts from academia should also provide the following information:*

(1) A description of the nominee's area(s) of expertise;

(2) A concise Curriculum Vitae (CV) or resume that covers education, experience, and relevant publications and summarizes how this expertise addresses supply chain competitiveness; and

(3) An affirmative statement that the applicant meets all Committee eligibility requirements.

Please do not send company or organization brochures.

Nominations may be emailed to *richard.boll@trade.gov,* faxed to the attention of Richard Boll at 202–482–2669, or mailed to Richard Boll, Office of Supply Chain, Professional & Business Services, Room 11014, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and must be received on or before February 21, 2014. Nominees selected for appointment to the Committee will be notified.

Dated: December 27, 2013.

**David Long,**

*Director, Office of Supply Chain, Professional & Business Services.*

[FR Doc. 2013–31598 Filed 1–6–14; 8:45 am]

**BILLING CODE 3510–DR–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–552–816]**

### Welded Stainless Pressure Pipe From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (''the Department'') preliminarily determines that welded stainless pressure pipe from the socialist republic of Vietnam (''Vietnam'') is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Tariff Act of 1930, as amended (''the Act''). The weighted-average dumping margins are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to requests from respondents, we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, the final determination will be issued not later than 135 days after publication of this preliminary determination in the **Federal Register**.

**DATES:** *Effective Date:* January 7, 2014.

**FOR FURTHER INFORMATION CONTACT:** Lilit Astvatsatrian or Robert Bolling, AD/CVD Operations, Office 4, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., , Washington, D.C. 20230; telephone: (202) 482–6412 or (202) 482–3434, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Scope of the Investigation

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. For purposes of this investigation, references to size are in

nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope are: (1) Welded stainless mechanical tubing, meeting ASTM A–554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A–249, ASTM A–688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A269, ASTM A–270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of these investigations is dispositive.

**Tolling of Deadlines for Preliminary Determination**

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[1] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the preliminary determination of this investigation is now December 30, 2013.

**Methodology**

The Department has conducted this antidumping duty investigation in accordance with section 731 of the Act. Export prices and constructed export prices have been calculated in accordance with section 772 of the Act. Because Vietnam is a non-market economy within the meaning of section 771(18) of the Act, normal value has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* ''Decision Memorandum for Preliminary Determination of the Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Vietnam'' from Abdelali Elouaradia, Director Office IV, Antidumping and Countervailing Duty Operations, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, dated concurrently with this notice (''Preliminary Decision Memorandum'') and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov*, and is available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia/*. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

**Combination Rates**

As announced in the *Initiation Notice,*[2] the Department has calculated combination rates for the respondents that are eligible for a separate rate in this investigation. This practice is described in *Policy Bulletin 05.1.*

**Preliminary Determination**

The Department preliminarily determines that the following weighted-average dumping margins exist:

| Exporter | Producer | Weighted average dumping margin |
|---|---|---|
| Sonha International Corporation | Sonha International Corporation | 17.72 |
| Mejonson Industrial Vietnam Co., Ltd | Mejonson Industrial Vietnam Co., Ltd. | 17.72 |
| Vietnam-Wide Entity | | 53.91 |

**Disclosure and Public Comment**

The Department intends to disclose calculations performed for this preliminary determination to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance via IA ACESS[3] no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[4] A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using IA ACCESS, within 30 days after the date of publication of this notice.[5] An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5:00 p.m. Eastern Time. Requests should contain

[1] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013).

[2] *See Welded Stainless Pressure Pipe From Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations,* 78 FR 35253 (June 12, 2013) (''*Initiation Notice''*).

[3] *See generally* 19 CFR 351.303 (for procedural rules regarding the filing of documents in AD proceedings).

[4] *See* 19 CFR 351.309.

[5] *See* 19 CFR 351.310(c).

the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

**Postponement of Final Determination and Extension of Provisional Measures**

Pursuant to requests from Sonha, we are postponing the final determination and extending the provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

**Suspension of Liquidation**

In accordance with section 733(d) of the Act, the Department will instruct U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all entries of welded stainless pressure pipe from Vietnam, as described in the ''Scope of the Investigation'' section, entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**.

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit [6] equal to the weighted-average amount by which normal value exceeds U.S. price as follows: (1) the separate-rate weighted-average dumping margin for the exporter/producer combinations listed in the table above will be the rate the Department has determined in this preliminary determination; (2) for all combinations of Vietnam exporters/producers of merchandise under consideration which have not received their own separate-rate weighted-average dumping margin above, the cash-deposit rate will be the cash deposit rate established for the Vietnam-wide entity; and (3) for all non-Vietnam exporters of merchandise under consideration which have not received their own separate rate above, the cash deposit rate will be the cash deposit rate applicable to the Vietnam exporter/producer combination that supplied that non-Vietnam exporter. These cash deposit instructions will remain in effect until further notice.

**International Trade Commission (''ITC'') Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of welded stainless pressure pipe, or sales (or the likelihood of sales) for importation, of the merchandise under consideration within 45 days of our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: December 30, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

**List of Topics Discussed in the Preliminary Decision Memorandum**

1. Initiation
2. Postponement of Preliminary Determination
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[FR Doc. 2014–00036 Filed 1–6–14; 8:45 am]

**BILLING CODE 3510–DS–P**

[6] See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations, 76 FR 61042 (October 3, 2011).

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–557–815]**

## Welded Stainless Pressure Pipe From Malaysia: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (''Department'') preliminarily determines that welded stainless pressure pipe (''WSPP'') from Malaysia is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Tariff Act of 1930, as amended (''the Act''). The estimated weighted-average dumping is shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

**DATES:** *Effective Date:* January 7, 2014.

**FOR FURTHER INFORMATION CONTACT:** Charles Riggle or Erin Kearney, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0650 or (202) 482–0167, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

On May 16, 2013, the Department received an antidumping duty (''AD'') petition concerning imports of WSPP from Malaysia filed in proper form by Bristol Metals, LLC, Felker Brothers Corp., and Outokumpu Stainless Pipe, Inc. (''Petitioners'').[1] The Department initiated an AD investigation of WSPP from Malaysia on June 12, 2013.[2] On July 26, 2013, the U.S. International Trade Commission (''ITC'') preliminarily determined that there is a reasonable indication that an industry in the United States is materially

[1] *See* Antidumping Duty Petitions on Welded Stainless Pressure Pipe from Malaysia, Thailand, and Vietnam, dated May 16, 2013 (''Petition'').

[2] *See Welded Stainless Pressure Pipe From Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations,* 78 FR 35253 (June 12, 2013) (''*Initiation Notice*'').

injured by reason of imports of WSPP from Malaysia.[3]

In the *Initiation Notice,* we set aside a period of time for parties to raise issues regarding product coverage and product characteristics but no interested party submitted comments. We also stated our intention to select respondents based on United States Customs and Border Protection (''CBP'') data. After releasing CBP data to interested parties on June 18, 2013, the Department received comments regarding the CBP data and respondent selection from Petitioners on June 21, 2013.[4]

On July 19, 2013, based on its analysis of the CBP data, the Department selected Kanzen Tetsu Sdn. Bhd. (''Kanzen'') and Pantech Stainless & Alloy Industries Sdn. Bhd. (''Pantech'') as mandatory respondents.[5] On July 23, 2013, the Department issued the AD questionnaire to Kanzen and Pantech. On August 27, 2013, after requesting and receiving extensions to its questionnaire deadlines, Pantech informed the Department that it would not be participating in the investigation of WSPP from Malaysia.[6] Kanzen also requested and received extensions of its questionnaire response deadlines, but Kanzen submitted no questionnaire responses.

On August 5, 2013, Superinox Pipe Industry Sdn. Bhd. filed a submission with the Department stating that it wanted to participate in the investigation as a voluntary respondent. Between August 27 and September 9, 2013, Superinox Pipe Industry Sdn. Bhd. and its affiliates, Superinox International Sdn. Bhd., and Tatt Giap Hardware Sdn. Bhd. (collectively, ''Superinox''), submitted responses to sections A, B, and C of the Department's questionnaire, which were filed by the deadlines originally given to Kanzen and Pantech before they decided not to participate in the investigation. Based on an analysis of the CBP data used to select the original mandatory respondents, the Department found that the next largest producer or exporter was Superinox International Sdn. Bhd. On September 25, 2013, the Department selected Superinox International Sdn. Bhd. as the third mandatory respondent.[7]

On October 25, 2013, Petitioners requested that the Department make a finding that critical circumstances exist with respect to U.S. imports of WSPP from Malaysia and order suspension of liquidation 90 days prior to the date of its preliminary determination.

On November 18, 2013, Superinox requested a postponement of the final determination and an extension of provisional measures.[8] On November 21, 2013, Petitioners requested a postponement of the final determination.[9] On December 27, 2013, Superinox withdrew from participating in the investigation and no longer consented to the use of its business proprietary and public information in this investigation.[10]

## Period of Investigation

The period of investigation (''POI'') is April 1, 2012, through March 31, 2013. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was May 2013.[11]

## Postponement of Preliminary Determination

On September 19, 2013, Petitioners made a timely request, which they amended on September 24, 2013, for a 50-day postponement of the preliminary determination pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e).[12]

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[13] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. Accordingly, the revised deadline for the preliminary determination of this investigation is now December 30, 2013.[14]

## Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on November 18 and November 21, 2013, Superinox and Petitioners, respectively, requested that the Department postpone the final determination by 60 days (135 days after publication of the preliminary determination), and Superinox requested that the Department extend the provisional measures.[15] Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

In accordance with sections 735(a)(2) and 733(d) of the Act and 19 CFR 351.210(b) and (e), because: (1) our preliminary determination is affirmative; (2) the exporter requesting the postponement, Superinox, accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial of the postponement exist, we are postponing

[3] *See Welded Stainless Steel Pressure Pipe From Malaysia, Thailand, and Vietnam,* 78 FR 45271 (July 26, 2013).

[4] *See* Letter from Petitioners, ''Welded Stainless Steel Pressure Pipe From Malaysia: Comments on CBP Data Release,'' dated June 21, 2013.

[5] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Office 4, ''Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Malaysia: Respondent Selection Memorandum,'' dated July 19, 2013.

[6] *See* Letter from Pantech, ''Welded Stainless Steel Pipe from Malaysia,'' dated August 27, 2013.

[7] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Office 4, ''Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Malaysia: Selection of Additional Mandatory Respondent,'' dated September 25, 2013.

[8] *See* Submission from Superinox, ''Welded Stainless Steel Pipe from Malaysia; Request to Extend the Final Determination'' dated November 18, 2013.

[9] *See* Submission from Petitioners, ''Welded Stainless Steel Pressure Pipe from Malaysia: Contingent Request for Postponement of Final Determination'' dated November 21, 2013.

[10] *See* Submission from Superinox, ''Welded Stainless Steel Pipe from Malaysia; Withdrawal from Participation'' dated December 27, 2013.

[11] *See* 19 CFR 351.204(b)(1).

[12] *See Welded Stainless Pressure Pipe From Malaysia, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 78 FR 62583 (October 22, 2013). The Department notified interested parties of the postponement of the preliminary determination more than twenty days before the original deadline for issuing the preliminary determination.

[13] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated October 18, 2013.

[14] The deadline of December 28, 2013, falls on a Saturday; therefore, the deadline is the next business day, *i.e.* Monday, December 30, 2013.

[15] *See* Submission from Superinox, ''Welded Stainless Steel Pipe from Malaysia; Request to Extend the Final Determination,'' dated November 18, 2013; *see also* Submission from Petitioners, ''Welded Stainless Steel Pressure Pipe from Malaysia: Contingent Request for Postponement of Final Determination,'' dated November 21, 2013.

the final determination until no later than 135 days after the publication of the preliminary determination notice in the **Federal Register**, and we are extending provisional measures from four months to a period not to exceed six months. We are also extending the application of the provisional measures prescribed under section 733(d) of the from a four-month period to not more than a six-month period.

**Scope of the Investigation**

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. For purposes of this investigation, references to size are in nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope are: (1) Welded stainless mechanical tubing, meeting ASTM A–554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A–249, ASTM A–688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A269, ASTM A–270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

**Scope Comments**

In accordance with the preamble to the Department's regulations,[16] in our *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice.* No interested party submitted comments.

**Adverse Facts Available**

Because the mandatory respondents Kanzen, Pantech, and Superinox either failed to respond to the Department's questionnaire or informed the Department that they would no longer participate in the investigation, we have preliminarily determined to apply facts otherwise available with an adverse inference to these respondents pursuant to sections 776(a) and (b) of the Act.[17] Although it requested that its information be removed from the record, we have retained Superinox's business proprietary and public information on the record of this investigation in order to prevent the manipulation of the final weighted-average dumping margins for the mandatory respondents, which are the largest three exporters of the merchandise under consideration. We have based the adverse facts available (''AFA'') rate for the three mandatory respondents on this information.[18] As AFA, we assigned the three mandatory respondents a rate of 167.11 percent.

**Critical Circumstances**

On October 25, 2013, Petitioners requested that the Department make a finding that critical circumstances exist with respect to U.S. imports of WSPP from Malaysia. Petitioners alleged that U.S. importers of WSPP from Malaysia should have known that exporters were selling subject merchandise in the United States at less than fair value and there was likely to be material injury by reason of such sales because the weighted-average dumping margins that will be assigned as AFA in this investigation will likely exceed 25 percent, the level required to impute knowledge of dumping, and the ITC preliminarily found that an industry in the United States is materially injured by such imports. Moreover, Petitioners allege that there have been massive imports of the subject merchandise into the United States over a relatively short period, which is the second criterion for finding critical circumstances, because there was an 87.6 percent increase in the volume of imports in the three months following the filing of the Petition compared to the volume of imports during the three months immediately preceding the filing of the Petition.

Section 733(e)(1) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of subject merchandise over a relatively short period.

The Department normally considers weighted-average dumping margins of 25 percent or more, for export price sales, or 15 percent or more, for constructed export price sales, sufficient to impute knowledge of the exporter selling the subject merchandise at less than its fair value.[19] We have assigned Kanzen, Pantech, and Superinox a preliminary weighted-average dumping margin based on total AFA equal to 167.11 percent, which provides a sufficient basis for imputing knowledge of sales of subject merchandise at less than fair value to the importers.

In determining whether the importer knew or should have known that there was likely to be material injury caused by reason of such imports, the Department normally will look to the preliminary injury determination of the ITC.[20] If the ITC finds a reasonable indication of material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to imputer importer knowledge

[16] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[17] *See* memorandum from Abdelali Elouaradia, Director, Office IV Antidumping and Countervailing Duty Operations to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations regarding ''Welded Stainless Pressure Pipe from Malaysia: Application of Facts Available and Selection of Adverse Facts Available Rate'' dated concurrently with this notice.

[18] *See* memorandum from Abdelali Elouaradia, Director, Office IV Antidumping and Countervailing Duty Operations to Christian Marsh Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations regarding ''Welded Stainless Pressure Pipe from Malaysia: Retention of Superinox's Data'' dated concurrently with this notice.

[19] *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from Indonesia,* 71 FR 15162, 15166 (March 27, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Lined Paper Products from Indonesia,* 71 FR 47171 (August 16, 2006).

[20] *See Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China,* 74 FR 2049, 2053 (January 14, 2009) (''*Graphite Electrodes''*) (''We also continue to find the ITC's preliminary injury determination in the instant investigation is sufficient to impute knowledge of material injury to importers.'').

that material injury is likely by reason of such imports. Here the ITC preliminarily found that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of WSPP from Malaysia.[21] Therefore, the ITC's preliminary injury determination in this investigation is sufficient to impute knowledge that material injury is likely.

Furthermore, because the mandatory respondents are not participating in this investigation, consistent with Department practice, we have also based our ''massive imports'' determination on AFA.[22] Specifically, we have made an adverse inference that imports from these three respondents were massive during the relevant time period.

However, we have preliminarily found that critical circumstances do not exist with respect to all other exporters or producers of WSPP from Malaysia because we do not find the criterion of section 733(e)(1)(A) of the Act satisfied with respect to all other exporters or producers. Due to the absence of cooperative mandatory respondents, we have calculated the weighted-average dumping margin for ''all-other'' exporters or producers by averaging the dumping margins alleged in the Petition, as adjusted at initiation. The average of the Petition's dumping margins is 22.70 percent. Since the preliminary ''all-others'' rate is not greater than 25 percent, we preliminarily find that this weighted-average dumping margin does not provide a sufficient basis for imputing knowledge of sales of subject merchandise at less than fair value to importers with respect to exporters or producers in the all-others group.[23]

**Preliminary Determination**

The preliminarily weighted-average dumping margins are as follows:

| Exporter or producer | Weighted-average dumping margin (percent) |
|---|---|
| Superinox Pipe Industry Sdn. Bhd./Superinox International Sdn. Bhd. | 167.11 |
| Kanzen Tetsu Sdn. Bhd. | 167.11 |
| Pantech Stainless & Alloy Industries Sdn. Bhd. | 167.11 |
| All Others | 22.70 |

**All Others Rate**

Section 735(c)(5)(A) of the Act provides that the estimated ''all others'' rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters or producers individually investigated, excluding rates that are zero, *de minimis* or determined entirely under section 776 of the Act. The weighted-average dumping margin assigned to the three mandatory respondents was determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters. Consistent with our practice, we calculated an all-others rate equal to a simple average of the petition rates,[24] as listed in the **Federal Register** notice announcing the initiation of this investigation.[25]

**Disclosure and Public Comment**

We will disclose the calculations used to determine the AFA rate to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 21 days after the date of publication of this notice in the **Federal Register,** and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[26] A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department.[27] This summary should be limited to five pages total, including footnotes. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request for a hearing to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice.[28] Hearing requests should contain the party's name, address, and telephone number, the number of participants in the hearing, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm the date, time, and location of the hearing two days before the scheduled date. With limited exceptions, all documents submitted to the Department must be filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time on the date it is due.

**Suspension of Liquidation**

As noted above, the Department found that critical circumstances exist with respect to imports of the merchandise under consideration from SI/SPI, Kanzen, and Pantech. Therefore, in accordance with section 733(e)(2) of the Act, we will direct CBP to suspend liquidation of all entries of WSPP from Malaysia from SI/SPI, Kanzen, and

[21] *See Welded Stainless Steel Pressure Pipe From Malaysia, Thailand, and Vietnam,* 78 FR 45271 (July 26, 2013).

[22] *See, e.g., Graphite Electrodes* 74 FR 2049, 2052–2053 and accompanying Issues and Decision Memorandum at Comment 4 (stating that ''we have based our determination of whether there were massive imports with respect to the Fangda Group on AFA . . . the Department may employ adverse inferences in selecting from among the facts available 'to ensure that the party does not obtain a more favorable result by failing to cooperate fully . . . 'To ensure that the Fangda Group does not obtain a more favorable result by failing to cooperate, for this final determination, we continue to find, as AFA, that imports of subject merchandise were massive for the Fangda Group.'').

[23] *See* memorandum from Erin Kearney International Trade Analyst, Office IV AD/CVD Operations to Abdelali Elouaradia, Director, Office IV AD/CVD Operations regarding ''Welded Stainless Pressure Pipe from Malaysia: Critical Circumstances'' dated concurrently with this notice.

[24] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets From Taiwan,* 73 FR 39673, 39674 (July 10, 2008).

[25] *See Initiation Notice.*

[26] *See* 19 CFR 351.309.

[27] *See* 19 CFR 351.309(c)(2).

[28] *See* 19 CFR 351.310(c).

Pantech that are entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the **Federal Register** and require a cash deposit for such entries as noted below. Since we did not find that critical circumstances exist with respect to exporters or producers in the all-others group, we will instruct CBP to suspend liquidation of all other entries of WSPP from Malaysia entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to section 733(d) of the Act and 19 CFR 351.205(d), we will instruct CBP to require cash deposits [29] equal to the weighted-average dumping margins indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

### International Trade Commission (''ITC'') Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at LTFV. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of WSPP from Malaysia before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: December 30, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2014–00038 Filed 1–6–14; 8:45 am]

**BILLING CODE 3510–DS–P**

[29] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–549–830]**

### Welded Stainless Pressure Pipe From Thailand: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (''Department'') preliminarily determines that welded stainless pressure pipe (''WSPP'') from Thailand is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733(b) of the Tariff Act of 1930, as amended (''the Act''). The period of investigation (''POI'') is April 1, 2012, through March 31, 2013. The estimated weighted-average dumping margin of sales at LTFV is shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to requests from respondents, we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, the final determination will be issued not later than 135 days after publication of this preliminary determination in the **Federal Register**.

**DATES:** *Effective Date:* January 7, 2014,

**FOR FURTHER INFORMATION CONTACT:** Brandon Farlander or Trisha Tran, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0182 or (202) 482–4852, respectively.

**SUPPLEMENTARY INFORMATION:**

### Scope of the Investigation

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. For purposes of this investigation, references to size are in nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope are: (1) Welded stainless mechanical tubing, meeting ASTM A–554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A–249, ASTM A–688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A269, ASTM A–270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of these investigations is dispositive.

### Tolling of Deadlines for Preliminary Determination

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[1] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the preliminary determination of this investigation is now December 30, 2013.

### Methodology

The Department has conducted this investigation in accordance with section 731 of the Act. Export prices have been calculated in accordance with section 772 of the Act. Normal value (''NV'') has been calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* ''Decision Memorandum for the Preliminary Determination of Antidumping Duty Investigation: Welded Stainless Pressure

[1] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013).

Pipe from Thailand,'' (''Preliminary Decision Memorandum'') from Abdelali Elouaradia, Director, Office IV, Antidumping and Countervailing Duty Operations, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, dated concurrently with this determination and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *https://iaaccess.trade.gov,* and is available to all parties in the Department's Central Records Unit, located at room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found on the Internet at *http://www.trade.gov/enforcement/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

**Preliminary Determination**

The preliminary weighted-average dumping margins are as follows:

| Exporter/manufacturer | Weighted-average dumping margin (percent) |
|---|---|
| Ametai Co., Ltd./Thareus Co., Ltd. | 7.16 |
| Thai-German Products Public Company Limited | 10.92 |
| All Others | 7.22 |

**All Others Rate**

The ''All Others'' rate is derived exclusive of all *de minimis* or zero margins and margins based entirely on adverse facts available. Specifically, this rate of 7.22 percent is based on a weighted average using each company's publicly ranged values for U.S. exports of subject merchandise.[2] Because we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business-proprietary information, we find this rate to be the best proxy of the actual weighted-average margin determined for these respondents. *See, e.g., Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review, Partial Rescission, and Final No Shipment Determination,* 76 FR 41205, 41205 (July 13, 2011).

**Disclosure and Public Comment**

We will disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[3] A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. All documents must be filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.[4] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

**Postponement of Final Determination and Extension of Provisional Measures**

Pursuant to requests from respondents, we are postponing the final determination and extending the provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[5]

**Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all entries of WSPP from Thailand as, described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to 19 CFR 351.205(d), we will instruct CBP to require a cash deposit[6] equal to the weighted-average amount by which the NV exceeds Export price, as indicated in the chart above. This suspension of liquidation instructions will remain in effect until further notice.

**International Trade Commission (''ITC'') Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of WSPP from Thailand before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: December 30, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

**List of Topics Discussed in the Preliminary Decision Memorandum**

1. Postponement of Preliminary Determination
2. Postponement of Final Determination and Extension of Provisional Measures
3. Scope of the Investigation

[2] *See* Memorandum from Brandon Farlander, International Trade Compliance Analyst, AD/CVD Operations, Office IV, to the File, ''Welded Stainless Steel Pressure Pipe from Thailand: Calculation of the Preliminary Margin for the All Other's Rate'' (December 30, 2013).

[3] *See* 19 CFR 351.309.

[4] *See* 19 CFR 351.310(c).

[5] *See also* 19 CFR 351.210(e).

[6] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

4. Scope Comments
5. Affiliation and Single Entity
6. Fair Value Comparisons
7. Product Comparisons
8. Determination of Comparison Method
9. Export Price
10. Normal Value
a. Home Market Viability
b. Affiliated Party Transactions and Arm's-Length Test
c. Level of Trade
d. Calculation of Normal Value Based on Home Market Prices
e. Cost of Production
i. Calculation of COP
ii. Test of Comparison Market Sales Prices
iii. Results of COP Test
f. Price-to-CV Comparison
g. Constructed Value
11. Currency Conversion
12. Verification

[FR Doc. 2014–00040 Filed 1–6–14; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD035**

### Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Approved Monitoring Service Providers

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice, approved monitoring service providers.

**SUMMARY:** NMFS has approved five companies to provide at-sea monitoring services to Northeast (NE) multispecies vessels in fishing year (FY) 2014. Regulations implementing Amendment 16 to the NE Multispecies Fishery Management Plan (Amendment 16) require third-party at-sea monitoring service providers to apply to, and be approved by, NMFS in a manner consistent with the Administrative Procedure Act in order to be eligible to provide at-sea monitoring services to sectors.

**ADDRESSES:** Copies of the list of NMFS-approved sector monitoring service providers are available at *http://www.nero.noaa.gov/sfd/sfdmultisector.html* or by sending a written request to:

- Fax: (978) 281–9135, Attn: Mark Grant.
- Mail: 55 Great Republic Drive, Gloucester, MA 01930, Attn: Mark Grant.

For service provider contact information, see the **SUPPLEMENTARY INFORMATION** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Mark Grant, Sector Policy Analyst, (978) 281–9145, fax (978) 281–9135, email *Mark.Grant@NOAA.gov.*

**SUPPLEMENTARY INFORMATION:** Amendment 16 (75 FR 18262; April 9, 2010) expanded the sector management program, including requirements to ensure accurate monitoring of sector at-sea catch and dockside landings, and common pool dockside landings. Framework Adjustment 48 to the FMP (Framework 48, 78 FR 26118, May 3, 2013) removed dockside monitoring requirements and revised the goals and objectives for sector monitoring programs.

#### Standards for Approving At-Sea Monitoring Service Providers

Regulations at 50 CFR 648.87(b)(4) describe the criteria for NMFS approval of at-sea monitoring service providers. NMFS is approving service providers for FY 2014 (beginning May 1, 2014) based on: (1) Completeness of applications, (2) determination of the applicant's ability to perform the duties and responsibilities of a sector monitoring service provider, and (3) performance as NMFS-funded providers in FY 2013. NE multispecies sectors are required to design and implement independent, third-party at-sea monitoring programs in FY 2014, and are responsible for the costs of these monitoring requirements, unless otherwise instructed by NMFS.

NMFS first approved service providers for FY 2010, based upon the completeness of their application addressing the regulatory requirements (§ 648.87(b)(4)(i)), and a determination of the applicant's ability to perform the duties and responsibilities of a monitoring service provider. For FY 2013, NMFS approved service providers based on completeness of applications, determination of ability, and performance during FY 2012. During FY 2012 and 2013, at-sea monitoring has been conducted by A.I.S., Inc.; East West Technical Services, LLC; and MRAG Americas, Inc. under contract with NMFS.

Once approved, providers must document having met performance requirements in order to maintain eligibility (§ 648.87(b)(4)(ii)). NMFS can disapprove any previously approved service provider during the FY if the service provider in question ceases to meet the performance standards. NMFS must notify service providers of disapproval in writing.

#### Approved Monitoring Service Providers

NMFS received complete applications from five companies interested in providing at-sea monitoring services in FY 2014. Four of the applicants were previously approved to provide at-sea monitoring services to sectors. The fifth application was received from Fathom Research, a new applicant. The Regional Administrator has approved the following service providers as eligible to provide at-sea monitoring services in FY 2014:

TABLE 1—APPROVED FY 2014 PROVIDERS

| Provider name | Address | Phone | Fax | Web site |
|---|---|---|---|---|
| ACD USA Ltd. | 4 Parker St., 2nd Floor, Gloucester, MA 01930. | 902–422–4745 | 902–422–9780 | *www.atlanticcatchdata.ca.* |
| A.I.S., Inc. | 89 N. Water St., P.O. Box 2093, New Bedford, MA 02741. | 508–990–9054 | 508–990–9055 | *aisobservers.com.* |
| East West Technical Services, LLC | 86 Mumford Rd., Narragansett, RI 02882. | 860–910–4957 | 860–223–6005 | *www.ewts.com.* |
| Fathom Research, LLC | 1213 Purchase St., New Bedford, MA 02740. | 508–990–0997 | 508–991–7372 | *www.fathomresearchllc.com.* |
| MRAG Americas, Inc. | 65 Eastern Ave., Unit B2C, Essex, MA 01929. | 978–768–3880 | 978–768–3878 | *www.mragamericas.com.* |

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: January 2, 2014.

**Sean F. Corson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2014–00026 Filed 1–6–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD048**

### Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of a public meeting.

**SUMMARY:** The South Atlantic Fishery Management Council (SAFMC) will hold a meeting of its Scientific and Statistical Committee (SSC) to discuss peer review of a wreckfish stock assessment. See **SUPPLEMENTARY INFORMATION**.

**DATES:** The SSC meeting will be held via webinar on Monday, January 27, 2014, from 1 p.m. to 3 p.m.

**ADDRESSES:** The meetings will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact John Carmichael at the SAFMC (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of the webinar.

*Council Address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** John Carmichael; 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *john.carmichael@safmc.net.*

**SUPPLEMENTARY INFORMATION:** This meeting is held to discuss the peer review of a stock assessment of wreckfish in the South Atlantic. In accordance with the peer review policy approved by the Council, the SSC previously reviewed a proposal to assess the wreckfish resource, and will now consider the process for peer review of that assessment. The assessment is currently underway by Dr. Douglas Butterworth and colleagues, and is expected to be complete in mid-February, 2014. At this meeting, the SSC will recommend Terms of Reference, timing and reviewers for the peer review.

**Items To Be Addressed During This Meeting**

1. Wreckfish assessment Peer Review Terms of Reference.
2. Wreckfish assessment Reviewers.
3. Timing and Approach of Peer Review.

**Special Accommodations**

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to the meeting.

**Note:** The times and sequence specified in this agenda are subject to change.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: January 2, 2014.

**Sean F. Corson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2014–00035 Filed 1–6–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD061**

### New England Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This meeting will be held on Tuesday, January 21, 2014 at 9 a.m.

**ADDRESSES:** The meeting will be held at the Omni Providence Hotel, 1 West Exchange Street, Providence, RI 02048; telephone: (401) 598–8000; fax: (401) 598–8200.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:** The Advisory Panel will review Framework 25 analyses and make final recommendations for preferred alternatives. Framework 25 includes fishery specifications for FY2014 and FY2015 (default), which includes days-at-sea allocations, access area allocations, individual fishing quota (IFQ) allocations for the general category fishery, a hard total allowable catch (TAC) for the Northern Gulf of Maine (NGOM) area and target TAC for vessels with a general category incidental catch permit. The Advisory Panel will also make final recommendations on other measures being considered: (1) measures for unused 2012 and 2013 Closed Area I access area trips; and (2) accountability measures for Southern New England/Mid Atlantic (SNE/MA) windowpane flounder. Other issues may be discussed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: December 31, 2013.

**William D. Chappell,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2013–31584 Filed 1–6–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD062**

### New England Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This meeting will be held on Wednesday, January 22, 2014 at 9 a.m.

**ADDRESSES:**

*Meeting address:* The meeting will be held at the Omni Providence Hotel, 1 West Exchange Street, Providence, RI 02048; telephone: (401) 598–8000; fax: (401) 598–8200

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:** The Committee will review Framework 25 analyses and make final recommendations for preferred alternatives. Framework 25 includes fishery specifications for FY2014 and FY2015 (default), which includes days-at-sea allocations, access area allocations, individual fishing quota (IFQ) allocations for the general category fishery, a hard total allowable catch (TAC) for the Northern Gulf of Maine (NGOM) area and target TAC for vessels with a general category incidental catch permit. The Committee will also make final recommendations on other measures being considered: (1) measures for unused 2012 and 2013 Closed Area I access area trips; and (2) accountability measures for Southern New England/Mid Atlantic (SNE/MA) windowpane flounder. In addition, the Committee will discuss and provide input on alternatives and analyses under development for an omnibus amendment to simplify vessel baseline restrictions. Other issues may be discussed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: December 31, 2013.

**William D. Chappell,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2013–31585 Filed 1–6–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XC779**

### Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Marine Geophysical Survey in the Dumont d'Urville Sea Off the Coast of East Antarctica, January to March 2013

*Correction*

In notice document 2013–31471 appearing on pages 464–497 in the issue of Friday, January 3, 2014, make the following correction:

On page 464, in the first column, in the 41st through 42nd lines, ''February 3, 2014'' should read ''January 30, 2014''.

[FR Doc. C1–2013–31471 Filed 1–6–14; 8:45 am]

**BILLING CODE 1505–01–D**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Defense Intelligence Agency National Intelligence University Board of Visitors; Notice of Federal Advisory Committee Meeting

**AGENCY:** National Intelligence University, Defense Intelligence Agency, Department of Defense.

**ACTION:** Notice of closed meeting.

**SUMMARY:** The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the National Intelligence University Board of Visitors has been scheduled. The meeting is closed to the public.

**DATES:** Tuesday, January 14, 2014 (7 a.m. to 5 p.m.) and Wednesday, January 15, 2014 (8: a.m. to 12 p.m.).

**ADDRESSES:** National Intelligence University, Joint Base Anacostia-Bolling, Washington, DC 20340–5100.

**FOR FURTHER INFORMATION CONTACT:** Dr. David R. Ellison, President, DIA National Intelligence University, Washington, DC 20340–5100, Phone: (202) 231–3344.

**SUPPLEMENTARY INFORMATION:** This meeting is being held pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409.

*Purpose:* The Board will discuss several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the National Intelligence University.

*Agenda:* The following topics are listed on the National Intelligence University Board of Visitors meeting agenda: Academic Year 2013 Outcomes Assessment; Plans, Programming, and Budget; Assessment/Planning Roll-Up, Bethesda Update; Leadership Certificate; Outreach, Alumni, Foundation; National Intelligence Scholars; Faculty Senate; College of Strategic Intelligence; School of Science and Technology Intelligence; Office of Research; Center for International Engagement; Student Recruitment Strategy; Faculty Hiring; Honorary Degree; and Board of Visitors Succession Planning.

The entire meeting is devoted to the discussion of classified information as defined in 5 U.S.C. 552b(c)(1) and therefore will be closed. Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the National Intelligence University Board of Visitors about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of a planned meeting of the National Intelligence University Board of Visitors. All written statements shall be submitted to the Designated Federal Officer for the National Intelligence University Board of Visitors, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Designated Federal Officer can be obtained from the GSA's FACA Database—*http://facasms.fido.gov/default.aspx.*

Due to events beyond the control of the National Intelligence University Board of Visitors or its Designated

Federal Officer, the Department of Defense was unable to process the **Federal Register** notice, as required by 41 CFR 102–3.150(a), for the National Intelligence University Board of Visitor's meeting of January 14–15, 2014. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Dated: January 2, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2014–00005 Filed 1–6–14; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

**[Docket No. DARS–2013–0035]**

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

**DATES:** Consideration will be given to all comments received by February 6, 2014.

*Title, Associated Form, and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) subpart 209.5, Organizational and Consultant Conflicts of Interest, and related provision at DFARS 252.209–7008, Notice of Prohibition Relating to Organizational Conflict of Interest-Major Defense Acquisition Program; OMB Control Number 0704–0477.

*Type of Request:* Extension.

*Number of Respondents:* 25.

*Responses per Respondent:* 3.

*Annual Responses:* 75.

*Average Burden per Response:* Approximately 40 hours.

*Annual Burden Hours:* 3,000.

*Needs and Uses:* This information collection requires an offer or to submit a mitigation plan if requesting an exemption from the statutory limitation on future contracting. This information will be used to resolve organizational conflicts of interest arising in a systems engineering and technical assistance contract for an Major Defense Acquisition Program, as required by section 207 of the Weapons System Acquisition Reform Act of 2009.

*Affected Public:* Businesses or other for-profit and not-for-profit institutions.

*Frequency:* On Occasion.

*OMB Desk Officer:* Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

*Instructions:* All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

*DoD Clearance Officer:* Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

[FR Doc. 2013–31537 Filed 1–6–14; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

**[Docket Number DARS–2013–0036]**

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

**DATES:** Consideration will be given to all comments received by February 6, 2014.

*Title, Associated Form, and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) Part 225, Foreign Acquisition, and related clauses at DFARS 252.225; OMB Control Number 0704–0229.

*Type of Request:* Extension.

*Number of Respondents:* 23,197.

*Responses Per Respondent:* 9.01.

*Annual Responses:* 209,117.

*Average Burden Per Response:* Approximately .31 hours.

*Annual Burden Hours:* 64,256 (64,161 reporting hours and 95 recordkeeping hours).

*Needs and Uses:* DoD needs this information to ensure compliance with restrictions on the acquisition of foreign products imposed by statute or policy to protect the industrial base; to ensure compliance with U.S. trade agreements and memoranda of understanding that promote reciprocal trade with U.S. allies; and to prepare reports for submission to the Department of Commerce on the Balance of Payments Program.

*Affected Public:* Businesses or other for-profit and not-for-profit institutions.

*Frequency:* On Occasion.

*OMB Desk Officer:* Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

*Instructions:* All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

*DoD Clearance Officer:* Ms. Patricia Toppings. Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East

Tower, Suite 02G09, Alexandria, VA 22350–3100.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System System.*

[FR Doc. 2013–31538 Filed 1–6–14; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF EDUCATION

**[Docket No. ED–2013–ICCD–0161]**

### Agency Information Collection Activities; Comment Request; Written Application for the Independent Living Services for Older Individuals Who Are Blind Formula Grant

**AGENCY:** Office of Special Education and Rehabilitative Services (OESE), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection

**DATES:** Interested persons are invited to submit comments on or before March 10, 2014.

**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0161 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E115, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For questions related to collection activities or burden, please call Tomakie Washington, 202–401–1097 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here. We will ONLY accept comments in this mailbox when the regulations.gov site is not available to the public for any reason.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Written Application for the Independent Living Services for Older Individuals Who are Blind Formula Grant

*OMB Control Number:* 1820–0660

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* State, Local, or Tribal Governments

*Total Estimated Number of Annual Responses:* 56

*Total Estimated Number of Annual Burden Hours:* 9

*Abstract:* This document is used by States to request funds to administer the Independent Living Services for Older Individuals Who are Blind (IL–OIB) program. The IL–OIB is provided for under Title VII, Chapter 2 of the Rehabilitation Act of 1973, as amended (Act) to assist individuals who are age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

Dated: December 31, 2013.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2013–31591 Filed 1–6–14; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. Ic14–2–000]**

### Commission Information Collection Activities (Ferc-919); Comment Request

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Comment request.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting the information collection FERC–919 (Market Based Rates for Wholesale Sales of Electric Energy) to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission issued a Notice in the **Federal Register** (78 FR 62006, 10/11/2013) requesting public comments. FERC received no comments on the FERC–919 and is making this notation in its submittal to OMB.

**DATES:** Comments on the collection of information are due by February 6, 2014.

**ADDRESSES:** Comments filed with OMB, identified by the OMB Control No. 1902–0234, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–4718.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission, identified by the Docket No. IC14–2–000, by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

*Instructions:* All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

**SUPPLEMENTARY INFORMATION:**

*Title:* Market Based Rates for Wholesale Sales of Electric Energy

*OMB Control No.:* 1902–0234

*Type of Request:* Three-year extension of the FERC–919 information collection requirements with no changes to the reporting requirements.

*Abstract:* The FERC–919 is necessary to ensure that market-based rates charged by public utilities are just and reasonable as mandated by Federal Power Act (FPA) sections 205 and 206. Section 205 of the FPA requires just and reasonable rates and charges. Section 206 allows the Commission to revoke a seller's market-based rate authorization if it determines that the seller may have gained market power since it was originally granted market-based rate authorization by the Commission.

In 18 Code of Federal Regulations (CFR) Part 35 Subpart H [1], the Commission codifies standards for use in the Commission's determination of whether a wholesale seller of electric energy, capacity, or ancillary services qualifies for obtaining and retaining market-based rate authority. Subpart H mandates that sellers submit market power analyses and related filings.

**Horizontal Market Power Analysis**

Market power analyses must address both horizontal and vertical market power. To demonstrate lack of horizontal market power, the Commission requires two indicative market power screens: the uncommitted pivotal supplier screen (which is based on the annual peak demand of the relevant market) and the uncommitted market share screen applied on a seasonal basis. The Commission presumes sellers that fail either screen to have market power and such sellers may submit a delivered price test analysis to rebut the presumption of horizontal market power. If a seller fails to rebut the presumption of horizontal market power, the Commission sets the just and reasonable rate at the default cost-based rate unless it approves different mitigation based on case-specific circumstances. When submitting horizontal market power analyses, a seller must use the form provided in Appendix A of Subpart H and include all materials referenced.

**Vertical Market Power Analysis**

To demonstrate a lack of vertical market power to the extent that a public utility with market-based rates, or any of its affiliates, owns, operates or controls transmission facilities, it must:

- Have on file a Commission-approved Open Access Transmission Tariff [2]
- Demonstrate that neither it nor its affiliates can erect other barriers to entry
- Submit a description of its ownership or control of, or affiliation with an entity that owns or controls:
  - Intrastate natural gas transportation, intrastate natural gas storage or distribution facilities
  - Sites for generation capacity development; and physical coal supply sources and ownership or control over who may access transportation of coal supplies
- Make an affirmative statement that it has not erected and will not erect barriers to entry into the relevant market

**Asset Appendix**

In addition to the market power analyses, a seller must submit an asset appendix with its initial application for market-based rate authorization or updated market power analysis, and all relevant change in status filings. The asset appendix must:

- List, among other things, all affiliates that have market-based rate authority and identify any generation assets owned or controlled by the seller and any such affiliate
- List all generation assets owned (clearly identifying which affiliate owns which asset) or controlled (clearly identifying which affiliate controls which asset) by the corporate family by balancing authority area, and by geographic region, and provide the in-service date and nameplate and/or seasonal ratings by unit
- Must reflect all electric transmission and natural gas intrastate pipelines and/or gas storage facilities owned or controlled by the corporate family and the location of such facilities.[3]

**Triennial Market Power Analysis Update**

Sellers that own or control more than 500 megawatts of generation and/or that own, operate or control transmission facilities, are affiliated with any entity that owns, operates or controls transmission facilities in the same region as the seller's generation assets, or with a franchised public utility in the same region as the seller's generation assets, are required to file updated market power analyses every three years. The updated market power analyses must demonstrate that a seller does not possess horizontal market power.

**Change in Status Filings**

The Commission requires authorized market-based rate sellers to file any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-rate authority.[4] Notices of change in status must be filed no later than 30 days after the change in status occurs. The Commission requires that each seller include an appendix identifying specified assets with each pertinent change in status filing. Change in status filings include, but are not limited to:

- (1) A net increase of 100 MW or more in ownership or control of generation capacity;
- (2) affiliation with an entity not disclosed in the application for market-based rate authority that owns or controls generation, transmission, or has a franchised service area; or
- (3) the acquisition of control of any site(s) for new generation capacity (described in the Quarterly Land Acquisition section below).

**Exemptions From Submitting Updated Market Power Analyses**

Wholesale power marketers and wholesale power producers that are not affiliated with franchised public utilities or transmission owners, that do not own transmission, and that do not, together with all of their affiliates, own or control more than 500 MW of generation in the relevant region are not required to submit updated market power analyses. The Commission determines which sellers are in this category through information filed by the utility either when the seller files its initial application for market-based rate authorization or through a separate filing made to request such a determination.

[1] Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities, Order No. 697, 72 FR 39,904 (Jul. 20, 2007), FERC Stats. & Regs. ¶ 31,252 (2007) (Final Rule).

[2] Burden reported separately in information collections FERC–516 (OMB Control Number: 1902–0096) & FERC–917 (OMB Control Number: 1902–0233).

[3] See Subpart H, Appendix B for standard form.

[4] 18 CFR 35.42.

**Quarterly Land Acquisition Reports**

FERC also requires that all entities with market-based rate authorization report on a quarterly basis,[5] the acquisition of control of any site(s) for new generation capacity development for which site control has been demonstrated in the interconnection process and for which the potential number of megawatts that are reasonably commercially feasible on the site(s) for which new generation capacity development is equal to 100 megawatts or more.

The market power analyses help to inform the Commission as to whether entities have market power and whether sellers with market-based rate authority are only able to charge rates that are just and reasonable.

*Type of Respondents:* Public utilities, wholesale electricity sellers.

*Estimate of Annual Burden*[6]*:* The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–919—MARKET BASED RATES FOR WHOLESALE SALES OF ELECTRIC ENERGY

| Requirements | Number of respondents (A) | Number of responses per respondent (B) | Total number of responses (A) × (B) = (C) | Average burden hours per response (D) | Estimated total annual burden (C) × (D) |
|---|---|---|---|---|---|
| Market Power Analysis in New Applications for Market-based Rates [18 CFR 35.37(a)] | 213 | 1 | 213 | 250 | 53,250 |
| Triennial market power analysis in seller updates [18 CFR 35.37(a)] | 83 | 1 | 83 | 250 | 20,750 |
| Quarterly land acquisition reports [18 CFR 35.42(d)] | 373 | 2.15 | 802 | 4 | 3,208 |
| Change in status reports [18 CFR 35.42] | 237 | 1 | 237 | 34.75 | 8,236 |
| TOTAL | | | | | 85,444 |

The total estimated annual cost burden to respondents is $7,268,721 [85,444 hours * $85.07[7]) = $7,268,721]

*Comments:* Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: December 30, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–31586 Filed 1–6–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings # 1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–1851–003; ER10–1976–004; ER10–1966–004; ER10–1985–004; ER11–4462–006; ER10–1971–013; ER10–1930–003; ER10–1931–004; ER12–2225–003; ER12–2226–003.

*Applicants:* ESI Vansycle Partners, L.P., FPL Energy Stateline II, Inc., FPL Energy Vansycle, L.L.C., Limon Wind, LLC, Limon Wind II, LLC, Logan Wind Energy LLC, Northern Colorado Wind Energy, LLC, Peetz Table Wind Energy, LLC, NextEra Energy Power Marketing, LLC, NEPM II, LLC.

*Description:* Triennial Market Power Update for Northwest Region of the NextEra Companies.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5276.

*Comments Due:* 5 p.m. ET 2/21/14.

*Docket Numbers:* ER10–1910–004; ER10–1908–004; ER10–1909–004; ER10–1911–004.

*Applicants:* Duquesne Conemaugh LLC, Duquesne Keystone LLC, Duquesne Light Company, Duquesne Power, LLC.

*Description:* Notice of Non-Material Change in Status of the Duquesne Utilities.

*Filed Date:* 12/27/13.

*Accession Number:* 20131227–5155.

*Comments Due:* 5 p.m. ET 1/17/14.

*Docket Numbers:* ER10–2132–005.

*Applicants:* Willow Creek Energy LLC.

*Description:* Triennial Report for Northwest Region Willow Creek Energy LLC.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5035.

*Comments Due:* 5 p.m. ET 2/28/14.

*Docket Numbers:* ER10–2763–009; ER10–2759–003; ER10–2732–009; ER10–2736–009; ER10–2737–009; ER10–2741–009; ER10–2749–009; ER10–2752–009; ER12–2492–005; ER12–2493–005; ER12–2494–005; ER12–2495–005; ER12–2496–005; ER10–2733–009; ER10–2734–009; ER10–2631–003; ER13–815–001.

*Applicants:* Bangor Hydro Electric Company, Bridgeport Energy LLC, Emera Energy Services Inc., Emera Energy Services Subsidiary No. 1 LLC, Emera Energy Services Subsidiary No. 2 LLC, Emera Energy Services Subsidiary No. 3 LLC, Emera Energy Services Subsidiary No. 4 LLC, Emera Energy Services Subsidiary No. 5 LLC, Emera Energy Services Subsidiary No. 6 LLC, Emera Energy Services Subsidiary No. 7 LLC, Emera Energy Services Subsidiary

[5] All other change in status reports must be filed no later than 30 days after the change in status occurs. (18 CFR 35.42).

[6] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[7] The Commission staff calculated this figure using an average of salaries (including benefits: *http://www.bls.gov/news.release/ecec.nr0.htm*) between three occupational categories (*http://bls.gov/oes/current/naics2_22.htm*):

- Economist: $67.57/hour
- Electrical Engineer: $59.62/hour
- Lawyer: $128.02/hour

($67.57+$59.62+$128.02) ÷ 3 = $85.07/hour

No. 8 LLC, Emera Energy Services Subsidiary No. 9 LLC, Emera Energy Services Subsidiary No. 10 LLC, Emera Energy U.S. Subsidiary No. 1, Inc., Emera Energy U.S. Subsidiary No. 2, Inc., Rumford Power Inc.,Tiverton Power LLC.

*Description:* Triennial Market Power Update for Northeast Region and Notice of Two Changes in Status of the Emera Entities.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5031.

*Comments Due:* 5 p.m. ET 2/28/14.

*Docket Numbers:* ER10–2764–005.

*Applicants:* Vantage Wind Energy LLC.

*Description:* Triennial Report for Northwest Region and Notice of Change in Facts of Vantage Wind Energy LLC.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5033.

*Comments Due:* 5 p.m. ET 2/28/14.

*Docket Numbers:* ER12–1179–015.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Certification of Readiness to Implement the Integrated Marketplace by Southwest Power Pool, Inc.

*Filed Date:* 12/27/13.

*Accession Number:* 20131227–5153.

*Comments Due:* 5 p.m. ET 1/17/14.

*Docket Numbers:* ER13–136–002; ER10–2418–002; ER13–135–002; ER13–137–002; ER13–138–002; ER13–140–002; ER13–148–002; ER13–147–002; ER13–141–002; ER13–142–002; ER13–144–002; ER13–146–002; ER13–145–002.

*Applicants:* Georgia-Pacific Brewton LLC, GP Big Island, LLC, Brunswick Cellulose LLC, Georgia-Pacific Cedar Springs LLC, Georgia-Pacific Consumer Operations, LLC, Palatka, Georgia-Pacific Consumer Operations, LLC, Port Hudson, Georgia-Pacific Consumer Products, LP, Green Bay West, Georgia-Pacific Consumer Products, LP, Muskogee, Georgia-Pacific Consumer Products, LP, Naheola, Georgia-Pacific Consumer Products, LP, Savannah, Georgia-Pacific Monticello LLC, Georgia-Pacific Toledo LLC, Leaf River Cellulose, LLC.

*Description:* Notice of Non-Material Change in Status of the Georgia-Pacific Entities.

*Filed Date:* 12/27/13.

*Accession Number:* 20131227–5163.

*Comments Due:* 5 p.m. ET 1/17/14.

*Docket Numbers:* ER13–1896–004.

*Applicants:* AEP Generation Resources Inc.

*Description:* AEP Generation Resources Inc. submits AEP Gen Resources MBR Revision to be effective 3/1/2014.

*Filed Date:* 12/27/13.

*Accession Number:* 20131227–5127.

*Comments Due:* 5 p.m. ET 1/17/14.

*Docket Numbers:* ER14–594–001.

*Applicants:* Ohio Power Company.

*Description:* Ohio Power Company submits Ohio Power MBR Revision to be effective 3/1/2014.

*Filed Date:* 12/27/13.

*Accession Number:* 20131227–5126.

*Comments Due:* 5 p.m. ET 1/17/14.

*Docket Numbers:* ER14–870–000.

*Applicants:* Appalachian Power Company.

*Description:* Appalachian Power Company submits AEP Operating Companies MBR Revision to be effective 3/1/2014.

*Filed Date:* 12/27/13.

*Accession Number:* 20131227–5124.

*Comments Due:* 5 p.m. ET 1/17/14.

*Docket Numbers:* ER14–871–000.

*Applicants:* AEP Energy Partners, Inc.

*Description:* AEP Energy Partners, Inc. submits AEP Energy Partners MBR Revision to be effective 3/1/2014.

*Filed Date:* 12/27/13.

*Accession Number:* 20131227–5125.

*Comments Due:* 5 p.m. ET 1/17/14.

*Docket Numbers:* ER14–872–000.

*Applicants:* CSW Energy Services, Inc.

*Description:* CSW Energy Services, Inc. submits CSW Energy Services MBR Revision to be effective 3/1/2014.

*Filed Date:* 12/27/13.

*Accession Number:* 20131227–5128.

*Comments Due:* 5 p.m. ET 1/17/14.

*Docket Numbers:* ER14–873–000.

*Applicants:* Calpine New Jersey Generation, LLC.

*Description:* Calpine New Jersey Generation, LLC submits Notice of Succession, Reactive Rate Schedule to be effective 12/27/2013.

*Filed Date:* 12/27/13.

*Accession Number:* 20131227–5129.

*Comments Due:* 5 p.m. ET 1/17/14.

*Docket Numbers:* ER14–874–000.

*Applicants:* Calpine Bethlehem, LLC.

*Description:* Calpine Bethlehem, LLC submits Notice of Succession, Reactive Rate Schedule to be effective 12/27/2013.

*Filed Date:* 12/27/13.

*Accession Number:* 20131227–5130.

*Comments Due:* 5 p.m. ET 1/17/14.

*Docket Numbers:* ER14–875–000.

*Applicants:* Calpine Mid-Atlantic Generation, LLC.

*Description:* Calpine Mid-Atlantic Generation, LLC submits Notice of Succession, Reactive Rate Schedule to be effective 12/27/2013.

*Filed Date:* 12/27/13.

*Accession Number:* 20131227–5131.

*Comments Due:* 5 p.m. ET 1/17/14.

*Docket Numbers:* ER14–876–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* PJM Interconnection, L.L.C. submits PJM and MISO submit revisions to the PJM–MISO JOA re IARR to be effective 2/26/2014.

*Filed Date:* 12/27/13.

*Accession Number:* 20131227–5151.

*Comments Due:* 5 p.m. ET 1/17/14.

*Docket Numbers:* ER14–877–000.

*Applicants:* ISO New England Inc.

*Description:* ISO New England Inc. submits response to Order No. 784 regarding compliance requirements.

*Filed Date:* 12/27/13.

*Accession Number:* 20131227–5162.

*Comments Due:* 5 p.m. ET 1/17/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 30, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–00011 Filed 1–6–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #3

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER12–2178–008; ER10–2172–019; ER11–2016–014; ER10–2184–019; ER10–2183–016; ER10–1048–016; ER10–2192–019; ER11–2056–013; ER10–2178–019; ER10–2174–019; ER11–2014–016; ER11–2013–016; ER10–3308–018; ER10–1020–015; ER13–1536–002; ER10–1078–015; ER10–1080–015; ER11–2010–016; ER10–1081–015; ER10–2180–019; ER11–2011–015; ER12–2528–007; ER11–2009–015;

ER10–1143–015; ER11–2007–014; ER11–2005–016.

*Applicants:* AV Solar Ranch 1, LLC, Baltimore Gas and Electric Company, Cassia Gulch Wind Park, LLC, CER Generation, LLC, CER Generation II, LLC, Commonwealth Edison Company, Constellation Energy Commodities Group Maine, LLC, Constellation Mystic Power, LLC, Constellation NewEnergy, Inc., Constellation Power Source Generation Inc., CR Clearing, LLC, Cow Branch Wind Power, LLC, Criterion Power Partners, LLC, Exelon Framingham, LLC, Exelon Generation Company, LLC, Exelon New Boston, LLC, Exelon West Medway, LLC, Exelon Wind 4, LLC, Exelon Wyman, LLC, Handsome Lake Energy, LLC, Harvest WindFarm, LLC, High Mesa Energy, LLC, Michigan Wind 1, LLC, PECO Energy Company, Tuana Springs Energy, LLC, Wind Capital Holdings, LLC.

*Description:* Updated Market Power Analysis for the Northeast Region of the Exelon Market-Based Rate Entities.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5187.

*Comments Due:* 5 p.m. ET 2/28/14.

*Docket Numbers:* ER14–897–000.

*Applicants:* Southern California Edison Company.

*Description:* Southern California Edison Company submits Assignment Agmt with APS & Resale Tariff Edison-Arizona Transmission Agmt to be effective 2/28/2014.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5193.

*Comments Due:* 5 p.m. ET 1/21/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 30, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–00013 Filed 1–6–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–1942–009; ER10–2042–012; ER10–1938–007; ER10–1898–006; ER10–1934–006; ER10–1893–006; ER10–1877–002; ER10–1862–006.

*Applicants:* Calpine Construction Finance Company, L.P., Calpine Energy Services, L.P., Calpine Power America—CA, LLC, CES Marketing V, LLC, CES Marketing IX, LLC, CES Marketing X, LLC, Hermiston Power, LLC, Power Contract Financing, L.L.C.

*Description:* Updated Market Power Analysis for the Northwest Region of the Calpine Corporation subsidiaries.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5171.

*Comments Due:* 5 p.m. ET 2/28/14.

*Docket Numbers:* ER10–2179–022; ER10–2181–022; ER10–2182–022.

*Applicants:* R.E. Ginna Nuclear Power Plant, LLC, Calvert Cliffs Nuclear Power Plant, LLC, Nine Mile Point Nuclear Station, LLC.

*Description:* Updated Market Power Analysis for the Northeast Region of the Constellation Energy Nuclear Group entities.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5166.

*Comments Due:* 5 p.m. ET 2/28/14.

*Docket Numbers:* ER14–878–000.

*Applicants:* Willow Creek Energy LLC.

*Description:* Willow Creek Energy LLC submits Revised Market-Based Rate Tariff Pursuant to Order No. 784 to be effective 12/31/2013.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5025.

*Comments Due:* 5 p.m. ET 1/21/14.

*Docket Numbers:* ER14–879–000.

*Applicants:* Vantage Wind Energy LLC.

*Description:* Vantage Wind Energy LLC submits Revised Market-Based Rate Tariff Pursuant to Order No. 784 to be effective 12/31/2013.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5026.

*Comments Due:* 5 p.m. ET 1/21/14.

*Docket Numbers:* ER14–880–000.

*Applicants:* Duke Energy Florida, Inc.

*Description:* Duke Energy Florida, Inc. submits Amendment to TECO RS No. 80 to be effective 12/27/2013.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5027.

*Comments Due:* 5 p.m. ET 1/21/14.

*Docket Numbers:* ER14–881–000.

*Applicants:* Dogwood Energy LLC.

*Description:* Dogwood Energy LLC submits Revised Market-Based Rate Tariff Filing to be effective 3/1/2014.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5032.

*Comments Due:* 5 p.m. ET 1/21/14.

*Docket Numbers:* ER14–882–000.

*Applicants:* Oklahoma Gas and Electric Company.

*Description:* Oklahoma Gas and Electric Company submits Change in Status Related to SPP's Integrated Marketplace to be effective 3/1/2014.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5060.

*Comments Due:* 5 p.m. ET 1/21/14.

*Docket Numbers:* ER14–883–000.

*Applicants:* Illinois Power Marketing Company.

*Description:* Illinois Power Marketing Company submits Notice of Succession for Market-Based Rate Tariff to be effective 12/2/2013.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5145.

*Comments Due:* 5 p.m. ET 1/21/14.

*Docket Numbers:* ER14–884–000.

*Applicants:* PPL Maine, LLC.

*Description:* PPL Maine, LLC submits Notice of Cancellation to be effective 2/28/2014.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5152.

*Comments Due:* 5 p.m. ET 1/21/14.

*Docket Numbers:* ER14–885–000.

*Applicants:* Saguaro Power Company, a Limited Partnership.

*Description:* Saguaro Power Company, a Limited Partnership submits Saguaro Tariff Amendment to be effective 12/31/2013.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5159.

*Comments Due:* 5 p.m. ET 1/21/14.

*Docket Numbers:* ER14–886–000.

*Applicants:* RRI Energy Services, LLC.

*Description:* RRI Energy Services, LLC submits RRI Tariff Amendment to be effective 12/31/2013.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5163.

*Comments Due:* 5 p.m. ET 1/21/14.

*Docket Numbers:* ER14–887–000.

*Applicants:* Reliant Energy Northeast LLC.

*Description:* Reliant Energy Northeast LLC submits REN Tariff Amendment to be effective 12/31/2013.

*Filed Date:* 12/30/13.

*Accession Number:* 20131230–5164.

*Comments Due:* 5 p.m. ET 1/21/14.

*Docket Numbers:* ER14–888–000.

*Applicants:* NRG Solar Alpine LLC.

*Description:* NRG Solar Alpine LLC submits Solar Alpine Tariff Amendment to be effective 12/31/2013.

*Filed Date:* 12/30/13.
*Accession Number:* 20131230–5168.
*Comments Due:* 5 p.m. ET 1/21/14.
*Docket Numbers:* ER14–889–000.
*Applicants:* NRG New Jersey Energy Sales LLC.
*Description:* NRG New Jersey Energy Sales LLC submits NJES Tariff Amendment to be effective 12/31/2013.
*Filed Date:* 12/30/13.
*Accession Number:* 20131230–5169.
*Comments Due:* 5 p.m. ET 1/21/14.
*Docket Numbers:* ER14–890–000.
*Applicants:* Long Beach Peakers LLC.
*Description:* Long Beach Peakers LLC submits LBP Tariff Amendment to be effective 12/31/2013.
*Filed Date:* 12/30/13.
*Accession Number:* 20131230–5170.
*Comments Due:* 5 p.m. ET 1/21/14.
*Docket Numbers:* ER14–891–000.
*Applicants:* Long Beach Generation LLC.
*Description:* Long Beach Generation LLC submits LBG Tariff Amendment to be effective 12/31/2013.
*Filed Date:* 12/30/13.
*Accession Number:* 20131230–5177.
*Comments Due:* 5 p.m. ET 1/21/14.
*Docket Numbers:* ER14–892–000.
*Applicants:* Independence Energy Group LLC.
*Description:* Independence Energy Group LLC submits IEG Tariff Amendment to be effective 12/31/2013.
*Filed Date:* 12/30/13.
*Accession Number:* 20131230–5178.
*Comments Due:* 5 p.m. ET 1/21/14.
*Docket Numbers:* ER14–893–000.
*Applicants:* High Plains Ranch II, LLC.
*Description:* High Plains Ranch II, LLC submits High Plains to be effective 12/31/2013.
*Filed Date:* 12/30/13.
*Accession Number:* 20131230–5180.
*Comments Due:* 5 p.m. ET 1/21/14.
*Docket Numbers:* ER14–894–000.
*Applicants:* Green Mountain Energy Company.
*Description:* Green Mountain Energy Company submits GMEC Tariff Amendment to be effective 12/31/2013.
*Filed Date:* 12/30/13.
*Accession Number:* 20131230–5181.
*Comments Due:* 5 p.m. ET 1/21/14.
*Docket Numbers:* ER14–895–000.
*Applicants:* El Segundo Power, LLC.
*Description:* El Segundo Power, LLC submits El Segundo Tariff Amendment to be effective 12/31/2013.
*Filed Date:* 12/30/13.
*Accession Number:* 20131230–5182.
*Comments Due:* 5 p.m. ET 1/21/14.
*Docket Numbers:* ER14–896–000.
*Applicants:* Cabrillo Power I LLC.
*Description:* Cabrillo Power I LLC submits Cabrillo I Tariff Amendment to be effective 12/31/2013.
*Filed Date:* 12/30/13.
*Accession Number:* 20131230–5183.
*Comments Due:* 5 p.m. ET 1/21/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 30, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–00012 Filed 1–6–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* RP13–1387–000.
*Applicants:* Enable Mississippi River Transmission, LLC.
*Description:* Submits tariff filing per 154.501: MRT Refund Report to be effective N/A.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5172.
*Comments Due:* 5 p.m. ET 1/2/14.
*Docket Numbers:* RP14–326–000.
*Applicants:* Gulf South Pipeline Company, LP.
*Description:* Amendment to Neg Rate Agmt (Devon 34694–52) to be effective 12/1/2013.
*Filed Date:* 12/30/13.
*Accession Number:* 20131230–5047.
*Comments Due:* 5 p.m. ET 1/13/14.
*Docket Numbers:* RP14–327–000.
*Applicants:* Colorado Interstate Gas Company, L.L.C.
*Description:* Colorado Interstate Gas Company, L.L.C. submits tariff filing per 154.403(d)(2): Update of Young Storage Related Fuel Percentages to be effective 1/1/2014.
*Filed Date:* 12/30/13.
*Accession Number:* 20131230–5221.
*Comments Due:* 5 p.m. ET 1/13/14.
*Docket Numbers:* RP72–6–000.
*Applicants:* El Paso Natural Gas Company.
*Description:* El Paso Natural Gas Company, L.L.C.'s Semi-Annual Storage Report for Washington Ranch Storage Facility.
*Filed Date:* 12/30/13.
*Accession Number:* 20131230–5142.
*Comments Due:* 5 p.m. ET 1/13/14.
*Docket Numbers:* RP14–328–000.
*Applicants:* Rockies Express Pipeline LLC.
*Description:* Rockies Express Pipeline LLC submits tariff filing per 154.204: Neg Rate 2013–12–31 Sempra, ConocoPhil NC NRA A&R to be effective 1/1/2014.
*Filed Date:* 12/31/13.
*Accession Number:* 20131231–5003.
*Comments Due:* 5 p.m. ET 1/13/14.
*Docket Numbers:* RP14–329–000.
*Applicants:* Sea Robin Pipeline Company, LLC.
*Description:* Sea Robin Pipeline Company, LLC submits tariff filing per 154.203: Annual Flowthrough Crediting Mechanism filing on 12/31/13 to be effective N/A.
*Filed Date:* 12/31/13.
*Accession Number:* 20131231–5057.
*Comments Due:* 5 p.m. ET 1/13/14.
*Docket Numbers:* RP14–330–000.
*Applicants:* Texas Gas Transmission, LLC.
*Description:* Texas Gas Transmission, LLC submits tariff filing per 154.204: Amendment to Neg Rate Agmt (Cross Timbers 31115–2) to be effective 1/1/2014.
*Filed Date:* 12/31/13.
*Accession Number:* 20131231–5071.
*Comments Due:* 5 p.m. ET 1/13/14.
*Docket Numbers:* RP14–331–000.
*Applicants:* Gulf South Pipeline Company, LP.
*Description:* Gulf South Pipeline Company, LP submits tariff filing per 154.204: Cap Rel Neg Rate Agmt (JW 34690 to Q-West 41781) to be effective 1/1/2014.
*Filed Date:* 12/31/13.
*Accession Number:* 20131231–5072.
*Comments Due:* 5 p.m. ET 1/13/14.
*Docket Numbers:* RP14–332–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* Iroquois Gas Transmission System, L.P. submits tariff filing per 154.204: 12/31/13 Negotiated Rates—JP Morgan Ventures (RTS) 6025–26 to be effective 1/1/2014.

*Filed Date:* 12/31/13.

*Accession Number:* 20131231–5079.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* RP14–333–000.

*Applicants:* Columbia Gas Transmission, LLC.

*Description:* Columbia Gas Transmission, LLC submits tariff filing per 154.403: Environmental Filing 2013 to be effective 2/1/2014.

*Filed Date:* 12/31/13.

*Accession Number:* 20131231–5091.

*Comments Due:* 5 p.m. ET 1/13/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

**Filings in Existing Proceedings**

*Docket Numbers:* RP14–268–001.

*Applicants:* Iroquois Gas Transmission System, L.P.

*Description:* Submits tariff filing per 154.205(b) Negotiated Rates—JP Morgan Ventures Energy Corp (HUB) to be effective 12/11/2013.

*Filed Date:* 12/12/13.

*Accession Number:* 20131212–5132.

*Comments Due:* 5 p.m. ET 1/3/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 31, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–00014 Filed 1–6–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[ Docket Nos. OR14–17–000]**

## US Airways, Inc. v. Colonial Pipeline Company; Notice of Complaint

Take notice that on December 31, 2013, pursuant to section 1(5), 6, 8, 9, 13, 15, and 16 of the Interstate Commerce Act, 49 U.S.C. App. 1(5), 6, 8, 9, 13, 15 and 16; section 1803 of the Energy Policy Act of 1992; Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206 (2013); and Rules 343.1(a) and 343.2(c) of the Commission's Procedural Rules Applicable to Oil Pipeline Proceedings, 18 CFR 343.1(a) and 343.2(c), US Airways, Inc. (Complainant) filed a formal complaint against Colonial Pipeline Company (Respondent), challenging the justness, reasonableness, and lawfulness of the jurisdictional rates and charges by the Respondent for transportation of petroleum products, including aviation kerosene and jet fuel, on its interstate pipeline system, from all origins to all destinations in the challenged tariffs, as more fully described in the complaint. US Airways, Inc. further states that it seeks privileged and confidential treatment of its complaint.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondents as listed on the Commission's list of Corporate Officials.

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 and 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. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

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 5 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 30, 2014.

Dated: December 31, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–00015 Filed 1–6–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP14–295–000]**

## Rocky Mountain Natural Gas LLC, SourceGas Distribution LLC; Notice of Filing

Take notice that on December 17, 2013, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(5)(2013), Rocky Mountain Natural Gas LLC and SourceGas Distribution LLC submitted a joint petition for a temporary and limited waiver of the Commission's capacity release regulations and policies, and certain gas tariff provisions that implement these regulations and policies, all as more fully described in the petition.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access

who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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 7, 2014.

Dated: December 31, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–00016 Filed 1–6–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2533–052]**

### Wausau Paper Mills, City of Brainerd, Public Utilities Commission; Notice of Application for Transfer of License and Soliciting Comments and Motions To Intervene

On December 5, 2013, Wausau Paper Mills (transferor) and City of Brainerd, Public Utilities Commission (transferee) filed an application for transfer of license of the Brainerd Hydroelectric Project located on the Mississippi River, in Crow Wing County, Minnesota.

The transferor and transferee seek Commission approval to transfer the license for the Brainerd Hydroelectric Project from the transferor to the transferee.

*Applicant Contacts:* For Transferor and Transferee: Ms. Elizabeth W. Whittle, Partner, Nixon Peabody, LLP, 401 Ninth Street NW., Suite 900, Washington, DC 20004, (202) 585–8338, email: *ewhittle@nixonpeabody.com*. Mr. James M. Strommen, Shareholder, Kennedy & Graven, 470 U.S. Bank Plaza, 200 South 6th Street, Minneapolis, MN 55402, (612) 337–9300, email: *jstrommen@kennedy-graven.com*.

*FERC Contact:* Patricia W. Gillis, (202) 502–8735.

*Deadline for filing comments and motions to intervene:* 30 days from the issuance date of this notice, by the Commission. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii)(2008) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the eLibrary link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–2533–052) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Dated: December 30, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–31587 Filed 1–6–14; 8:45 am]

**BILLING CODE 6717–01–P**

## FEDERAL TRADE COMMISSION

**[File No. 131 0227]**

### AB Acquisition, LLC; Analysis of Agreement Containing Consent Order To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis of Agreement Containing Consent Order to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before January 22, 2014.

**ADDRESSES:** Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/albertsonsunitedconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''AB Acquisition, LLC—Consent Agreement; File No. 131 0227'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/albertsonsunitedconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Jeremy Morrison, Bureau of Competition, (202–326–3149), 600 Pennsylvania Avenue NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 23, 2013), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 22, 2014. Write ''AB Acquisition, LLC—Consent Agreement; File No. 131 0227'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/albertsonsunitedconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home*, you also may file a comment through that Web site.

If you file your comment on paper, write ''AB Acquisition, LLC—Consent Agreement; File No. 131 0227'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 22, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

**Analysis of Agreement Containing Consent Order To Aid Public Comment**

*I. Introduction and Background*

The Federal Trade Commission (''Commission'') has accepted for public comment, subject to final approval, an Agreement Containing Consent Order (''Consent Order'') from AB Acquisition, LLC (''Respondent''). The purpose of the proposed Consent Order is to remedy the anticompetitive effects that otherwise would result from the merger of Respondent with United Supermarkets, L.L.C. (''United''). Under the terms of the proposed Consent Order, Respondent is required to divest its supermarkets and related assets in Amarillo and Wichita Falls, Texas to a Commission-approved purchaser. The divestitures must be completed no later than 10 days following the date of Respondent's merger with United.

The proposed Consent Order has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission again will review the proposed Consent Order and any comments received, and decide whether it should withdraw the Consent Order, modify the Consent Order, or make it final.

On September 9, 2013, Respondent and United entered into a merger agreement whereby Respondent agreed to purchase 100% of United's equity. The Commission's Complaint alleges that the proposed merger, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by removing an actual, direct, and substantial supermarket competitor in Amarillo and Wichita Falls, Texas. The elimination of this competition would result in significant competitive harm, specifically higher prices and diminished quality and service levels in both markets. The proposed Consent Order would remedy the alleged violations by requiring Respondent to divest its supermarkets in the two affected markets. The divestitures will establish a new independent competitor to Respondent in both relevant areas, replacing the competition that otherwise would be lost as a result of the proposed merger.

*II. The Parties*

Respondent, through its wholly owned indirect subsidiary, Albertson's LLC (''Albertson's''), owns and operates 606 supermarkets in the western and southern United States under the Albertsons banner. In Texas, Albertson's operates 72 supermarkets under the Albertsons banner, the majority of which are in the Dallas-Fort Worth Metroplex. Albertson's operates 10 Albertsons banner stores in North and West Texas.

United is a privately held regional grocery retailer that owns and operates 51 traditional and specialty supermarkets and 7 convenience stores across North and West Texas. United operates its supermarkets under three different banners: United Supermarkets, Market Street, and Amigos. United Supermarkets is a traditional supermarket banner. Market Street offers everyday grocery needs, as well as gourmet and specialty items, whole health products, and prepared food. Amigos is operated as a specialty store with a focus on traditional and authentic items targeted to Hispanic shoppers. United also owns three distribution centers, an ice manufacturing plant, and a food manufacturing plant.

*III. Supermarket Competition in Amarillo and Wichita Falls, Texas*

Respondent's proposed merger with United poses substantial antitrust concerns for the retail sale of food and other grocery products in supermarkets. Supermarkets are defined as traditional full-line retail grocery stores that sell, on a large-scale basis, food and non-food products that customers regularly consume at home—including, but not limited to, fresh meat, dairy products, frozen foods, beverages, bakery goods, dry groceries, detergents, and health and beauty products. This broad set of products and services provides a ''one-stop shopping'' experience for consumers by enabling them to shop in a single store for all of their food and grocery needs. The ability to offer consumers one-stop shopping is a critical differentiating factor between supermarkets and other food retailers.

The relevant product market includes supermarkets within ''hypermarkets,'' such as Wal-Mart Supercenters.

Hypermarkets also sell an array of products that would not be found in traditional supermarkets. However, hypermarkets, like conventional supermarkets, contain bakeries, delis, dairy, produce, fresh meat, and sufficient product offerings to enable customers to purchase all of their weekly grocery requirements in a single shopping visit.

Other types of retailers—such as hard discounters, convenience stores, specialty food stores and club stores—also sell food and grocery items. However, these types of retailers are not in the relevant product market because they do not have a supermarket's full complement of products and services. Shoppers typically do not view these other food and grocery retailers as adequate substitutes for supermarkets. Further, although these other types of retailers offer some competition, supermarkets do not view them as providing as close competition as traditional supermarkets.[2] Thus, consistent with prior Commission precedent, grocery items sold in stores other than supermarkets are excluded from the relevant product market.[3]

There are two relevant geographic markets in which to analyze the merger's effects: (1) the western half of Amarillo, Texas (''West Amarillo''), and (2) the southwest area of Wichita Fall, Texas (''Southwest Wichita Falls''). Specifically, West Amarillo includes the area from the western city limit to the railroad tracks that run parallel to, and are located to the east of, the Interstate 40 and U.S. Route 87/287 corridor. Southwest Wichita Falls is the area within the city limits that runs south of U.S. Route 277 and west of U.S. Route 281. A hypothetical monopolist of the retail sale of food and other grocery products in supermarkets in each relevant area could profitably impose a small but significant non-transitory increase in price.

Interviews with the merging parties' executives and market participants, as well as a review of party documents, demonstrate that Albertson's and United are close and vigorous competitors in terms of format, service, product offerings, promotional activity, and location in the West Amarillo and Southwest Wichita Falls markets. For example, Albertson's and United are the only supermarkets in Amarillo and Wichita Falls that retain a traditional supermarket format, with both emphasizing specialty departments like meat and fresh seafood. Both are also the only traditional supermarket operators in Amarillo and Wichita Falls that carry a broad range of products catering to the entire community. Additionally, Albertson's and United's stores have the most similar store formats and size among supermarket operators in Amarillo and Wichita Falls, including the amount of floor space devoted to food and other grocery products. Absent relief, the proposed merger would eliminate significant head-to-head competition between Respondent and United and would increase Respondent's ability and incentive to raise prices unilaterally post-merger. The proposed merger would also decrease incentives to compete on non-price factors, such as service levels, convenience, and quality.

The West Amarillo and Southwest Wichita Falls markets already are highly concentrated, and would become significantly more so post-merger. The merger would reduce the number of supermarket competitors from three to two; Wal-Mart Supercenter would be the only remaining competitor in each of the two relevant areas. In West Amarillo, the proposed merger would increase the Herfindahl-Hirschman Index (''HHI''), which is the standard measure of market concentration under the 2010 Department of Justice and Federal Trade Commission Horizontal Merger Guidelines (''HMG''), 503 points, from 4501 to 5004. In Southwest Wichita Falls, the proposed merger would increase the HHI 811 points, from 4193 to 5004. Under the HMG, these concentration levels trigger the presumption that the merger likely enhances Respondent's market power in West Amarillo and Southwest Wichita Falls.

New entry or expansion in the relevant markets is unlikely to deter or counteract the anticompetitive effects of the proposed merger. Moreover, even if a prospective entrant existed, the entrant must secure a viable location, obtain the necessary permits and governmental approvals, build its retail establishment or renovate an existing building, and open to customers before it could begin operating and serve as a relevant competitive constraint. It is unlikely that entry sufficient to achieve a significant market impact and act as a competitive constraint would occur in a timely manner.

*IV. The Proposed Consent Order*

The proposed remedy, which requires the divestiture of the Albertson's supermarkets in Amarillo and Wichita Falls to a Commission-approved purchaser, will restore fully the competition that otherwise would be eliminated in these markets as a result of the merger. Respondent has agreed to divest the Albertson's supermarkets in Amarillo and Wichita Falls to MAL Enterprises, Inc., which operates as Lawrence Brothers IGA (''Lawrence Brothers''). Lawrence Brothers is a family owned and operated supermarket chain based in Sweetwater, Texas, with 18 supermarkets located throughout West Texas and two in New Mexico, all of which are located outside the two relevant geographic markets.[4] Lawrence Brothers appears to be a highly suitable purchaser, and it is well positioned to enter the relevant markets and prevent the increase in market concentration and likely competitive harm that otherwise would have resulted from the merger.

The proposed Order requires Respondent to divest Albertson's Amarillo and Wichita Falls stores and related assets to Lawrence by the later of: (a) January 13, 2014, or (b) 10 days following Albertson's merger with United. If Lawrence Brothers is not approved by the Commission to purchase the assets, Albertson's must immediately rescind the divestiture agreement and divest the Albertson's stores and related assets to a buyer that receives the Commission's prior approval. The proposed Consent Order contains additional provisions designed to ensure the adequacy of the proposed relief. For example, for a period of one year, the Consent Order prohibits Albertson's from interfering with Lawrence Brothers' hiring or employment of any employees currently working at the Albertson's stores in

[2] Shoppers typically do not view these other food and grocery retailers as adequate substitutes for supermarkets and would be unlikely to switch to one of these retailers in response to a small but significant price increase or ''SSNIP'' by a hypothetical supermarket monopolist. *See* U.S. DOJ and FTC Horizontal Merger Guidelines § 4.1.1 (2010).

[3] *See, e.g., Konkinlijke Ahold N.V./Safeway Inc.,* Docket C–4367 (August 17, 2012); *Shaw's/Star Markets,* Docket C–3934 (June 28, 1999); *Kroger/Fred Meyer,* Docket C–3917 (January 10, 2000); *Albertson's/American Stores,* Docket C–3986 (June 22, 1999); *Ahold/Giant,* Docket C–3861 (April 5, 1999); *Albertson's/Buttrey,* Docket C–3838 (December 8, 1998); *Jitney-Jungle Stores of America, Inc.,* Docket C–3784 (January 30, 1998). *But see Wal-Mart/Supermercados Amigo,* Docket C–4066 (November 21, 2002) (the Commission's complaint alleged that in Puerto Rico, club stores should be included in a product market that included supermarkets because club stores in Puerto Rico enabled consumers to purchase substantially all of their weekly food and grocery requirements in a single shopping visit).

[4] Lawrence Brothers operates 14 stores under the ''Lawrence Brothers'' banner, four stores under the ''Cash Saver'' banner, and two stores under the ''Save-A-Lot'' banner. Lawrence Brothers plans to convert the two Albertson's stores in Amarillo and Wichita Falls to Cash Saver stores. Cash Saver stores are traditional supermarkets with specialty departments such as pharmacies, delis, and bakeries. Cash Saver prices all grocery products in its stores at 10% above cost.

Amarillo and Wichita Falls. Additionally, for a period of 10 years, Respondent is required to give the Commission prior notice of plans to acquire any interest in a supermarket, or an interest in a supermarket, that has operated or is operating in Amarillo and Wichita Falls.

The sole purpose of this Analysis is to facilitate public comment on the proposed Consent Order. This Analysis does not constitute an official interpretation of the proposed Consent Order, nor does it modify its terms in any way.

By direction of the Commission.

**Janice Podoll Frankle,**

*Acting Secretary.*

[FR Doc. 2013–31224 Filed 1–6–14; 8:45 am]

**BILLING CODE 6750–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day-14–14GB]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to LeRoy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

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 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. Written comments should be received within 60 days of this notice.

**Proposed Project**

Become a Partner—New—Office of Public Health Preparedness and Response (OPHPR), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The Office of Public Health Preparedness and Response (OPHPR) provide strategic direction, ongoing support, and coordination for CDC's portfolio of emergency preparedness and response activities. CDC and OPHPR work every day to keep America safe from all-hazards, focusing on chemical, biological, radiological and nuclear (CBRN) as well as naturally-occurring threats, both foreign and domestic.

OPHPR's mission is critically dependent on effectively engaging outside partners to maximize resources and overall impact. Therefore, OPHPR seeks ways to improve its current partner strategy to engage new partners. Forging strategic alliances with diverse stakeholders is critical as OPHPR works to keep America safe from all health, safety, and security threats. Health security is a national challenge that calls for a national, whole community solution.

New partners who do not have an explicit mission statement related to public health preparedness and response are difficult to identify; therefore, OPHPR must use a creative method that allows groups and individuals to self-identify their interest in partnerships—such as an online form housed on CDC's public Web site. By identifying new partners, OPHPR will strengthen its ability to collaborate with a broader audience of stakeholders thereby, strengthening our collective voice on public health preparedness issues to keep our nation's health secure. OPHPR will use the information submitted through this online form to determine who in our agency would be the best liaison for this potential partner, and then follow up on this information with a phone call to further assess how we can begin building and effectively managing this new relationship.

CDC requests Office of Management and Budget (OMB) approval to collect information for three years.

*Description*

The ''Become a Partner'' template is a single, double-sided page that will be used as an online form for anyone voluntarily exploring how to partner with OPHPR. This form will dramatically reduce the burden on respondents and employees by allowing self-identification of partnership interests and collecting information to determine partnership needs and opportunities. The questions in the form specifically request name, address, phone, email, Web site, and a combination of five questions related to partnership interests. The questions asked will help determine if the interested party wants to receive information available through OPHPR, if they want to exchange information that is mutually beneficial for cross-promotion, if they coordinate any activities that support public health preparedness, and if they offer additional services to support public health (not already listed above). Finally, they will be asked to identify the most relevant partnership interests within OPHPR categories.

Ultimately, the form will allow OPHPR to identify and then engage interested partners in meaningful collaborations for the purpose of expanding, enhancing and sustaining public health preparedness and response infrastructure.

We estimate a total of 200 external governmental and non-governmental organizational respondents annually. The ''Become a Partner'' questionnaire is estimated to take 15 minutes and the ''Become a Partner'' follow-up questionnaire is estimated to take 30 minutes to complete. Therefore, the total estimated annualized burden for this information collection is estimated to be 75 hours.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Avg. burden per response (in hrs.) | Total burden (in hrs.) |
|---|---|---|---|---|---|
| External governmental and non-governmental organizations including non-profit organizations, trade associations, academic and research institutions, and the private sector. | Become a Partner ..... | 100 | 1 | 15/60 | 25 |
| External governmental and non-governmental organizations including non-profit organizations, trade associations, academic and research institutions, and the private sector. | Become a Partner Follow-Up Questions. | 100 | 1 | 30/60 | 50 |
| Total ..... | ..... | ..... | ..... | 75 | |

**LeRoy Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2014–00006 Filed 1–6–14; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–D–1446]**

### Self-Monitoring Blood Glucose Test Systems for Over-the-Counter Use; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Self-Monitoring Blood Glucose Test Systems for Over-the-Counter Use''. This draft guidance document describes studies and criteria FDA recommends in premarket submissions for self-monitoring blood glucose test systems (SMBGs) which are for over-the-counter (OTC) use by lay-persons. When finalized, FDA intends for this document to guide manufacturers in conducting appropriate performance studies and preparing premarket notifications for these device types. This draft guidance is not final nor is it in effect at this time.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by April 7, 2014.

**ADDRESSES:** Submit written requests for single copies of the draft guidance document entitled ''Self-Monitoring Blood Glucose Test Systems for Over-the-Counter Use''to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4613, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Patricia Bernhardt, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5654, Silver Spring, MD 20993–0002, 301–796–6136.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

This draft guidance document describes studies and criteria FDA recommends for self-monitoring blood glucose test systems (SMBGs) which are for over-the-counter (OTC) use by lay-persons. When finalized, FDA intends for this document to guide manufacturers in conducting appropriate performance studies and preparing premarket notifications for these device types. Portable blood glucose monitoring systems (also called glucose meters) that measure blood glucose concentrations are used by millions of people with diabetes every day. These devices are used by patients in a variety of settings including in their homes, at work, and in schools.

Historically, FDA has not recommended different types of information in premarket submissions (510(k)s) for blood glucose monitoring systems used by medical professionals as compared to OTC devices intended for use by lay users. However, it has become increasingly clear that these different use settings create distinct intended use populations with unique characteristics and device design requirements. In order to distinguish between FDA recommendations for prescription use blood glucose meters, which are intended for use in point-of-care professional healthcare settings, and those intended for OTC self-monitoring by lay-persons, the Agency is issuing two separate draft guidances for (i) prescription use blood glucose meters, for use in point-of-care professional healthcare settings, and (ii) SMBG devices intended for OTC self-monitoring by lay-persons. FDA believes that in making this distinction, SMBG devices can be better designed to meet the needs of their intended use populations, thereby ensuring greater safety and efficacy.

#### II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on Self-Monitoring Blood Glucose Test Systems for Over-the-Counter Use. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

#### III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. A search capability for all

CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*. Guidance documents are also available at *http://www.regulations.gov*.

To receive ''Self-Monitoring Blood Glucose Test Systems for Over-the-Counter Use,'' you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1756 to identify the guidance you are requesting.

### IV. Paperwork Reduction Act of 1995

This draft guidance 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 807 subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR 801 and 21 CFR 809.10 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR Part 820 have been approved under OMB control number 0910–0073.

### V. 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*.

Dated: January 2, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–00022 Filed 1–6–14; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–D–1445]**

## Blood Glucose Monitoring Test Systems for Prescription Point-of-Care Use; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Blood Glucose Monitoring Test Systems for Prescription Point-of-Care Use.'' This draft guidance document describes studies and criteria FDA recommends for blood glucose monitoring test systems (BGMSs) which are for prescription point-of-care use. When finalized, FDA intends for this document to guide manufacturers in conducting appropriate performance studies and preparing premarket notifications for these device types. This draft guidance is not final nor is it in effect at this time.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by April 7, 2014.

**ADDRESSES:** Submit written requests for single copies of the draft guidance document entitled ''Blood Glucose Monitoring Test Systems for Prescription Point-of-Care Use '' to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Patricia Bernhardt, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 5654, Silver Spring, MD 20993–0002, 301–796–6136.

**SUPPLEMENTARY INFORMATION:**

### I. Background

This draft guidance document describes studies and criteria FDA recommends for blood glucose monitoring test systems (BGMSs) which are for prescription point-of-care use. When finalized, FDA intends for this document to guide manufacturers in conducting appropriate performance studies and preparing premarket notifications for these device types. Portable blood glucose monitoring test systems (glucose meters) that measure blood glucose concentrations are widely used in hospitals as well as in a variety of other clinical settings including both acute and chronic care facilities, general hospital wards and intensive care units, physicians' offices, assisted living facilities and nursing homes.

Historically, FDA has not recommended different types of information in premarket submissions (510(k)s) for blood glucose meters used by medical professionals as compared to over-the-counter self-monitoring devices intended for use by lay users. In recent years, however, concerns have been raised including infection control issues related to point-of-care glucose meters. According to the Centers for Medicare and Medicaid Services (CMS) and the Centers for Disease Control and Prevention (CDC), blood glucose monitoring devices can transmit bloodborne pathogens if these devices are contaminated with blood specimens and are shared between users without effective cleaning, disinfecting and appropriate infection control measures. Because BGMS devices, which are used in professional healthcare settings, are more likely to be used on multiple patients, this type of use requires certain design features and cleaning capability to prevent the spread of blood-borne pathogens.

In addition, concerns have been raised citing the inability of currently cleared BGMS devices to perform effectively in professional healthcare settings because the device's safety and effectiveness have not been evaluated for some of the intended use populations. Patients in these settings are often fundamentally different than lay users using these devices at home. Patients in professional healthcare settings can be acutely ill and medically fragile and are more likely to present physiological and pathological factors

that could interfere with glucose measurements as compared to the lay population. Errors in BGMS device accuracy can lead to incorrect insulin dosing, which, when combined with other factors, can lead to increased episodes of hypoglycemia. For hospitalized patients who may be seriously ill, any inaccuracies in the meters would further increase the risk to these patients. Previously, most blood glucose monitoring devices, even those intended to be used by healthcare professionals, were submitted to FDA with claims for OTC use. Thus, they were evaluated for use in the lay population, and the specific issues that occur in the professional healthcare setting were never addressed, the performance of the devices was not evaluated in the intended use population, and the scientific and clinical issues may not have been adequately addressed for these uses. Therefore, where devices are intended for use in professional healthcare settings, distinct performance parameters are proposed as recommendations in the draft guidance.

**II. Significance of Guidance**

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on Blood Glucose Monitoring Test Systems for Prescription Point-of-Care Use . It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

**III. Electronic Access**

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* To receive ''Blood Glucose Monitoring Test Systems for Prescription Point-of-Care Use'', you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1755 to identify the guidance you are requesting.

**IV. Paperwork Reduction Act of 1995**

This draft guidance 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 807 subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR 801 and 21 CFR 809.10 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073.

**V. 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.*

Dated: January 2, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–00023 Filed 1–6–14; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2010–D–0529]**

### Guidance for Industry on Qualification Process for Drug Development Tools; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Qualification Process for Drug Development Tools.'' This guidance describes the qualification process for drug development tools intended for potential use, over time, in multiple drug development programs. The guidance provides a framework for interactions between FDA and sponsors to support work towards qualification of an identified drug development tool and creates a mechanism for formal review of data to qualify the tool and ensure that the evaluation is comprehensive and reliable.

**DATES:** Submit either electronic or written comments on Agency guidances at any time.

**ADDRESSES:** Submit written requests for single copies of the guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Shaniece Bowens, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 21, Rm. 4555, Silver Spring, MD 20993–0002, 301–796–2600.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

FDA is announcing the availability of a guidance for industry entitled ''Qualification Process for Drug Development Tools.'' The guidance describes the qualification process for drug development tools (DDTs) intended for potential use, over time, in multiple drug development programs.

In March 2006, FDA issued the ''Critical Path Opportunities Report and List,'' in which FDA described six key areas along the critical path to improved therapies and listed specific opportunities for advancement within these topic areas. The report noted that a new product development toolkit containing new scientific and technical methods was needed to improve the efficiency of drug development. Too often, attention to a needed DDT is delayed until the time when the registration study protocols are under development and the available DDTs are inadequate. Innovative and improved DDTs can help streamline the drug development process, improve the chances for clinical trial success, and yield more information about a treatment and/or disease. DDTs include, but are not limited to, biomarkers and patient reported outcome instruments. This guidance describes a formal

process that FDA will use in working with sponsors of these tools to guide them as they refine the tools and rigorously evaluate them for use in the regulatory process.

A draft version of this guidance was issued in the **Federal Register** of October 25, 2010 (75 FR 65495). FDA received a number of comments, most of which focused on clarifications and further illustration of the qualification process. FDA reviewed all received comments carefully during the finalization process of the guidance; the Agency has made some clarifying changes in the final version of the guidance. Specifically, FDA provided general guidance on the qualification process, samples of what should be included in a qualification package, and examples of drug development tools. A new DDT, Animal Models under the Animal Rule, has been included and discussed in the final DDT guidance.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on the qualification process for drug development tools. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such an approach satisfies the requirements of the applicable statutes and regulations.

## II. The Paperwork Reduction Act of 1995

This guidance contains an information collection that is 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 information collection has been approved under the OMB control numbers 0910–0001 and 0910–0014. The information requested in the guidance is currently submitted to FDA to support medical product effectiveness (see 21 CFR 312.30, 21 CFR 314.50(d)(5), and 21 CFR 314.126(b)(6)).

## III. 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*.

## IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: December 31, 2013.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–00028 Filed 1–6–14; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Agency Information Collection Activities: Proposed Collection: Public Comment Request

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

**DATES:** Comments on this Information Collection Request must be received within 60 days of this notice.

**ADDRESSES:** Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** 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 Information Collection Clearance Officer at (301) 443–1984.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the information request collection title for reference.

*Information Collection Request Title:* Application and other forms utilized by the National Health Service Corps (NHSC) Scholarship Program, the NHSC Students to Service Loan Repayment Program (S2S LRP), and the Native Hawaiian Health Scholarship Program (NHHSP).

*OMB No.:* 0915–0146—Revision.

*Abstract:* Administered by HRSA's Bureau of Clinician Recruitment and Service (BCRS), the National Health Service Corps (NHSC) Scholarship Program (SP), NHSC Students to Service Loan Repayment Program (S2S LRP), and the Native Hawaiian Health Scholarship Program (NHHSP), provide scholarships or loan repayment to qualified students who are pursuing primary care health professions education and training. In return, students agree to provide primary health care services in medically underserved communities located in federally designated Health Professional Shortage Areas (HPSAs) once they are fully trained and licensed health professionals. Awards are made to applicants who demonstrate the greatest potential for successful completion of their education and training, as well as commitment to providing primary health care services to communities of greatest need. The program applications, forms, and supporting documentation are used to collect necessary information from applicants and participants that will facilitate the selection of the best qualified candidates for these competitive awards, and to monitor participants' enrollment in school or in postgraduate training.

Although some program forms vary (see program-specific burden charts below), general forms include: The Program Application; Academic and Non-Academic Letters of Recommendation; the Authorization to Release Information; and the Acceptance/Verification of Good Standing Report. Additional forms for the NHSC SP include the Data Collection Worksheet, which is completed by the educational institutions of program participants; the Post Graduate Training Verification Form (formerly the Deferment Request Form applicable for S2S participants), which is completed by program participants and their residency director; and the Enrollment Verification Form, which is completed by program participants and the educational institution for each academic term of the program.

*Need and Proposed Use of the Information:* The NHSC SP, S2S LRP, and NHHSP applications, forms, and supporting documentation are used to collect necessary information from

applicants that will enable BCRS to make determinations about the competitive awards.

*Likely Respondents:* Qualified students who are pursuing primary care health professions education and training and are interested in working with underserved populations.

*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.

*Total Estimated Annualized burden hours:*

*NHSC Scholarship Program*

| Form name | Number of respondents | Number of responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|---|
| NHSC Scholarship Program Application | 1800 | 1 | 1800 | 2.00 | 3600 |
| Letters of Recommendation | 1800 | 2 | 3600 | .50 | 1800 |
| Authorization to Release Information | 1800 | 1 | 1800 | .10 | 180 |
| Acceptance/Verification of Good Standing Report | 1800 | 1 | 1800 | .25 | 450 |
| Receipt of Exceptional Financial Need Scholarship | 200 | 1 | 200 | .25 | 50 |
| Data Collection Worksheet | 400 | 1 | 400 | 1.00 | 400 |
| Post Graduate Training Verification Form | 100 | 1 | 100 | .50 | 50 |
| Enrollment Verification Form | 600 | 2 | 1200 | .50 | 600 |
| Total | 1100 | ..... | 1700 | ..... | 1050 |
| Verification of Disadvantaged Background Status | 300 | 1 | 300 | .25 | 75 |
| Total | 7700 | ..... | 9500 | ..... | 6155 |

The annual estimate of burden for participants/schools/residency programs is as follows:

*NHSC Students to Service Loan Repayment Program*

*Native Hawaiian Health Scholarship Program*

| Form name* | Number of respondents | Number of responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|---|
| Native Hawaiian Health Scholarship Program Application (includes Forms A–E: Applicant Resume Instructions and Guidelines; NHHSP Questionnaire and Narrative Statement; Conflicting Federal Service Memo; Debarment, Suspension, Disqualification and Related Matters Certification; and Delinquent Federal Debt) | 250 | 1 | 250 | 1.00 | 250.00 |
| NHSC Students to Service Program Application | 100 | 1 | 100 | 2.00 | 200.00 |
| Letters of Recommendation | 100 | 2 | 200 | .50 | 100.00 |
| Authorization to Release Information | 100 | 1 | 100 | .10 | 10.00 |
| Acceptance/Verification of Good Standing Report | 100 | 1 | 100 | .25 | 25.00 |
| Receipt of Exceptional Financial Need Scholarship | 4 | 1 | 4 | .25 | 1.00 |
| Verification of Disadvantaged Background Status | 25 | 1 | 25 | .25 | 6.25 |
| Post Graduate Training Verification Form | 150 | 1 | 150 | .50 | 75.00 |
| Total | 579 | ..... | 679 | ..... | 417.25 |
| Letters of Recommendation (includes Forms H and I: Academic Faculty/Advisor Evaluation of Applicant and Employer Evaluation of Applicant) | 250 | 2 | 500 | .25 | 125.00 |
| Authorization to Release Information (Form F) | 250 | 1 | 250 | .25 | 62.50 |
| Acceptance/Verification of Good Standing Report (includes Form G: Course Curriculum Worksheet) | 30 | 12 | 360 | .25 | 90.00 |
| Total | 780 | ..... | 1360 | ..... | 527.50 |

**Please note that the forms listed above account for supporting documentation which may be uploaded as part of the application or associated with the supplemental forms.*

HRSA specifically 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.

Dated: December 30, 2013.

**Bahar Niakan,**

*Director, Division of Policy and Information Coordination.*

[FR Doc. 2013–31590 Filed 1–6–14; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Agency Information Collection Activities: Proposed Collection: Public Comment Request

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

**DATES:** Comments on this Information Collection Request must be received within 60 days of this notice.

**ADDRESSES:** Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** 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 Information Collection Clearance Officer at (301) 443–1984.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the information request collection title for reference.

*Information Collection Request Title:* Assessment and Evaluation of the Public Health Training Center Program.

*OMB No:.* 0915–xxxx–NEW.

*Abstract:* The Public Health Training Center (PHTC) Program provides support to help improve the public health workforce by strengthening the competence of the existing and future public health workforce and addressing public health workforce shortages. Grantees of the PHTC Program include accredited schools and programs of public health and other private and non-profit entities that are required to provide competency-based training and educational programs—based on the Core Competencies for Public Health Professionals outlined by the Council on Linkages between Academia and Public Health—that support core public health functions and the Ten Essential Public Health Services.

*Need and Proposed Use of the Information:* The Bureau of Health Professions (BHPr) is currently evaluating the PHTC Program to assess how grantees are meeting the needs of the public health workforce, improving the public health workforce by strengthening the competence of the existing and future public health workforce, and addressing shortages of the public health workforce. The specific purpose of this data collection activity is to obtain information from individuals who participate in continuing education courses offered by PHTC grantees in order to gauge and monitor changes in participants' knowledge about public health-related issues.

*Likely Respondents:* Participants of continuing education courses offered by PHTC grantees.

*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.

| Form name | Number of respondents | Number of responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|---|
| CE Survey Form | 3,000 | 1 | 3,000 | .16 | 480 |
| Total | 3,000 | 1 | 3,000 | .16 | 480 |

*Total Estimated Annualized burden hours:*

HRSA specifically 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.

Dated: December 30, 2013.

**Bahar Niakan,**

*Director, Division of Policy and Information Coordination.*

[FR Doc. 2013–31589 Filed 1–6–14; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Council on Graduate Medical Education; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

*Name:* Council on Graduate Medical Education (COGME).

*Date and Time:* January 27, 2014 (8:30 a.m.–5:00 p.m.). January 28, 2014 (8:30 a.m.–5:00 p.m.).

*Place:* Combined In-Person and Webinar Format, Health Resources and Services Administration (HRSA), U.S. Department of Health and Human Services, 5600 Fishers Lane, Room 18–57, Rockville, Maryland 20857.

*Status:* The meeting will be open to the public.

*Purpose:* The COGME provides advice and recommendations to the Secretary of the Department of Health and Human Services and to Congress on a range of issues including the supply and distribution of physicians in the United States, current and future physician shortages or excesses, issues relating to foreign medical school graduates, the nature and financing of medical education training, and the development of performance measures and longitudinal evaluation of medical education programs.

*Agenda:* The meeting will begin with opening remarks from HRSA senior officials and updates on HRSA-specific programs related to the physician workforce. The Council will also discuss recent developments in the physician workforce and in graduate medical education. However, a large portion of the meeting will be devoted to developing recommendations and an outline for their next report. Reports are submitted to the Secretary of the Department of Health and Human Services; the Committee on Health, Education, Labor and Pensions of the Senate; and the Committee on Energy and Commerce of the House of Representatives.

*Public Comment:* An opportunity will be provided for public comment at the end of each day of the meeting, or written comments to the members may be sent prior to the meeting to Shane Rogers at *srogers@hrsa.gov*.

The official agenda will be available 2 days prior to the meeting on the HRSA Web site (*http://www.hrsa.gov/advisorycommittees/bhpradvisory/cogme/index.html*). Agenda items are subject to change as priorities dictate.

**SUPPLEMENTARY INFORMATION:** As this meeting will be a combined format of both in-person and webinar, members of the public and interested parties who wish to participate ''in-person'' should make an immediate request by emailing their first name, last name, and contact email address to the Designated Federal Official for the Council, Mr. Shane Rogers, at *srogers@hrsa.gov* or call 301–443–5260. Space is limited. Due to the fact that this meeting will be held within a federal government building, and public entrance to such facilities requires prior planning, access will be granted upon request only and will be on a first come, first served basis. Members of the public who wish to participate via webinar should view the Council's Web site for the specific webinar access information at least two days prior to the date of the meeting: *http://www.hrsa.gov/advisorycommittees/bhpradvisory/cogme/index.html.*

**FOR FURTHER INFORMATION CONTACT:** Anyone requesting information regarding the COGME should contact Mr. Shane Rogers, the Designated Federal Official within the Bureau of Health Professions, Health Resources and Services Administration, in one of the following three ways: (1) Send a request to the following address: Shane Rogers, Designated Federal Official, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9A–27, 5600 Fishers Lane, Rockville, Maryland 20857; (2) call 301–443–5260; or (3) send an email to *srogers@hrsa.gov.*

Dated: December 30, 2013.

**Bahar Niakan,**

*Director, Division of Policy and Information Coordination.*

[FR Doc. 2013–31588 Filed 1–6–14; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–HQ–IA–2013–N294; FXIA16710900000–145–FF09A30000]**

### Endangered Species; Receipt of Applications for Permit

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications for permit.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

**DATES:** We must receive comments or requests for documents on or before February 11, 2014.

**ADDRESSES:** Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

**FOR FURTHER INFORMATION CONTACT:** Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

**SUPPLEMENTARY INFORMATION:**

#### I. Public Comment Procedures

*A. How do I request copies of applications or comment on submitted applications?*

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

*B. May I review comments submitted by others?*

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

**II. Background**

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

**III. Permit Applications**

*A. Endangered Species*

Applicant: Wildlife Discovery Center, Lake Forest, IL; PRT–23115B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the Galapagos tortoise (*Chelonoidis nigra*), radiated tortoise (*Astrochelys radiata*), yellow-spotted river turtle (*Podocnemis unifilis*), spotted pond turtle (*Geoclemys hamiltonii*), African dwarf crocodile (*Osteolaemus tetraspis*), Siamese crocodile (*Crocodylus siamensis*), saltwater crocodile (*Crocodylus porosus*), yacare caiman (*Caiman yacare*), caiman (*Caiman crocodilus*), Chinese alligator (*Alligator sinensis*), Cuban ground iguana (*Cyclura nubila nubila*), Grand Cayman blue iguana (*Cyclura lewisi*), and Aruba Island rattlesnake (*Crotalus durissus unicolor*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: S & B Enterprises, San Antonio, TX; PRT–23114B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for barasingha (*Rucervus duvaucelii*), Eld's deer (*Rucervus eldii*), scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: S & B Enterprises, San Antonio, TX; PRT–23113B

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), and dama gazelle (*Nanger dama*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities over a 5-year period.

Applicant: Graham Criglow, Anderson, TX; PRT–23121B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the Galapagos tortoise (*Chelonoidis nigra*), radiated tortoise (*Astrochelys radiata*), yellow-spotted river turtle (*Podocnemis unifilis*), spotted pond turtle (*Geoclemys hamiltonii*), Mexican giant tortoise (*Gopherus flavomarginatus*), San Esteban Island chuckwalla (*Sauromalus varius*), Cuban ground iguana (*Cyclura nubila nubila*), Grand Cayman blue iguana (*Cyclura lewisi*), Cayman Brac ground iguana (*Cyclura nubila caymanensis*), and Jamaican boa (*Epicrates subflavus*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Jan Youngblood, Mountain Home, TX; PRT–23123B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for barasingha (*Rucervus duvaucelii*), Eld's deer (*Rucervus eldii*), scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Jan Youngblood, Mountain Home, TX; PRT–23129B

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess Eld's deer (*Rucervus eldii*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities over a 5-year period.

Applicant: Exotic Feline Breeding Compound, Inc., Rosamond, CA; PRT–708685

The applicant requests amendment of their captive-bred wildlife registration under 50 CFR 17.21(g) to include African wild dog (*Lycaon pictus*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Thomas Motlow, Dallas, TX; PRT–807218

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for radiated tortoise (*Astrochelys radiata*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Rosamond Gifford Zoo at Burnet Park, Syracuse, NY; PRT–702489

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families and species, to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

*Family:*
Cebidae
Cercopithecidae
Felidae (*does not* include jaguar, margay or ocelot)
Hominidae
Hylobatidae
Lemuridae
Macropodidae
Iguanidae
Pelomedusidae
Testudinidae

*Species:*
Asian elephant (*Elephas maximus*)
Golden parakeet (*Guarouba guarouba*)
Humboldt penguin (*Spheniscus humboldti*)

Applicant: Ox Ranch, Uvalde, TX; PRT–10866B

The applicant requests amendment of their permit authorizing interstate and foreign commerce, export, and cull of excess to include barasingha (Rucervus duvaucelii), Eld's deer (Rucervus eldii), Arabian oryx (*Oryx leucoryx),* and dama gazelle (*Nanger dama*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities over a 5-year period.

Applicant: Michael Haug, Walterboro, SC; PRT–21102B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the Galapagos tortoise (*Chelonoidis nigra*), radiated tortoise (*Astrochelys radiata*), yellow-spotted river turtle (*Podocnemis unifilis*), spotted pond turtle (*Geoclemys*

*hamiltonii*), Siamese crocodile (*Crocodylus siamensis*), Nile crocodile (*Crocodylus niloticus*), yacare caiman (*Caiman yacare*), and caiman (*Caiman crocodilus*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Joan Hemker, Freeport, MN; PRT–21468B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the ring-tailed lemur (*Lemur catta*), cotton-top tamarin (*Saguinus oedipus*), and jackass penguin (*Spheniscus demersus*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Gerard Siatkowski, Miami, FL; PRT–24006B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the Galapagos tortoise (*Chelonoidis nigra*), radiated tortoise (*Astrochelys radiata*), yellow-spotted river turtle (*Podocnemis unifilis*), spotted pond turtle (*Geoclemys hamiltonii*), and tartaruga (*Podocnemis expansa*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Little Patch of Texas, Maypearl, TX; PRT–23180B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for barasingha (*Rucervus duvaucelii*), scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), and dama gazelle (*Nanger dama*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period

Applicant: Stephen Enders, Lititz, PA; PRT–24007B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the Galapagos tortoise (*Chelonoidis nigra*), radiated tortoise (*Astrochelys radiata*), and yellow-spotted river turtle (*Podocnemis unifilis)* to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Crissa Cooey, Morgantown, WV; PRT–16390B

The applicant requests a permit to import biological samples from wild Kakapo (*Strigops habroptilus*) for the purpose of enhancement of the survival of the species by the New Zealand Department of Conservation as part of the recovery plan for the species.

Applicant: William Jensen, Logan, UT; PRT–23351B

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

**Brenda Tapia,**

*Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.*

[FR Doc. 2014–00002 Filed 1–6–14; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R4–ES–2013–N280; 40120–1112–0000–F2]**

### Receipt of Applications for Endangered Species Permits

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless a Federal permit is issued that allows such activities. The ESA requires that we invite public comment before issuing these permits.

**DATES:** We must receive written data or comments on the applications at the address given below, by February 6, 2014.

**ADDRESSES:** Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, GA 30345 (Attn: David Dell, Permit Coordinator).

**FOR FURTHER INFORMATION CONTACT:** David Dell, Permit Coordinator, telephone 404–679–7313; facsimile 404–678–7081.

**SUPPLEMENTARY INFORMATION:** The public is invited to comment on the following applications for permits to conduct certain activities with endangered and threatened species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR 17. This notice is provided under section 10(c) of the Act.

If you wish to comment, you may submit comments by any one of the following methods. You may mail comments to the Fish and Wildlife Service's Regional Office (see **ADDRESSES** section) or send them via electronic mail (email) to: *permitsR4ES@fws.gov*. Please include your name and return address in your email message. If you do not receive a confirmation from the Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed above (see **FOR FURTHER INFORMATION CONTACT**). Finally, you may hand-deliver comments to the Fish and Wildlife Service office listed above (see **ADDRESSES**).

Before including your address, telephone number, email address, or other personal identifying information in your comments, 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 comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Permit Application Number: TE136811**

*Applicant:* Theater of the Sea, Islamorada, Florida

The applicant requests authorization to receive and retain, for greater than 45 days, Kemp's ridley *(Lepidochelys kempii),* hawksbill *(Eretmochelys imbricata),* leatherback *(Dermochelys coriacea),* green *(Chelonia mydas),* loggerhead *(Caretta caretta),* and olive ridley *(Lepidochelys olivacea)* sea turtles for veterinary treatment, release, educational display, or euthanasia under certain conditions.

**Permit Application Number: TE061069–3**

*Applicant:* U.S. Army Corps of Engineers, Memphis, Tennessee

The applicant requests authorization to amend their permit to take (capture, handle, conduct tissue sampling, release, and collect dead shells for identification) two additional species of freshwater mussels for the purpose of conducting presence/absence/population surveys and assisting in species recovery efforts. These activities will be conducted throughout Mississippi, Arkansas, Kentucky, Tennessee, Louisiana, Florida and Alabama for the following species: fat three-ridge (*Amblema neislerii*) and rabbitsfoot (*Quadrula cylindrica*).

**Permit Application Number: TE18717B–0**

*Applicant:* Garden and Forest, LLC, Key Largo, Florida

The applicant requests authorization to take the Key Largo wood rat (*Neotoma floridana smalli*), Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*), Schaus' swallowtail butterfly (*Heraclides aristodemus ponceanus*), and Key tree cactus (*Pilosocereus robinii*) for the purpose of conducting presence/absence surveys.

**Permit Application Number: TE18825B–0**

*Applicant:* Timothy Savidge, Hillsborough, North Carolina

The applicant requests authorization to take endangered fish and mollusk species while conducting listed species monitoring activities. These activities will be conducted throughout North Carolina, South Carolina, Georgia and Alabama for the following species: James spinymussel (*Pleurobema collina*), dwarf-wedge mussel (*Alasmidonta heterodon*), Tar spinymussel (*Elliptio steinstansanna*), Carolina heelsplitter (*Lasmigona decorata*), Altamaha spiny mussel (*Elliptio spinosa*), Chipola slabshell (*Elliptio chipolaensis*), Gulf moccasinshell (*Medionidus penicillatus*), Ochlockonee moccasinshell (*Medionidus simpsonianus*), oval pigtoe (*Pleurobema pyriforme*), shinyrayed pocketbook (*Lampsilis subangulata*), fat three-ridge (*Amblema neislerii*), purple bankclimber (*Elliptiodeus solatianus*), winged spike (*Elliptio nigella*), lined pocketbook (*Lampsilis binominata*), Georgia pigtoe (*Pleurobema hanleyianum*), Alabama moccasinshell (*Medionidus acutissimus*), Coosa moccasinshell (*Medionidus parvulus*), finelined pocketbook (*Lampsilis (=Hamiota) altilis*), ovate clubshell (*Pleurobema perovatum*), southern acornshell (*Epioblasma otcaloogensis*), southern clubshell (*Pleurobema decisum*), southern pigtoe (*Pleurobema georgianum*), triangular kidneyshell (*Ptycobranchus greenii*), upland combshell (*Epioblasma metastriata*), Georgia pigtoe (*Pleurobema hanleyianum*), painted pigtoe (*Pleurobema chattanoogaense*), amber darter (*Percina antesella*), Conasauga logperch (*Percina jenkinsi*), Etowah darter (*Etheostoma etowahae*), blue shiner (*Cyprinella caerulea*), Cherokee darter (*Etheostoma scotti*), goldline darter (*Percina aurolineata*), Appalachian elktoe (*Alasmidonta raveneliana*), Cumberland bean (*Villosa trabalis*), little-wing pearlymussel (*Pegius fabula*), oyster mussel (*Epioblasma capsaeformis*), tan riffleshell (*Epioblasma florentina walkeri*), snail darter (*Percina tanasi*), spotfin chub (*Cyprinella monacha*), yellowfin madtom (*Noturus flavipinnis*), Cape Fear shiner (*Notropis mekistocholas*),Waccamaw silverside (*Menidia extensa*), American eel (*Anguilla rostrata*), and shortnose sturgeon (*Acipenser brevirostrum*).

**Permit Application Number: TE81756A–1**

*Applicant:* Jason Robinson, Lexington, Kentucky

The applicant requests authorization to amend his current permit to take (capture, handle, radio tag, and release) Indiana bats (*Myotis sodalis*) for recovery-related research throughout the range of the species in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Vermont, Virginia, and West Virginia.

**Permit Application Number: TE017848–0**

*Applicant:* Clearwater Marine Aquarium, Inc., Clearwater, Florida

The applicant requests renewal of existing authorization to hold for veterinary treatment, to retain unreleasable specimens, or to euthanize specimens of Kemp's ridley (*Lepidochelys kempii*), hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), green (*Chelonia mydas*), loggerhead (*Caretta caretta*), and olive ridley (*Lepidochelys olivacea*) sea turtles. Treatment facilities are at Clearwater Marine Aquarium, but specimens may be accepted from authorized sources throughout Florida and other southeastern states.

**Permit Application Number: TE027307–6**

*Applicant:* Paul Yokley, Florence, Alabama

The applicant requests authorization to renew his current permit take endangered fish and mollusk species while conducting species monitoring activities; and amend his current permit to take (capture, handle, radio tag and release) Indiana bats (*Myotis sodalis*), and gray bats (*M. grisescens*) for recovery-related research throughout the range of these species in Tennessee, Georgia, Mississippi, and Alabama.

**Permit Application Number: TE148282**

*Applicant:* Jack Wilhide, Richmond, Kentucky

The applicant requests authorization to take (capture, mark, apply transmitters, track, survey, and collect tissues) Indiana bat (*Myotis sodalis*), gray bat (*M. grisescens*), Virginia big-eared bat (*Corynorhinus townsendii virginianus*), and Ozark big-eared bat (*C. t. ingens*) in Arkansas, Kentucky, Tennessee, North Carolina, West Virginia, Virginia, Indiana, Ohio, Illinois, New York, Maryland, Pennsylvania, Missouri, Mississippi, Alabama, Georgia, and Michigan while conducting presence/absence surveys, studies to document habitat use, and population monitoring.

**Permit Application Number: TE12169B–0**

*Applicant:* Headwater Science, LLC, Forsyth, Georgia

The applicant requests authorization to take endangered species while conducting listed species monitoring activities. These activities will be conducted throughout Georgia for the following species: amber darter (*Percina antesella*), Conasauga logperch (*Percina jenkinsi*), Etowah darter (*Etheostoma etowahae*), Cherokee darter (*Etheostoma scotti*), snail darter (*Percina antesella*), goldline darter (*Percina aurolineata*), shortnose sturgeon (*Acipenser brevirostrum*), frosted flatwoods salamander (*Ambystoma cingulatum*), Eastern indigo snake (*Drymarchon corais couperi*), wood stork (*Mycteria Americana),* and red-cockaded woodpecker (*Picoides borealis*).

**Permit Application Number: TE121059–0**

*Applicant:* Round Mountain Biological and Environmental Studies, Inc., Nicholasville, Kentucky

The applicant requests renewal of authorization to conduct surveys,

population monitoring, and ecological studies for the Indiana bat (*Myotis sodalis*), gray bat (*M. grisescens*), and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) in Kentucky and Tennessee.

**Permit Application Number: TE812344**

*Applicant:* Pennington and Associates, Inc., Cookeville, Tennessee

The applicant requests authorization amend his current permit to include take (capture, handle, conduct tissue sampling, and release) of the dromedary pearly mussel (*Dromus dromas*) and the laurel dace (*Chrosomus saylori*) for the purpose of conducting presence/absence/population surveys and assisting in species recovery efforts. These activities will be conducted throughout the range of each species.

**Permit Application Number: TE002507**

*Applicant:* Vincent Morris, Florida Division of Forestry, Brooksville, Florida

The applicant requests renewal of his existing authorization to harass the red-cockaded woodpecker (*Picoides borealis*) while conducting management activities for this species throughout Florida.

Dated: December 20, 2013.

**Mike Oetker,**

*Acting Regional Director.*

[FR Doc. 2014–00017 Filed 1–6–14; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLCOS05000 L10100000.PH0000]**

### Notice of Public Meetings, Southwest Colorado Resource Advisory Council

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Public Meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Southwest Colorado Resource Advisory Council (RAC) is scheduled to meet as indicated below.

**DATES:** The Southwest Colorado RAC meetings will be held on February 7 in Montrose, Colorado; May 16 in Gunnison, Colorado; and August 16 in Dolores, Colorado.

**ADDRESS:** The Southwest Colorado RAC meetings will be held February 7 at the Montrose Public Lands Center, 2465 S. Townsend Ave., Montrose, CO 81401; May 16 at the Gunnison County Fairgrounds and Multi-Purpose Building, 275 S. Spruce St., Gunnison, CO 81230; and August 16 at the Dolores Public Lands Center, 29211 Highway 184, Dolores, CO 81323. The meetings will begin at 9 a.m. and adjourn at approximately 4 p.m. A public comment period regarding matters on the agenda will be held at 11:30 a.m.

**FOR FURTHER INFORMATION CONTACT:** Lori Armstrong, BLM Southwest District Manager, 970–240–5300; or Shannon Borders, Public Affairs Specialist, 970–240–5300; 2505 S. Townsend Ave., Montrose, CO 81401. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Southwest Colorado RAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues in Colorado. Topics of discussion for all Southwest Colorado RAC meetings may include field manager and working group reports, recreation, fire management, land use planning, invasive species management, energy and minerals management, travel management, wilderness, land exchange proposals, cultural resource management and other issues as appropriate.

These meetings are open to the public. The public may present written comments to the RACs. Each formal RAC meeting will also have time, as identified above, allocated for hearing public comments. Depending on the number of people wishing to comment and time available, the time for individual oral comments may be limited.

**John Mehlhoff,**

*BLM Colorado Acting State Director.*

[FR Doc. 2013–30895 Filed 1–6–14; 8:45 am]

**BILLING CODE 4310–JB–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLOR–936000–L14300000–ET0000–14XL1109AF; HAG–140017; OR–51332]**

### Notice of Application for Withdrawal Extension and Opportunity for Public Meeting; Oregon

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The United States Forest Service (USFS) has filed an application with the Bureau of Land Management (BLM) requesting that the Secretary of the Interior extend the duration of Public Land Order (PLO) No. 7169 for an additional 20-year term. PLO No. 7169 withdrew approximately 86.85 acres of National Forest System land from mining in order to protect the cultural resource sites at Wocus Point. The withdrawal established by PLO No. 7169 will expire on October 25, 2015, unless it is extended. This notice gives the public an opportunity to comment on the application and proposed action and to request a public meeting.

**DATES:** Comments and requests for a public meeting must be received by April 7, 2014.

**ADDRESSES:** Comments and meeting requests should be sent to the BLM Oregon/Washington State Director, P.O. Box 2965, Portland, OR 97208–2965 or 1220 SW 3rd Avenue, Portland, OR 97204–3264.

**FOR FURTHER INFORMATION CONTACT:** Sara Copp, BLM Oregon/Washington State Office, 503–808–6189; or Candice Polisky, USFS Pacific Northwest Region, 503–808–2479. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individuals. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The USFS has filed an application requesting that the Secretary of the Interior extend PLO No. 7169 (60 FR 54814 (1995)), which withdrew approximately 86.85 acres in Klamath County, Oregon, from location and entry under the United States mining laws (30 U.S.C. Ch. 2) for an additional 20-year term, subject to valid existing rights. PLO No. 7169 is incorporated herein by reference.

The purpose of the proposed withdrawal extension is to ensure the continued protection of the unique and

fragile cultural resources found at the Wocus Point area.

The use of a right-of-way, interagency agreement, or cooperative agreement would not provide adequate protection.

The USFS would not need to acquire water rights to fulfill the purpose of the requested withdrawal extension.

Records related to the application may be examined by contacting Sara Copp at the above address or phone number.

For a period until April 7, 2014, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal extension may present their views in writing to the BLM State Director at the address indicated above.

Comments, including names and street addresses of respondents, will be available for public review at the addresses indicated above during regular business hours. Before including your address, phone number, email address, or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal extension. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal extension must submit a written request to the BLM State Director at the address indicated above by April 7, 2014. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and a local newspaper at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.4.

**Fred O'Ferrall,**

*Chief, Branch of Land, Mineral, and Energy Resources.*

[FR Doc. 2013–31594 Filed 1–6–14; 8:45 am]

**BILLING CODE 4310–33–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLNVL03000.L58480000.EU0000 241A; N–86209; 14–08807; TAS: 14X5232]**

### Notice of Realty Action: Modified Competitive Sale (N–86209) of Public Land in Lincoln County, NV

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Realty Action.

**SUMMARY:** The Bureau of Land Management (BLM) proposes to offer one approximately 40-acre parcel of public land in Lincoln County, Nevada, by modified competitive sale. Bidding on the subject parcel will begin at not less than the appraised fair market value (FMV) of $19,000. The BLM identified the parcel for disposal in the 2008 Ely District Resource Management Plan and Environmental Impact Statement, and has examined the parcel and found it suitable for disposal by modified competitive sale. The sale will be subject to the applicable provisions of Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA), and the regulations at 43 CFR 2710.

**DATES:** Comments regarding the proposed sale must be received by the BLM on or before February 21, 2013. A sale would not be held prior to 60 days following publication of this Notice of Realty Action. If the BLM determines to proceed with the sale, a sale date would be scheduled and announced on the Ely District Web site and in *The Ely Times* at least 15 days in advance.

**ADDRESSES:** Written comments concerning the proposed sale should be sent to the BLM Field Manager, Caliente Field Office, 1400 South Street, P.O. Box 237, Caliente, NV 89008, or email *vbarr@blm.gov.*

**FOR FURTHER INFORMATION CONTACT:** Cynthia Longinetti, Realty Specialist, at 775–289–1809, or *clongine@blm.gov*, or the BLM Ely District Web site: *http://www.blm.gov/nv/st/en/fo/ely_field_office.html.* A map delineating the proposed sale is available for public review at the Web site and at the BLM Caliente Field Office and at the BLM Ely District Office at 702 N. Industrial Way, Ely, NV 89301. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The parcel is located approximately 20 miles southeast of Rachel, Nevada, off State Route 375, on the southern side of Tickaboo Valley, and is legally described as:

**Mount Diablo Meridian**

T. 6 S., R. 57 E.,
Sec. 25, NW¼NW¼.
The area described contains 40 acres, in Lincoln County, Nevada.

This tract of public land meets the disposal criteria consistent with Section 203 of FLPMA and is in conformance with the BLM Ely District Final Environmental Impact Statement and Record of Decision approved on November 30, 2007, and Resource Management Plan (RMP), approved on August 20, 2008. The parcel is identified as suitable for disposal and its disposal would be in compliance with Public Law 108–424, the Lincoln County Conservation, Recreation, and Development Act (LCCRDA), enacted on November 30, 2004. The proposed action also conforms to the 2008 Ely RMP as referenced in the Lands and Realty objectives LR–22, page 68; and Appendix B, page B–1. All of these documents, a map, and the approved appraisal report for the parcel are available for review at the BLM's Ely District Office and Caliente Field Office. A Determination of National Environmental Policy Act Adequacy was approved on August 11, 2010.

No significant resource values will be affected by the disposal of the parcel. The parcel is not required for any Federal purposes.

The sale, as proposed, would be a public, oral auction and would be held at the BLM Caliente Field Office, 1400 South Front Street, Caliente, Nevada. Bidding on the sale parcel will begin at the established FMV.

Steve and Glenda Medlin reside on a long-standing 2.5-acre Residential Lease (N–47788) authorized under Section 302 of FLPMA. Grazing Permit #2705021 authorized the Medlin's to operate a cattle ranching business on the surrounding 37.5 acres within the Bald Mountain Grazing Allotment. Over 25 years, the Medlin's built several improvements and caused considerable disturbance to the surrounding 37.5 acres.

The BLM examined the parcel and found it to be consistent with and suitable for disposal using modified competitive sale procedures at 43 CFR 2710.0–6 (c)(1) and 43 CFR 2711.3–2, which allow for the use of modified competitive sales in certain circumstances to assure equitable distribution of land among purchasers

or to recognize equitable consideration or public policies. In making such a determination, the authorized officer can consider various factors including the needs of State and local government, adjoining landowners, and historical users. In accordance with 43 CFR 2711.3–2(a)(2)(c), the authorized officer has determined the modified competitive sale is appropriate for this parcel based on historical uses. Modified competitive bidding includes, but is not limited to, offering a designated bidder the right to meet the highest bid or the right of first refusal to purchase the lands at FMV. The highest bid among the qualified bids received for this sale will be declared. Refusal or failure to meet the highest bid shall constitute a waiver of the designated bidder preference. In consideration of the historical uses of the parcel, to protect on-going uses, and to avoid dislocation of existing users, the BLM authorized officer has identified Steve Medlin as the designated bidder for the sale of this parcel. The Lincoln County Commission has expressed support for this designation.

Modified competitive sale procedures: The designated bidder or his authorized representative must be present at the oral bid sale. Should the designated bidder appoint a representative for this sale, they must submit in writing a notarized document identifying the level of capacity given to their designated representative. This document must be signed by both parties. The designated bidder or his authorized representative will have the opportunity to meet and accept the high bid as the purchase price of the parcel or to refuse that offer. Should the designated bidder or his authorized representative fail to exercise the preference consideration offered by the authorized officer to meet the high bid as the purchase price at the sale, the high bid will be declared the successful bid in accordance with regulations at 43 CFR 2711.3–2(c), using the procedures specified in 43 CFR 2711.3–1(d), competitive bidding procedures, where the highest qualifying bid received shall be publicly declared by the authorized officer. Acceptance or rejection of any offer to purchase will be in accordance with the procedures set forth in 43 CFR 2711.3–1(f) and (g) of this subpart.

The bid deposit payment and the final payment must be in the form of a bank draft, cashier's check, certified check, or U.S. postal money order, or any combination thereof, and made payable in U.S. dollars to the Department of the Interior—Bureau of Land Management. The bid deposit of 20 percent is due immediately following the close of the sale. Personal or company checks will not be accepted. No contractual or other rights against the United States may accrue until the BLM officially accepts the offer to purchase and the full bid price is paid.

Full payment must be made within 180 days from the date the sale offer is received. Failure to pay the full purchase price within 180 days of the sale will disqualify the sale offer. Failure to pay the full purchase price within the allotted time will result in forfeiture of the bid deposit in accordance with 43 CFR 2711.3–1(d). No exceptions will be made. The BLM cannot accept the full price at any time following the expiration of the 180th day after the sale offer(s). Arrangements for electronic fund transfer to the BLM shall be made a minimum of 2 weeks prior to final payment. Failure to meet conditions established for this sale will void the sale and any monies received will be forfeited.

All minerals for the parcel will be reserved in accordance with the BLM's approved Mineral Report, dated July 19, 2010. Information pertaining to the reservation of minerals specific to the parcel is located in the case file and is available for public review at the BLM Office at the addressed listed above.

The LCCRDA P.L. 108–424, Section 102(g)(1), states that Federal land described in subsection (a) is withdrawn from all forms of entry and appropriation under the public land laws and mining laws and that the land segregation will terminate when the land is sold. Additionally, in accordance with 43 CFR 2807.15 and 2886.15, upon publication of this Notice of Realty Action and until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public land, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants.

Any conveyance document issued would be subject to the following terms, conditions, and reservations:

1. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe shall be reserved to the United States.

3. The conveyance will be subject to all valid existing rights, including right-of-way N–90722 for an access road granted to the Lincoln County Road Department commonly known as the Medlin Ranch Road, its successors or assigns pursuant to the Act of October 21, 1976 (43 U.S.C. 1761) is reserved.

4. By accepting this patent, the purchasers/patentees agree to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the patentee, its employees, agents, contractors, or lessees, or any third-party, arising out of or in connection with the patentee's use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee, its employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in: (a) Violations of Federal, State, and local laws and regulations that are now or may in the future become, applicable to the real property; (b) Judgments, claims or demands of any kind assessed against the United States; (c) Costs, expenses, or damages of any kind incurred by the United States; (c) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into or under land, property and other interests of the United States; (e) Activities by which solid waste or hazardous substances or waste, as defined by Federal and State environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (f) Natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the patented real property, and may be enforced by the United States in a court of competent jurisdiction.

5. Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9620(h), as amended by the Superfund Amendments and Reauthorization Act of 1986, (100 Stat. 1670), notice is hereby given that the described lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for 1 year or more.

6. All Recognized Environmental Concerns located within or adjacent to the 40-acre parcel on public land have been removed or cleaned up by Steve and Glenda Medlin and inspected for compliance by the BLM. An Environmental Site Assessment was approved by the BLM Ely District Manager on July 12, 2010.

No warranty of any kind, express or implied, is given by the United States, its officers or employees, as to title, access to or from the above described parcel of land, whether or to what extent the land may be developed, its physical condition, or past, present or future uses, or any other circumstances or condition. The conveyance of any such parcel will not be on a contingency basis. However, to the extent required by law, the parcel is subject to the requirements of Section 120(h) of the CERCLA.

Bidders must demonstrate to the satisfaction of the authorized officer that they meet the requirements of 43 CFR 2711.2 to hold real property in the United States. Failure to submit documentation to the BLM within 30 days from receipt of the high bidder letter shall result in the cancellation of the bid.

The parcel may be subject to land use applications received prior to publication of this notice if processing the application would have no adverse effect on the marketability of title, or the FMV of the parcel. Encumbrances of record, appearing in the case file for the parcel proposed for sale, are available for review during business hours, 7:30 a.m. to 4:30 p.m. Pacific Time, Monday through Friday, at the Ely District Office, except during federally recognized holidays.

The parcel is subject to limitations prescribed by law and regulation, and prior to patent issuance, a holder of any right-of-way within the parcel may be given the opportunity to amend the right-of-way for conversion to a new term, including perpetuity, if applicable, or to an easement.

The BLM will notify valid existing right-of-way holders of their ability to convert their compliant rights-of-way to perpetual rights-of-way or easements. Each valid holder will be notified in writing of their rights and then must apply for the conversion of their current authorization.

Unless other satisfactory arrangements are approved in advance by a BLM authorized officer, conveyance of title shall be through the use of escrow. Designation of the escrow agent shall be through mutual agreement between the BLM and the prospective patentee, and costs of escrow shall be borne by the prospective patentee.

Requests for all escrow instructions must be received by the Ely District Office prior to 30 days before the scheduled closing date. There are no exceptions.

All name changes and supporting documentation must be received at the Ely District Office 30 days from the date on the high bidder letter by 4:30 p.m. Pacific Time. Name changes will not be accepted after that date. To submit a name change, the apparent high bidder(s) must submit the name change on the Certificate of Eligibility form to the Ely District Office in writing. Certificate of Eligibility forms are available at the Ely District Office and on the BLM Web site at: *http://www.blm.gov/nv/st/en/snplma/Land_Auctions.html.*

The BLM will not sign any documents related to 1031 Exchange transactions. The timing for completion of the exchange is the bidder's responsibility in accordance with Internal Revenue Service regulations. The BLM is not a party to any 1031 Exchange.

All sales are made in accordance with and subject to the governing provisions of law and applicable regulations.

In accordance with 43 CFR 2711.3–1(f), the BLM may accept or reject any or all offers to purchase, or withdraw any parcel of land or interest therein from sale, if, in the opinion of the BLM authorized officer, consummation of the sale would be inconsistent with any law, or for other reasons.

In order to determine the FMV, certain assumptions may have been made concerning the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this notice, the BLM advises that these assumptions may not be endorsed or approved by units of local government. It is the buyer's responsibility to be aware of all applicable Federal, State, and local government laws, regulations, and policies that may affect the subject lands, including any required dedication of lands for public uses. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer. When conveyed out of Federal ownership, the lands will be subject to any applicable laws, regulations, and policies of the applicable local government for proposed future uses. It will be the responsibility of the purchaser to be aware through due diligence of those laws, regulations, and policies, and to seek any required local approvals for future uses. Buyers should also make themselves aware of any Federal or State law or regulation that may impact the future use of the property. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

Only written comments will be considered properly filed. 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.

Any comments regarding the proposed sale will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

**Authority:** 43 CFR 2711.1–2(a) and (c).

**Victoria Barr,**

*Manager, Caliente Field Office.*

[FR Doc. 2013–31597 Filed 1–6–14; 8:45 am]

**BILLING CODE 4310–HC–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLOWO31000–14–L13100000–EI0000]**

### Updated Policy Regarding the Handling of Expressions of Interest

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice is to inform the public about a policy document that the Bureau of Land Management (BLM) issued on October 28, 2013, that states that BLM will publish information on Expression of Interest (EOI) submissions that BLM receives after January 1, 2014. The policy document directs its state offices to advise EOI submitters that BLM does not require their name and address to be included in their submission and EOI submitters may exclude any information they consider privileged or confidential. Under the updated policy, inclusion of names and addresses will effectively operate as

consent to release and the BLM will no longer hold that information confidential until two days after an Oil and Gas Competitive Lease Sale. Rather, the BLM will publish the EOI submitter names, if provided, on the BLM state office Web sites before the lease sale.

**FOR FURTHER INFORMATION CONTACT:** Atanda Clark, Senior Mineral Leasing Specialist, BLM, Washington Office, 20 M St. SE., Washington DC 20003. Ms. Clark may also be reached at 202–912–7156. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question for the above individual. The FIRS is available 24 hours a day, seven days a week. Replies are provided during normal business hours.

**SUPPLEMENTARY INFORMATION:** On October 28, 2013, the Bureau of Land Management (BLM) issued Instruction Memorandum No. 2014–004 to update the policy regarding its handling of EOIs. EOIs are informal nominations by the public that identify lands the BLM should consider for inclusion in future Oil and Gas Competitive Lease Sales. Under the updated policy, for any EOIs submitted on or after January 1, 2014, the BLM will no longer hold submitter names and addresses as confidential until two days after an Oil and Gas Competitive Lease Sale as it has done previously, but rather the BLM will publish the EOI submitter names and addresses, if provided, on the BLM state office Web sites before the lease sale. This approach will give an EOI submitter the option to submit an EOI anonymously without the submitter's name included or to submit an EOI with the submitter's name included to allow the BLM to publish that information on the appropriate BLM state office Web site. The BLM will publish all EOIs received after January 1, 2014, including the submitter's name.

For more information regarding this updated policy, see BLM, WO IM No. 2014–004 located at *http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2014/im_2014_004_oil_and.html.*

For any EOIs submitted before January 1, 2014, the BLM will determine whether to release the submitter's name in response to any Freedom of Information Act request on a case-by-case basis.

**Michael D. Nedd,**

*Assistant Director, Energy, Minerals and Realty Management Directorate.*

[FR Doc. 2013–31593 Filed 12–31–13; 4:15 pm]

**BILLING CODE 4310–84–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Aerial Lifts Standard in Construction

**ACTION:** Notice.

**SUMMARY:** On December 31, 2013, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Aerial Lifts Standard in Construction'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*

**DATES:** Submit comments on or before January 30, 2014.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge as of January 1, 2014, from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** The ICR seeks to maintain PRA authority for the information collection requirements specified in regulations 29 CFR 1926.453, the Aerial Lifts Standard in Construction. The standard requires a covered employer that has modified an aerial lift to have the manufacturer or equally qualified entity assess and certify the modified aerial lift is safe for use by or near workers and that it provides workers with a level of protection at least equivalent to the protection afforded by the lift prior to modification. The Occupational Safety and Health Act authorizes the information collection provisions. *See* 29 U.S.C. 651, 655, and 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0216.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on December 31, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 30, 2013 (78 FR 64982).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by January 30, 2014. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0216. The OMB is particularly interested in comments that:

- 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.

*Agency:* DOL–OSHA.

*Title of Collection:* Aerial Lifts Standard in Construction.

*OMB Control Number:* 1218–0216.

*Affected Public:* Private Sector—businesses or other for-profits.

*Total Estimated Number of Respondents:* 128.

*Total Estimated Number of Responses:* 128.

*Total Estimated Annual Burden Hours:* 13.

*Total Estimated Annual Other Costs Burden:* $0.

Dated: December 20, 2013.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2013–31612 Filed 1–6–14; 8:45 am]

**BILLING CODE 4510–26–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2012–0036]**

### Tully/OHL USA Joint Venture: Application for Permanent Variance and Interim Order; Grant of Interim Order; Request for Comments

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice of application for a permanent variance and interim order; grant of interim order; request for comments.

**SUMMARY:** This notice announces the application of Tully/OHL USA Joint Venture (''Tully'' or ''the applicant'') for a permanent variance from the provisions of the Occupational Safety and Health Administration (''OSHA'' or ''the Agency'') construction standard that regulate work in compressed air. In addition, the applicant requested an interim order based on the alternate conditions specified by its variance application. Based on its review of the application, including the alternate conditions, OSHA concludes that an interim order will provide Tully's employees with the requisite protection while OSHA considers Tully's application for a permanent variance. Therefore, OSHA is granting an interim order to the applicant subject to the conditions described in this notice. OSHA also invites the public to submit comments on the variance application.

**DATES:** Submit comments, information, documents in response to this notice, and requests for a hearing on or before February 6, 2014. The interim order specified by this notice becomes effective on January 7, 2014.

**ADDRESSES:** Submit comments by any of the following methods:

*Electronically:* Tender submissions electronically to the Federal eRulemaking Portal at *http://www.regulations.gov*. Follow the instructions online for making electronic submissions.

*Facsimile:* If submissions, including attachments, are not longer than ten (10) pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

*Regular or express mail, hand delivery, or messenger (courier) service:* Tender submissions to the OSHA Docket Office, Docket No. OSHA–2012–0036, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving submissions sent by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by regular or express mail, hand delivery, or messenger (courier) service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2012–0036). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials may be available online at *http://www.regulations.gov*. Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

*Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or to the OSHA Docket Office at the address above. The *http://www.regulations.gov* index lists all documents in the docket; however, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

**FOR FURTHER INFORMATION CONTACT:** Information regarding this notice is available from the following sources:

*Press inquiries:* Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov*.

*General and technical information:* Contact David Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110; email: *johnson.david.w@dol.gov*. OSHA's Web page includes information about the Variance Program (see *http://www.osha.gov/dts/otpca/variances/index.html)*.

**SUPPLEMENTARY INFORMATION:**

*Copies of this* ***Federal Register*** *notice.* Electronic copies of this ***Federal Register*** notice are available at *http://www.regulations.gov*. This ***Federal Register*** notice, as well as news releases and other relevant information, also are available at OSHA's Web page at *http://www.osha.gov*.

*Hearing requests.* According to 29 CFR 1905.15, hearing requests must include: (1) A short and plain statement detailing how the variance would affect the requesting party; (2) a specification of any statement or representation in the variance application that the commenter denies, and a concise summary of the evidence adduced in support of each denial; and (3) any views or arguments on any issue of fact or law presented in the variance application.

### I. Notice of Application

On July 12, 2012, Tully/OHL USA Joint Venture (hereafter, ''Tully'' or ''the applicant''), 355 Front Street, Construction Site, Staten Island, NY 10304, submitted under Section 6(d) of the Occupational Safety and Health Act of 1970 (''OSH Act''; 29 U.S.C. 655) and 29 CFR 1905.11 (''Variances and other relief under section 6(d)'') an application for a permanent variance from several provisions of the OSHA standard that regulates work in compressed air at 29 CFR 1926.803, as well as a request for an interim order

pending OSHA's decision on the application for a variance (Ex. OSHA–2012–0036–0001). Specifically, Tully seeks a variance from the provisions of the standard that: (1) Prohibit compressed-air worker exposure to pressures exceeding 50 pounds per square inch (p.s.i.) except in an emergency (29 CFR 1926.803(e)(5)); [1] (2) require the use of the decompression values specified in decompression tables in Appendix A of the compressed-air standard for construction (29 CFR 1926.803(f)(1)); and (3) require the use of automated operational controls and a special decompression chamber (29 CFR 1926.803(g)(1)(iii) and .803(g)(1)(xvii), respectively).

Tully is a contractor that works on complex tunnel projects using recently developed equipment and procedures for soft-ground tunneling. Tully workers engage in the construction of subaqueous tunnels using advanced shielded mechanical excavation techniques in conjunction with an Earth Pressure Balanced Tunnel Boring Machine (EPBTBM).

According to its application, Tully is currently the managing partner of Tully/OHL USA Joint Venture, the general contractor for the New York Economic Development Corporation's New York Siphon Tunnel Project. The project consists of a 12-foot diameter tunnel beneath New York Harbor between Staten Island and Brooklyn. Tully will bore the tunnel below the water table through soft soils consisting of clay, silt, and sand. Tully would employ specially trained personnel for the construction of the tunnel, and states that this construction will use shielded mechanical-excavation techniques. Tully asserts that its workers would perform hyperbaric interventions at pressures greater than 50 p.s.i.g. in the excavation chamber of the EPBTBM; these interventions consist of conducting inspections and maintenance work on the cutter-head structure and cutting tools of the EPBTBM.

Tully asserts that innovations in tunnel excavation, specifically with EPBTBMs, have, in most cases, eliminated the need to pressurize the entire tunnel. This technology negates the requirement that all members of a tunnel-excavation crew work in compressed air while excavating the tunnel. These advances in technology modified substantially the methods used by the construction industry to excavate subaqueous tunnels compared to the caisson work regulated by the current OSHA compressed-air standard for construction at 29 CFR 1926.803. Such advances reduce the number of workers exposed, and the total duration of exposure, to hyperbaric pressure during tunnel construction.

Using shielded mechanical-excavation techniques, in conjunction with precast concrete tunnel liners and backfill grout, EPBTBMs provide methods to achieve the face pressures required to maintain a stabilized tunnel face through various geologies, and isolate that pressure to the forward section (the working chamber) of the EPBTBM. Interventions in the working chamber (the pressurized portion of the EPBTBM) take place only after halting tunnel excavation and preparing the machine and crew for an intervention. Interventions occur to inspect or maintain the mechanical-excavation components located in the working chamber. Maintenance conducted in the working chamber includes changing replaceable cutting tools and disposable wear bars, and, in rare cases, repairing structural damage to the cutter head.

In addition to innovations in tunnel-excavation methods, Tully asserts that innovations in hyperbaric medicine and technology improve the safety of decompression from hyperbaric exposures. According to Tully, the use of decompression protocols incorporating oxygen is more efficient, effective, and safer for tunnel workers than compliance with the decompression tables specified by the existing OSHA standard (29 CFR Part 1926, subpart S, Appendix A decompression tables). These hyperbaric exposures are possible due to advances in technology, a better understanding of hyperbaric medicine, and the development of a project-specific Hyperbaric Operations Manual (HOM) that requires specialized medical support and hyperbaric supervision to provide assistance to a team of specially trained man-lock attendants and hyperbaric or compressed-air workers.

OSHA initiated a preliminary technical review of the Tully's variance application and developed a set of follow-up questions that it sent to Tully on August 29, 2012 (Ex. OSHA–2012–0036–0002). On October 9, 2012, Tully submitted its response and a request for an interim order (Ex. OSHA–2012–0036–0003). In its response to OSHA's follow-up questions, Tully indicated that the maximum pressure to which it is likely to expose workers during interventions for the New York Economic Development Corporation's New York Siphon Tunnel Project is 58 p.s.i.g. Therefore, to work effectively on this project, Tully must perform hyperbaric interventions in compressed air at pressures higher than the maximum pressure specified by in the existing OSHA standard, 29 CFR 1926.803(e)(5), which states: ''No employee shall be subjected to pressure exceeding 50 p.s.i.g. except in emergency'' (see footnote 1 in this notice).

## II. The Variance Application

### *A. Background*

The applicant asserts that the advances in tunnel excavation technology described in Section I of this notice modified significantly the equipment and methods used by contractors to construct subaqueous tunnels, thereby making several provisions of OSHA's compressed-air standard for construction at 29 CFR 1926.803 inappropriate for this type of work. These advances reduce both the number of employees exposed, and the total duration of exposure, to the hyperbaric conditions associated with tunnel construction.

Using shielded mechanical-excavation techniques, in conjunction with pre-cast concrete tunnel liners and backfill grout, EPBTBMs provide methods to achieve the face pressures required to maintain a stabilized tunnel face, through various geologies, while isolating that pressure to the forward section (working or excavation chamber) of the EPBTBM.

Interventions involving the working chamber (the pressurized chamber at the head of the EPBTBM) would take place only after the applicant halts tunnel excavation and prepares the machine and crew for an intervention. Interventions occur to inspect or maintain the mechanical-excavation components located in the forward portion of the working chamber. Maintenance conducted in the forward portion of the working chamber includes changing replaceable cutting tools, disposable wear bars, and, in rare cases, repairs to the cutter head due to structural damage.

In addition to innovations in tunnel-excavation methods, research conducted after OSHA published its compressed-air standard for construction in 1971 resulted in advances in hyperbaric medicine. In this regard, the applicant asserts that the use of decompression protocols incorporating oxygen is more efficient, effective, and safer for tunnel

[1] The decompression tables in Appendix A of subpart S express the maximum working pressures as pounds per square inch gauge (p.s.i.g.), with a maximum working pressure of 50 p.s.i.g. Therefore, throughout this notice, OSHA expresses the 50 p.s.i. value specified by § 1926.803(e)(5) as 50 p.s.i.g., consistent with the terminology in Appendix A, Table 1 of subpart S.

workers than compliance with the existing OSHA standard (29 CFR Part 1926, subpart S, Appendix A decompression tables). According to the applicant, contractors routinely and safely expose employees performing interventions in the working chamber of EPBTBMs to hyperbaric pressures up to 75 p.s.i.g., which is 50% higher than maximum pressure specified by the existing OSHA standard (see 29 CFR 1926.803(e)(5)). The applicant asserts that these hyperbaric exposures are possible because of advances in hyperbaric technology, a better understanding of hyperbaric medicine, and the development of a project-specific HOM (Hyperbaric Operations Manual) that requires specialized medical support and hyperbaric supervision to provide assistance to a team of specially trained man-lock attendants and hyperbaric workers.

The applicant contends that a permanent variance would provide its workers with a place of employment that is at least as safe and healthful as they would obtain under the existing provisions of OSHA's compressed-air standard for construction. The applicant certifies that it provided employee representatives of affected workers [2] with a copy of the variance application. The applicant also certifies that it notified its workers of the variance application by posting, at prominent locations where it normally posts workplace notices, a summary of the application and information specifying where the workers can examine a copy of the application. In addition, the applicant informed its workers and their representatives of their rights to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on the variance application.

*B. Variance From Paragraph (e)(5) of 29 CFR 1926.803, Prohibition of Exposure to Pressure Greater Than 50 p.s.i.g. (see Footnote 1 in This Notice)*

The applicant states that it may perform hyperbaric interventions at pressures greater than 50 p.s.i.g. in the working chamber of the EPBTBM; this pressure exceeds the pressure limit of 50 p.s.i.g. specified for nonemergency purposes by 29 CFR 1926.803(e)(5). The EPBTBM has twin man locks, with each man lock having two compartments. This configuration allows workers to access the man locks for compression and decompression, and medical personnel to access the man locks if required in an emergency.

EPBTBMs are capable of maintaining pressure at the tunnel face, and stabilizing existing geological conditions, through the controlled use of propel cylinders, a mechanically driven cutter head, bulkheads within the shield, ground-treatment foam, and a screw conveyor that moves excavated material from the working chamber. As noted earlier, the forward-most portion of the EPBTBM is the working chamber, and this chamber is the only pressurized segment of the EPBTBM. Within the shield, the working chamber consists of two sections: the staging chamber and the forward working chamber. The staging chamber is the section of the working chamber between the man-lock door and the entry door to the forward working chamber. The forward working chamber is immediately behind the cutter head and tunnel face.

The applicant will pressurize the working chamber to the level required to maintain a stable tunnel face. Pressure in the staging chamber ranges from atmospheric (no increased pressure) to a maximum pressure equal to the pressure in the working chamber. The applicant asserts that most of the hyperbaric interventions will be around 14.7 p.s.i.g. Nevertheless, the applicant maintains that they may have to perform interventions at pressures up to 58 p.s.i.g.

During interventions, workers enter the working chamber through one of the twin man locks that open into the staging chamber. To reach the forward part of the working chamber, workers pass through a door in a bulkhead that separates the staging chamber from the forward working chamber. The maximum crew size allowed in the forward working chamber is three. At certain hyperbaric pressures (i.e., when decompression times are greater than work times), the twin man locks allow for crew rotation. During crew rotation, one crew can be compressing or decompressing while the second crew is working. Therefore, the working crew always has an unoccupied man lock at its disposal.

The applicant developed and proposes to use a project-specific HOM (Ex. OSHA–2012–0036–0004) that describes in detail the hyperbaric procedures and required medical examinations used during the tunnel-construction project. The HOM is project specific, and discusses standard operating procedures and emergency and contingency procedures. The procedures include using experienced and knowledgeable man-lock attendants who have the training and experience necessary to recognize and treat decompression sickness and diving-related illnesses and injuries. The attendants are under the direct supervision of the hyperbaric supervisor and attending physician. In addition, procedures include medical screening and review of prospective compressed-air workers (CAWs). The purpose of this screening procedure is to vet prospective CAWs with medical conditions (e.g., deep vein thrombosis, poor vascular circulation, and muscle cramping) that could be aggravated by sitting in a cramped space (e.g., a man lock) for extended periods or by exposure to elevated pressures and compressed gas mixtures. A transportable recompression chamber (shuttle) will be available to extract workers from the hyperbaric working chamber for emergency evacuation and medical treatment; the shuttle attaches to the topside medical lock, which is a large recompression chamber. The applicant believes that the procedures included in the HOM provide safe work conditions when interventions are necessary, including interventions above 50 p.s.i.g.

*C. Variance From Paragraph (f)(1) of 29 CFR 1926.803, Requirement To Use OSHA Decompression Tables*

OSHA's compressed-air standard for construction requires decompression in accordance with the decompression tables in Appendix A of 29 CFR Part 1926, subpart S (see 29 CFR 1926.803(f)(1)). As an alternative to the OSHA decompression tables, the applicant proposes to use newer decompression schedules that supplement breathing air used during decompression with pure oxygen. The applicant asserts that these decompression protocols are safer for tunnel workers than the decompression protocols specified in Appendix A of 29 CFR Part 1926, subpart S. Accordingly, the applicant proposes to use the 1992 French Decompression Tables to decompress CAWs after they exit the hyperbaric conditions in the working chamber.

Depending on the maximum working pressure and exposure times, the 1992 French Decompression Tables provide for air decompression with or without oxygen. Tully asserts that oxygen decompression has many benefits, including reducing decompression time by about 33 percent, and significantly lowering the rate of decompression illness (DCI), compared to the air-decompression tables in Appendix A of 29 CFR Part 1926, subpart S. In addition, the HOM requires a physician certified in hyperbaric medicine to manage the medical condition of CAWs during hyperbaric exposures and

[2] See the definition of ''Affected employee or worker'' below in section V. D of this notice.

decompression. A trained and experienced man-lock attendant also will be present during hyperbaric exposures and decompression. This man-lock attendant will operate the hyperbaric system to ensure compliance with the specified decompression table. A hyperbaric supervisor (competent person), trained in hyperbaric operations, procedures, and safety, will directly oversee all hyperbaric interventions, and ensure that staff follow the procedures delineated in the HOM or by the attending physician.

The applicant asserts that at higher hyperbaric pressures, decompression times exceed 75 minutes. The HOM establishes protocols and procedures that provide the basis for alternate means of protection for CAWs under these conditions. Accordingly, based on these protocols and procedures, the applicant requests to use the 1992 French Decompression Tables for hyperbaric interventions up to 58 p.s.i.g. for the New York Siphon Tunnel Project. The applicant will follow the decompression procedures described in the project-specific HOM during these interventions.

*D. Variance From Paragraph (g)(1)(iii) of 29 CFR 1926.803, Automatically Regulated Continuous Decompression*

According to the applicant, breathing air under hyperbaric conditions increases the amount of nitrogen gas dissolved in a CAW's tissues. The greater the hyperbaric pressure under these conditions, and the more time spent under the increased pressure, the greater the amount of nitrogen gas dissolved in the tissues. When the pressure decreases during decompression, tissues release the dissolved nitrogen gas into the blood system, which then carries the nitrogen gas to the lungs for elimination through exhalation. Releasing hyperbaric pressure too rapidly during decompression can increase the size of the bubbles formed by nitrogen gas in the blood system, resulting in DCI, commonly referred to as ''the bends.'' This description of the etiology of DCI is consistent with current scientific theory and research on the issue (see footnote 8 below discussing a 1985 NIOSH report on DCI).

The 1992 French Decompression Tables proposed for use by the applicant provide for stops during worker decompression (i.e., staged decompression) to control the release of nitrogen gas from tissues into the blood system. Studies show that staged decompression, in combination with other features of the 1992 French Decompression Tables such as the use of oxygen, result in a lower incidence of DCI than the OSHA decompression requirements of 29 CFR 1926.803, which specify the use of automatically regulated continuous decompression (see footnotes 5 through 10 below for references to these studies).[3] In addition, the applicant asserts that staged decompression is at least as effective as an automatic controller in regulating the decompression process because:

A. A hyperbaric supervisor (a competent person experienced and trained in hyperbaric operations, procedures, and safety) directly supervises all hyperbaric interventions and ensures that the man-lock attendant, who is a competent person in the manual control of hyperbaric systems, follows the schedule specified in the decompression tables, including stops; and

B. The use of the 1992 French Decompression Tables for staged decompression offers an equal or better level of management and control over the decompression process than an automatic controller and results in lower occurrences of DCI.

Accordingly, the applicant is applying for a permanent variance from the OSHA standard at 29 CFR 1926.803(g)(1)(iii), which requires automatic controls to regulate decompression. As noted above, the applicant will conduct the staged decompression according to the 1992 French Decompression Tables under the direct control of the trained man-lock attendant and under the oversight of the hyperbaric supervisor.

[3] In the study cited in footnote 6, starting at page 338, Dr. Eric Kindwall notes that the use of automatically regulated continuous decompression in the Washington State safety standards for compressed-air work (from which OSHA derived its decompression tables) was at the insistence of contractors and the union, and against the advice of the expert who calculated the decompression table, who recommended using staged decompression. Dr. Kindwall then states, ''Continuous decompression is inefficient and wasteful. For example, if the last stage from 4 psig . . . to the surface took 1 h, at least half the time is spent at pressures less than 2 psig . . ., which provides less and less meaningful bubble suppression. . . .'' In addition, the report referenced in footnote 5 under the section titled ''Background on the Need for Interim Decompression Tables'' addresses the continuous-decompression protocol in the OSHA compressed-air standard for construction, noting that ''[a]side from the tables for saturation diving to deep depths, no other widely used or officially approved diving decompression tables use straight line, continuous decompressions at varying rates. Stage decompression is usually the rule, since it is simpler to control.''

*E. Variance From Paragraph (g)(1)(xvii) of 29 CFR 1926.803, Requirement of Special Decompression Chamber*

The OSHA compressed-air standard for construction requires employers to use a special decompression chamber when total decompression time exceeds 75 minutes (see 29 CFR 1926.803(g)(1)(xvii)). Another provision of OSHA's compressed-air standard calls for locating the special decompression chamber adjacent to the man lock on the atmospheric pressure side of the tunnel bulkhead (see 29 CFR 1926.803(g)(2)(vii)). However, since only the working chamber of the EPBTBM is under pressure, and only a few workers out of the entire crew are exposed to hyperbaric pressure, the man locks (which, as noted earlier, connect directly to the working chamber) are of sufficient size to accommodate the exposed workers. In addition, available space in the EPBTBM does not allow for an additional special decompression lock. Again, the applicant uses the man locks, each of which will adequately accommodate a three-member crew, for this purpose when decompression lasts up to 75 minutes. When decompression exceeds 75 minutes, crews can open the door connecting the two compartments in each man lock during decompression stops or exit the man lock and move into the staging chamber where additional space is available. This alternative will enable CAWs to move about and flex their joints to prevent neuromuscular problems during decompression.

*F. Multi-State Variance*

Tully only applied for an interim order and variance for one site, the New York Siphon Tunnel Project, so any variance OSHA grants Tully will have effect only in the State of New York. While the State of New York has an OSHA-approved safety and health program, that program covers only public-sector employers and not private-sector employers such as Tully; therefore, Federal OSHA continues to cover private-sector employers in the State of New York.

**III. Description of the Conditions Specified by the Interim Order and the Application for a Permanent Variance**

This section describes the conditions that comprise the alternative means of compliance with 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii). These conditions form the basis of the interim

order and Tully's application for a permanent variance.[4]

*Condition A: Scope*

The scope of the interim order/permanent variance limits/would limit coverage of the conditions of the interim order/permanent variance to the work situations specified under this condition. Clearly defining the scope of the interim order/permanent variance provides Tully, Tully's employees, and OSHA with necessary information regarding the work situations in which the interim order/permanent variance applies/would apply.

*Condition B: Application*

This condition specifies the circumstances under which the interim order/permanent variance is/would be in effect, notably only for hyperbaric work performed during interventions. The condition places clear limits on the circumstances under which the applicant can expose its employees to hyperbaric pressure.

*Condition C: List of Abbreviations*

Condition C defines/would define a number of abbreviations used in the interim order/permanent variance. OSHA believes that defining these abbreviations will serve to clarify and standardize their usage, thereby enhancing the applicant's and its employees' understanding of the conditions specified by the interim order/permanent variance.

*Condition D: Definitions*

The condition defines/would define a series of terms, mostly technical terms, used in the interim order/permanent variance to standardize and clarify their meaning. Defining these terms will enhance the applicant's and its employees' understanding of the conditions specified by the interim order/permanent variance.

*Condition E: Safety and Health Practices*

This condition requires/would require the applicant to develop and submit to OSHA a project-specific HOM at least six months before using the EPBTBM for tunneling operations. This requirement ensures/would ensure that the applicant develops hyperbaric safety and health procedures suitable for each specific project. The HOM enables/would enable OSHA to determine that the specific safety and health instructions and measures specified by the HOM are/would be appropriate and will/would adequately protect the safety and health of the CAWs, and, if found appropriate, enables/would enable OSHA to enforce these instructions and measures. Additionally, the condition includes/would include a series of related hazard prevention and control requirements and methods (e.g., decompression tables, job hazard analyses (JHA), operations and inspections checklists) designed to ensure the continued effective functioning of the hyperbaric equipment and operating system.

*Condition F: Communication*

Condition F requires/would require the applicant to develop and implement an effective system of information sharing and communication. Effective information sharing and communication will/would ensure that affected workers receive updated information regarding any safety-related hazards and incidents, and corrective actions taken, prior to the start of each shift. The condition also requires/would require the applicant to ensure that reliable means of emergency communications are/would be available and maintained for affected workers and support personnel during hyperbaric operations, which will/would enable affected workers and support personnel to respond quickly and effectively to hazardous conditions that may develop during EPBTBM operations.

*Condition G: Worker Qualification and Training*

This condition requires/would require the applicant to develop and implement an effective qualification and training program for affected workers. The condition specifies/would specify the factors that an affected worker must know to perform safely during hyperbaric operations, including how to enter, work in, and exit from hyperbaric conditions under both normal and emergency conditions. Having well-trained and qualified workers performing hyperbaric intervention work will/would ensure that they recognize, and respond appropriately to, hyperbaric safety and health hazards. These qualification and training requirements will/would enable affected workers to cope effectively with emergencies, as well as the discomfort and physiological effects of hyperbaric exposure, thereby preventing injury, illness, and fatalities among the workers.

Paragraph (2)(e) of this condition also requires/would require the applicant to provide affected workers with information the workers can use to contact the appropriate healthcare professionals should the workers believe they may be developing hyperbaric-related health effects from their exposure to hyperbaric conditions. This requirement will/would provide for early intervention and treatment of DCI and other health effects resulting from hyperbaric exposure, thereby reducing the severity of these effects.

*Condition H: Inspections, Tests, and Accident Prevention*

Condition H requires/would require the applicant to develop, implement, and operate a program of frequent and regular inspections of the EPBTBM's hyperbaric equipment and support systems, and associated work areas. This condition will/would help ensure the safe operation and physical integrity of the equipment and work areas necessary to conduct hyperbaric operations, thereby enhancing worker safety by reducing the risk of a hyperbaric-related emergency.

Paragraph (3) of this condition requires/would require the applicant to document tests, inspections, corrective actions, and repairs involving the EPBTBM, and maintain these documents at the job site for the duration of the job. This requirement will/would provide the applicant with information needed to schedule tests and inspections to ensure the continuing safe operation of the equipment and systems, and to determine that the actions taken to correct defects in hyperbaric equipment and systems were appropriate, prior to returning them to service.

*Condition I: Compression and Decompression*

This condition requires/would require the applicant to consult with its designated medical advisor regarding special compression or decompression procedures appropriate for any unacclimated CAW. This provision will/would ensure that the applicant consults with the medical advisor, and involves the medical advisor in the evaluation, development, and implementation of compression or decompression protocols appropriate for any CAW requiring acclimation to the hyperbaric conditions encountered during EPBTBM operations. Accordingly, CAWs requiring acclimation to the hyperbaric conditions in the EPBTBM will/would have an opportunity to acclimate prior to exposure to these conditions. OSHA believes this condition will/would prevent or reduce adverse reactions among CAWs to the effects of

[4] In these conditions, the present tense form of the verb (e.g., ''must'') pertains to the interim order, while the future conditional form of the verb (e.g., ''would'') pertains to the application for a permanent variance (designated as ''permanent variance'').

compression or decompression associated with the intervention work they perform in the EPBTBM.

*Condition J: Recordkeeping*

Condition J requires/would require the applicant to maintain records of specific factors associated with each hyperbaric intervention. The information gathered and recorded under this provision, in concert with the information provided under Condition K, will/would enable the applicant and OSHA to determine the effectiveness of the interim order/permanent variance in preventing DCI and other hyperbaric-related effects.

*Proposed Condition K: Notifications*

Under this condition, the applicant must/would, within specified periods, notify OSHA of any employee injuries, illnesses, or fatalities that occur as a result of hyperbaric exposures during EPBTBM operations; provide OSHA with a copy of the incident investigation of these events that includes information on the root-cause determination, and preventive and corrective actions identified and implemented by the applicant; and certify that it informed affected workers of the incident and the results of the incident investigation. This condition also requires/would require the applicant to: notify OTPCA and the Manhattan Area Office within 15 working days should the applicant need to revise its HOM to accommodate changes in its compressed-air operations that affect/would affect its ability to comply with the conditions of the interim order/permanent variance; and provide OTPCA and the Manhattan Area Office, at the end of the New York Siphon Tunnel Project, with a report evaluating the effectiveness of the decompression tables.

These notification requirements will/would enable the applicant, its employees, and OSHA to determine the effectiveness of the interim order/permanent variance in providing the requisite level of safety to the applicant's workers and, based on this determination, whether to revise or revoke the conditions of the interim order/permanent variance. Timely notification will/would permit OSHA to take whatever action may be necessary and appropriate to prevent further casualties, while providing notification to employees will/would inform them of the precautions taken by the applicant to prevent similar incidents in the future.

This condition also requires/would require the applicant to notify OSHA if it ceases to do business, has a new address or location for its main office, or transfers the operations covered by the interim order/permanent variance to a successor company. In addition, the condition specifies/would specify that OSHA must approve the transfer of the interim order/permanent variance to a successor company. These requirements will/would allow OSHA to communicate effectively with the applicant regarding the status of the interim order/permanent variance, and expedite the Agency's administration and enforcement of the interim order/permanent variance. Stipulating that an applicant must have OSHA's approval to transfer a variance to a successor company will/would provide assurance that the successor company has knowledge of, and will/would comply with, the conditions specified by the interim order/permanent variance, thereby ensuring the safety of workers involved in performing the operations covered by the interim order/permanent variance.

**IV. Grant of Interim Order**

As noted earlier, the applicant requested an interim order that would remain in effect until completion of the New York Siphon Tunnel Project, or until the Agency makes a decision on its application for a permanent variance. During this period, the applicant will fully comply with the conditions of the interim order as an alternative to complying with the requirements of 29 CFR 1926.803 (hereafter, ''the standard'') that:

A. Prohibit employers using compressed air under hyperbaric conditions from subjecting workers to pressure exceeding 50 p.s.i.g., except in emergency (29 CFR 1926.803(e)(5));

B. Require the use of decompression values specified by the decompression tables in Appendix A of the compressed-air standard (29 CFR 1926.803(f)(1)); and

C. Require the use of automated operational controls and a special decompression chamber (29 CFR 1926.803(g)(1)(iii) and .803(g)(1)(xvii), respectively).

After reviewing the application, OSHA preliminarily determined that:

A. Tully developed, and proposed to implement, effective alternative measures to the prohibition of using compressed air under hyperbaric conditions exceeding 50 p.s.i.g. The proposed alternative measures include use of engineering and administrative controls of the hazards associated with work performed in compressed-air conditions exceeding 50 p.s.i.g. while engaged in the construction of a subaqueous tunnel using advanced shielded mechanical-excavation techniques in conjunction with an EPBTBM. Prior to conducting interventions in the EPBTBM's pressurized working chamber, the applicant halts tunnel excavation and prepares the machine and crew to conduct the interventions. Interventions involve inspection, maintenance, or repair of the mechanical-excavation components located in the working chamber.

B. Tully developed, and proposed to implement, safe hyperbaric work procedures, emergency and contingency procedures, and medical examinations for the project's CAWs. The applicant compiled these standard operating procedures into a project-specific HOM. The HOM discusses the procedures and personnel qualifications for performing work safely during the compression and decompression phases of interventions. The HOM also specifies the decompression tables the applicant proposes to use. Depending on the maximum working pressure and exposure times during the interventions, the tables provide for decompression using air, pure oxygen, or a combination of air and oxygen. The decompression tables also include delays or stops for various time intervals at different pressure levels during the transition to atmospheric pressure (i.e., staged decompression). In all cases, a physician certified in hyperbaric medicine will manage the medical condition of CAWs during decompression. In addition, a trained and experienced man-lock attendant, experienced in recognizing decompression sickness or illnesses and injuries, will be present. Of key importance, a hyperbaric supervisor (competent person), trained in hyperbaric operations, procedures, and safety, will directly supervise all hyperbaric operations to ensure compliance with the procedures delineated in the project-specific HOM or by the attending physician.

C. Tully developed, and proposed to implement, a training program to instruct affected workers in the hazards associated with conducting hyperbaric operations.

D. Tully developed, and proposed to implement, an effective alternative to the use of automatic controllers that continuously decrease pressure to achieve decompression in accordance with the tables specified by the standard. The alternative includes using the 1992 French Decompression Tables for guiding staged decompression to achieve lower occurrences of DCI, using a trained and competent attendant for implementing appropriate hyperbaric

entry and exit procedures, and providing a competent hyperbaric supervisor, and attending physician certified in hyperbaric medicine, to oversee all hyperbaric operations.

E. Tully developed, and proposed to implement, an effective alternative to the use of the special decompression chamber required by the standard. EPBTBM technology permits the tunnel's work areas to be at atmospheric pressure, with only the face of the EPBTBM (i.e., the working chamber) at elevated pressure. The applicant limits interventions conducted in the working chamber to performing required inspection, maintenance, and repair of the cutting tools on the face of the EPBTBM. The EPBTBM's man lock and working chamber provide sufficient space for the maximum crew of three CAWs to stand up and move around, and safely accommodate decompression times up to 360 minutes. Therefore, OSHA preliminarily determined that the EPBTBM's man lock and working chamber function as effectively as the special decompression chamber required by the standard.

OSHA conducted a review of the scientific literature regarding decompression to determine whether the alternative decompression method (i.e., the 1992 French Decompression Tables) the applicant proposed would provide a workplace as safe and healthful as that provided by the standard. Based on this review, OSHA preliminarily determined that tunneling operations performed with these tables [5] result in a lower occurrence of DCI than the decompression tables specified by the standard.[6] [7] [8]

The review conducted by OSHA found several research studies supporting the determination that the 1992 French Decompression Tables result in a lower rate of DCI than the decompression tables specified by the standard. For example, H. L. Anderson studied the occurrence of DCI at maximum hyperbaric pressures ranging from 4 p.s.i.g. to 43 p.s.i.g. during construction of the Great Belt Tunnel in Denmark (1992–1996); [9] this project used the 1992 French Decompression Tables to decompress the workers during part of the construction. Anderson observed 6 DCS cases out of 7,220 decompression events, and reported that switching to the 1992 French Decompression tables reduced the DCI incidence to 0.08%. The DCI incidence in the study by H. L. Andersen is substantially less than the DCI incidence reported for the decompression tables specified in Appendix A. OSHA found no studies in which the DCI incidence reported for the 1992 French Decompression Tables were higher than the DCI incidence reported for the OSHA decompression tables, nor did OSHA find any studies indicating that the 1992 French Decompression Tables were more hazardous to employees than the OSHA decompression tables.[10]

Based on a review of available evidence, the experience of State-Plans that either granted variances (Nevada, Oregon, and Washington) [11] or promulgated a new standard (California) [12] for hyperbaric exposures occurring during similar subaqueous tunnel-construction work, and the information provided in the applicant's variance application, OSHA is issuing an interim order.

Under the interim order and variance application, instead of complying with the requirements of 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii), Tully will: (1) Comply with the conditions listed below under ''Specific Conditions of the Interim Order and the Application for a Permanent Variance'' for the period between the date of this notice and completion of the New York Siphon Tunnel Project or the date OSHA publishes its final decision on Tully's application in the **Federal Register**; (2) comply fully with all other applicable provisions of 29 CFR part 1926; and (3) provide a copy of this **Federal Register** notice to all employees affected by the conditions, including the affected employees of other employers, using the same means it used to inform these employees of its application for a permanent variance. Additionally, this interim order will remain in effect until one of the following conditions occurs: (1) Completion of the New York Siphon Tunnel Project; (2) OSHA publishes its final decision on the variance application in the **Federal Register**; or (3) OSHA modifies or revokes the interim order in accordance with 29 CFR 1905.13.

## V. Specific Conditions of the Interim Order and the Application for a Permanent Variance

The following conditions apply to the interim order OSHA is granting to Tully. In addition, these conditions specify the alternative means of compliance with the requirements of paragraphs 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii) that the Tully is proposing for its permanent variance. The conditions apply to all employees of Tully/OHL USA Joint Venture exposed to hyperbaric conditions at the New York Siphon Tunnel Project. These conditions are: [13]

### *A. Scope*

The interim order/permanent variance applies/would apply only to work:

1. That occurs in conjunction with construction of the New York Siphon Tunnel Project, a subaqueous tunnel constructed using advanced shielded mechanical-excavation techniques and involving operation of an EPBTBM;

[5] In 1992, the French Ministry of Labour replaced the 1974 French Decompression Tables with the 1992 French Decompression Tables, which differ from OSHA's decompression tables in Appendix A by using: (1) Staged decompression as opposed to continuous (linear) decompression; (2) decompression tables based on air or both air and pure oxygen; and (3) emergency tables when unexpected exposure times occur (up to 30 minutes above the maximum allowed working time).

[6] Kindwall, EP (1997). Compressed air tunneling and caisson work decompression procedures: development, problems, and solutions. *Undersea and Hyperbaric Medicine,* 24(4), pp. 337–345. This article reported 60 treated cases of DCI among 4,168 exposures between 19 and 31 p.s.i.g. over a 51-week contract period, for a DCI incidence of 1.44% for the decompression tables specified by the OSHA standard.

[7] Sealey, JL (1969). Safe exit from the hyperbaric environment: medical experience with pressurized tunnel operations. *Journal of Occupational Medicine,* 11(5), pp. 273–275. This article reported 210 treated cases of DCI among 38,600 hyperbaric exposures between 13 and 34 p.s.i.g. over a 32-month period, for an incidence of 0.54% for the decompression tables specified by the Washington State safety standards for compressed-air work, which are similar to the tables in the OSHA standard. Moreover, the article reported 51 treated cases of DCI for 3,000 exposures between 30 and 34 p.s.i.g., for an incidence of 1.7% for the Washington State tables.

[8] In 1985, the National Institute for Occupational Safety and Health (NIOSH) published a report entitled ''Criteria for Interim Decompression Tables for Caisson and Tunnel Workers''; this report reviewed studies of DCI and other hyperbaric-related injuries resulting from use of OSHA's tables. This report is available on NIOSH's Web site: *http://www.cdc.gov/niosh/topics/decompression/default.html.*

[9] Anderson HL (2002). Decompression sickness during construction of the Great Belt tunnel, Denmark. *Undersea and Hyperbaric Medicine,* 29(3), pp. 172–188.

[10] Le Péchon JC, Barre P, Baud JP, Ollivier F (September 1996). Compressed air work—French tables 1992—operational results. *JCLP Hyperbarie Paris, Centre Medical Subaquatique Interentreprise, Marseille: Communication a l'EUBS,* pp. 1–5 (see Ex. OSHA–2012–0036–0005).

[11] These state variances are available in the docket: Exs. OSHA–2012–0035–0006 (Nevada), OSHA–2012–0035–0007 (Oregon), and OSHA–2012–0035–0008 (Washington).

[12] See California Code of Regulations, Title 8, Subchapter 7, Group 26, Article 154, available at *http://www.dir.ca.gov/title8/sb7g26a154.html.*

[13] In these conditions, the present tense form of the verb (e.g., ''must'') pertains to the interim order, while the future conditional form of the verb (e.g., ''would'') pertains to the application for a permanent variance (designated as ''permanent variance'').

2. Performed under compressed-air and hyperbaric conditions up to 58 p.s.i.g.;

3. In the EPBTBM's forward section (the working chamber) and associated hyperbaric chambers used to pressurize and decompress employees entering and exiting the working chamber; and

4. Except for the requirements specified by 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii), Tully must/would comply fully with all other applicable provisions of 29 CFR part 1926.

*B. Application*

The interim order/permanent variance applies/would apply only when Tully stops the tunnel-boring work, pressurizes the working chamber, and the CWAs either enter the working chamber to perform interventions (i.e., inspect, maintain, or repair the mechanical-excavation components), or exit the working chamber after performing interventions.

*C. List of Abbreviations*

Abbreviations used throughout this interim order/permanent variance include the following:

1. CAW—Compressed-air worker
2. CFR—Code of Federal Regulations
3. EPBTBM—Earth Pressure Balanced Tunnel Boring Machine
4. HOM—Hyperbaric Operations and Safety Manual
5. JHA—Job hazard analysis
6. OSHA—Occupational Safety and Health Administration
7. OTPCA—Office of Technical Programs and Coordination Activities

*D. Definitions*

The following definitions apply/would apply to this interim order/permanent variance. These definitions supplement the definitions in Tully's project-specific HOM.

1. *Affected employee or worker*—an employee or worker who would be affected by the conditions of this interim order/permanent variance, or any one of his or her authorized representatives. The term ''employee'' has the meaning defined and used under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*)

2. *Atmospheric pressure*—the pressure of air at sea level, generally 14.7 p.s.i.a., 1 atmosphere absolute, or 0 p.s.i.g.

3. *Compressed-air worker*—an individual who is specially trained and medically qualified to perform work in a pressurized environment while breathing air at pressures up to 58 p.s.i.g.

4. *Competent person*—an individual who is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.[14]

5. *Earth Pressure Balanced Tunnel Boring Machine*—the machinery used to excavate the tunnel.

6. *Hot work*—any activity performed in a hazardous location that may introduce an ignition source into a potentially flammable atmosphere.[15]

7. *Hyperbaric*—at a higher pressure than atmospheric pressure.

8. *Hyperbaric intervention*—a term that describes the process of stopping the EPBTBM and preparing and executing work under hyperbaric pressure in the working chamber for the purpose of inspecting, replacing, or repairing cutting tools and/or the cutterhead structure.

9. *Hyperbaric Operations Manual*—a detailed, project-specific health and safety plan developed and implemented by Tully for working in compressed air during the New York Siphon Tunnel Project.

10. *Job hazard analysis*—an evaluation of tasks or operations to identify potential hazards and to determine the necessary controls.

11. *Man lock*—an enclosed space capable of pressurization, and used for compressing or decompressing any employee or material when either is passing into or out of a working chamber.

12. *Pressure*—a force acting on a unit area. Usually expressed as pounds per square inch (p.s.i.).

13. *p.s.i.*—pounds per square inch, a common unit of measurement of pressure; a pressure given in p.s.i. corresponds to absolute pressure.

14. *p.s.i.a*—pounds per square inch absolute, or absolute pressure, is the sum of the atmospheric pressure and gauge pressure. At sea level, atmospheric pressure is approximately 14.7 p.s.i. Adding 14.7 to a pressure expressed in units of p.s.i.g. will yield the absolute pressure, expressed as p.s.i.a.

15. *p.s.i.g.*—pounds per square inch gauge, a common unit of pressure; pressure expressed as p.s.i.g. corresponds to pressure relative to atmospheric pressure. At sea level, atmospheric pressure is approximately 14.7 p.s.i. Subtracting 14.7 from a pressure expressed in units of p.s.i.a. yields the gauge pressure, expressed as p.s.i.g.

16. *Qualified person*—an individual who, by possession of a recognized degree, certificate, or professional standing, or who, by extensive knowledge, training, and experience, successfully demonstrates an ability to solve or resolve problems relating to the subject matter, the work, or the project.[16]

17. *Working chamber*—an enclosed space in the EPBTBM in which CAWs perform interventions, and which is accessible only through a man lock.

*E. Safety and Health Practices*

1. Tully must/would develop and implement a project-specific HOM, and submit the HOM to OSHA at least six months before using the EPBTBM. Tully must/would receive a written acknowledgement from OSHA regarding the acceptability of the HOM.[17] The HOM shall provide/would provide the governing safety and health requirements regarding hyperbaric exposures during the tunnel-construction project.

2. Tully must/would implement the safety and health instructions included in the manufacturer's operations manuals for the EPBTBM, and the safety and health instructions provided by the manufacturer for the operation of decompression equipment.

3. Tully must/would use air as the only breathing gas in the working chamber.

4. Tully must/would use the 1992 French Decompression Tables for air, air-oxygen, and oxygen decompression specified in the HOM, specifically the tables titled ''French Regulation Air Standard Tables.''

5. Tully must/would equip man locks used by its employees with an oxygen-delivery system as specified by the HOM. Tully must/would not store oxygen or other compressed gases used in conjunction with hyperbaric work in the tunnel.

6. Workers performing hot work under hyperbaric conditions must/would use flame-retardant personal protective equipment and clothing.

7. In hyperbaric work areas, Tully must/would maintain an adequate fire-suppression system approved for hyperbaric work areas.

8. Tully must/would develop and implement one or more JHAs for work in the hyperbaric work areas, and review, periodically and as necessary

[14] Adapted from 29 CFR 1926.32(f).

[15] Also see 29 CFR 1910.146(b).

[16] Adapted from 29 CFR 1926.32(m).

[17] The grant of this interim order constitutes such acknowledgement by OSHA of the acceptability of the HOM provided by Tully for the New York Siphon Tunnel Project.

(e.g., after making changes to a planned intervention that affects its operation), the contents of the JHAs with affected employees. The JHAs must/would include all the job functions that the risk assessment [18] indicates are essential to prevent injury or illness.

9. Tully must/would develop a set of checklists to guide compressed-air work and ensure that employees follow/would follow the procedures required by this interim order/permanent variance (including all procedures required by the HOM, which this interim order/permanent variance incorporates/would incorporate by reference). The checklists must/would include all steps and equipment functions that the risk assessment indicates/would indicate are essential to prevent injury or illness during compressed-air work.

10. Tully must/would ensure that the safety and health provisions of the HOM adequately protect/would protect the workers of all contractors and subcontractors involved in hyperbaric operations.[19]

*F. Communication*

1. Prior to beginning a shift, Tully must/would implement a system that informs/would inform workers exposed to hyperbaric conditions of any hazardous occurrences or conditions that might affect their safety, including hyperbaric incidents, gas releases, equipment failures, earth or rock slides, cave-ins, flooding, fires, or explosions.

2. Tully must/would provide a power-assisted means of communication among affected workers and support personnel in hyperbaric conditions where unassisted voice communication is inadequate.

a. Tully must/would use an independent power supply for powered communication systems, and these systems must operate such that use or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

b. Tully must/would test communication systems at the start of each shift and as necessary thereafter to ensure proper operation.

*G. Worker Qualifications and Training*

Tully must/would:

1. Ensure that each affected worker receives/would receive effective training on how to safely enter, work in, exit from, and undertake emergency evacuation or rescue from, hyperbaric conditions, and document this training.

2. Provide effective instruction, before beginning hyperbaric operations, to each worker who performs/would perform work, or controls/would control the exposure of others, in hyperbaric conditions, and document this instruction. The instruction must/would include topics such as:

a. The physics and physiology of hyperbaric work;

b. Recognition of pressure-related injuries;

c. Information on the cause, signs, and symptoms of decompression illness;

d. How to avoid discomfort during compression and decompression; and

e. Information the workers can use to contact the appropriate healthcare professionals should the workers have concerns that they may be experiencing adverse health effects from hyperbaric exposure.

3. Repeat the instruction specified in paragraph (b) of this condition periodically and as necessary (e.g., after making changes to its hyperbaric operations).

4. When conducting training for its hyperbaric workers, make this training available to OSHA personnel and notify the OTPCA at OSHA's national office and OSHA's Manhattan Area Office before the training takes place.

*H. Inspections, Tests, and Accident Prevention*

1. Tully must/would initiate and maintain a program of frequent and regular inspections of the EPBTBM's hyperbaric equipment and support systems (such as temperature control, illumination, ventilation, and fire-prevention and fire-suppression systems), and hyperbaric work areas, as required under 29 CFR 1926.20(b)(2) by:

a. Developing a set of checklists to be used by a competent person in conducting weekly inspections of hyperbaric equipment and work areas; and

b. Ensuring that a competent person conducts daily visual checks and weekly inspections of the EPBTBM.

2. If the competent person determines that the equipment constitutes/would constitute a safety hazard, Tully must/would remove the equipment from service until it corrects the hazardous condition and has the correction approved by a qualified person.

3. Tully must/would maintain records of all tests and inspections of the EPBTBM, as well as associated corrective actions and repairs, at the job site for the duration of the job.

*I. Compression and Decompression*

Tully must/would consult with its attending physician concerning the need for special compression or decompression exposures appropriate for CAWs not acclimated to hyperbaric exposure.

*J. Recordkeeping*

In addition to the requirements of 29 CFR part 1904 (Recording and Reporting Occupational Injuries and Illnesses), Tully must/would maintain records of:

1. The date, times, and pressure for each hyperbaric intervention.

2. The name of each individual worker exposed to hyperbaric pressure and the decompression protocols and results for each worker.

*K. Notifications*

1. To assist OSHA in administering the conditions specified herein, Tully must/would:

a. Notify the OTPCA and the Manhattan Area Office of any injury, illness, or fatality resulting from exposure of an employee to hyperbaric conditions within 8 hours of the incident, and provide a copy of the incident investigation within 24 hours of the incident. The incident-investigation report must include a root-cause determination, and the preventive and corrective actions identified and implemented.

b. Provide certification within 15 days of the incident that it informed affected workers of the incident and the results of the incident investigation (including the root-cause determination and preventive and corrective actions identified and implemented).

c. Notify the OTPCA and the Manhattan Area Office within 15 working days and in writing, of any change in the compressed-air operations that affects Tully's ability to comply with the conditions specified herein.

d. Upon completion of the New York Siphon Tunnel Project, evaluate the effectiveness of the decompression tables used throughout the project, and provide a written report of this evaluation to the OTPCA and the Manhattan Area Office.

e. To assist OSHA in administering the conditions specified herein, inform the OTPCA and the Manhattan Area Office as soon as possible after it has knowledge that it will:

i. Cease to do business;

ii. Change the location and address of the main office for managing the tunneling operations specified herein; or

iii. Transfer the operations specified herein to a successor company.

[18] See ANSI/AIHA Z10–2012, American National Standard for Occupational Health and Safety Management Systems, for reference.

[19] See ANSI/ASSE A10.33–2011, American National Standard for Construction and Demolition Operations—Safety and Health Program Requirements for Multi-Employer Projects, for reference.

f. Notify all affected employees of this interim order/permanent variance by the same means required to inform them of its application for a variance.

2. OSHA must/would approve the transfer of this interim order/permanent variance to a successor company.

**Authority and Signature**

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1905.11.

Signed at Washington, DC, on January 2, 2014.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2014–00008 Filed 1–6–14; 8:45 am]

**BILLING CODE 4510–26–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2013–0013]**

### Federal Advisory Council on Occupational Safety and Health (FACOSH)

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Reopening of the record, and extension of time to submit nominations for membership on the Federal Advisory Council on Occupational Safety and Health (FACOSH).

**SUMMARY:** OSHA is reopening the record extending the time for interested persons to submit nominations for FACOSH membership until March 10, 2014.

**DATES:** Nominations for FACOSH must be submitted (postmarked, sent, transmitted, or received) by March 10, 2014.

**ADDRESSES:** You may submit nominations and supporting materials, identified by Docket No. OSHA–2013–0013, by one of the following methods:

*Electronically:* You may submit nominations, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting nominations;

*Facsimile:* If your nomination, including attachments, does not exceed 10 pages, you may fax it to the OSHA Docket Office at (202) 693–1648;

*Mail, express delivery, hand delivery, and messenger or courier service:* You may submit nominations and all supporting materials to the OSHA Docket Office, Docket No. OSHA–2013–0013, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2350, (OSHA's TTY number (877) 889–5627). Deliveries (hand, express mail, and messenger/courier service) are accepted during the Department of Labor's and OSHA Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., e.t.

*Instructions:* Your nominations and supporting materials must include the agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2013–0013). Because of security-related procedures, submitting nominations by regular mail may result in a significant delay in their receipt. Please contact the OSHA Docket Office for information about security procedures for submitting nominations by hand delivery, express delivery, and messenger or courier service.

Submissions in response to this **Federal Register** notice, including personal information provided, will be placed in the public docket without change and may be posted online at *http://www.regulations.gov.* Therefore, OSHA cautions interested parties about submitting personal information, such as Social Security numbers and birth dates.

Electronic copies of this **Federal Register** notice as well as OSHA's September 6, 2013 notice (78 FR 54923) requesting nominations for FACOSH membership are available at *http://www.regulations.gov.* Both notices, as well as news releases and other relevant information, are also available on OSHA's Web page at *http://www.osha.gov.*

**FOR FURTHER INFORMATION CONTACT:** *For press inquiries:* Mr. Francis Meilinger, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999; email: *meilinger.francis2@dol.gov.*

*For general information:* Mr. Francis Yebesi, OSHA, Office of Federal Agency Programs, Directorate of Enforcement Programs, Room N–3622, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2122; email *ofap@dol.gov.*

**SUPPLEMENTARY INFORMATION:**

OSHA is providing additional time for interested persons to submit nominations for FACOSH membership. Interested persons have until March 10, 2014 to submit nominations for five vacancies on FACOSH, three labor and two management members.

OSHA originally published a **Federal Register** notice requesting submission of nominations for FACOSH membership by November 5, 2013 (78 FR 54923 (9/6/2013)). OSHA is providing additional time in order to obtain an adequate number of candidates who meet FACOSH membership requirements and qualifications.

FACOSH is authorized to advise the Secretary of Labor on all matters relating to the occupational safety and health of Federal workers (Occupational Safety and Health Act of 1970 (29 U.S.C. 668), 5 U.S.C. 7902, Executive Orders 12196 and 13511). This includes providing advice on how to reduce and keep to a minimum the number of injuries and illnesses in the Federal workforce, and how to encourage the establishment and maintenance of effective occupational safety and health programs in each Federal Executive Branch Department and Agency.

*FACOSH membership.* FACOSH is comprised of 16 members, who the Secretary appoints to staggered terms not to exceed 3 years. The categories of FACOSH membership and the number of new members to be appointed to three-year terms include:

- Eight members who are Federal agency management representatives—Two management representatives will be appointed.
- Eight members who are representatives of labor organizations that represent Federal employees—Three labor representatives will be appointed.

FACOSH members serve at the pleasure of the Secretary and may be appointed to successive terms. FACOSH meets at least two times a year.

The Department of Labor is committed to equal opportunity in the workplace and seeks broad-based and diverse FACOSH membership. Any interested person may nominate one or more qualified persons for membership on FACOSH. Interested persons also are invited and encouraged to submit statements in support of nominees.

*Nomination requirements.* Submission of nominations must include the following information:

- The nominee's name, contact information and current occupation or position;
- The nominee's resume or curriculum vitae, including prior membership on FACOSH and other

relevant organizations, associations and committees;

• Category of membership (management, labor) the nominee is qualified to represent;

• A summary of the nominee's background, experience and qualifications that address the nominee's suitability to serve on FACOSH;

• Articles or other documents the nominee has authored that indicate the nominee's knowledge, experience and expertise in occupational safety and health, particularly as it pertains to the Federal workforce; and

• A statement that the nominee is aware of the nomination, is willing to regularly attend and participate in FACOSH meetings, and has no apparent conflicts of interest that would preclude membership on FACOSH.

*Member selection.* The Secretary appoints FACOSH members based upon criteria that include the nominee's level of responsibility for occupational safety and health matters involving the Federal workforce, experience and competence in occupational safety and health, and willingness and ability to regularly and fully participate in FACOSH meetings. Federal agency management nominees who serve as Designated Agency Safety and Health Officials (DASHOs), or at an equivalent level of responsibility within their respective agencies, are preferred as management members. Labor nominees who are responsible for Federal employee occupational safety and health matters within their respective labor organizations are preferred as labor members.

The information received through the nomination process, along with other relevant sources of information, will assist the Secretary in making appointments to FACOSH. In selecting FACOSH members, the Secretary may consider individuals nominated in response to this **Federal Register** notice, as well as other qualified individuals. OSHA will publish a list of the new FACOSH members in the **Federal Register**.

**Public Participation**

*Instructions for submitting nominations.* Interested persons may submit nominations and supplemental materials using one of the methods listed in the ADDRESSES section. All nominations, attachments and other materials must identify the Federal agency/labor organization name and the docket number for this **Federal Register** notice (Docket No. OSHA–2013–0013). You may supplement electronic nominations by uploading document files electronically. If, instead, you wish to submit by hard copy additional materials in reference to your electronic or FAX submission, you must submit them to the OSHA Docket Office (see ADDRESSES section). The additional material must clearly identify your electronic or FAX submission by name and docket number (Docket No. OSHA–2013–0013) so that the materials can be attached to your submission.

Because of security-related procedures, the use of regular mail may cause a significant delay in the receipt of nominations. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office (see **ADDRESSES** section).

All submissions in response to this **Federal Register** notice are placed in the public docket without change and may be posted online at *http://www.regulations.gov.* Therefore, OSHA cautions interested parties about submitting personal information, such as Social Security numbers and birthdates. Guidance on submitting nominations and materials in response to this **Federal Register** notice is available at *http://www.regulations.gov* and from the OSHA Docket Office.

*Access to docket and other materials.* To read or download nominations and additional materials submitted in response to this **Federal Register** notice, please go to Docket No. OSHA–2013–0013 at *http://www.regulations.gov.* All submissions are listed in the index of that docket. However, some documents (*e.g.,* copyrighted material) are not publicly available to read or download through that Web page. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for information about materials not available through *http://www.regulations.gov* and for assistance in using the internet to locate submissions.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This document, as well as news releases and other relevant information, also is available at OSHA's Web page at *http://www.osha.gov.*

**Authority and Signature**

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by 29 U.S.C. 668, 5 U.S.C. 7902, 5 U.S.C. App 2, Executive Order 12196 and 13511, 29 CFR Part 1960, 41 CFR Part 102–3, and Secretary of Labor's Order 1–2012 (77 FR 3912 (1/25/2012)).

Signed at Washington, DC on January 2, 2014.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2014–00031 Filed 1–6–14; 8:45 am]

**BILLING CODE 4510–26–P**

## NATIONAL LABOR RELATIONS BOARD

### Sunshine Act Meetings: January 2014

**TIME AND DATES:** All meetings are held at 2 p.m.

Tuesday, January 7;
Wednesday, January 8;
Thursday, January 9;
Tuesday, January 14;
Wednesday, January 15;
Thursday, January 16;
Tuesday, January 21;
Wednesday, January 22;
Thursday, January 23;
Tuesday, January 28;
Wednesday, January 29;
Thursday, January 30.

**PLACE:** Board Agenda Room, No. 11820, 1099 14th St. NW., Washington, DC 20570

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Pursuant to § 102.139(a) of the Board's Rules and Regulations, the Board or a panel thereof will consider ''the issuance of a subpoena, the Board's participation in a civil action or proceeding or an arbitration, or the initiation, conduct, or disposition . . . of particular representation or unfair labor practice proceedings under section 8, 9, or 10 of the [National Labor Relations] Act, or any court proceedings collateral or ancillary thereto.'' See also 5 U.S.C. 552b(c)(10).

**CONTACT PERSON FOR MORE INFORMATION:** Henry Breiteneicher, Associate Executive Secretary, (202) 273–2917.

Dated: January 2, 2014.

**William B. Cowen,**

*Solicitor.*

[FR Doc. 2014–00093 Filed 1–3–14; 4:15 pm]

**BILLING CODE 7545–01–P**

## NATIONAL SCIENCE FOUNDATION

### Alan T. Waterman Award Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

*Name:* Alan T. Waterman Award Committee, #1172.

*Date and Time:* January 24, 2014, 8:30 a.m.–2:00 p.m.

*Place:* National Science Foundation, Room 1295, 4021 Wilson Blvd., Arlington, Virginia.

*Type of Meeting:* Closed.

*Contact Person:* Ms. Mayra Montrose, Program Manager, Room 1282, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–8040.

*Purpose of Meeting:* To provide advice and recommendations in the selection of the Alan T. Waterman Award recipient.

*Agenda:* To review and evaluate nominations as part of the selection process for awards.

*Reason for Closing:* The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are exempt under 5 U.S.C. 552b(c)(6) of the Government in the Sunshine Act.

Dated: January 2, 2014.

**Susanne Bolton,**

*Committee Management Officer.*

[FR Doc. 2014–00003 Filed 1–6–14; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Sunshine Act Meetings; National Science Board

The National Science Board's Task Force on Administrative Burdens, pursuant to NSF regulations (45 CFR Part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business and other matters specified, as follows:

**DATE & TIME:** Thursday, January 30, 2014, 4 p.m.–5 p.m. EST.

**SUBJECT MATTER:** Task Force members will discuss a draft report and recommendations.

**STATUS:** Open

This meeting will be held by teleconference. A public listening line will be available. Members of the public must contact the Board Office (call 703–292–7000 or send an email message to *nationalsciencebrd@nsf.gov*) at least 24 hours prior to the teleconference for the public listening number. Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information and schedule updates (time, place, subject matter or status of meeting) which may be found at *http://www.nsf.gov/nsb/notices/.* Point of contact for this meeting is Lisa Nichols or John Veysey.

**Ann Bushmiller,**

*Senior Counsel to the National Science Board.*

[FR Doc. 2014–00084 Filed 1–3–14; 4:15 pm]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2013–0287]**

### 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 (NRC) is publishing this regular biweekly notice. The Act requires the Commission to 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 12 to December 24, 2013. The last biweekly notice was published on December 24, 2013 (78 FR 77729).

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0287. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN–06–44, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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–2013–0287 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0287.
- *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 number for each document referenced in this notice (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.

*B. Submitting Comments*

Please include Docket ID NRC–2013–0287 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 that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely 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 submission. Your request should state that the NRC does not routinely 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 § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), 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; or (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 ''Agency Rules of Practice and Procedure'' 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. The NRC regulations are accessible electronically from the NRC Library on the NRC's 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's 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 request (1) a digital identification (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 agency'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 the NRC guidance available on the NRC's 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 agency'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 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 at 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. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute 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 three factors in 10 CFR 2.309(c)(1)(i)–(iii).

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's PDR Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*.

*Duke Energy Florida, Inc. (DEF), Docket No. 50–302, Crystal River Unit 3 Nuclear Generating Plant (CR–3), Citrus County, Florida*

*Date of amendment request:* September 26, 2013.

*Description of amendment request:* Revise the Radiological Emergency Response Plan (RERP) and Emergency Action Level scheme, as necessary, for the permanently defueled condition of the plant. The proposed CR–3 Permanently Defueled Emergency Plan (PDEP) discontinues offsite emergency planning activities and reduces the scope of onsite emergency planning

based upon the substantially lower onsite and offsite radiological consequences from accidents possible at CR–3.

*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?

Crystal River Unit 3 (CR–3) has permanently ceased operation. The proposed amendment would revise the Radiological Emergency Response Plan (RERP) to correspond to the reduced scope of remaining accidents and events. The proposed amendment has no effect on structures, systems, and components (SSCs) and no effect on the capability of any plant SSC to perform its design function. The proposed amendment would not increase the likelihood of the malfunction of any plant SSC.

With the reactor in a permanently defueled condition, the spent fuel pool and its support systems are dedicated only to spent fuel storage. It is expected that CR–3 will remain in a wet fuel storage configuration for some time. In this condition, the spectrum of postulated accidents is much smaller than for an operational plant. As a result of the certifications submitted by DEF in accordance with 10 CFR 50.82(a)(1), and the consequent removal of authorization to operate the reactor or to place or retain fuel in the reactor in accordance with 10 CFR 50.82(a)(2), most of the accident scenarios postulated in the CR–3 Final Safety Analysis Report, acknowledged by the RERP, are no longer possible.

The probability of occurrence of previously evaluated accidents is not increased, since most previously analyzed accidents can no longer occur and the probability of the few remaining are unaffected by the proposed amendment.

Therefore, the proposed amendment does 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?

The proposed amendment does not involve any change in the plant's design, configuration, or operation. The proposed changes have no impact on facility SSCs affecting the safe storage of irradiated fuel, or on the methods of operation of such SSCs, or on the handling and storage of irradiated fuel itself. Additionally, the proposed changes have no impact on the Radioactive Waste Handling Accident. The CR–3 PDEP is for the plant's defueled condition. There is no impact on the prevention, diagnosis, or mitigation of reactor-related transients. Accidents cannot result in different or more adverse failure modes or accidents than previously evaluated because the reactor is permanently shut down and defueled and CR–3 is no longer authorized to operate the reactor.

The proposed deletion of certain requirements of the RERP does not affect systems credited in the accident analysis for the Fuel Handling Accident (FHA) in the Auxiliary Building at CR–3. The analyses completed for the proposed PDEP presents a bounding radioactive waste handling accident for the permanently defueled condition of the plant. This accident is not new, but it was not previously analyzed in detail because the Waste Gas Decay Tank Rupture Accident assumed a bounding source term. This accident is a rupture of a high integrity container, containing spent primary resin beads, during movement and is the most limiting of the remaining radioactive waste handling accidents. The proposed PDEP continues to require proper control and monitoring of safety significant parameters and activities.

The proposed amendment does not result in any new mechanisms that could initiate damage to the remaining relevant safety barriers for defueled plants (i.e., fuel cladding and spent fuel pool inventory). Since extended operation in a defueled condition is the only operation currently allowed, and therefore bounded by the existing analyses, such a condition does not create the possibility of a new or different kind of accident.

The proposed amendment does not introduce a new mode of plant operation or new accident precursors, does not involve any physical alterations to plant configuration, or make changes to system setpoints that could initiate a new or different kind of accident.

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 amendment involve a significant reduction in a margin of safety?

The proposed amendment does not involve a change in the plant's design, configuration, or operation. The proposed amendment does not affect either the way in which the plant SSCs perform their safety function or its design and licensing bases.

Plant safety margins are established through Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the CR–3 Technical Specifications. Because there is no change to the physical design of the plant, there is no change to any of these margins.

Because the 10 CFR Part 50 license for CR–3 no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel, as specified in 10 CFR 50.82(a)(2), the occurrence of postulated accidents associated with reactor operation is no longer credible. The only remaining accidents are a FHA and a radioactive waste handling accident. The proposed amendment does not adversely affect the inputs or assumptions of any of the design basis analyses that impact a FHA and a radioactive waste handling accident.

The proposed changes that are limited to the CR–3 PDEP do not impact the safe storage of irradiated fuel. The revised PDEP does not affect any requirements for SSCs credited in the remaining analyses of applicable postulated accidents; and as such, does not affect the margin of safety associated with these accident analyses. Postulated design basis accidents involving the reactor are no longer possible because the reactor is permanently shut down and defueled and CR–3 is no longer authorized to operate the reactor.

Therefore, the proposed amendment does 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 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Lara S. Nichols, 550 South Tryon Street, Charlotte, NC 28202.

*NRC Branch Chief:* Douglas A. Broaddus.

**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*.

*Duke Energy Progress, Inc., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina*

*Date of application for amendment:* November 29, 2012, as supplemented by letters dated January 3 and June 4, 2013.

*Brief description of amendment:* This amendment revises Technical Specification (TS) Table 3.3–4 associated with 6.9 kV Emergency Bus Secondary Undervoltage time delay values to resolve a nonconservative TS.

*Date of issuance:* December 17, 2013.

*Effective date:* Date of Issuance, to be implemented within 90 days.

*Amendment No.:* 143.

*Facility Operating License No. NPF–63:* Amendment revises the TSs.

*Date of initial notice in* ***Federal Register****:* November 12, 2013 (78 FR 67405). The supplements dated January 3 and June 4, 2013, 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 17, 2013.

*No significant hazards consideration comments received:* No.

*Entergy Nuclear Operations, Inc., Docket No. 50–247, Indian Point Nuclear Generating Unit 2, Westchester County, New York*

*Date of application for amendment:* April 15, 2013, as supplemented by letter dated September 4, 2013.

*Brief description of amendment:* The amendment revises Technical Specification 3.5.4, ''Refueling Water Storage Tank (RWST),'' to allow for the temporary connection between the non-seismically qualified piping of the Boric Acid Recovery System to the seismically qualified piping of the RWST for the purpose of purifying the contents of the RWST in advance of the spring 2014, refueling outage. Operation in this mode will be under administrative controls and will only be applicable for limited periods through the end of the spring 2016, refueling outage.

*Date of issuance:* December 20, 2013.

*Effective date:* As of the date of issuance, and shall be implemented within 30 days.

*Amendment No.:* 273.

*Facility Operating License No. DPR–26:* The amendment revised the Facility Operating License and the Technical Specifications.

*Date of initial notice in* ***Federal Register****:* June 25, 2013 (78 FR 38082).

The September 4, 2013, supplement provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC 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 20, 2013.

*No significant hazards consideration comments received:* No.

*Exelon Generation Company, LLC, Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1 (TMI–1), Dauphin County, Pennsylvania*

*Date of application for amendment:* December 14, 2012, as supplemented by letters dated January 31, 2013, and August 13, 2013.

*Brief description of amendment:* The amendment modifies the pressure-temperature limit curves and low-temperature overpressure protection limits in the Three Mile Island Nuclear Station, Unit 1 Technical Specification (TS) Section 3.1.2, ''Pressurization Heatup and Cooldown Limitations,'' TS Section 3.1.12, ''Pressurizer Power Operated Relief Valve, Block Valve, and Low-Temperature Overpressure Protection,'' and TS Section 4.5.2, ''Emergency Core Cooling System.'' The changes reflect revised fluence projections out to 50.2 effective full-power years (EFPY), as compared to the current projections which go to 29 EFPY.

*Date of issuance:* December 13, 2013.

*Effective date:* Immediately, and shall be implemented within 60 days.

*Amendment No.:* 281.

*Renewed Facility Operating License No. DPR–50:* Amendment revised the Facility Operating License and the Technical Specifications.

*Date of initial notice in* ***Federal Register****:* March 19, 2013 (78 FR 16881). The supplemental letters dated January 31, 2013, and August 13, 2013, 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 13, 2013.

*No significant hazards consideration comments received:* No.

*ZionSolutions, LLC, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois*

*Date of application for amendment:* June 18, 2012, supplemented by letter dated June 5, 2013.

*Brief description of amendment:* The amendments approve the Independent Spent Fuel Storage Installation Physical Security Plan.

*Date of issuance:* December 13, 2013.

*Effective date:* As of the date of issuance.

*Amendment Nos.:* 187 and 174.

*Facility Operating License Nos. DPR–39 and DPR–48:* These amendments are effective on the date of issuance and shall be implemented prior to the start of spent fuel transfer operations to the Zion Independent Spent Fuel Storage Installation

*Date of initial notice in* ***Federal Register****:* August 6, 2013 (78 FR 47793).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 13, 2013.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 26th day of December, 2013.

For the Nuclear Regulatory Commission.

**Michele G. Evans,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2013–31544 Filed 1–6–14; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2014–0001]**

### Sunshine Act Meeting

**DATE:** Weeks of January 6, 13, 20, 27, February 3, 10, 2014.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**Week of January 6, 2014**

*Monday, January 6, 2014*

9:00 a.m. Briefing on Spent Fuel Pool Safety and Consideration of Expedited Transfer of Spent Fuel to Dry Casks (Public Meeting) (Contact: Kevin Witt, 301–415–2145)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

1:30 p.m. Briefing on Flooding and Other Extreme Weather Events (Public Meeting) (Contact: George Wilson, 301–415–1711)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

*Friday, January 10, 2014*

9:00 a.m. Briefing on the NRC Staff's Recommendations to Disposition Fukushima Near-Term Task Force (NTTF) Recommendation 1 on Improving NRC's Regulatory Framework (Public Meeting) (Contact: Dick Dudley, 301–415–1116)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

**Week of January 13, 2014—Tentative**

There are no meetings scheduled for the week of January 13, 2014.

**Week of January 20, 2014—Tentative**

There are no meetings scheduled for the week of January 20, 2014.

**Week of January 27, 2014—Tentative**

*Wednesday, January 29, 2014*

9:30 a.m. Briefing on Equal Employment Opportunity and Civil Rights Outreach (Public Meeting) (Contact: Larniece McKoy Moore, 301–415–1942)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

**Week of February 3, 2014—Tentative**

There are no meetings scheduled for the week of February 3, 2014.

**Week of February 10, 2014—Tentative**

There are no meetings scheduled for the week of February 10, 2014.

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The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Darlene.Wright@nrc.gov.*

Dated: January 2, 2014.

**Rochelle C. Bavol,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2014–00103 Filed 1–3–14; 4:15 pm]

**BILLING CODE 7590–01–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Submission for Review: Designation of Beneficiary: Federal Employees' Group Life Insurance

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** 30-Day Notice and request for comments.

**SUMMARY:** The Office of Personnel Management's (OPM) Retirement Services offers the general public and other Federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0136, Designation of Beneficiary: Federal Employees' Group Life Insurance, SF 2823. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on August 2, 2013, at Volume 78 FR 47017, allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM'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 submissions of responses.

**DATES:** Comments are encouraged and will be accepted until February 6, 2014. This process is conducted in accordance with 5 CFR 1320.1.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

**SUPPLEMENTARY INFORMATION:** Standard Form 2823 is used by any Federal employee or retiree covered by the Federal Employees' Group Life Insurance (FEGLI) Program, or by an

assignee who owns an insured's coverage, to instruct the Office of Federal Employees' Group Life Insurance how to distribute the proceeds of the FEGLI coverage when the statutory order of precedence does not meet his or her needs. OPM is revising the form to clarify its policy regarding the filing of court orders used for the payment of FEGLI benefits. In addition, OPM is making some minor textual changes to explain how and to whom proceeds can be designated, and to emphasize that the insured individual keep the designation updated as needs change.

**Analysis**

*Agency:* Retirement Operations, Retirement Services, Office of Personnel Management.

*Title:* Designation of Beneficiary: Federal Employees' Group Life Insurance.

*OMB Number:* 3206–0136.

*Frequency:* On occasion.

*Affected Public:* Individuals or Households.

*Number of Respondents:* 48,000.

*Estimated Time per Respondent:* 15 minutes.

*Total Burden Hours:* 12,000.

U.S. Office of Personnel Management.

**Katherine Archuleta,**

*Director.*

[FR Doc. 2013–31503 Filed 1–6–14; 8:45 am]

**BILLING CODE 6325–38–P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

*Extension:*

Rule 17a–10 OMB Control No. 3235–0563, SEC File No. 270–507.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 17(a) of the Investment Company Act of 1940 (the ''Act''), generally prohibits affiliated persons of a registered investment company (''fund'') from borrowing money or other property from, or selling or buying securities or other property to or from, the fund or any company that the fund controls.[1] Section 2(a)(3) of the Act defines ''affiliated person'' of a fund to include its investment advisers.[2] Rule 17a–10 (17 CFR 270.17a–10) permits (i) a subadviser [3] of a fund to enter into transactions with funds the subadviser does not advise but that are affiliated persons of a fund that it does advise (*e.g.,* other funds in the fund complex), and (ii) a subadviser (and its affiliated persons) to enter into transactions and arrangements with funds the subadviser does advise, but only with respect to discrete portions of the subadvised fund for which the subadviser does not provide investment advice.

To qualify for the exemptions in rule 17a–10, the subadvisory relationship must be the sole reason why section 17(a) prohibits the transaction. In addition, the advisory contracts of the subadviser entering into the transaction, and any subadviser that is advising the purchasing portion of the fund, must prohibit the subadvisers from consulting with each other concerning securities transactions of the fund, and limit their responsibility to providing advice with respect to discrete portions of the fund's portfolio.[4] Section 17(a) of the Investment Company Act of 1940 (the ''Act''), generally prohibits affiliated persons of a registered investment company (''fund'') from borrowing money or other property from, or selling or buying securities or other property to or from, the fund or any company that the fund controls. Section 2(a)(3) of the Act defines ''affiliated person'' of a fund to include its investment advisers. Rule 17a–10 permits (i) a subadviser of a fund to enter into transactions with funds the subadviser does not advise but that are affiliated persons of a fund that it does advise (e.g., other funds in the fund complex), and (ii) a subadviser (and its affiliated persons) to enter into transactions and arrangements with funds the subadviser does advise, but only with respect to discrete portions of the subadvised fund for which the subadviser does not provide investment advice.

To qualify for the exemptions in rule 17a–10, the subadvisory relationship must be the sole reason why section 17(a) prohibits the transaction. In addition, the advisory contracts of the subadviser entering into the transaction, and any subadviser that is advising the purchasing portion of the fund, must prohibit the subadvisers from consulting with each other concerning securities transactions of the fund, and limit their responsibility to providing advice with respect to discrete portions of the fund's portfolio. This requirement regarding the prohibitions and limitations in advisory contracts of subadvisers relying on the rule constitutes a collection of information under the Paperwork Reduction Act of 1995 (''PRA'').[5]

The staff assumes that all existing funds with subadvisory contracts amended those contracts to comply with the adoption of rule 17a–10 in 2003, which conditioned certain exemptions upon these contractual alterations, and therefore there is no continuing burden for those funds.[6] However, the staff assumes that all newly formed subadvised funds, and funds that enter into new contracts with subadvisers, will incur the one-time burden by amending their contracts to add the terms required by the rule.

Based on an analysis of fund filings, the staff estimates that approximately 775 fund portfolios enter into new subadvisory agreements each year. Based on discussions with industry representatives, the staff estimates that it will require approximately 3 attorney hours to draft and execute additional clauses in new subadvisory contracts in order for funds and subadvisers to be able to rely on the exemptions in rule 17a–10. Because these additional clauses are identical to the clauses that a fund would need to insert in their subadvisory contracts to rely on rules 10f–3, 12d3–1, and 17e–1, and because we believe that funds that use one such rule generally use all of these rules, we apportion this 3 hour time burden equally among all four rules. Therefore, we estimate that the burden allocated to rule 17a–10 for this contract change would be 0.75 hours.[7] Assuming that all 775 funds that enter into new subadvisory contracts each year make the modification to their contract required by the rule, we estimate that the rule's contract modification requirement will result in 581 burden

[1] 15 U.S.C. 80a–17(a).

[2] 15 U.S.C. 80a–2(a)(3)(E).

[3] As defined in rule 17a–10(b)(2). 17 CFR 270.17a–10(b)(2).

[4] 17 CFR 270.17a–10(a)(2).

[5] 44 U.S.C. 3501.

[6] Transactions of Investment Companies With Portfolio and Subadviser Affiliates, Investment Company Act Release No. 25888 (Jan. 14, 2003) [68 FR 3153, (Jan. 22, 2003)]. We assume that funds formed after 2003 that intended to rely on rule 17a–10 would have included the required provision as a standard element in their initial subadvisory contracts.

[7] This estimate is based on the following calculation: 3 hours ÷ 4 rules = 0.75 hours.

hours annually, with an associated cost of approximately $220,199.[8]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is necessary to obtain the benefit of relying on rule 17a–10. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written 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 will have 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 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 in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov*.

Dated: December 31, 2013.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–31609 Filed 1–6–14; 8:45 am]

**BILLING CODE 8011–01–P**

[8] These estimates are based on the following calculations: (0.75 hours × 775 portfolios = 581 burden hours); ($379 per hour × 581 hours = $220,199 total cost). The Commission's estimates concerning the wage rates for attorney time are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association. The estimated wage figure is based on published rates for in-house attorneys, modified to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, yielding an effective hourly rate of $379. *See* Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2012.

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

*Extension:*

Rule 17a–22 SEC File No. 270–202, OMB Control No. 3235–0196.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information provided for in Rule 17a–22 (17 CFR. 240.17a–22) under the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17a–22 requires all registered clearing agencies to file with the Commission three copies of all materials they issue or make generally available to their participants or other entities with whom they have a significant relationship. The filings with the Commission must be made within ten days after the materials are issued or made generally available. When the Commission is not the clearing agency's appropriate regulatory agency, the clearing agency must file one copy of the material with its appropriate regulatory agency.

The Commission is responsible for overseeing clearing agencies and uses the information filed pursuant to Rule 17a–22 to determine whether a clearing agency is implementing procedural or policy changes. The information filed aids the Commission in determining whether such changes are consistent with the purposes of Section 17A of the Exchange Act. Also, the Commission uses the information to determine whether a clearing agency has changed its rules without reporting the actual or prospective change to the Commission as required under Section 19(b) of the Exchange Act.

The respondents to Rule 17a–22 are registered clearing agencies. The frequency of filings made by clearing agencies pursuant to Rule 17a–22 varies but on average there are approximately 200 filings per year per active clearing agency. There are seven active registered clearing agencies. The Commission staff estimates that each response requires approximately .25 hours (fifteen minutes), which represents the time it takes for a staff person at the clearing agency to properly identify a document subject to the rule, print and makes copies, and mail that document to the Commission. Thus, the total annual burden for all active clearing agencies is 350 hours (7 clearing agencies multiplied by 200 filings per clearing agency multiplied by .25 hours) and a total of 50 hours (1400 responses multiplied by .25 hours, divided by 7 active clearing agencies) per year are expended by each respondent to comply with the rule.

Written comments are invited on: (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 estimates of the burden of the proposed collection of information; (c) ways to enhance 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 in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Please direct your written comments to: Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street, NE Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov*.

Dated: December 31, 2013.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–31610 Filed 1–6–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

*Extension:*

Form ABS–15G, OMB Control No. 3235–0675, SEC File No. 270–620.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Form ABS–15G (17 CFR 249.1300) is used for reports of information required under Rule 15Ga–1 (17 CFR 240.15Ga–1) of the Exchange Act of 1934 (''Exchange Act''). Exchange Act Rule 15Ga–1 requires asset-backed securitizers to provide disclosure regarding fulfilled and unfulfilled repurchase requests with respect to asset-backed securities. The purpose of the information collected on Form ABS–15G is to implement the disclosure requirements of Section 943 of the Dodd-Frank Wall Street Reform and Consumer Protection Act to provide information regarding the use of representations and warranties in the asset-backed securities markets. We estimate that approximately 810 securitizers will file Form ABS–15G annually at estimated 311.223 burden hours per response. In addition, we estimate that 75% of the 311.223 hours per response (233.417 hours) is carried internally by the securitizers for a total annual reporting burden of 189,068 hours (233.417 hours per response × 810 responses).

Written 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 will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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 in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Please direct your written comment to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: December 31, 2013.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–31611 Filed 1–6–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71213; File No. SR–ISE–2013–70]**

## Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

December 31, 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 23, 2013, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. 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 ISE proposes to amend its Schedule of Fees to waive CMM membership application fees for affiliated CMMs, and to charge an incremental annual regulatory fee for such CMMs. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this proposed rule change is to waive Competitive Market Maker (''CMM'') membership application fees for affiliated CMMs, *i.e.,* CMMs that share common ownership with another CMM, and to charge an incremental annual regulatory fee for such CMMs. The Exchange believes that these changes, which will lower the cost of maintaining separate CMM memberships for affiliated CMMs, will encourage current CMMs to register additional broker dealer entities as necessary to act as Alternative Primary Market Makers (''Alternative PMMs'') on the ISE.

The Exchange currently operates an Alternative PMM program whereby the ISE appoints CMMs that meet certain qualifications to serve as Alternative PMMs for options products that have not been allocated to a willing PMM.[3] The purpose of this program is to enable the Exchange to list new products, or continue trading listed products, that are not supported by a PMM, by offering such allocations to appropriately qualified CMMs that will have all of the responsibilities and privileges of a PMM under ISE Rules with respect to appointed options classes. Each broker dealer entity acting as an Alternative PMM, however, must be registered as a CMM on the ISE. Due to capital and other business requirements a CMM may need to house their Alternative PMM appointments in a separate affiliated broker dealer entity, which would be required to maintain a separate CMM membership on the ISE.

Currently, since these affiliated entities operate as distinct members these firms must pay a one-time CMM application fee of $5,500 for each entity. As the incremental cost associated with processing an affiliate's membership application is negligible, and given the significant benefits of attracting CMMs willing to quote unallocated options classes as Alternative PMMs, the Exchange is proposing to waive the application fee for CMM applicants that share at least 75% common ownership with another CMM as reflected on each

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 59250 (January 14, 2009), 74 FR 4062 (January 22, 2009) (ISE–2008–90). PMM allocations are voluntary and require the consent of the PMM being allocated the options class. *See* ISE Rule 802.

firm's Form BD, Schedule A. The waiver will apply only to the one-time CMM membership application fee, and the affiliated CMM will be subject to all other fees, such as network and access fees.

The Exchange also charges CMMs an annual regulatory fee in order to cover the cost of surveilling these members and performing other regulatory responsibilities. For a CMM that is not also a Primary Market Maker (''PMM'') this regulatory fee is $5,000 per year for the first CMM membership and $1,000 per year for each additional CMM membership. The lower fee charged for additional CMM memberships after the first reflects the lower incremental cost to the Exchange of surveilling such additional memberships. As with additional CMM memberships within the same entity, the Exchange does not have to dedicate the same level of resources to surveilling the activities of affiliated CMMs. The Exchange therefore proposes to only charge the higher $5,000 per year regulatory fee for the first CMM membership within each group of affiliated companies. Affiliated CMMs will pay the $1,000 per year incremental regulatory fee charged for additional CMM memberships after the first. The Exchange is not proposing any changes to the annual regulatory fee for CMMs that are also PMMs as that fee, which is $1,000 per year for each CMM membership, already reflects the incremental regulatory costs of surveilling such members. Again, the Exchange believes that this change will benefit all market participants that trade on the Exchange by attracting additional CMMs to act as Alternative PMMs in options classes not allocated to a PMM.

2. Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and Section 6(b)(4) of the Act,[5] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Exchange believes that it is fair and equitable to waive the membership application fee for affiliated CMMs due to the negligible cost associated with processing membership applications from such members. This waiver will allow affiliated CMMs to become members without incurring additional ''start-up'' fees that do not reflect the limited resources expended by the ISE in processing their applications, and will thereby encourage current CMMs to register additional affiliated CMMs as necessary to act as Alternative PMMs. The Exchange similarly believes that it is fair and equitable to charge an incremental regulatory fee to affiliated CMMs due to the incremental cost of regulating these members. This treatment is consistent with how the ISE currently charges regulatory fees for additional CMM memberships within the same entity, and the Exchange is merely extending this treatment to additional CMM memberships that are held within the same affiliated group of companies. By charging the higher initial regulatory fee to only the first CMM membership within each group of affiliated companies, the ISE believes that it is more accurately reflecting the costs associated with regulating affiliated members. Moreover, the Exchange believes that this change will encourage more affiliated CMMs to maintain memberships on the Exchange as necessary to support the Alternative PMM program, which, in turn, will benefit all market participants that trade on the ISE. The Exchange does not believe that it is unfairly discriminatory to apply the proposed application fee waiver and incremental regulatory fee only to CMMs. As explained above, these fee changes are being proposed in order to encourage CMMs to seek Alternative PMM appointments. The Exchange believes that reducing the membership application and regulatory costs for affiliated CMMs will encourage more CMMs to register additional affiliated broker dealers as CMMs in order to quote options classes as Alternative PMMs. Greater participation in the Alternative PMM program will benefit all market participants that trade on the Exchange as it will allow the ISE to list additional options products, which will be supported by the Alternative PMMs. Alternative PMMs have all the responsibilities of regular PMMs, including, among other things, conducting the opening rotation on a daily basis and providing continuous quotations in appointed options classes.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[6] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change should have little competitive impact as it merely aligns the CMM membership application and regulatory fees with the cost of processing these applications and regulating these members. While the proposed rule change only applies to CMMs, the Exchange does not believe that this will impose a significant burden on competition as all market participants that trade on the Exchange will benefit from the resulting allocation of options classes to Alternative PMMs. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

**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[7] and subparagraph (f)(2) of Rule 19b–4 thereunder,[8] because it establishes a due, fee, or other charge imposed by ISE.

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. 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:

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78f(b)(8).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

*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–ISE–2013–70 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2013–70. 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 Commissions 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 ISE. 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–ISE–2013–70 and should be submitted by January 28, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–31604 Filed 1–6–14; 8:45 am]

**BILLING CODE 8011–01–P**

[9] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71211; File No. SR–CME–2013–37]**

## Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes To Amend CME Rule 971.C

December 31, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 23, 2013, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II and III below, which items have been prepared primarily by CME. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons and to approve the proposed rule changes on an accelerated basis.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

CME proposes to make amendments to CME Rule 971 as part of an industry wide initiative that is designed to further safeguard customer funds held at the futures commission merchant (''FCM'') level.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization 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 Statutory Basis for, the Proposed Rule Changes*

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission (''CFTC'') and operates a substantial business clearing futures and swaps contracts subject to the jurisdiction of the CFTC. CME proposes to make rule changes to CME Rule 971 in coordination with the National Futures Association (''NFA''). The proposed rule changes are part of a continuing futures industry effort to enhance the protection of customer funds held at the FCM level.

In the fall of 2012, CME made a separate filing to introduce new provisions in CME Rule 971.C. Under these rule changes, FCM clearing members were required to provide the CME Audit Department, now named the Financial and Regulatory Surveillance Department (''FRS''), with view-only full access of segregated, secured, and Cleared Swaps Customer accounts at a bank or trust company.

When the 2012 rule changes were implemented, CME and NFA had engaged a third party vendor, Alphametrix360, LLC, to facilitate CME's and NFA's view only internet based access to relevant account information. CME is proposing to make certain amendments to the text of Rule 971.C for the purpose of allowing clearing members to be able to submit account information through multiple mediums. These proposed changes simply delete the phrases ''view only full'' and ''via the internet'' in the current rule text to effect these changes.

In addition, CME also proposes to make certain additional amendments to CME Rule 971.C to expand these reporting requirements to include all applicable customer depositories under CFTC Regulations. FRS will first expand its reporting requirement to include FCM customer carrying broker balances. Additionally, the expansion is anticipated to continue and subsequently will include Clearing House customer balances. The amended language provides FRS the flexibility to phase in these additional depositories, and is also intended to harmonize industry requirements as similar rules have been proposed and adopted by NFA effective as of September 6, 2013.[3] NFA and CME have allocated implementation responsibilities for these changes and both have been working closely with the FCM community regarding the implementation of these changes.

CME would like to operationalize the proposed changes on December 31, 2013, pending applicable regulatory reviews and approvals. CME believes it is appropriate to grant this filing on an accelerated basis because the proposed changes are part of an industry wide

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See http://www.nfa.futures.org/news/PDF/CFTC/FR_4_081513.pdf.*

initiative that is specifically targeted at protecting investors and furthering the public interest through adoption of requirements that help safeguard customer funds held at the FCM level. Currently, CME receives relevant customer account information through one medium. The proposed changes would facilitate regulatory access to relevant customer account information through additional mediums. Obtaining access to additional data through these new mediums will enable CME to more effectively discharge its regulatory obligations. Having access to an expanded pool of customer account information will allow for a more effective daily confirmation of relevant funds; a failure to have such access yields a less effective process. CME's effective administration of its regulatory function in this regard will help to further safeguard customer assets and will ultimately benefit investors. Further, NFA and CME have allocated implementation responsibilities for the implementation of these changes in the futures industry and have been working closely with the FCM community to ensure these enhancements to the daily segregation monitoring system are adopted to further safeguard customer assets. NFA submitted corresponding rule changes to CFTC for a September 6, 2013 effective date. CME's proposed rule changes are intended to apply these changes to the firms for which CME is the DSRO to ensure that both NFA and CME can collect relevant balance information in the manner described above. CME believes this wider futures industry context in combination with the investor protection purpose of these proposed changes justifies treatment of this filing on an accelerated basis.

CME has also made a filing with the CFTC, CME Submission 13–453, with respect to the proposed changes.

CME believes the proposed changes are consistent with the requirements of the Exchange Act. First, CME, a derivatives clearing organization, is implementing the proposed changes in accordance Commodity Exchange Act (''CEA'') as part of an effort to harmonize futures industry requirements in conjunction with the National Futures Association, which has already adopted corresponding rules that went effective as of September 6, 2013. The CEA contains a number of provisions that are comparable to the policies underlying the Exchange Act, including, for example, promoting market transparency for derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

More importantly, CME believes the proposed changes are specifically designed to protect investors and the public interest. The proposed changes involve enhancements to requirements that provide a self-regulatory organization with access to the customer accounts held at banks for the purpose of discharging regulatory obligations. As such, the proposed enhancements are clearly designed to bolster safeguarding of customer funds held at the FCM level and protect investors. Further, the proposed changes are part of a larger, coordinated futures industry effort to safeguard customer funds. Because the proposed changes are designed to enhance regulatory requirements related to self-regulatory organization access to customer accounts and are also part of an industry-wide plan initiated for the purpose of further safeguarding investor funds, CME believes the changes are consistent with the requirements of the Exchange Act because they are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of CME or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.[4]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CME does not believe that the proposed rule changes will have any impact, or impose any burden, on competition. The rule changes merely amend existing language in CME's rulebook for the purpose of enhancing access to customer accounts for regulatory purposes as part of a larger industry effort to safeguard customer funds.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others*

CME has not solicited, and does not intend to solicit, comments regarding these proposed rule changes. CME has not received any unsolicited written comments from interested parties.

**III. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule changes are 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–CME–2013–37 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–CME–2013–37. 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 changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

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–CME–2013–37 and should be submitted on or before January 28, 2014.

**IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Changes**

Section 19(b) of the Act[5] directs the Commission to approve proposed rule changes of a self-regulatory organization

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] 15 U.S.C. 78s(b).

if it finds that such proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. The Commission finds that the proposed rule changes are consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act, and the rules and regulations thereunder applicable to CME.[6] Specifically, the Commission finds that the proposed rule changes are consistent with Section 17A(b)(3)(F) of the Act,[7] which requires, among other things, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts and transactions, and to protect investors and the public interest because the proposed changes involve enhancements to FCM clearing member reporting requirements that provide CME, in its capacity as a self-regulatory organization, with access to customer accounts held at depositories for the purpose of discharging its regulatory obligations and are designed to further safeguard customer assets in the custody or control of the FCM.

In its filing, CME requested that the Commission approve these proposed rule changes on an accelerated basis for good cause shown because the proposed changes are part of an industry wide initiative that is specifically designed to protect investors and the public interest through adoption of requirements that help safeguard customer funds held at the FCM level.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[8] for approving the proposed rule changes prior to the 30th day after the date of publication of notice in the **Federal Register** because, as a registered derivatives clearing organization, CME must make the rule changes discussed above as part of an industry wide initiative that is specifically designed to protect investors and the public interest through adoption of requirements that help safeguard customer funds held at the FCM level.

## V. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule changes (SR–CME–2013–37) be, and hereby are, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–31602 Filed 1–6–14; 8:45 am]

**BILLING CODE 8011–01–P**

[6] 15 U.S.C. 78q–1. In approving these proposed rule changes, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78s(b)(2).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71209; File No. SR–TOPAZ–2013–20]**

## Self-Regulatory Organizations; Topaz Exchange, LLC; Notice of Filing of Proposed Rule Change To More Specifically Address the Number and Size of Counterparties to a Qualified Contingent Cross Order

December 31, 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, 2013, the Topaz Exchange, LLC (d/b/a ISE Gemini) (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the self-regulatory organization. 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 is proposing to amend Rule 715 (Types of Orders) to more specifically address the number and size of counterparties to a Qualified Contingent Cross Order (''QCC Order''). The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this proposal is to remove the size restriction on contra-party participation on a QCC Order. This proposal would expand the availability of QCC Orders by permitting multiple contra-parties on a QCC Order, each of which may consist of an order for less than 1,000 contracts; provided however, that the originating QCC Order meets the 1,000 contract minimum (as well as the other requirements of a QCC Order). This change is intended to increase liquidity and, potentially, improve the prices at which QCC Orders get executed, as explained further below.

A QCC Order must be comprised of an originating order to buy or sell at least 1,000 contracts [3] that is identified as being part of a qualified contingent trade,[4] coupled with a contra-side order or orders totaling an equal number of contracts, each of which is at least 1,000 contracts. QCC Orders are automatically executed upon entry provided that the execution (i) is not at the same price as a Priority Customer Order on the Exchange's limit order book and (ii) is at or between the NBBO. QCC Orders will be automatically canceled if they cannot be executed. QCC Orders may only be entered in the regular trading increments applicable to the options

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In the case of Mini Options, the minimum size is 10,000 contracts.

[4] A ''qualified contingent trade'' is a transaction consisting of two or more component orders, executed as agent or principal, where: (a) At least one component is an NMS Stock, as defined in Rule 600 of Regulation NMS under the Exchange Act; (b) all components are effected with a product or price contingency that either has been agreed to by all the respective contra-parties [sic] or arranged for by a broker-dealer as principal or agent; (c) the execution of one component is contingent upon the execution of all other components at or near the same time; (d) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined by the time the contingent order is placed; (e) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (f) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade.

class under Rule 710 (Minimum Trading Increments).

The QCC Order type was originally approved on July 26, 2013.[5] The Exchange then amended this rule on December 18, 2013 to specify that a QCC Order could have multiple contra-parties, so long as each contra-party's order is for at least 1,000 contracts.[6]

The Exchange is now proposing to remove the size limit placed on contra-parties to QCC Orders in an effort to increase liquidity and, potentially, improve the prices at which QCC Orders get executed. The ability for market participants to provide liquidity in response to large sized orders is directly proportional to the size and associated risk of the resulting position. As a result, smaller sized trades are often done at a better price than larger sized trades, which convey more risk. The ability to pool together multiple market participants to participate on a trade for any size, as opposed to only allowing market participants to participate for a minimum of 1,000 contracts has a direct and positive impact on the ability of those market participants to provide the best price as they compete to participate against the order without being compelled to provide liquidity with a large minimum quantity. This concept isn't unique to large crosses. It is well understood and observed that any product with multiple market participants providing liquidity offers the tightest and most liquid market and the same applies to the larger orders negotiated away from the exchanges.

Allowing several participants to offer liquidity to a QCC Order serves to ensure that that order receives the best possible price available in the market. Restricting interaction to only participants who are willing to trade a minimum of 1,000 contracts simply guarantees an inferior price because a trade will be limited to few liquidity providers who are taking on more risk as opposed to multiple liquidity providers being able to share the overall risk and trade at a better price. For example, a 1,000 contract order in GOOG will receive a better price if two liquidity providers are able to each provide 500 contracts, rather than one of them having to trade the entire 1,000 contracts.

An area of concern has been the protection of smaller orders, which is why the QCC Order is limited to the 1,000 contract minimum. It is important to note that the concern has always been and should continue to be for the originating or unsolicited part of the order, the order that is seeking liquidity and not the professional responders and providers of liquidity. Allowing smaller orders to participate on the other side of QCC Orders not only provides the best price and opportunity for a trade to occur in a tight and liquid market, but ensures that the highest possible number of liquidity providers are able to participate. Limiting participation only to liquidity providers who are willing to participate on the trade for 1,000 contracts conversely could result in an inferior price by shutting out some participants due to the large size and thereby minimizing the opportunity for competition and price improvement. Removing this limitation benefits both sides of a QCC trade by ensuring a trade at the best possible price without favoring larger participants on the solicited side of the trade.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[7] that an exchange have rules that are 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 for a free and open market and a national market system, and, in general, to protect investors and the public interest by amending the rule text to more clearly defining the QCC Order. Specifically, because the proposal removes the size restriction placed on the contra-sides to a QCC Order, it should increase liquidity and improve the prices at which QCC Orders get executed and, therefore, provide more opportunity to participate in QCC trades, consistent with the key principles behind the QCC Order.

In approving QCC Orders, the Commission has stated that ''. . . qualified contingent trades are of benefit to the market as a whole and a contribution to the efficient functioning of the securities markets and the price discovery process.''[8] The Commission ''also has recognized that contingent trades can be useful trading tools for investors and other market participants, particularly those who trade the securities of issuers involved in mergers, different classes of shares of the same issuer, convertible securities, and equity derivatives such as options [emphasis added].''[9] In light of these benefits, the Exchange believes that the proposal should improve the usefulness of the QCC Order without raising novel regulatory issues, because the proposal does not impact the fundamental aspects of this order type—it merely permits multiple contra-parties, regardless of size, on one side, while preserving the 1,000 contract minimum on the originating QCC Order.

Consistent with Section 6(b)(8) of the Act, the Exchange believes that this will be beneficial to participants because allowing multiple parties of any size on one contra-side of a QCC Order should foster competition for filling QCC Orders and thereby result in potentially better prices.

*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 not necessary or appropriate in furtherance of the purposes of the Act. In fact, the proposal is intended to relieve a burden on competition, which results from different exchanges interpreting their rules differently. Among the options exchanges, the Exchange believes that the proposal to allow multiple counterparties of at least 1,000 contracts should foster competition for filling the contra-side of a QCC order and thereby result in potentially better prices for such orders.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

**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

[5] *See* Securities Exchange Act Release No. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (File No. 10–209).

[6] *See* SR–Topaz–2013–20 [sic].

[7] 15 U.S.C. 78f(b)(5).

[8] QCC Approval Order at text accompanying footnote 115.

[9] QCC Approval Order at Section III.A. citing Securities Exchange Act Release No. 54389 (August 31, 2006), 71 FR 52829 (September 7, 2006) (Original QCT Exemption).

(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–TOPAZ–2013–20 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–TOPAZ–2013–20. 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 the 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–TOPAZ–2013–20 and should be submitted on or before January 28, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–31600 Filed 1–6–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71210; File No. SR–CHX–2013–24]**

## Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Market Data Revenue Rebates Program

December 31, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on December 23, 2013, the Chicago Stock Exchange, Inc. (''CHX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. CHX has filed this proposal pursuant to Exchange Act Rule 19b–4(f)(6) [3] which is effective upon filing with the Commission [sic]. 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 the Substance of the Proposed Rule Change**

CHX proposes to amend Section P of its Schedule of Fees and Assessments (the ''Fee Schedule'') to include Market Data Revenue from trade reports within the purview of the Market Data Revenue Rebates Program. The text of this proposed rule change is available on the Exchange's Web site at *(www.chx.com)* and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes [sic] 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 CHX 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 Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Section P of its Fee Schedule to include Market Data Revenue (''MDR'') from trade reports (''Trade Reports MDR'') within the purview of the MDR Rebates Program. Specifically, the amended MDR Rebates Program calls for 50% of MDR that exceeds fixed thresholds in any one of six quote or trade reports pools (''Excess MDR'') to be shared with Participants in proportion to their respective Eligible Quote or Trade Activity in that pool from the previous calendar quarter. If the sum of a Participant's rebates from all pools in a given quarter satisfies the *de minimis* requirement of current Section P(3), the Participant will receive a payment equal to that amount. Aside from the proposed sharing of Trade Reports MDR, the Exchange does not propose to substantively amend the current MDR Rebates Program in any other way.

Background

The Securities Information Processors (''SIPs''), which include the Securities Information [sic] Automation Corporation (''SIAC'') and the Unlisted Trading Privilege Plan Quotation Data Feed (''UQDF'') [sic], collect fees from subscribers for trade and quote tape data received from trading centers and reporting facilities, such as the CHX (collectively ''SIP Participants''). After deducting the cost of operating each tape, the profits are allocated among the SIP Participants on a quarterly basis, according to a complex set of calculations that consider [sic] estimates of anticipated MDR, adjustments to comport to actual MDR from previous quarters and a non-linear aggregation of total trading and quoting activity in Tapes A, B and C securities in allocating MDR to each SIP Participant. Based on these calculations, the SIPs provide MDR payments to each SIP Participant during the first month of each quarter for trade and quote data from the previous calendar quarter, which are subject to adjustment through subsequent quarterly payments. These payments can be divided into six pools

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

(*i.e.,* quoting and trading activity in Tape A, B and C securities).

Current MDR Rebates Program

On September 27, 2013, the Exchange adopted Section P of the Fee Schedule to implement an MDR Rebates Program to share MDR from quotes (''Quotes MDR'') only, which became operative on October 1, 2013.[4] Specifically, current Section P(1) provides that assuming that the requirements of Section P are met, a Participant will receive a quarterly MDR Rebate attributable to the Participant's quoting of displayed orders in Tapes A, B and C securities, collectively referred to as ''eligible quote activity,'' from the previous calendar quarter. Furthermore, Section P(2) provides that MDR will be calculated separately for eligible quote activity in Tape A, B and C securities, for a total of three pools. Specifically, if the MDR received by the Exchange in any given pool exceeds the following thresholds in any given calendar quarter, 50% of such Excess MDR will be paid to Participants in proportion to their respective eligible quote activity in that pool.

| Source | Tape A | Tape B | Tape C |
|---|---|---|---|
| Quotes | $3,000 | $204,000 | $12,000 |

In addition, Section P(3) provides a *de minimis* requirement that states that a Participant will not receive an MDR Rebate in any calendar quarter in which the total MDR Rebate attributed to a Participant is less than $500.

The Exchange utilizes a set of calculations to attribute Quotes MDR to Participants that are similar to calculations currently utilized by the SIPs in attributing Quotes MDR to SIP Participants. In sum, if Excess MDR exists in a given quotes pool, the Exchange assigns quote credits to each Participant according to their [sic] eligible quote activity in that pool, which takes into account the actual dollar amount of the quote and how long the quote was at the National Best Bid or Offer (''NBBO''). In turn, the actual dollar amount of the rebate for a Participant is the product of the percentage of the total quote credits assigned to the Participant in a given pool and 50% of the Excess MDR in the same pool. If a Participant is eligible for MDR Rebates from multiple pools, the Participant will be eligible to receive an MDR Rebate equal to the sum of all the rebates. However, if the sum of the rebates is less than $500, the Participant will not receive a payment and the rebate will be kept by the Exchange. The purpose of the *de minimis* requirement is to encourage significant quote activity and for the Exchange to avoid having to pay Participants for *de minimis* Excess MDR.

As for calculating the pool of funds from which MDR Rebates will be paid, unlike the SIPs, the Exchange derives MDR Rebate allocation from a fixed value that is not be subject to adjustment (*i.e.,* the amount of MDR actually received by the Exchange on a quarterly basis). This avoids the problem of having to adjust MDR Rebates that have already been paid to Participants to comport to adjustments to MDR made by the SIPs.[5]

Moreover, the Excess MDR thresholds were selected based on historical data of the Exchange's quote activity and MDR that has been paid to the Exchange in previous quarters. The dollar values represent the amount of MDR that must be paid to the Exchange by the SIPs before the 50% of the Excess MDR would be eligible for sharing pursuant to the MDR Rebates Program.

Amended MDR Rebates Program

The Exchange now proposes to expand the current MDR Rebates Program to share Trade Reports MDR. Aside from this, the Exchange does not propose to substantively amend the current MDR Rebates Program in any other way.

Specifically, proposed Section P(1) provides that assuming that the requirements of this Section are met, a Participant will receive a quarterly MDR Rebate in proportion to the Participant's quoting of displayed orders in Tapes A, B and C securities (''Eligible Quote Activity'')[6] and trades resulting from single-sided resting orders submitted by the Participant in Tapes A, B and C securities (''Eligible Trade Activity'') from the previous calendar quarter. Initially, the Exchange proposes to replace the term ''attributable'' with ''in proportion'' in order to be consistent with the use of the phrase ''in proportion'' in current Section P(2). Also, trades resulting from cross orders[7] and single-sided orders submitted by the Participant that executed against resting order(s) on the CHX Book are not ''Eligible Trade Activity.'' The purpose of excluding these types of orders from the definition of ''Eligible Trade Activity'' is to specifically encourage Participants to post marketable limit orders on the CHX Book and, thereby, increase liquidity on the Exchange.

Furthermore, proposed Section P(2) provides that MDR will be calculated separately for quotes and trade reports in Tape A, B and C securities, for a total of six pools. Notably, the Exchange proposes to replace the term ''eligible quote activity'' with the more general ''quotes and trade reports'' to clarify that the MDR thresholds in each of the six pools are calculated not based on Eligible Quote or Trading Activity, but rather, on all Quotes and Trade Reports MDR received by the Exchange. Moreover, proposed Section P(2) also provides that if the MDR received by the Exchange in any given pool exceeds the following proposed thresholds in any given calendar quarter, 50% of such Excess MDR will be paid to Participants in proportion to their respective Eligible Quote or Trade Activity in that pool.

[4] *See* Securities Exchange Act Release No. 70546 (September 27, 2013), 78 FR 61413 (October 3, 2013) (SR–CHX–2013–18) (''Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a Market Data Revenue Rebates Program'').

[5] For example, if MDR paid to the Exchange was less than anticipated in Q3 2014 due to an adjustment to the MDR paid to the Exchange in Q2 2014 (*i.e.,* actual MDR in Q2 fell short of estimates), the Exchange will not recoup the difference from the Participants that had been paid the Q2 MDR Rebate. Instead, the MDR Rebate for Q3 will be calculated based on the actual MDR paid to the Exchange in Q3.

[6] The Exchange proposes to capitalize the current ''eligible quote activity'' and proposed ''Eligible Trade Activity,'' as they are defined terms.

[7] CHX Article 1, Rule 2(a)(2) defines a ''cross'' order, in pertinent part, as ''an order to buy and sell the same security at a specific price better than the best bid and offer displayed in the Matching System and which would not constitute a trade-through under Reg NMS (including all applicable exceptions and exemptions).''

[8] Like the current Quotes MDR thresholds, the proposed Trade Reports MDR thresholds were selected based on historical data of the Exchange's trading activity and MDR that has been paid to the Exchange in previous quarters.

| Source | Tape A | Tape B | Tape C |
|---|---|---|---|
| Quotes | $3,000 | $204,000 | $12,000 |
| Trade Reports [8] | 27,000 | 36,000 | 18,000 |

The Exchange notes that the SIPs do not distinguish between trades from single-sided orders and trades from cross orders in attributing Trade Reports MDR to a SIP Participant. As such, the Exchange proposes to similarly consider all Trade Reports MDR received from the SIPs in determining whether or not Excess MDR exists in a given trade reports pool. However, given that the Exchange's proposed definition of ''Eligible Trade Activity,'' Excess MDR in a given trade reports pool will be allocated to Participants based solely on trades resulting from single-sided resting orders submitted by the Participant. [sic] That is, a Participant's trading activity based on cross orders or single-sided orders that take liquidity from the CHX Book will not count as Eligible Trade Activity.

The Exchange does not propose to amend current Section P(3), which provides an aggregate $500.00 *de minimis* threshold that must be met before an MDR Rebate is payable to a Participant.

The Exchange proposes to utilize a set of calculations to attribute Trade Reports MDR to Participants that are similar to calculations currently utilized by the SIPs in attributing Trade Reports MDR to SIP Participants. If Excess MDR exists in any given trade reports pool, the Exchange proposes to assign trade credits to each Participant according to their [sic] Eligible Trade Activity per trade reports pool. Specifically, the trade credit values will be derived from a set of calculations that will consider, *inter alia,* a Participant's percentage of (A) the total dollar amount of trades in a given security and (B) the total number of qualified trade reports in the same security. In turn, similar to how Quotes MDR is currently attributed to Participants, the actual dollar amount of Trade Reports MDR attributed to a Participant in a given pool will be the product of the percentage of the total trade credits assigned to the Participant in that pool and 50% of the Excess MDR in that pool. If a Participant is eligible for MDR Rebates from multiple quotes and trade reports pools, the Participant will be eligible to receive a payment that is equal to the sum of all the rebates for a given calendar quarter. However, if the sum of the rebates is less than $500, the Participant will not receive a payment and the rebate will be kept by the Exchange.

Similar to the current Quote MDR Rebates, the Exchange does not propose to adjust the Trade Reports MDR Rebates paid to Participants in subsequent quarters to comport to adjustments made by the SIPs to previous MDR payments made to the Exchange. This avoids the problem of having to adjust Trade Reports MDR Rebates that have already been paid.

The following *Examples 1 and 2* illustrate how Excess MDR will be calculated and distributed.

*Example 1.* The following table represents the proposed MDR pool thresholds:

| Source | Tape A | Tape B | Tape C |
|---|---|---|---|
| Quotes | $3,000 | $204,000 | $12,000 |
| Trade Reports (single-sided orders only) | 27,000 | 36,000 | 18,000 |

Assume that the Q1 2014 MDR paid to the Exchange is apportioned as follows:

| Source | Tape A | Tape B | Tape C |
|---|---|---|---|
| Quotes | $2,900 | $244,000 | $12,000 |
| Trade Reports (single-sided orders only) | 20,000 | 50,000 | 18,000 |

With respect to quotes, the Tape B quotes pool has Excess MDR in the amount of $40,000. However, the Tapes A and C quotes pools have no Excess MDR because the actual MDR received by the Exchange in the Tape A pool was $100 short of its $3,000 threshold and the Tape C pool was equal to its $12,000 threshold. Thus, Participants may be paid MDR Rebates in proportion to their quote credits from 50% of the Excess MDR in the Tape B pool, which is $20,000.

With respect to trade reports, the Tape B trade reports pool has Excess MDR in the amount of $14,000. However, the Tapes A and C trade reports pools have no Excess MDR because the actual MDR received by the Exchange in the Tape A pool was $7,000 short of its $27,000 threshold and the Tape C pool was equal to its $18,000 threshold. Thus, Participants may be paid MDR Rebates in proportion to their trade credits from 50% of the Excess MDR in the Tape B trade reports pool, which is $7,000.

*Example 2.* Assume the same as Example 1 and there are five Participants (*i.e.,* Participants A, B, C, D and E) that had Eligible Quote and Trading Activity in Tape B securities in the previous calendar quarter. After calculating the Tape B quote credits and Tape B trade credits for each Participant, the attributed MDR for each Participant would be as follows:

TABLE 1—QUOTES CREDITS

| Participant | Tape B Quotes Credits | Attributed MDR |
|---|---|---|
| A | 24,000 | $480 |
| B | 75,000 | 1,500 |
| C | 201,000 | 4,020 |
| D | 300,000 | 6,000 |
| E | 400,000 | 8,000 |
| Total | 1,000,000 | 20,000 |

TABLE 2—TRADE CREDITS

| Participant | Tape B Trade Credits | Attributed MDR |
|---|---|---|
| A | 500 | $3.50 |
| B | 77,500 | 542.50 |
| C | 210,000 | 1,470 |
| E | 407,000 | 2,849 |
| Total | 1,000,000 | 7,000 |

Each Participant is attributed MDR according to their [sic] respective percentage of the total Tape B quote or trade credits assigned. For instance, Participant A was allocated 2.4% (*i.e.,* 24,000 credits) of the total 1,000,000 Tape B quotes credits attributed to all five Participants. As such, Participant A would be attributed 2.4% of the Excess MDR in the Tape B quotes pool, which is $480 (*i.e.,* 2.4% × $20,000 = $480). Participant A was also allocated .05% (*i.e.,* 500 credits) of the total 1,000,000 Tape B trade credits attributed to all five Participants. As such, Participant A would also be attributed 0.05% of the Excess MDR in the Tape B trade reports pool, which is $3.50. In total, Participant A would be attributed a total of $483.50 for the quarter. However, since the total MDR attributed to Participant A is less than $500 and there are no other MDR pools with Excess MDR, the *de minimis* exception would result in Participant A not receiving an MDR payment for that quarter. In contrast, since the other Participants were attributed MDR in amounts greater than $500, these Participants would be paid an MDR Rebate in an amount that is the sum of their attributed MDR in each of the two Tape B pools.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [9] in general, and furthers the objectives of Section 6(b)(4) of the Act [10] in particular, in that it provides for the equitable allocation of MDR Rebates among members and other persons using any facility or system which the Exchange operates or controls. The Exchange believes that the amended MDR Rebates Program will promote display liquidity and order flow to the Exchange. In addition, these changes to the Fee Schedule would equitably allocate MDR Rebates among Participants by paying MDR Rebates in proportion to their Eligible Quote and Trade Activity in Tape A, B and C securities in any given calendar quarter.

*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. The proposed change to amend the MDR Rebates Program contributes to the protection of investors and the public interest by promoting display liquidity on, and order flow to, the Exchange. Consequently, the MDR rebates, as amended, will promote competition that is necessary and appropriate in furtherance of the purpose 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 either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change 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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) [12] thereunder.

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. The Exchange proposes to implement the program in time for the initial calendar quarter for 2014. Waiver would allow the Exchange to adhere to this proposed timetable. Also, prompt implementation of the changes to the program may encourage competition among exchanges that have market data revenue sharing programs. For these reasons, and because the proposed rule change presents no novel issues, the Commission designates the proposal operative upon filing.[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

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–CHX–2013–24 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–CHX–2013–24. 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 offices 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–CHX–2013–24, and should be submitted on or before January 28, 2014.

[14] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–31601 Filed 1–6–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71214; File No. SR–NYSEArca–2013–146]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services To Eliminate the Mid-Point Passive Liquidity Order Tier, Add a New Routable Order Cross-Asset Tier, and Make Other Changes Relating to Open Orders

December 31, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 19, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. 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 the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (''Fee Schedule'') to eliminate the Mid-Point Passive Liquidity (''MPL'') Order Tier, add a new Routable Order Cross-Asset Tier, and make other changes relating to open orders. The Exchange proposes to implement the changes on January 2, 2014. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

**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 amend the Fee Schedule to eliminate the MPL Order Tier, add a new Routable Order Cross-Asset Tier, and make other changes relating to open orders. The Exchange proposes to implement the changes on January 2, 2014.

Currently, the Exchange provides a $0.0020 per share credit for ETP holders, including Market Makers, that execute an Average Daily Volume (''ADV'') of providing MPL orders during the month that is 0.0775% or more of the U.S. Consolidated ADV (''US CADV''). When the Exchange proposed the MPL Order Tier credit, the Exchange expected it to incentivize ETP Holders to submit additional MPL orders on the Exchange; [4] however, the credit has not had the intended effect. Accordingly, the Exchange proposes to eliminate the MPL Order Tier. The $0.0015 per share credit would remain in place for the Tier 1, Tier 2, and Basic rates.

The Exchange also is proposing a new Routable Order Cross-Asset Tier. Under the Routable Order Cross-Asset Tier, ETP Holders, including Market Makers, that (1) provide liquidity of 0.40% or more of the US CADV during the billing month across all Tapes, (2) maintain a ratio during the billing month across all Tapes of executed provide liquidity that is eligible to route away from the Exchange (''Routable Orders'') to total executed provide liquidity of 65% or more, (3) execute an ADV of provide liquidity during the billing month across all Tapes that is equal to at least the ETP Holder's or Market Maker's May 2013 provide liquidity across all Tapes

[4] *See* Securities Exchange Act Release No. 69926 (July 3, 2013), 78 FR 41154 (July 9, 2013) (SR–NYSEArca–2013–67).

plus 40%, and (4) are affiliated with an OTP Holder or OTP Firm that provides an ADV of manual (i.e., non-electronic) executions (as defined in footnote 5 of the NYSE Arca Options Fee Schedule) [5] on NYSE Arca Options (excluding mini options, qualified contingent cross orders, and strategy trades) across all account type ranges of at least 1.5% of total Customer equity and ETF option ADV as reported by the Options Clearing Corporation would qualify for a $0.0032 per share credit for Routable and non-Routable Orders that provide liquidity in Tape A and C securities and a $0.0027 per share credit for Routable and non-Routable Orders that provide liquidity in Tape B securities. The Exchange notes that the proposed credits would provide an alternative way to qualify for the current Routable Order Tier credit of $0.0032 for Tape A and Tape C securities and an alternative way to qualify for the current Tape B Step Up Tier credit of $0.0027 for Tape B securities that are offered by the Exchange.[6] The Exchange also proposes to make conforming changes to the Tape B Adding Tier, Tape B Step Up Tier, Tape C Step Up Tier, and Tape C Step Up Tier 2 to specify that ETP Holders and Market Makers that qualify for the proposed Routable Order Cross-Asset Tier would not additionally qualify for those tiers.

Lastly, the Exchange proposes to amend footnote 1 in the Fee Schedule to eliminate the restriction that credits will not be applied to open orders (e.g., ''Good Till Cancelled'' or ''GTC'' Orders) executed after the trading date on which they were entered. The Exchange is eliminating the restriction to encourage more orders to be submitted and enhance liquidity on the Exchange.

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that ETP Holders would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that eliminating the MPL Order Tier is reasonable because it has generally not incentivized ETP Holders to submit additional liquidity in MPL orders as intended.[9] The Exchange believes that removal of the MPL Order Tier is equitable and not unfairly discriminatory because it would be eliminated for all ETP Holders. The Exchange also believes that eliminating the MPL Order Tier is reasonable and equitable because ETP Holders can still receive a $0.0015 credit for MPL orders that provide liquidity under the Tier 1, Tier 2, and Basic rates.

The Exchange believes that the proposal to add the new Routable Order Cross-Asset Tier is reasonable because it would provide firms with an alternative way in which to qualify for the current Routable Order Tier credit of $0.0032 for Tape A and Tape C securities and an alternative way to qualify for the current Tape B Step Up Tier credit of $0.0027 for Tape B securities through equity and options orders, thereby encouraging increased trading activity on both the NYSE Arca equity and option markets. The Exchange believes that the thresholds that it has set for qualifying for the new tier are reasonable because they are based in part on the qualifications for the existing Routable Order Tier. The Exchange believes that lowering the ratio for Routable Orders from 75% in the current Routable Order Tier to 65% in the proposed Routable Order Cross-Asset Tier is reasonable because under the proposed tier, ETP Holders would be required to meet an additional threshold in options volume in order to qualify for the credit. The Exchange further believes that the proposed Routable Order Cross-Asset Tier is equitable and not unfairly discriminatory because ETP Holders that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm would continue to have the opportunity to qualify for the same levels of credit pursuant to either the Routable Order Tier or the Tier 1 and Tape B Step Up Tier. The Exchange also believes that it is reasonable, equitable, and not unfairly discriminatory for an ETP Holder or Market Maker that qualifies for the proposed Routable Order Cross-Asset Tier to not be eligible for the Tape B Adding Tier, Tape B Step Up Tier, Tape C Step Up Tier, or Tape C Step Up Tier 2 because the ETP Holders and Market Makers that qualify for these specified tiers would already receive the benefit of a lower fee or an equal or incrementally higher credit for such executions that add liquidity.

The Exchange believes that it is reasonable to include Tape B securities within the proposed Routable Order Cross-Asset Tier because it would encourage additional liquidity on the Exchange in such securities. The Exchange further believes that it is equitable and not unfairly discriminatory to apply the same qualifying thresholds to Tape B securities as would apply to Tape A and Tape C securities, but to apply a lower credit for Tape B securities (i.e., $0.0027 compared to $0.0032), because existing pricing on the Exchange for Tape B Securities is often different from Tape A and Tape C Securities, with different credits and fees.

The Exchange believes that eliminating the restriction on open orders in footnote 1 and making credits available to open orders that execute after the day that they are entered is reasonable because it may encourage more open orders to be submitted, which may enhance liquidity on the Exchange. The Exchange believes that the proposed change to footnote 1 is equitable and not unfairly discriminatory because all ETP Holders would have the opportunity to earn credits for open orders that do not execute on the day entered.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For these reasons, the Exchange believes that the proposal is consistent with the Act.

[5] As provided in footnote 5 in the NYSE Arca Options Fee Schedule, manual executions exclude certain electronic transactions. Specifically, a manual order that executes in part against one or more electronic orders or quotes resting on the NYSE Arca Options Consolidated Book prior to executing against interest in the NYSE Arca Options Trading Crowd would be considered a manual transaction order for the entire order. A manual order that executes entirely against one or more electronic orders or quotes resting on the Consolidated Book would be considered an electronic transaction for the entire order. In either case, the contra-side electronic order or quote would be considered an electronic transaction. In order to be considered a manual transaction, all manual orders must be entered into NYSE Arca Options' Electronic Order Capture System. Manual orders that are entered into an order entry device approved by NYSE Arca Options and contemporaneously recorded into the Electronic Order Capture System are also considered manual transactions.

[6] The $0.0027 per share credit for executions of Tape B securities under the Routable Order Cross-Asset Tier is the same credit that ETP Holders would receive if they qualified for both the Tier 1 ($0.0023) and Tape B Step Up Tier ($0.0004) credits.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] *See supra* note 4.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[10] 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. In particular, the removal of the MPL Order Tier will not impose a burden on competition because the tier will be removed in its entirety and generally has not encouraged liquidity on the Exchange, as intended. The proposal to add the new Routable Order Cross-Asset Tier will not place a burden on competition because ETP Holders that are not affiliated with an OTP Holder or OTP Firm can still qualify to receive the same proposed credits pursuant to the other existing tiers discussed above. The Exchange believes that the proposed change to footnote 1 will not impose a burden on competition but rather will create an incentive to submit open orders to the Exchange, thereby promoting competition. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change promotes a competitive environment.

*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**

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[11] of the Act and subparagraph (f)(2) of Rule 19b–4[12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change 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–NYSEArca–2013–146 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–NYSEArca–2013–146. 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 the 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–NYSEArca–2013–146 and should be submitted on or before January 28, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–31605 Filed 1–6–14; 8:45 am]

**BILLING CODE 8011–01–P**

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71217; File No. SR–NASDAQ–2013–162]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend Fee Pilot Program for NASDAQ Last Sale

December 31, 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 23, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

NASDAQ is proposing to extend for three months the fee pilot pursuant to which NASDAQ distributes the NASDAQ Last Sale (''NLS'') market data products. NLS allows data distributors to have access to real-time market data for a capped fee, enabling those distributors to provide free access to the data to millions of individual investors via the internet and television. Specifically, NASDAQ offers the ''NASDAQ Last Sale for NASDAQ'' and ''NASDAQ Last Sale for NYSE/NYSE MKT'' data feeds containing last sale activity in U.S. equities within the NASDAQ Market Center and reported to the FINRA/NASDAQ Trade Reporting Facility (''FINRA/NASDAQ TRF''), which is jointly operated by NASDAQ and the Financial Industry Regulatory Authority (''FINRA''). The purpose of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

this proposal is to extend the existing pilot program for three months, from January 1, 2014 through March 31, 2014.[3]

This pilot program supports the aspiration of Regulation NMS to increase the availability of proprietary data by allowing market forces to determine the amount of proprietary market data information that is made available to the public and at what price. During the pilot period, the program has vastly increased the availability of NASDAQ proprietary market data to individual investors. Based upon data from NLS distributors, NASDAQ believes that since its launch in July 2008, the NLS data has been viewed by millions of investors on Web sites operated by Google, Interactive Data, and Dow Jones, among others.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

**7039. NASDAQ Last Sale Data Feeds**

(a) For a three month pilot period commencing on [October 1, 2013] *January 1, 2014,* NASDAQ shall offer two proprietary data feeds containing real-time last sale information for trades executed on NASDAQ or reported to the NASDAQ/FINRA Trade Reporting Facility.

(1)–(2) No change.

(b)–(c) No change.

* * * * *

**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

Prior to the launch of NLS, public investors that wished to view market data to monitor their portfolios generally had two choices: (1) Pay for real-time market data or (2) use free data that is 15 to 20 minutes delayed. To increase consumer choice, NASDAQ proposed a pilot to offer access to real-time market data to data distributors for a capped fee, enabling those distributors to disseminate the data at no cost to millions of internet users and television viewers. NASDAQ now proposes a three-month extension of that pilot program, subject to the same fee structure as is applicable today.

NLS consists of two separate ''Level 1'' products containing last sale activity within the NASDAQ market and reported to the jointly-operated FINRA/NASDAQ TRF. First, the ''NASDAQ Last Sale for NASDAQ'' data product is a real-time data feed that provides real-time last sale information including execution price, volume, and time for executions occurring within the NASDAQ system as well as those reported to the FINRA/NASDAQ TRF. Second, the ''NASDAQ Last Sale for NYSE/NYSE MKT'' data product provides real-time last sale information including execution price, volume, and time for NYSE- and NYSE MKT-securities executions occurring within the NASDAQ system as well as those reported to the FINRA/NASDAQ TRF. By contrast, the securities information processors (''SIPs'') that provide ''core'' data consolidate last sale information from all exchanges and trade reporting facilities (''TRFs''). Thus, NLS replicates a subset of the information provided by the SIPs.

NASDAQ established two different pricing models, one for clients that are able to maintain username/password entitlement systems and/or quote counting mechanisms to account for usage, and a second for those that are not. Firms with the ability to maintain username/password entitlement systems and/or quote counting mechanisms are eligible for a specified fee schedule for the NASDAQ Last Sale for NASDAQ Product and a separate fee schedule for the NASDAQ Last Sale for NYSE/NYSE MKT Product. Firms that are unable to maintain username/password entitlement systems and/or quote counting mechanisms also have multiple options for purchasing the NASDAQ Last Sale data. These firms choose between a ''Unique Visitor'' model for internet delivery or a ''Household'' model for television delivery. Unique Visitor and Household populations must be reported monthly and must be validated by a third-party vendor or ratings agency approved by NASDAQ at NASDAQ's sole discretion. In addition, to reflect the growing confluence between these media outlets, NASDAQ offered a reduction in fees when a single distributor distributes NASDAQ Last Sale Data Products via multiple distribution mechanisms.

NASDAQ also established a cap on the monthly fee, currently set at $50,000 per month, for all NASDAQ Last Sale products. The fee cap enables NASDAQ to compete effectively against other exchanges that also offer last sale data for purchase or at no charge.

As with the distribution of other NASDAQ proprietary products, all distributors of the NASDAQ Last Sale for NASDAQ and/or NASDAQ Last Sale for NYSE/NYSE MKT products pay a single $1,500/month NASDAQ Last Sale Distributor Fee in addition to any applicable usage fees. The $1,500 monthly fee applies to all distributors and does not vary based on whether the distributor distributes the data internally or externally or distributes the data via both the internet and television.

2. *Statutory Basis*

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(4) of the Act,[5] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data. In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers (''BDs'') increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

NASDAQ believes that its NASDAQ Last Sale market data products are precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS—by lessening regulation of the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their

[3] Prior to the end of this pilot period, NASDAQ expects to submit a proposed rule change to remove the pilot status of NLS and make the product permanent.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

own internal analysis of the need for such data.[6]

By removing unnecessary regulatory restrictions on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to BDs at all, it follows that the price at which such data is sold should be set by the market as well.

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010) (''*NetCoalition I*''), upheld the Commission's reliance upon competitive markets to set reasonable and equitably allocated fees for market data. ''In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' '' *NetCoalition I,* at 535 (quoting H.R. Rep. No. 94–229, at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 321, 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [7]

The court in *NetCoalition I,* while upholding the Commission's conclusion that competitive forces may be relied upon to establish the fairness of prices, nevertheless concluded that the record in that case did not adequately support the Commission's conclusions as to the competitive nature of the market for NYSE Arca's data product at issue in that case. As explained below in NASDAQ's Statement on Burden on Competition, however, NASDAQ believes that there is substantial evidence of competition in the marketplace for data that was not in the record in the *NetCoalition I* case, and that the Commission is entitled to rely upon such evidence in concluding that the fees established in this filing are the product of competition, and therefore in accordance with the relevant statutory standards.[8] Moreover, NASDAQ further notes that the product at issue in this filing—a NASDAQ last sale data product that replicates a subset of the information available through ''core'' data products whose fees have been reviewed and approved by the SEC—is quite different from the NYSE Arca depth-of-book data product at issue in *NetCoalition I.* Accordingly, any findings of the court with respect to that product may not be relevant to the product at issue in this filing.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. NASDAQ's ability to price its Last Sale Data Products is constrained by (1) competition between exchanges and other trading platforms that compete with each other in a variety of dimensions; (2) the existence of inexpensive real-time consolidated data and market-specific data and free delayed consolidated data; and (3) the inherent contestability of the market for proprietary last sale data.

The market for proprietary last sale data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market.

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price, and distribution of its data products. Without trade executions, exchange data products cannot exist. Moreover, data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, the operation of the exchange is characterized by high fixed costs and low marginal costs. This cost structure is common in content and content distribution industries such as software, where developing new software typically requires a large initial investment (and continuing large investments to upgrade the software), but once the software is developed, the incremental cost of providing that software to an additional user is typically small, or even zero (*e.g.,* if the software can be downloaded over the internet after being purchased).[9] In NASDAQ's case, it is costly to build and maintain a trading platform, but the incremental cost of trading each additional share on an existing platform, or distributing an additional instance of data, is very low. Market information and executions are each produced jointly (in the sense that the activities of trading and placing orders are *the* source of the information that is distributed) and are each subject to significant scale economies. In such cases, marginal cost pricing is not feasible because if all sales were priced at the margin, NASDAQ would be unable to defray its platform costs of providing the joint products.

An exchange's BD customers view the costs of transaction executions and of data as a unified cost of doing business with the exchange. A BD will direct orders to a particular exchange only if the expected revenues from executing trades on the exchange exceed net transaction execution costs and the cost of data that the BD chooses to buy to support its trading decisions (or those of its customers). The choice of data products is, in turn, a product of the value of the products in making profitable trading decisions. If the cost

[6] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[7] *NetCoalition I,* at 535.

[8] It should also be noted that Section 916 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act'') has amended paragraph (A) of Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make it clear that all exchange fees, including fees for market data, may be filed by exchanges on an immediately effective basis. See also *NetCoalition* v. *SEC,* 715 F.3d 342 (D.C. Cir. 2013) (''NetCoalition II'') (finding no jurisdiction to review Commission's non-suspension of immediately effective fee changes).

[9] *See* William J. Baumol and Daniel G. Swanson, ''The New Economy and Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of Market Power,'' *Antitrust Law Journal,* Vol. 70, No. 3 (2003).

of the product exceeds its expected value, the BD will choose not to buy it. Moreover, as a BD chooses to direct fewer orders to a particular exchange, the value of the product to that BD decreases, for two reasons. First, the product will contain less information, because executions of the BD's trading activity will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that BD because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the BD is directing orders will become correspondingly more valuable.

Similarly, in the case of products such as NLS that are distributed through market data vendors, the vendors provide price discipline for proprietary data products because they control the primary means of access to end users. Vendors impose price restraints based upon their business models. For example, vendors such as Bloomberg and Reuters that assess a surcharge on data they sell may refuse to offer proprietary products that end users will not purchase in sufficient numbers. Internet portals, such as Google, impose a discipline by providing only data that will enable them to attract ''eyeballs'' that contribute to their advertising revenue. Retail BDs, such as Schwab and Fidelity, offer their customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: They can simply refuse to purchase any proprietary data product that fails to provide sufficient value. NASDAQ and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully. Moreover, NASDAQ believes that products such as NLS can enhance order flow to NASDAQ by providing more widespread distribution of information about transactions in real time, thereby encouraging wider participation in the market by investors with access to the internet or television. Conversely, the value of such products to distributors and investors decreases if order flow falls, because the products contain less content.

Analyzing the cost of market data distribution in isolation from the cost of all of the inputs supporting the creation of market data will inevitably underestimate the cost of the data. Thus, because it is impossible to create data without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of market data. It would be equally misleading, however, to attribute all of the exchange's costs to the market data portion of an exchange's joint product. Rather, all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. NASDAQ pays rebates to attract orders, charges relatively low prices for market information and charges relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower liquidity rebates to attract orders, setting relatively low prices for accessing posted liquidity, and setting relatively high prices for market information. Still others may provide most data free of charge and rely exclusively on transaction fees to recover their costs. Finally, some platforms may incentivize use by providing opportunities for equity ownership, which may allow them to charge lower direct fees for executions and data.

In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering. Such regulation is unnecessary because an ''excessive'' price for one of the joint products will ultimately have to be reflected in lower prices for other products sold by the firm, or otherwise the firm will experience a loss in the volume of its sales that will be adverse to its overall profitability. In other words, an increase in the price of data will ultimately have to be accompanied by a decrease in the cost of executions, or the volume of both data and executions will fall.

The level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including thirteen SRO markets, as well as internalizing BDs and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated TRFs compete to attract internalized transaction reports. It is common for BDs to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products.

The large number of SROs, TRFs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and BD is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including NASDAQ, NYSE, NYSE MKT, NYSE Arca, BATS, and Direct Edge.

Any ATS or BD can combine with any other ATS, BD, or multiple ATSs or BDs to produce joint proprietary data products. Additionally, order routers and market data vendors can facilitate single or multiple BDs' production of proprietary data products. The potential sources of proprietary products are virtually limitless.

The fact that proprietary data from ATSs, BDs, and vendors can by-pass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products, as BATS and Arca did before registering as exchanges by publishing proprietary book data on the internet. Second, because a single order or transaction report can appear in a core data product, an SRO proprietary product, and/or a non-SRO proprietary product, the data available in proprietary products is exponentially greater than the actual number of orders and transaction reports that exist in the marketplace. Indeed, in the case of NLS, the data provided through that product appears both in (i) real-time core data products offered by the SIPs for a fee, and (ii) free SIP data products with a 15-minute time delay, and finds a close substitute in last-sale products of competing venues.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and Direct Edge. A

proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume.

Regulation NMS, by deregulating the market for proprietary data, has increased the contestability of that market. While BDs have previously published their proprietary data individually, Regulation NMS encourages market data vendors and BDs to produce proprietary products cooperatively in a manner never before possible. Multiple market data vendors already have the capability to aggregate data and disseminate it on a profitable scale, including Bloomberg and Thomson Reuters.

Moreover, consolidated data provides two additional measures of pricing discipline for proprietary data products that are a subset of the consolidated data stream. First, the consolidated data is widely available in real-time at $1 per month for non-professional users. Second, consolidated data is also available at no cost with a 15- or 20-minute delay. Because consolidated data contains marketwide information, it effectively places a cap on the fees assessed for proprietary data (such as last sale data) that is simply a subset of the consolidated data. The mere availability of low-cost or free consolidated data provides a powerful form of pricing discipline for proprietary data products that contain data elements that are a subset of the consolidated data, by highlighting the optional nature of proprietary products.

The competitive nature of the market for products such as NLS is borne out by the performance of the market. In May 2008, the internet portal Yahoo! began offering its Web site viewers real-time last sale data (as well as best quote data) provided by BATS. In response, in June 2008, NASDAQ launched NLS, which was initially subject to an ''enterprise cap'' of $100,000 for customers receiving only one of the NLS products, and $150,000 for customers receiving both products. The majority of NASDAQ's sales were at the capped level. In early 2009, BATS expanded its offering of free data to include depth-of-book data. Also in early 2009, NYSE Arca announced the launch of a competitive last sale product with an enterprise price of $30,000 per month. In response, NASDAQ combined the enterprise cap for the NLS products and reduced the cap to $50,000 (*i.e.,* a reduction of $100,000 per month). Although each of these products offers only a specific subset of data available from the SIPs, NASDAQ believes that the products are viewed as substitutes for each other and for core last-sale data, rather than as products that must be obtained in tandem. For example, while Yahoo! and Google now both disseminate NASDAQ's product, several other major content providers, including MSN and Morningstar, use the BATS product.

In this environment, a super-competitive increase in the fees charged for either transactions or data has the potential to impair revenues from both products. ''No one disputes that competition for order flow is 'fierce'.'' *NetCoalition I* at 539. The existence of fierce competition for order flow implies a high degree of price sensitivity on the part of BDs with order flow, since they may readily reduce costs by directing orders toward the lowest-cost trading venues. A BD that shifted its order flow from one platform to another in response to order execution price differentials would both reduce the value of that platform's market data and reduce its own need to consume data from the disfavored platform. If a platform increases its market data fees, the change will affect the overall cost of doing business with the platform, and affected BDs will assess whether they can lower their trading costs by directing orders elsewhere and thereby lessening the need for the more expensive data. Similarly, increases in the cost of NLS would impair the willingness of distributors to take a product for which there are numerous alternatives, impacting NLS data revenues, the value of NLS as a tool for attracting order flow, and ultimately, the volume of orders routed to NASDAQ and the value of its other data products.

In establishing the price for the NASDAQ Last Sale Products, NASDAQ considered the competitiveness of the market for last sale data and all of the implications of that competition. NASDAQ believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to NLS, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources ensures that NASDAQ cannot set unreasonable fees, or fees that are unreasonably discriminatory, without losing business to these alternatives. Accordingly, NASDAQ believes that the acceptance of the NLS product in the marketplace demonstrates the consistency of these fees with applicable statutory standards.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Three comment letters were filed regarding the proposed rule change as originally published for comment. NASDAQ responded to these comments in a letter dated December 13, 2007. Both the comment letters and NASDAQ's response are available on the SEC Web site at *http://www.sec.gov/comments/sr-nasdaq-2006-060/nasdaq2006060.shtml.* In addition, in response to prior filings to extend the NLS pilot,[10] the Securities Industry and Financial Markets Association (''SIFMA'') and/or NetCoalition [11] filed comment letters contending that the SEC should suspend and institute disapproval proceedings with respect to the filing. SIFMA and NetCoalition had also filed petitions seeking review by the United States Court of Appeals for the District of Columbia Circuit with respect to the NLS pricing pilots in effect from July 1, 2011 through September 30, 2011, from October 1, 2011 through December 31, 2011, from July 1, 2012 through September 30, 2012, and from January 1, 2013 through March 31, 2013. These appeals were stayed pending resolution of the *NetCoalition II* case. On April 30, 2013, the court issued a decision dismissing *NetCoalition II,* concluding that it lacked jurisdiction to entertain the case. Subsequently, the court issued orders dismissing each of the pending petitions seeking review of prior extensions of the NLS pricing pilot. On May 30, 2013, SIFMA filed with the Commission an ''Application for an Order Setting Aside Rule Changes of Certain Self-Regulatory Organizations Limiting Access to their Services'' that purports to challenge prior filings under Section 19(d) and (f) of the Act.[12] Pursuant to a Commission procedural order, interested parties have recently completed submission of briefs to the Commission regarding

[10] Securities Exchange Act Release Nos. 69245 (March 27, 2013), 78 FR 19772 (April 2, 2013) (SR–NASDAQ–2013–053); 68568 (January 3, 2013), 78 FR 1910 (January 9, 2013) (SR–NASDAQ–2012–145); 67376 (July 9, 2012), 77 FR 41467 (July 13, 2012) (SR–NASDAQ–2012–078); 65488 (October 5, 2011), 76 FR 63334 (October 21, 2011) (SR–NASDAQ–2011–132); 64856 (July 12, 2011), 76 FR 41845 (July 15, 2011) (SR–NASDAQ–2011–092); 64188 (April 5, 2011), 76 FR 20054 (April 11, 2011) (SR–NASDAQ–2011–044).

[11] NetCoalition has since terminated its operations.

[12] Admin. Proc. File No. 3–15351. *See also* Admin Proc. File No. 13–15350 (similar proceeding with respect to NYSEArca data product). As with prior SIFMA challenges, the pendency of SIFMA's new action should in no way affect the continuation of the pilot for NASDAQ Last Sale.

appropriate procedures and other threshold questions.

It appears to NASDAQ that SIFMA's contentions in this new proceeding are similar to the contentions in its numerous prior comment letters, which have repeatedly argued that market data fees are improper unless established through public utility-style rate-making proceedings that are nowhere contemplated by the Act. In making its arguments, SIFMA has sought to rely upon *NetCoalition I,* while repeatedly mischaracterizing the import of that case. Specifically, the court made findings about the extent of the Commission's record in support of determinations about a depth-of-book product offered by NYSE Arca. In making this limited finding, the court nevertheless squarely rejected contentions that cost-based review of market data fees was required by the Act:

> The petitioners believe that the SEC's market-based approach is prohibited under the Exchange Act because the Congress intended ''fair and reasonable'' to be determined using a cost-based approach. The SEC counters that, because it has statutorily-granted flexibility in evaluating market data fees, its market-based approach is fully consistent with the Exchange Act. We agree with the SEC.[13]

While the court noted that cost data could sometimes be relevant in determining the reasonableness of fees, it acknowledged that submission of cost data may be inappropriate where there are ''difficulties in calculating the direct costs . . . of market data,'' *id.* at 539. That is the case here, due to the fact that the fixed costs of market data production are inseparable from the fixed costs of providing a trading platform, and the marginal costs of market data production are minimal.[14] Because the costs of providing execution services and market data are not unique to either of the provided services, there is no meaningful way to allocate these costs among the two ''joint products''—and any attempt to do so would result in inherently arbitrary cost allocations.[15]

SIFMA further contended that prior filings lacked evidence supporting a conclusion that the market for NLS is competitive, asserting that arguments about competition for order flow and substitutability were rejected in *NetCoalition I.* While the court did determine that the record before it was not sufficient to allow it to endorse those theories on the facts of that case, the court did not itself make any conclusive findings about the actual presence or absence of competition or the accuracy of these theories: Rather, it simply made a finding about the state of the SEC's record. Moreover, analysis about competition in the market for depth-of-book data is only tangentially relevant to the market for last sale data. As discussed above and in prior filings, perfect and partial substitutes for NLS exist in the form of real-time core market data, free delayed core market data, and the last sale products of competing venues; additional competitive entry is possible; and evidence of competition is readily apparent in the pricing behavior of the venues offering last sale products and the consumption patterns of their customers. Thus, although NASDAQ believes that the competitive nature of the market for all market data, including depth-of-book data, will ultimately be established, SIFMA's submissions have not only mischaracterized the *NetCoalition I* decision, but have also failed to address the characteristics of the product at issue and the evidence already presented.

## 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.[16] 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 Number SR–NASDAQ–2013–162 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–NASDAQ–2013–162. 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 the 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–NASDAQ–2013–162 and should be submitted on or before January 28, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–31608 Filed 1–6–14; 8:45 am]

**BILLING CODE 8011–01–P**

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[13] *NetCoalition I,* 615 F.3d at 534.

[14] Because the fees charged for products must cover these fixed costs, however, pricing at marginal cost is impossible.

[15] The court also explicitly acknowledged that the ''joint product'' theory set forth by NASDAQ's economic experts in *NetCoalition I* (and also described in this filing) could explain the competitive dynamic of the market and explain why consideration of cost data would be unavailing. Indeed, the Commission relied on that theory before the DC Circuit, but the court declined to reach the question because the Commission raised it for the first time on appeal. *Id.* at 541 n.16. For the purpose of providing a complete explanation of the theory, NASDAQ is further submitting as Exhibit 3 to this filing a study that was submitted to the Commission in SR–NASDAQ–2011–010. *See* Statement of Janusz Ordover and Gustavo Bamberger at 2–17 (December 29, 2010).

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71208; File No. SR–ISE–2013–72]**

## Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change To More Specifically Address the Number and Size of Counterparties to a Qualified Contingent Cross Order

December 31, 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, 2013, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the self-regulatory organization. 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 is proposing to amend Rules 504 (Series of Options Contracts Open for Trading) and 715 (Types of Orders) to more specifically address the number and size of counterparties to a Qualified Contingent Cross Order (''QCC Order''). The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this proposal is to remove the size restriction on contra-party participation on a QCC Order. This proposal would expand the availability of QCC Orders by permitting multiple contra-parties on a QCC Order, each of which may consist of an order for less than 1,000 contracts; provided however, that the originating QCC Order meets the 1,000 contract minimum (as well as the other requirements of a QCC Order). This change is intended to increase liquidity and, potentially, improve the prices at which QCC Orders get executed, as explained further below.

A QCC Order must be comprised of an originating order to buy or sell at least 1,000 contracts [3] that is identified as being part of a qualified contingent trade,[4] coupled with a contra-side order or orders totaling an equal number of contracts, each of which is at least 1,000 contracts. QCC Orders are automatically executed upon entry provided that the execution (i) is not at the same price as a Priority Customer Order on the Exchange's limit order book and (ii) is at or between the NBBO. QCC Orders will be automatically canceled if they cannot be executed. QCC Orders may only be entered in the regular trading increments applicable to the options class under Rule 710 (Minimum Trading Increments).

The QCC Order type was originally approved on February 24, 2011.[5] The Exchange then amended this rule on December 17, 2013 [sic] to specify that a QCC Order could have multiple contra-parties, so long as each contra-party's order is for at least 1,000 contracts.[6]

The Exchange is now proposing to remove the size limit placed on contra-parties to QCC Orders in an effort to increase liquidity and, potentially, improve the prices at which QCC Orders get executed. The ability for market participants to provide liquidity in response to large sized orders is directly proportional to the size and associated risk of the resulting position. As a result, smaller sized trades are often done at a better price than larger sized trades, which convey more risk. The ability to pool together multiple market participants to participate on a trade for any size, as opposed to only allowing market participants to participate for a minimum of 1,000 contracts has a direct and positive impact on the ability of those market participants to provide the best price as they compete to participate against the order without being compelled to provide liquidity with a large minimum quantity. This concept isn't unique to large crosses. It is well understood and observed that any product with multiple market participants providing liquidity offers the tightest and most liquid market and the same applies to the larger orders negotiated away from the exchanges.

Allowing several participants to offer liquidity to a QCC Order serves to ensure that that order receives the best possible price available in the market. Restricting interaction to only participants who are willing to trade a minimum of 1,000 contracts simply guarantees an inferior price because a trade will be limited to few liquidity providers who are taking on more risk as opposed to multiple liquidity providers being able to share the overall risk and trade at a better price. For example, a 1,000 contract order in GOOG will receive a better price if two liquidity providers are able to each provide 500 contracts, rather than one of them having to trade the entire 1,000 contracts.

An area of concern has been the protection of smaller orders, which is why the QCC Order is limited to the 1,000 contract minimum. It is important to note that the concern has always been and should continue to be for the originating or unsolicited part of the order, the order that is seeking liquidity and not the professional responders and providers of liquidity. Allowing smaller orders to participate on the other side of QCC Orders not only provides the best price and opportunity for a trade to

[3] In the case of Mini Options, the minimum size is 10,000 contracts.

[4] A ''qualified contingent trade'' is a transaction consisting of two or more component orders, executed as agent or principal, where: (a) At least one component is an NMS Stock, as defined in Rule 600 of Regulation NMS under the Exchange Act; (b) all components are effected with a product or price contingency that either has been agreed to by all the respective contra-parties [sic] or arranged for by a broker-dealer as principal or agent; (c) the execution of one component is contingent upon the execution of all other components at or near the same time; (d) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined by the time the contingent order is placed; (e) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (f) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade.

[5] *See* Securities Exchange Act Release No. 63955 (February 24, 2011), 76 FR 11533 (March 2, 2011) (SR–ISE–2010–73).

[6] *See* SR–ISE–2013–71.

occur in a tight and liquid market, but ensures that the highest possible number of liquidity providers are able to participate. Limiting participation only to liquidity providers who are willing to participate on the trade for 1,000 contracts conversely could result in an inferior price by shutting out some participants due to the large size and thereby minimizing the opportunity for competition and price improvement. Removing this limitation benefits both sides of a QCC trade by ensuring a trade at the best possible price without favoring larger participants on the solicited side of the trade.

2. Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[7] that an exchange have rules that are 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 for a free and open market and a national market system, and, in general, to protect investors and the public interest by amending the rule text to more clearly defining the QCC Order. Specifically, because the proposal removes the size restriction placed on the contra-sides to a QCC Order, it should increase liquidity and improve the prices at which QCC Orders get executed and, therefore, provide more opportunity to participate in QCC trades, consistent with the key principles behind the QCC Order.

In approving QCC Orders, the Commission has stated that ''. . . qualified contingent trades are of benefit to the market as a whole and a contribution to the efficient functioning of the securities markets and the price discovery process.''[8] The Commission ''also has recognized that contingent trades can be useful trading tools for investors and other market participants, particularly those who trade the securities of issuers involved in mergers, different classes of shares of the same issuer, convertible securities, and equity derivatives such as options [emphasis added].''[9] In light of these benefits, the Exchange believes that the proposal should improve the usefulness of the QCC Order without raising novel regulatory issues, because the proposal does not impact the fundamental aspects of this order type—it merely permits multiple contra-parties, regardless of size, on one side, while preserving the 1,000 contract minimum on the originating QCC Order.

Consistent with Section 6(b)(8) of the Act, the Exchange believes that this will be beneficial to participants because allowing multiple parties of any size on one contra-side of a QCC Order should foster competition for filling QCC Orders and thereby result in potentially better prices.

*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 not necessary or appropriate in furtherance of the purposes of the Act. In fact, the proposal is intended to relieve a burden on competition, which results from different exchanges interpreting their rules differently. Among the options exchanges, the Exchange believes that the proposal to allow multiple counterparties of at least 1,000 contracts should foster competition for filling the contra-side of a QCC order and thereby result in potentially better prices for such orders.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

**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–ISE–2013–72 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–ISE–2013–72. 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 the 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–ISE–2013–72 and should be submitted on or before January 28, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–31599 Filed 1–6–14; 8:45 am]

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[7] 15 U.S.C. 78f(b)(5).

[8] QCC Approval Order at text accompanying footnote 115.

[9] QCC Approval Order at Section III.A. citing Securities Exchange Act Release No. 54389 (August 31, 2006), 71 FR 52829 (September 7, 2006) (Original QCT Exemption).

[10] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71216; File No. SR–CHX–2013–23]**

## Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Provide That the Match Trade Prevention Modifier Is Not Compatible With the Fill Or Kill Modifier

December 31, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on December 23, 2013, the Chicago Stock Exchange, Inc. (''CHX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. CHX has filed this proposal pursuant to Exchange Act Rule 19b–4(f)(6) [3] which is effective upon filing with the Commission. 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

CHX proposes to amend Article 1, Rule 2(b)(3)(F) to provide that the Match Trade Prevention order execution modifier is not compatible with the Fill Or Kill order duration modifier. The text of this proposed rule change is available on the Exchange's Web site at *(www.chx.com), on the Commission's Web site at (www.sec.gov),* and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes 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 CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Article 1, Rule 2(b)(3)(F) to provide that the Match Trade Prevention (''MTP'') order execution modifier is not compatible with the Fill Or Kill (''FOK'') order duration modifier and that any limit or market order marked MTP and FOK shall be rejected by the Matching System.[4] Given that MTP has been incompatible with FOK since MTP became operative on December 2, 2013, the Exchange also submits this filing to correct certain statements in the Form 19b–4 filed by the Exchange under SR–CHX–2013–20, which inaccurately states that the MTP modifier is fully compatible with all order modifiers applicable to limit and market orders.[5] More accurately, the MTP modifier is fully compatible with all order modifiers applicable to limit and market orders, except for the FOK modifier, as discussed in detail below. The Exchange does not propose to substantively amend the functionality of the MTP modifier.[6]

Background

On November 20, 2013, the Exchange filed SR–CHX–2013–20 for immediate effectiveness, which adopted the current MTP order modifier, as defined under Article 1, Rule 2(b)(3)(F), and became operative on December 2, 2013.[7]

In sum, the MTP functionality is based on the interaction between MTP Trading Groups [8] and, if applicable, subgroups within the MTP Trading Group, which are created through the use of optional MTP sublevel designations. Assuming that the MTP functionality has been activated by the Trading Permit Holders that are part of the MTP Trading Group, an incoming limit or market order marked with an MTP modifier, which is comprised of a compulsory MTP Action and an optional MTP sublevel designation, will not be allowed to execute against a resting opposite side order from the same MTP Trading Group. However, if the MTP modifier of the incoming limit or market order indicates an MTP sublevel designation, the order will be considered to have originated from a subgroup within the MTP Trading Group, designated by the sublevel value, and will only be prevented from executing against resting opposite side orders from the same subgroup (*i.e.,* same optional MTP sublevel designation). Consequently, an incoming order that originated from a subgroup will not be prevented from executing against opposite side resting orders from the same MTP Trading Group, so long as the opposite side order is not part of the same subgroup (*i.e.,* the resting order is either marked by a different MTP sublevel designation or is not marked by any MTP sublevel designation).

Once MTP is triggered, one or both orders will be cancelled pursuant to the MTP Action of the MTP modifier attached to the incoming order. If the incoming order has an MTP Action of ''N,'' the incoming order would be cancelled. If the incoming order has an MTP Action of ''O,'' the resting order would be cancelled. If the incoming order has an MTP Action of ''B,'' both the incoming and resting orders would be cancelled. Moreover, if the incoming order is marked ''I,'' MTP would be deactivated and would not prevent a match.

MTP and FOK

On p. 16 and p. 41 of SR–CHX–2013–20,[9] the Exchange stated that the ''proposed MTP modifier is fully compatible with all order execution, display, and duration modifiers, that are applicable to limit and market

[4] Article 1, Rule 2(d)(2) defines ''Fill Or Kill'' or ''FOK'' as ''a modifier that requires an order to be executed in full and for limit orders, at or better than its limit price, as soon as the order is received by the Matching System, but that will be immediately cancelled if it cannot be executed in full. An order marked FOK may be executed at one or more different prices against orders in the Matching System (including any Reserve Size or undisplayed orders).

An order marked FOK shall be deemed to have been received 'Do Not Route,' as defined under paragraph (b)(3)(A), which cannot be overridden by an order sender.''

[5] *See* Securities Exchange Act Release No. 70948 (November 26, 2013), 78 FR 72731 (December 3, 2013) (SR–CHX–2013–20) (''Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt a Match Trade Prevention Modifier for Limit and Market Order Submitted to the Exchange'').

[6] The Exchange notes that it deactivated the FOK modifier as of December 4, 2013, pursuant to its authority under Article 20, Rule 4(b), and that the Exchange has never received any orders marked MTP and FOK.

[7] *See supra* note 5.

[8] Article 1, Rule 1(mm) defines ''MTP Trading Group'' as ''a group of one or more Trading Accounts that have been aggregated at the request of all Participant Trading Permit holders that control all Trading Accounts within the proposed group for the purpose of enabling Match Trade Prevention ('MTP') functionality, pursuant to Article 1, Rule 2(b)(3)(F)(i). A Trading Account may not be assigned to more than one MTP Trading Group. Any Exchange-approved changes to the composition of an MTP Trading Group shall be effective no earlier than the trading day following the request.''

[9] *See supra* note 5.

orders.'' [10] While MTP and FOK are compatible in theory,[11] MTP and FOK are incompatible in practice because the Matching System currently handles an incoming order marked FOK in a manner that may result in the FOK modifier being ignored if (1) the incoming order must execute against two or more resting orders and (2) MTP is triggered by the second or subsequent resting orders.

Generally, when the Matching System receives an incoming limit order marked FOK, the Matching System will take the preliminary step of determining whether there is sufficient resting order size to immediately execute the incoming FOK order in full. In doing so, the Matching System only considers the total size of the resting orders necessary to immediately execute the incoming FOK order in full and does not pre-match the incoming FOK order against each of these resting orders. If there is not enough resting size, the Matching System will cancel the incoming FOK order. If there is enough resting size, the Matching System will next attempt to match the incoming FOK order against each of the resting orders necessary to execute the incoming FOK order in full and will execute such orders in price/time priority of the resting orders.[12] In considering each set of contra-side orders, the Matching System will consider all order modifiers attached to the contra-side orders, but will consider the MTP modifier(s) last.

Prior to adopting the MTP modifier, this process of handling incoming FOK orders was sufficient because there were no other order modifiers that could prevent a full and immediate execution of the incoming FOK order after the preliminary resting size test of the FOK modifier was satisfied. Thus, it was impossible for an incoming FOK order to be partially-executed. However, an incoming FOK order marked MTP could now result in a partial execution of an incoming FOK order. Specifically, if MTP is triggered by the second or subsequent resting order, there may not be enough resting size remaining to fully satisfy the incoming FOK order. Thus, an incoming FOK order could be cancelled with a partial execution, which would violate the FOK modifier. The following Examples 1 and 2 illustrate this scenario.

*Example 1.* Assume that the Matching System receives an incoming limit buy order (''Bid A'') for 1,000 shares of security XYZ priced at $10.10/share is marked FOK and MTP, with an MTP Action of ''N'' and no MTP sublevel designation, and originated from MTP Trading Group A1. Assume that the CHX Book for security XYZ contains no resting bids, but has two resting offers (''Offers A and B''). Assume that Offer A is a limit order for 500 shares of XYZ priced at $10.10/share marked MTP that originated from MTP Trading Group B1. Assume that Offer B is also a limit order for 500 shares of XYZ priced at $10.10/share marked MTP that originated from MTP Trading Group B1. Assume further that Offer A has time priority over Offer B and that Offers A and B are at the National Best Offer.

Under this Example 1, since Bid A is marked FOK, the Matching System will take the preliminary step of determining whether Bid A could be immediately executed in full. Given that Bid A is for 1,000 shares of XYZ priced at $10.10/share and Offers A and B are for a combined 1000 shares of XYZ priced at $10.10/share, the Matching System will determine that there is enough resting order size on the CHX Book to immediately execute Bid A in full. The Matching System will then attempt to match Bid A against Offer A. Since the non-MTP order modifiers attached to Bid A and Offer A do not conflict, the Matching System will next consider the MTP Trading Groups of the order because the incoming order is marked MTP with an MTP Action of ''N.'' Since Bid A is from Trading Group A1 and Offer A is from Trading Group B1, MTP will not be triggered and the MTP Action of ''N'' will not come into play. As such, the Matching System will permit Bid A to execute against Offer A, which will result in Bid A being decremented by 500 shares. The Matching System will then go through the same process with the 500 remaining shares of Bid A and Offer B. Given that Offer B is identical to Offer A, the Matching System will go through the same process and permit the remaining 500 shares of Bid A to execute against Offer B. The result is that Bid A has been immediately executed in full, which is consistent with the FOK modifier.

*Example 2.* Assume the same as Example 1, except that Offer B originated from MTP Trading Group A1, which is the same MTP Trading Group as Bid A.

Under this Example 2, MTP would prevent the remaining 500 shares of Bid A from executing against Offer B because both orders originated from MTP Trading Group A1. Pursuant to the MTP Action of ''N,'' Bid A would be cancelled as it is the incoming order, while Offer B would remain posted to the CHX Book. As a result, Bid A would be cancelled with a partial execution (*i.e.,* 500 shares of Bid A executed against the full size of Offer A), which is in violation of the FOK modifier. The result would be the same if Bid A were marked ''O,'' as the ''O'' MTP Action would require Offer B to be cancelled and since there are no remaining resting orders against which Bid A could execute, Bid A would be cancelled with a partial execution. Similarly, if Bid A had an MTP Action of ''B,'' both Bid A and Offer B would be cancelled, which would also result in Bid A being cancelled with a partial execution.

The Exchange notes that this issue could be resolved by having the Matching System pre-match an incoming FOK order against the required resting orders prior to executing any one trade. If the pre-match revealed that one or more of the resting orders could not execute against the incoming order due to MTP and that the result would be insufficient remaining resting size to fully and immediately execute the incoming FOK order, the pre-match would fail and the incoming FOK order would be cancelled without any partial executions. However, given the tremendous amount of resources needed to modify the Matching System to make this change and in light of the fact that the Exchange infrequently receives FOK orders, the Exchange proposes to reject all incoming orders marked MTP and FOK when the FOK modifier is reactivated.[13]

2. Statutory Basis

The Exchange submits that the proposed rule filing is consistent with Section 6(b) of the Act in general [14] and furthers the objectives of Section 6(b)(5) in particular,[15] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and, in general, by protecting investors

[10] *Id.*

[11] In contrast, Post Only and FOK are theoretically and practically incompatible. *See* Article 1, Rule 2(b)(1)(D). A limit order marked Post Only requires the order to be posted to the CHX Book or cancelled if the order would remove liquidity from the CHX Book. In contrast, a limit order marked FOK cannot post to the CHX Book and must remove liquidity from the CHX Book and be executed in full or be cancelled in its entirety.

[12] *See* Article 20, Rule 8(b).

[13] *See supra* note 6. If the Exchange decides to modify the operation of the Matching System to permit an order to be marked FOK and MTP, the Exchange will file a proposed rule change pursuant to Rule 19b-4 under the Act to effectuate such a change.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

and the public interest. Specifically, the proposed rule filing amending Article 1, Rule 2(b)(3)(F) to provide that the MTP modifier is not compatible with the FOK modifier and that orders marked MTP and FOK shall be rejected by the Matching System provides accuracy concerning a functionality already offered by the Exchange, which, in turn, promotes all of the objectives of Section 6(b)(5).

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed filing will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because this filing clarifies the operation of the current MTP modifier and does not propose to modify its functionality.

*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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange requested such waiver so that it may immediately provide accuracy as to the current functionality of the MTP modifier and address inaccurate statements in SR–CHX–2013–20. Based on the Exchange's statements, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[20]

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [21] of the Act 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–CHX–2013–23 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–CHX–2013–23. 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 offices 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–CHX–2013–23, and should be submitted on or before January 28, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–31607 Filed 1–6–14; 8:45 am]

**BILLING CODE 8011–01–P**

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] *Id.*

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78s(b)(2)(B).

[22] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71215; File No. SR–NYSE–2013–82]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending its Price List Related to Fees for Trading Licenses and To Delete Obsolete Text

December 31, 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, 2013, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') 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 by the self-regulatory organization. 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 amending [sic] its Price List related to fees for trading licenses and to delete obsolete text. The Exchange proposes to implement the Price List change immediately. 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 amend its Price List related to fees for trading licenses and to delete obsolete text. The Exchange proposes to implement the Price List change immediately.

NYSE Rule 300(b) provides that, in each annual offering, up to 1,366 trading licenses for the following calendar year will be sold annually at a price per trading license to be established each year by the Exchange pursuant to a rule filing submitted to the Securities and Exchange Commission (''Commission'') and that the price per trading license will be published each year in the Exchange's Price List. The trading license fees for 2013 are $40,000 per trading license for the first two licenses held by a member organization and $25,000 for each additional trading license. For trading licenses issued after January 1, 2013, fees are prorated for the portion of the calendar year that the trading license is outstanding.[3]

If, however, a member organization is issued additional trading licenses between July 1, 2013 and December 31, 2013, and the total number of trading licenses held by the member organization between July 1, 2013 and December 31, 2013 is greater than the total number of trading licenses held by the member organization on July 1, 2013, then the member organization is not charged a prorated fee for the period from July 3, 2013 to December 31, 2013 for those additional trading licenses above the number the member organization held on July 1, 2013.[4] If a firm becomes a member organization after July 1, 2013, the firm is assigned a baseline of one trading license and charged a prorated fee for that license. Any trading licenses in addition to the first trading license are not charged a prorated fee for the period from July 3, 2013 to December 31, 2013. If a member organization merges with another member organization on or after July 1, 2013, the total combined number of trading licenses held by each member organization on July 1, 2013 is considered the baseline number of trading licenses for the successor member organization as of the date of the merger.

For 2014, the Exchange proposes to extend the fee relief for additional licenses until December 31, 2014. As a result, an annual fee would not apply to the number of trading licenses issued to a member organization between July 3, 2013 and December 31, 2014 that exceeds the total number of trading licenses held by the member organization on July 1, 2013. The Exchange proposes to maintain July 1, 2013 as the baseline date so that a consistent point in time would be used to determine how many trading licenses for which a member organization would be charged. The fee calculation for new or merged member organizations would also be extended. Thus, for any firm that becomes a member organization after July 1, 2013, the firm would be considered to have one trading license as of July 1, 2013 and charged a fee for that one license through December 31, 2014. For example, if a firm became a member organization on November 1, 2013, it would pay a prorated fee for one license until December 31, 2013 ($6,666) and then, under the current rates, pay $40,000 for 2014. If a firm becomes a member organization on March 1, 2014, it would pay a prorated fee under current rates for one license for the remainder of 2014 ($33,334). If a member organization merges with another member organization on or after July 1, 2013, the total combined number of trading licenses held by each member organization on July 1, 2013 would be considered the baseline number of trading licenses for the successor member organization as of the date of the merger through December 31, 2014.

Footnote 15 in the Price List currently provides that Floor brokers will receive a monthly credit of $2,000 for the first two Floor broker licenses held by a member organization and a monthly credit of $500 for each additional Floor broker license held by a member organization for November and December 2012. Additionally, the Price List currently includes a section pertaining to the New York Block Exchange (''NYBX''), which was an electronic exchange facility that ceased operating on February 28, 2013.[5] The Exchange proposes to delete this text because it is obsolete.[6]

The proposed change is not otherwise intended to address any other issues and the Exchange is not aware of any problems that members or member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change is reasonable because maintaining fee relief for the number of trading licenses that exceeds the total number of trading licenses held by the member organization on July 1, 2013 would continue to encourage member organizations to hold additional trading licenses, which would increase the number of market participants trading on the floor of the Exchange, thereby promoting liquidity, price discovery and the opportunity for price improvement for the benefit of all market participants. The Exchange believes that it is

[3] For a trading license that is in place for 15 calendar days or less in a calendar month, proration for that month would be at a flat rate of $100 per day with no tier pricing involved. For a trading license that is in place for 16 calendar days or more in a calendar month, proration for that month would be computed based on the number of days as applied to the applicable annual fee for the trading license. *See* Price List at current n. 16.

[4] *See* Securities Exchange Act Release No. 69992 (July 16, 2013), 78 FR 43947 (July 22, 2013) (SR–NYSE–2013–51). *See also* Price List at current n. 16.

[5] *See* Securities Exchange Act Release No. 68861 (February 7, 2013), 78 FR 10226 (February 13, 2013) (SR–NYSE–2013–12).

[6] The Exchange would renumber current footnote 16 as new footnote 15.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

reasonable to maintain July 1, 2013 as the applicable baseline date so that a consistent point in time would be used to determine how many trading licenses for which a member organization would be charged, which would continue to provide member organizations with greater flexibility in managing their personnel. Further, the proposed billing for trading licenses would encourage additional firms to become member organizations on the Exchange, which would contribute to the quality of the Exchange's market.

The Exchange believes that the proposed change is equitable and not unfairly discriminatory because all similarly situated member organizations would continue to be subject to the same trading license fee structure and because access to the Exchange's market would continue to be offered on fair and nondiscriminatory terms. The Exchange also believes that the proposed change is equitable and not unfairly discriminatory because all member organizations would continue to have the opportunity to enjoy the benefits of the fee relief with respect to additional trading licenses. The Exchange believes that it is equitable and not unfairly discriminatory to continue to assign new member organizations a baseline of one trading license because this will continue to encourage firms to become member organizations, thereby encouraging trading activity on the Exchange, which benefits all market participants.

The Exchange also believes that removing obsolete text from the Price List is consistent with the Act because it would add greater clarity for member organizations.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[9] 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. Instead, the proposed change would help to remove a potential burden on competition by making it easier for member organizations to appropriately staff the floor of the Exchange, which is a key feature of the Exchange's structure for offering a fair and orderly market and competing with other exchanges. The proposed change would also contribute to making membership on the Exchange as a member organization more economical and could therefore lead to increased competition on the Exchange between member organizations. This, in turn, could lead to increased intermarket competition between the Exchange and other markets.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee or credit levels at a particular venue to be unattractive. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For these reasons, the Exchange believes that the proposed rule change reflects this competitive environment and is therefore consistent with 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**

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[10] of the Act and subparagraph (f)(2) of Rule 19b–4[11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[12] of the Act to determine whether the proposed rule change 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–NYSE–2013–82 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–2013–82. 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–2013–82 and should be submitted on or before January 28, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–31606 Filed 1–6–14; 8:45 am]

**BILLING CODE 8011–01–P**

[9] 15 U.S.C. 78f(b)(8).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71212; File No. SR–Phlx–2013–129]**

## Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Implementation of the Options Floor Broker Management System Changes

December 31, 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 27, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II 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.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to delay the implementation of its new Options Floor Broker Management System.

### 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 Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposal is to delay the implementation of the Exchange's enhancements to the Options Floor Broker Management System (''FBMS''). The Exchange received approval to implement the enhancements as of June 1, 2013,[3] and delayed implementation until July 2013,[4] until September 2013 [5] and again until December 2013.[6] At this time, the Exchange needs additional time in order to complete the applicable technology work. The delay is not as a result of major technology changes from the original proposal and no rule changes are being made; rather, the Exchange continues to work to, generally, make the system more user-friendly and provide more useful interfaces for the ultimate user, the Floor Broker.

Accordingly, the Exchange seeks to be able to implement the changes by the end of March 2014; the Exchange will announce the specific date in advance through an Options Trader Alert.

Today, FBMS enables Floor Brokers and/or their employees to enter, route, and report transactions stemming from options orders received on the Exchange. FBMS also establishes an electronic audit trail for options orders represented by Floor Brokers on the Exchange. Floor Brokers can use FBMS to submit orders to Phlx XL, rather than executing the orders in the trading crowd.

With the new FBMS, all options transactions on the Exchange involving at least one Floor Broker would be required to be executed through FBMS. In connection with order execution, the Exchange will allow FBMS to execute two-sided orders entered by Floor Brokers, including multi-leg orders up to 15 legs, after the Floor Broker has represented the orders in the trading crowd. FBMS will also provide Floor Brokers with an enhanced functionality called the complex calculator that will calculate and display a suggested price of each individual component of a multi-leg order, up to 15 legs, submitted on a net debit or credit basis.

In the original filing, the Exchange intended to implement these enhancements with a trial period of two to four weeks, to be determined by the Exchange, during which the new FBMS enhancements and related rules would operate along with the existing FBMS and rules. At this time, the Exchange proposes to adopt a longer implementation period of up to eight weeks, recognizing from the ongoing technology work that the users will need more time to gain experience with the new system. The Exchange will announce the beginning and end of the trial period in advance.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [7] in general, and furthers the objectives of Section 6(b)(5) of the Act [8] in particular, in that it is 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, by enhancing FBMS to make the Exchange's markets more efficient, to the benefit of the investing public. Although the Exchange needs additional time to finalize the enhancements, the delay is expected to be short and will involve advance notice to the Exchange membership.

*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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange continues to believe, as it stated when proposing these enhancements, that these enhancements to FBMS should result in the Exchange's trading floor operating in a more efficient way, which should help it compete with other floor-based exchanges and help the Exchange's Floor Brokers compete with floor brokers on other options exchanges.

*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

Because the foregoing proposed rule change 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 69471 (April 29, 2013), 78 FR 26096 (May 3, 2013) (SR–Phlx–2013–09).

[4] Securities Exchange Act Release No. 69811 (June 20, 2013), 78 FR 38422 (June 26, 2013) (SR–Phlx–2013–67).

[5] Securities Exchange Act Release No. 70141 (August 8, 2013), 78 FR 49565 (August 14, 2013) (SR–Phlx–2013–83).

[6] Securities Exchange Act Release No. 70629 (October 8, 2013), 78 FR 62852 (October 22, 2013) (SR–Phlx–2013–100).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing.[11] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[12] The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange can implement the enhancements once they are ready from a technology perspective.

The Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest as it will clarify that the delayed implementation of the FBMS will be effective and operative immediately. In addition, because the proposal only delays the implementation date of the FBMS and does not make any additional changes to the FBMS itself, it does not raise any novel regulatory issues. Therefore, the Commission designates the proposal operative upon filing.[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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or

(iii) otherwise in furtherance of the purposes of the Act.[14] If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.[15]

## 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–Phlx–2013–129 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–Phlx–2013–129. 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 offices 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–Phlx–2013–129, and should be submitted on or before January 28, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–31603 Filed 1–6–14; 8:45 am]

**BILLING CODE 8011–01–P**

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give 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 Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] *Id.*

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(3)(C).

[15] *Id.*

[16] 17 CFR 200.30–3(a)(12).

## 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 and an extension of 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, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 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 10, 2014. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Government Pension Questionnaire—20 CFR 404.408a—0960–0160.* The basic Social Security benefits application (OMB No. 0960–0618) contains a lead question asking if the applicants are qualified (or will qualify) to receive a government pension. If the applicants answer ''yes,'' they complete Form SSA–3885, either on paper or with an SSA claims representative during a personal interview. If the applicants are not entitled to receive a government pension at the time they apply for Social Security benefits, SSA requires them to provide the government pension information as beneficiaries when they become eligible to receive their pensions. Regardless of the timing, at some point the applicants or

beneficiaries must complete and sign Form SSA–3885 to report information about their government pensions before the pensions begin. SSA uses the information to: (1) determine whether the Government Pension Offset provision applies; (2) identify exceptions as stated in 20 CFR 404.408a; and (3) determine the benefit reduction amount and effective date. If the applicants and beneficiaries do not respond using this questionnaire, SSA offsets their entire benefit amount. The respondents are applicants or recipients of spousal benefits who are eligible for or already receiving a Government pension.

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–3885 | 76,000 | 1 | 13 | 16,467 |

2. *RS/DI Quality Review Case Analysis: Sampled Number Holder, Auxiliaries/Survivors, Parents, and Stewardship Annual Earnings Test Workbook—0960–0189.* Section 205(a) of the Social Security Act (Act) authorizes the Commissioner of SSA to conduct the quality review process, which entails collecting information related to the accuracy of payments made under the Old-Age, Survivors, and Disability Insurance Program (OASDI). Sections 228(a)(3), 1614(a)(1)(B), and 1836(2) of the Act require a determination of the citizenship or alien status of the beneficiary; this is only one item that we might question as part of the Annual Quality review. SSA uses Forms SSA–2930, SSA–2931, and SSA–2932 to establish a national payment accuracy rate for all cases in payment status, and to serve as a source of information regarding problem areas in the Retirement Survivors Insurance (RSI) and Disability Insurance (DI) programs. We also use the information to measure the accuracy rate for newly adjudicated RSI or DI cases.

SSA uses Form SSA–4659 to evaluate the effectiveness of the annual earnings testand to implement ongoing improvements in the process. About twenty-five percent of respondents will have in-person reviews and receive one of the following appointment letters: (1) SSA–L8550–U3 (Appointment Letter—Sample Individual); (2) SSA–L8551–U3 (Appointment Letter—Sample Family); or (3) the SSA–L8552–U3 (Appointment Letter—Rep Payee). Seventy-five percent of respondents will receive a notice for a telephone review using the SSA–L8553–U3 (Beneficiary Telephone Contact) or the SSA–L8554–U3 (Rep Payee Telephone Contact).

To help the beneficiary prepare for the interview, we include three forms with each notice: (1) SSA–85 (Information Needed to Review Your Social Security Claim) lists the information the beneficiary will need to gather for the interview; (2) SSA–2935 (Authorization to the Social Security Administration to Obtain Personal Information) verifies the beneficiary's correct payment amount, if necessary; and (3) SSA–8552 (Interview Confirmation) confirms or reschedules the interview if necessary. The respondents are a statistically valid sample of all OASDI beneficiaries in current pay status or their representative payees.

Type of Request: Revision of an OMB-approved information collection.

| Modality of completion | Number of responses | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–2930 | 1,500 | 1 | 30 | 750 |
| SSA–2931 | 850 | 1 | 30 | 425 |
| SSA–4659 | 325 | 1 | 10 | 54 |
| SSA–L8550–U3 | 385 | 1 | 5 | 32 |
| SSA–L8551–U3 | 95 | 1 | 5 | 8 |
| SSA–L8552–U3 | 35 | 1 | 5 | 3 |
| SSA–L8553–U3 | 4490 | 1 | 5 | 374 |
| SSA–L8554–U3 | 670 | 1 | 5 | 56 |
| SSA–8552 | 2350 | 1 | 5 | 196 |
| SSA–85 | 3850 | 1 | 5 | 321 |
| SSA–2935 | 2350 | 1 | 5 | 196 |
| SSA–820/821 (also saved under OMB: 0960–0598 and 0960–0059) | 400 | 1 | 15 | 100 |
| SSA–8510 (also saved under OMB No. 0960–0707) | 800 | 1 | 5 | 67 |
| Totals | 18,100 | ..... | ..... | 2,582 |

3. *Appeal of Determination for Help with Medicare Prescription Drug Plan Costs—0960–0695.* Public Law 108–173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), established the Medicare Part D program for voluntary prescription drug coverage for certain low-income individuals. The MMA stipulates the provision of subsidies for individuals who are eligible for the program and who meet eligibility criteria for help with premium, deductible, or co-payment costs. SSA uses Form SSA–1021, Appeal of Determination for Help with Medicare Prescription Drug Plan Costs, to obtain information from individuals who appeal SSA's decisions regarding eligibility or continuing eligibility for a Medicare Part D subsidy. The respondents are applicants who are appealing SSA's eligibility or continuing eligibility decisions.

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–1021 (Paper form) | 2,330 | 1 | 10 | 388 |
| SSA–1021 (Internet-Medicare Application Processing System) | 14,008 | 1 | 10 | 2,335 |
| Totals | 16,338 | | | 2,723 |

4. *Sheltered Workshop Wage Reporting—0960–0771.* Sheltered workshops are non-profit organizations or institutions that implement a recognized program of rehabilitation for handicapped workers, or provide such workers with remunerative employment or other occupational rehabilitative activity of an educational or therapeutic nature. Sheltered workshops perform a service for their clients by reporting monthly wages directly to SSA. SSA uses the information these workshops provide to verify and post monthly wages to the Supplemental Security Income (SSI) recipient's record. Most workshops report monthly wage totals to their local SSA office so we can adjust the client's SSI payment amount in a timely manner and prevent overpayments. Sheltered workshops are motivated to report wages voluntarily as a service to their clients. Respondents are sheltered workshops that report monthly wages for services performed in the workshop.

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) |
|---|---|---|---|---|
| Sheltered Workshop Wage Reporting | 800 | 12 | 15 | 2,400 |

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection 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 6, 2014. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

*Methods for Conducting Personal Conferences When Waiver of Recovery of a Title II or Title XVI Overpayment Cannot Be Approved—20 CFR 404.506(e)(3), 404.506(f)(8), 416.557(c)(3), and 416.557(d)(8)—0960–0769.* SSA conducts personal conferences when we cannot approve a waiver of recovery of a Title II or Title XVI overpayment. We are required to give overpaid Social Security beneficiaries and SSI recipients the right to request a waiver of recovery and automatically schedule a personal conference if we cannot approve their request for waiver of overpayment. We conduct these conferences face-to-face, by telephone, or by video teleconference. Social Security beneficiaries and SSI recipients or their representatives may provide documents to demonstrate they are without fault in causing the overpayment and do not have the ability to repay the debt. They may submit these documents by completing Form SSA–632 (OMB No. 0960–0037); Request for Waive of Overpayment Recovery; SSA–795 (OMB No. 0960–0045), Statement of Claimant or Other Person; or personal statement submitted by mail, telephone, personal contact, or other suitable method, such as fax or email. This information collection satisfies the requirements for request for waiver of recovery of an overpayment and allows individuals to pursue further levels of administrative appeal via personal conference. Respondents are Social Security beneficiaries and SSI recipients or their representatives seeking reconsideration of an SSA waiver decision.

Type of Request: Extension of an OMB-approved information collection.

| Title/section & collection description | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| Personal Conference 404.506(e)(3) and 404–506(f)(8) submittal of documents, additional mitigating financial information, and verifications for consideration at personal conferences. | 40,000 | 1 | 30 | 20,000 |
| Personal Conference 416.557(c)(3) and 416–557(d)(8) submittal of documents, additional mitigating financial information, and verifications at personal conferences. | 63,801 | 1 | 30 | 31,901 |
| Totals | 103,801 | | | 51,901 |

Date: January 1, 2014.

**Faye Lipsky,**

*Reports Clearance Director, Social Security Administration.*

[FR Doc. 2014–00001 Filed 1–6–14; 8:45 am]

**BILLING CODE 4191–02–P**

## DEPARTMENT OF TRANSPORTATION

**[Docket No. MARAD 2013 0158]**

### Agency Requests for Renewal of a Previously Approved Information Collection(s): Voluntary Intermodal Sealift Agreement (VISA)

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of Transportation (DOT) invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information collection is needed by MARAD and the Department of Defense (DOD), including representatives from the U.S. Transportation Command and its components, to evaluate and assess the applicants' eligibility for participation in the VISA program. The information will be used by MARAD and the U.S. Transportation Command, and its components, to assure the continued availability of commercial sealift resources to meet the DOD's military requirements. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995, Public Law 104–13.

**DATES:** Written comments should be submitted by March 10, 2014.

**ADDRESSES:** You may submit comments identified by Docket No. MARAD–2013–0158 through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.
- *Fax:* 1–202–493–2251

**FOR FURTHER INFORMATION CONTACT:** William Kurfehs, Program Analyst, Office of Sealift Support, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** *OMB Control Number:* 2133–0532

*Title:* Voluntary Intermodal Sealift Agreement (VISA)

*Form Numbers:* MA–1020

*Type of Review:* Renewal of an information collection

*Background:* This information collection is in accordance with Section 708, Defense Production Act, 1950, as amended, under which participants agree to provide commercial sealift capacity and intermodal shipping services and systems necessary to meet national defense requirements. In order to meet national defense requirements, the government must assure the continued availability of commercial sealift resources.

*Number of Respondents:* 40

*Frequency:* Annually

*Number of Responses:* 40

*Total Annual Burden:* 200

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

*Privacy Act:* Anyone is able to search the electronic form of all 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 DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.regulations.gov.*

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.

December 31, 2013.

**Michael Pucci,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2013–31565 Filed 1–6–14; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

January 2, 2014.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

**DATES:** Comments should be received on or before February 6, 2014 to be assured of consideration.

**ADDRESSES:** Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

**FOR FURTHER INFORMATION CONTACT:** Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request may be found at *www.reginfo.gov.*

**Internal Revenue Service (IRS)**

*OMB Number:* 1545–0020.

*Type of Review:* Revision of a currently approved collection.

*Title:* United States Gift (and Generation-Skipping Transfer) Tax Return.

*Form:* 709.

*Abstract:* Form 709 is used by individuals to report transfers subject to the gift and generation-skipping transfer taxes and to compute these taxes. IRS uses the information to enforce these taxes and to compute the estate tax.

*Affected Public:* Individuals or Households.

*Estimated Annual Burden Hours:* 1,718,345.

*OMB Number:* 1545–0029.

*Type of Review:* Extension without change of a currently approved collection.

*Title:* Employer's Quarterly Federal Tax Return.

*Form:* 941, 941 (PR), 941–SS, 941–X, 941–X (PR), 941–V, 941–V (PR), and related schedules.

*Abstract:* Form 941 is used by employers to report payments made to employees subject to income and social security/Medicare taxes and the amounts of these taxes. Form 941–PR is used by employers in Puerto Rico to report social security and Medicare taxes only. Form 941–SS is used by employers in the U.S. possessions to report social security and Medicare taxes only. Schedule B is used by employers to record their employment tax liability.

*Affected Public:* Private Sector: Businesses or other for-profits.

*Estimated Annual Burden Hours:* 388,256,964.

*OMB Number:* 1545–0121.

*Type of Review:* Extension without change of a currently approved collection.

*Title:* Foreign Tax Credit (Individual, Estate, or Trust).

*Form:* 1116.

*Abstract:* Form 1116 is used by individuals (including nonresident aliens) estates or trusts that paid foreign income taxes on U.S. taxable income to compute the foreign tax credit. This information is used by the IRS to verify the foreign tax credit.

*Affected Public:* Individuals or Households.

*Estimated Annual Burden Hours:* 25,066,693.

*OMB Number:* 1545–0199.

*Type of Review:* Revision of a currently approved collection.

*Title:* Application for Approval of Prototype Simplified Employee Pension (SEP) or Savings Incentive Match Plan for Employees of Small Employers (SIMPLE IRA Plan).

*Form:* 5306–A.

*Abstract:* This form is used by banks, credit unions, insurance companies, and trade or professional associations to apply for approval of a Simplified Employee Pension Plan or Savings Incentive Match Plan to be used by more than one employer. The data collected is used to determine if the prototype plan submitted is an approved plan.

*Affected Public:* Private Sector: Businesses or other for-profits.

*Estimated Annual Burden Hours:* 96,850.

*OMB Number:* 1545–0997.

*Type of Review:* Revision of a currently approved collection.

*Title:* Proceeds From Real Estate Transactions.

*Form:* 1099–S.

*Abstract:* Form 1099–S is used by the real estate reporting person to report proceeds from a real estate transaction to the IRS.

*Affected Public:* Private Sector: Businesses or other for-profits.

*Estimated Annual Burden Hours:* 360,276.

*OMB Number:* 1545–0923.

*Type of Review:* Revision of a currently approved collection.

*Title:* TD 8033 (TEMP) Tax Exempt Entity Leasing (REG–209274–85).

*Abstract:* These regulations provide guidance to persons executing lease agreements involving tax-exempt entities under section 168(h) of the Internal Revenue Code. The regulations are necessary to implement congressionally enacted legislation and elections for certain previously tax-exempt organizations and certain tax-exempt controlled entities.

*Affected Public:* Private Sector: Not-for-profit institutions.

*Estimated Annual Burden Hours:* 3,000.

*OMB Number:* 1545–2090.

*Type of Review:* Extension without change of a currently approved collection.

*Title:* REG–143797–06 (Final), Health Savings Plan Notice.

*Abstract:* The information is needed in cases where an employee establishes and HSA after the end of the calendar year but before the last day of February and will be used by employees for purposes of making up HSA contributions to those employees. The respondents are employees of employers who contribute to employees' HSAs.

*Affected Public:* Private Sector: Businesses or other for-profits; Non-for-profit institutions.

*Estimated Annual Burden Hours:* 1,250,000.

**Dawn D. Wolfgang,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2014–00007 Filed 1–6–14; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Notice of Intent To Grant an Exclusive License

**AGENCY:** Office of Research and Development, Department of Veterans Affairs.

**ACTION:** Notice of Intent.

**SUMMARY:** Notice is hereby given that the Department of Veterans Affairs (VA), Office of Research and Development (ORD), intends to grant to Primorigen Biosciences, Inc., 510 Charmany Drive, Madison, WI 53719, USA, an exclusive license to practice the following: U.S. Patent Application Serial No. 13/225,441 and PCT Application Number PCT/US11/50462, ''Efficient Generation of Neurally-Induced Mesenchymal Stem Cells and Applications Thereof,'' filed September 3, 2011, and any subsequent non-provisional patent application(s) that will claim the benefit of U.S. Patent Application Serial No. 13/225,441 and PCT Application Number PCT/US11/50462, ''Efficient Generation of Neurally-Induced Mesenchymal Stem Cells and Applications Thereof.''

**DATES:** Comments must be received within 15 days from the date of this published Notice.

**ADDRESSES:** Written comments may be submitted through *www.regulations.gov* by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Call (202) 461–4902 for an appointment (This is not a toll-free number). In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Director of Technology Transfer Program, Office of Research and Development (10P9TT), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 443–5640 (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** It is in the public interest to license this invention, as Primorigen Biosciences, Inc. submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted, unless VA ORD receives written evidence and argument within 15 days from the date of this published Notice, which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Dated: December 31, 2013.

**Jose D. Riojas,**

*Chief of Staff, Department of Veterans Affairs.*

[FR Doc. 2014–00048 Filed 1–6–14; 8:45 am]

**BILLING CODE 8320–01–P**

# FEDERAL REGISTER

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

Part II

## Regulatory Information Service Center

Introduction to the Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

## REGULATORY INFORMATION SERVICE CENTER

### Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions

**AGENCY:** Regulatory Information Service Center.

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

**SUMMARY:** The Regulatory Flexibility Act requires that agencies publish semiannual regulatory agendas in the **Federal Register** describing regulatory actions they are developing that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Executive Order 12866 ''Regulatory Planning and Review,'' signed September 30, 1993 (58 FR 51735), and incorporated in Executive Order 13563, ''Improving Regulation and Regulatory Review'' issued on January 18, 2011 (76 FR 3821) establish guidelines and procedures for agencies' agendas, including specific types of information for each entry.

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

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

The 2013 Unified Agenda publication appearing in the **Federal Register** consists of agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

**ADDRESSES:** Regulatory Information Service Center (MVE), General Services Administration, 1800 F Street NW., 2219F, Washington, DC 20405.

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

To provide comment on or to obtain further information about this publication, contact: John C. Thomas, Executive Director, Regulatory Information Service Center (MVE), General Services Administration, 1800 F Street NW., 2219F, Washington, DC 20405, (202) 482–7340. You may also send comments to us by email at: *RISC@gsa.gov*.

**SUPPLEMENTARY INFORMATION:**

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IV. What information appears for each entry?
V. Abbreviations
VI. How can users get copies of the Plan and the Agenda?

*Introduction to the Fall 2013 Regulatory Plan*

*Agency Regulatory Plans*

Cabinet Departments

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

Other Executive Agencies

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

Independent Regulatory Agencies

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

*Agency Agendas*

Cabinet Departments

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

Other Executive Agencies

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

Joint Authority

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

Independent Regulatory Agencies

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

## Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions

### I. What is the Unified Agenda?

The Unified Agenda provides information about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** each year since 1983 and has been available online since 1995. To further the objective of using modern technology to deliver better service to the American people for lower cost, beginning with the fall 2007 edition, the Internet became the basic means for conveying regulatory agenda information to the maximum extent legally permissible. The complete Unified Agenda is available to the public at *http://reginfo.gov*. The online Unified Agenda offers flexible search tools and access to the historic Unified Agenda database to 1995.

The 2013 Unified Agenda publication appearing in the **Federal Register** consists of agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act. Printed entries display only the fields required by the Regulatory Flexibility Act. Complete agenda information for those entries appears, in a uniform format, in the online Unified Agenda at *http://reginfo.gov*.

These publication formats meet the publication mandates of the Regulatory

Flexibility Act and Executive Order 12866 (incorporated in Executive Order 13563), as well as move the Agenda process toward the goal of online availability, at a substantially reduced printing cost. The current online format does not reduce the amount of information available to the public. The complete online edition of the Unified Agenda includes regulatory agendas from 60 Federal agencies. Agencies of the United States Congress are not included.

The following agencies have no entries identified for inclusion in the printed regulatory flexibility agenda. An asterisk (*) indicates agencies that appear in *The Regulatory Plan.* The regulatory agendas of these agencies are available to the public at *http://reginfo.gov*.

Department of Housing and Urban Development *
Department of State
Department of Veterans Affairs*
Agency for International Development
Commission on Civil Rights
Committee for Purchase From People Who Are Blind or Severely Disabled
Corporation for National and Community Service
Court Services and Offender Supervision Agency for the District of Columbia
Equal Employment Opportunity Commission *
Institute of Museum and Library Services
National Archives and Records Administration *
National Endowment for the Arts
National Endowment for the Humanities
National Science Foundation
Office of Government Ethics
Office of Management and Budget
Office of Personnel Management *
Peace Corps
Pension Benefit Guaranty Corporation *
Privacy and Civil Liberties Oversight Board
Railroad Retirement Board
Social Security Administration *
Commodity Futures Trading Commission
Consumer Product Safety Commission*
Farm Credit Administration
Federal Energy Regulatory Commission
Federal Housing Finance Agency
Federal Maritime Commission
Federal Trade Commission *
National Credit Union Administration
National Indian Gaming Commission *
National Labor Relations Board
Postal Regulatory Commission
Recovery Accountability and Transparency Board
Surface Transportation Board

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

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

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

## II. Why is the Unified Agenda published?

The Unified Agenda helps agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes.

*Regulatory Flexibility Act*

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

*Executive Order 12866*

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

*Executive Order 13132*

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

*Executive Order 13563*

Executive Order 13563 entitled ''Improving Regulation and Regulatory Review,'' signed January 18, 2011, supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in Executive Order 12866, which includes the general principles of regulation and

public participation, and orders integration and innovation in coordination across agencies; flexible approaches where relevant, feasible, and consistent with regulatory approaches; scientific integrity in any scientific or technological information and processes used to support the agencies' regulatory actions; and retrospective analysis of existing regulations.

*Unfunded Mandates Reform Act of 1995*

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

*Executive Order 13211*

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

*Small Business Regulatory Enforcement Fairness Act*

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

**III. How is the Unified Agenda Organized?**

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

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

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

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

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

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

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

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

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

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

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

Editions of the Unified Agenda prior to fall 2007 contained several indexes, which identified entries with various characteristics. These included regulatory actions for which agencies believe that the Regulatory Flexibility Act may require a Regulatory Flexibility Analysis, actions selected for periodic review under section 610(c) of the Regulatory Flexibility Act, and actions that may have federalism implications as defined in Executive Order 13132 or other effects on levels of government. These indexes are no longer compiled, because users of the online Unified

Agenda have the flexibility to search for entries with any combination of desired characteristics. The online edition retains the Unified Agenda's subject index based on the **Federal Register** Thesaurus of Indexing Terms. In addition, online users have the option of searching Agenda text fields for words or phrases.

**IV. What information appears for each entry?**

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

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

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

*(1) Economically Significant*

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The definition of an ''economically significant'' rule is similar but not identical to the definition of a ''major'' rule under 5 U.S.C. 801 (Pub. L. 104–121). (See below.)

*(2) Other Significant*

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

*(3) Substantive, Nonsignificant*

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

*(4) Routine and Frequent*

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

*(5) Informational/Administrative/Other*

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

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

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

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

*CFR Citation*—the section(s) of the Code of Federal Regulations that will be affected by the action.

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

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

*Timetable*—the dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date displayed in the form 12/00/12 means the agency is predicting the month and year the action will take place but not the day it will occur. In some instances, agencies may indicate what the next action will be, but the date of that action is ''To Be Determined.'' ''Next Action Undetermined'' indicates the agency does not know what action it will take next.

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

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

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

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

*Federalism*—whether the action has ''federalism implications'' as defined in Executive Order 13132. This term refers to actions ''that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Independent regulatory agencies are not required to supply this information.

*Included in the Regulatory Plan*—whether the rulemaking was included in the agency's current regulatory plan published in fall 2013.

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

Some agencies have provided the following optional information:

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

*Public Comment URL*—the Internet address of a site that will accept public comments on the entry. Alternatively, timely public comments may be submitted at the Governmentwide e-

rulemaking site, *http://www.regulations.gov.*

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

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

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

*Energy Effects*—an indication of whether the agency has prepared or plans to prepare a Statement of Energy Effects for the action, as required by Executive Order 13211 ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' signed May 18, 2001 (66 FR 28355).

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

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

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

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

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

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

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

## V. Abbreviations

The following abbreviations appear throughout this publication:

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

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

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

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

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

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

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

*PL (or Pub. L.)*—A public law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, Pub. L. 112–4 is the fourth public law of the 112th Congress.

*RFA*—A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

*RIN*—The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Unified Agenda, as directed by Executive Order 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register**, to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their development.

*Seq. No.*—The sequence number identifies the location of an entry in the printed edition of the Unified Agenda. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different sequence numbers if it appears in different printed editions of the Unified Agenda. Sequence numbers are not used in the online Unified Agenda.

*U.S.C.*—The United States Code is a consolidation and codification of all general and permanent laws of the United States. The U.S.C. is divided into 50 titles, each title covering a broad area of Federal law.

## VI. How can users get copies of the Agenda?

Copies of the **Federal Register** issue containing the printed edition of the Unified Agenda (agency regulatory flexibility agendas) are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954. Telephone: (202) 512–1800 or 1–866–512–1800 (toll-free).

Copies of individual agency materials may be available directly from the agency or may be found on the agency's Web site. Please contact the particular agency for further information.

All editions of *The Regulatory Plan* and the *Unified Agenda of Federal Regulatory and Deregulatory Actions* since fall 1995 are available in electronic form at *http://reginfo.gov,* along with flexible search tools.

In accordance with regulations for the **Federal Register**, the Government Printing Office's GPO FDsys Web site contains copies of the Agendas and Regulatory Plans that have been printed in the **Federal Register**. These

documents are available at *http://www.fdsys.gov.*

Dated: November 26, 2013.

**John C. Thomas,**

*Executive Director.*

**Introduction to the 2013 Unified Regulatory Agenda and Regulatory Plan**

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

Consistent with Executive Orders 12866 and 13563, the Office of Information and Regulatory Affairs is providing the Unified Regulatory Agenda (Agenda) and the Regulatory Plan (Plan) for public review. The Agenda and Plan are a preliminary statement of regulatory and deregulatory policies and priorities under consideration. The Agenda and Plan includes ''active rulemakings'' that have at least some possibility of issuance over the next year, but, as in previous years, this list may include rules that are not issued in the coming year.

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

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

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

Whether a regulation is listed on the Agenda as ''economically significant'' within the meaning of Executive Order 12866 (generally, having an annual effect on the economy of $100 million or more) is not an adequate measure of whether it imposes high costs on the private sector. Economically significant actions may impose small costs or even no costs. For example, regulations may count as economically significant because they confer large benefits or remove significant burdens. Moreover, many regulations count as economically significant not because they impose significant regulatory costs on the private sector, but because they involve transfer payments as required or authorized by law. For example, the Department of Health and Human Services issues regulations on an annual basis, pursuant to statute, to govern how Medicare payments are increased each year. These regulations effectively authorize transfers of billions of dollars to hospitals and other health care providers each year.

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

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

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

- *Public participation.* Agencies are directed to promote public participation, in part by making supporting documents available on Regulations.gov to promote transparency and public comment. Executive Order 13563 also directs agencies, where feasible and appropriate, to engage the public, including affected stakeholders, before rulemaking is initiated.
- *Integration and innovation.* Agencies are directed to attempt to reduce ''redundant, inconsistent, or overlapping'' requirements, in part by working with one another to simplify and harmonize rules. This important provision is designed to reduce confusion, redundancy, and excessive cost. An important goal of simplification and harmonization is to promote rather than to hamper innovation, which is a foundation of both growth and job creation. Different offices within the same agency might work together to harmonize their rules; different agencies might work together to achieve the same objective. Such steps can also promote predictability and certainty.
- *Flexible approaches.* Agencies are directed to identify and consider flexible approaches to regulatory problems, including warnings, appropriate default rules, and disclosure requirements. Such approaches may ''reduce burdens and maintain flexibility and freedom of choice for the public.'' In certain settings, they may be far preferable to mandates and bans, precisely because they maintain freedom of choice and reduce costs. The reference to ''appropriate default rules'' signals the possibility that important social goals can be obtained through simplification—as, for example, in the form of automatic enrollment, direct certification, or reduced paperwork burdens.
- *Science.* Agencies are directed to promote scientific integrity, and in a way that ensures a clear separation between judgments of science and judgments of policy.
- *Retrospective analysis of existing rules.* Agencies are directed to produce preliminary plans to engage in retrospective analysis of existing significant regulations to determine whether they should be modified, streamlined, expanded, or repealed. Executive Order 13610, *Identifying and Reducing Regulatory Burdens,* issued in 2012, institutionalizes the ''look back'' mechanism set out in Executive Order 13563, by requiring agencies to report to

OMB and the public twice each year (January and July) on the status of their retrospective review efforts, to ''describe progress, anticipated accomplishments, and proposed timelines for relevant actions.'' (See below for additional details on Executive Order 13610.)

Executive Order 13563 addresses new regulations that are under development and existing regulations that are already in place. With respect to agencies' review of existing regulations, the Executive Order calls for careful reassessment, based on empirical analysis. The prospective analysis required by Executive Order 13563 may depend on a degree of prediction and speculation about likely impacts, and that the actual costs and benefits of a regulation may be lower or higher than what was anticipated when the rule was originally developed.

In addition, circumstances may change in a way that requires reconsideration of regulatory requirements. As retrospective or ''look back'' analysis is undertaken, agencies will be in a position to reevaluate existing rules and to streamline, modify, or eliminate those that do not make sense in their current form. The regulatory look back is an ongoing exercise, and regular reporting about recent progress and coming initiatives is required.

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

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

We have asked agencies to emphasize regulatory look backs in their latest Regulatory Plans. The goal is to change the regulatory culture to ensure that rules on the books are reevaluated and are effective, cost-justified, and based on the best available science. By creating regulatory review teams at agencies, we will continue to examine what is working and what is not, and to eliminate unjustified and outdated regulations.

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

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

## DEPARTMENT OF AGRICULTURE

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 1 | National Organic Program, Origin of Livestock, NOP–11–0009 | 0581–AD08 | Proposed Rule Stage. |
| 2 | Environmental Compliance and Related Concerns | 0560–AH02 | Proposed Rule Stage. |
| 3 | Agriculture Priorities and Allocations Systems | 0560–AH68 | Final Rule Stage. |
| 4 | Viruses, Serums, Toxins, and Analogous Products; Single Label Claim for Veterinary Biological Products. | 0579–AD64 | Proposed Rule Stage. |
| 5 | Brucellosis and Bovine Tuberculosis; Update of General Provisions | 0579–AD65 | Proposed Rule Stage. |
| 6 | Establishing a Performance Standard for Authorizing the Importation and Interstate Movement of Fruits and Vegetables. | 0579–AD71 | Proposed Rule Stage. |
| 7 | User Fees for Agricultural Quarantine and Inspection Services | 0579–AD77 | Proposed Rule Stage. |
| 8 | Civil Rights Compliance Requirements | 0575–AA83 | Proposed Rule Stage. |
| 9 | Loan Packager Certification | 0575–AC88 | Proposed Rule Stage. |
| 10 | Child Nutrition Program Integrity | 0584–AE08 | Proposed Rule Stage. |
| 11 | Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act of 2010. | 0584–AE18 | Proposed Rule Stage. |
| 12 | Enhancing Retailer Eligibility Standards in SNAP | 0584–AE27 | Proposed Rule Stage. |
| 13 | Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages. | 0584–AD77 | Final Rule Stage. |
| 14 | Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation, and Energy Act of 2008. | 0584–AD87 | Final Rule Stage. |
| 15 | Records to be Kept by Official Establishments and Retail Stores That Grind Raw Beef Products. | 0583–AD46 | Proposed Rule Stage. |
| 16 | Modernization of Poultry Slaughter Inspection | 0583–AD32 | Final Rule Stage. |

## DEPARTMENT OF AGRICULTURE—Continued

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 17 | Electronic Export Application and Certification as a Reimbursable Service and Flexibility in the Requirements for Official Export Inspection Marks, Devices, and Certificates. | 0583–AD41 | Final Rule Stage. |
| 18 | Common or Usual Name for Raw Meat and Poultry Products Containing Added Solutions. | 0583–AD43 | Final Rule Stage. |
| 19 | Descriptive Designation for Needle- or Blade-Tenderized (Mechanically Tenderized) Beef Products. | 0583–AD45 | Final Rule Stage. |
| 20 | Forest Service Manual 2020—Ecological Restoration and Resilience Policy | 0596–AC82 | Proposed Rule Stage. |
| 21 | Land Management Planning Rule Policy | 0596–AD06 | Final Rule Stage. |
| 22 | Nondiscrimination in Programs or Activities Conducted by the United States Department of Agriculture. | 0503–AA52 | Proposed Rule Stage. |
| 23 | Business and Industry (B&I) Guaranteed Loan Program | 0570–AA85 | Proposed Rule Stage. |
| 24 | Rural Energy for America Program | 0570–AA76 | Final Rule Stage. |
| 25 | BioPreferred Program Guidelines Revisions | 0599–AA18 | Final Rule Stage. |

## DEPARTMENT OF DEFENSE

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

## DEPARTMENT OF EDUCATION

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

## DEPARTMENT OF ENERGY

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

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES—Continued

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

DEPARTMENT OF HOMELAND SECURITY

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 68 | Ammonium Nitrate Security Program | 1601–AA52 | Final Rule Stage. |
| 69 | Asylum and Withholding Definitions | 1615–AA41 | Proposed Rule Stage. |
| 70 | Exception to the Persecution Bar for Asylum, Refugee, and Temporary Protected Status, and Withholding of Removal. | 1615–AB89 | Proposed Rule Stage. |
| 71 | Employment Authorization for Certain H–4 Dependent Spouses | 1615–AB92 | Proposed Rule Stage. |
| 72 | Application of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to Unaccompanied Alien Children Seeking Asylum. | 1615–AB96 | Proposed Rule Stage. |
| 73 | Administrative Appeals Office: Procedural Reforms To Improve Efficiency | 1615–AB98 | Proposed Rule Stage. |
| 74 | Enhancing Opportunities for H–1B1, CW–1, and E–3 Nonimmigrants and EB–1 Immigrants. | 1615–AC00 | Proposed Rule Stage. |
| 75 | Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status. | 1615–AA59 | Final Rule Stage. |
| 76 | New Classification for Victims of Criminal Activity; Eligibility for the U Nonimmigrant Status. | 1615–AA67 | Final Rule Stage. |
| 77 | Application of Immigration Regulations to the Commonwealth of the Northern Mariana Islands. | 1615–AB77 | Final Rule Stage. |
| 78 | Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978. | 1625–AA16 | Final Rule Stage. |
| 79 | Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System. | 1625–AA99 | Final Rule Stage. |
| 80 | Transportation Worker Identification Credential (TWIC); Card Reader Requirements. | 1625–AB21 | Final Rule Stage. |
| 81 | Offshore Supply Vessels of at Least 6000 GT ITC | 1625–AB62 | Final Rule Stage. |
| 82 | Importer Security Filing and Additional Carrier Requirements | 1651–AA70 | Final Rule Stage. |
| 83 | Changes to the Visa Waiver Program To Implement the Electronic System for Travel Authorization (ESTA) Program. | 1651–AA72 | Final Rule Stage. |
| 84 | Implementation of the Guam-CNMI Visa Waiver Program | 1651–AA77 | Final Rule Stage. |
| 85 | Definition of Form I–94 to Include Electronic Format | 1651–AA96 | Final Rule Stage. |

DEPARTMENT OF HOMELAND SECURITY—Continued

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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

DEPARTMENT OF JUSTICE

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

DEPARTMENT OF TRANSPORTATION

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

DEPARTMENT OF TRANSPORTATION—Continued

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

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

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

ENVIRONMENTAL PROTECTION AGENCY

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 137 | Revisions to Procedures for Complaints or Charges of Employment Discrimination Based on Disability Subject to the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. | 3046–AA91 | Proposed Rule Stage. |
| 138 | Revisions to Procedures for Complaints/Charges of Employment Discrimination Based on Disability Filed Against Employers Holding Government Contracts or Subcontracts. | 3046–AA92 | Proposed Rule Stage. |
| 139 | Revisions to Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance. | 3046–AA93 | Proposed Rule Stage. |
| 140 | Revisions to the Federal Sector's Affirmative Employment Obligations Regarding Individuals with Disabilities Under Section 501 of the Rehabilitation Act of 1973, as Amended. | 3046–AA94 | Proposed Rule Stage. |

SMALL BUSINESS ADMINISTRATION

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 141 | Small Business Mentor-Protege Programs | 3245–AG24 | Proposed Rule Stage. |
| 142 | Small Business Technology Transfer (STTR) Policy Directive | 3245–AF45 | Final Rule Stage. |
| 143 | Small Business Innovation Research (SBIR) Program Policy Directive | 3245–AF84 | Final Rule Stage. |
| 144 | 504 and 7(a) Loan Programs Updates | 3245–AG04 | Final Rule Stage. |

SOCIAL SECURITY ADMINISTRATION

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

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## DEPARTMENT OF AGRICULTURE (USDA)

*Statement of Regulatory Priorities*

In FY 2014, USDA's focus will continue to be on programs that create or save jobs, particularly in rural America, while identifying and taking action on those programs that could be modified, streamlined, and simplified; or reporting burdens reduced, particularly with the public's access to USDA programs. USDA anticipates implementing a comprehensive Food, Farm and Jobs Bill (Farm Bill) covering major farm, trade, conservation, rural development, nutrition assistance and other programs. It is anticipated that a number of high priority regulations will be developed during 2014 to implement this legislation should it be enacted. USDA's regulatory efforts in the coming year will achieve the following goals identified in the Department's Strategic Plan for 2010–2015:

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

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

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

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

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

• *Strengthening Food Safety Inspection.* USDA will continue to develop science-based regulations that improve the safety of meat, poultry, and egg products in the least burdensome and most cost-effective manner. Regulations will be revised to address emerging food safety challenges, streamlined to remove excessively prescriptive regulations, and updated to be made consistent with hazard analysis and critical control point principles. In 2014, the Food Safety and Inspection Service (FSIS) plans to finalize regulations to establish new systems for poultry slaughter inspection, which would improve food safety and save money for establishments and taxpayers. Among other actions, USDA will provide export certificates through the use of technology. To assist small entities to comply with food safety requirements, FSIS will continue to collaborate with other USDA agencies and State partners in its small business outreach program.

• *Improving Access to Nutrition Assistance and Dietary Behaviors.* As changes are made to the nutrition assistance programs, USDA will work to ensure access to program benefits, improve program integrity, improve diets and healthy eating, and promote physical activity consistent with the national effort to reduce obesity. In support of these activities in 2014, the Food and Nutrition Service (FNS) plans to publish the proposed rule regarding meal pattern revisions for the Child and Adult Care Food Program and finalize a rule updating the WIC food packages. FNS will continue to work to implement rules that minimize participant and vendor fraud in its nutrition assistance programs.

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

managers of our national forests and grasslands require to begin revising their land management plans under the 2012 Planning Rule. Currently 70 of the 120 Forest Service's Land Management Plans are expired and in need of revision.

• *Making Marketing and Regulatory Programs More Focused.* The Animal and Plant Health Inspection Service (APHIS) plans to amend its veterinary biologics regulations to provide for the use of a simpler, uniform label format to better meet the needs of veterinary biologics consumers. APHIS also plans to revise tuberculosis and brucellosis regulations to better reflect the distribution of these diseases and thereby minimizing the impacts on livestock producers while continuing to address these livestock diseases. In the area of plant health, APHIS proposes to expand the streamlined method of considering the importation and interstate movement of fruits and vegetables. The Agricultural Marketing Service (AMS) will support the organic sector by proposing that all existing and replacement dairy animals from which milk or milk products are intended to be sold as organic must be managed organically from the last third of gestation.

• *Promoting Biobased Products.* USDA will continue to promote sustainable economic opportunities to create jobs in rural communities through the purchase and use of biobased products through the BioPreferred® program. USDA will finalize regulations to revise the BioPreferred® program guidelines to continue adding designated product categories to the preferred procurement program, including intermediates and feedstocks and finished products made of intermediates and feedstocks. The Federal preferred procurement and the certified label parts of the program are voluntary; both are designed to assist biobased businesses in securing additional sales.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following initiatives are identified in the Department's Final Plan for Retrospective Analysis. . . . The final agency plan, as well as periodic status updates for each initiative, are available online at: *http://www.whitehouse.gov/21stcenturygov/actions/21st-century-regulatory-system.*

| RIN | Title | Significantly reduce burdens on small businesses |
|---|---|---|
| 0583–AC59 | Prior Labeling Approval System: Generic Label Approval | Yes. |
| 0583–AD41 | Electronic Export Application and Certification Fee | Yes. |
| 0583–AD32 | Modernization of Poultry Slaughter Inspection | Yes. |
| 0570–AA76 | Rural Energy America Program | Yes. |
| 0570–AA85 | Business and Industry Loan Guaranteed Program | Yes. |
| 0575–AC91 | Community Facilities Loan and Grants | Yes. |
| 0596–AD01 | National Environmental Policy Act (NEPA) Efficiencies | Yes. |

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

• *Increase Use of Generic Approval and Regulations Consolidation.* FSIS is finalizing a rule that will expand the circumstances in which the labels of meat and poultry products will be deemed to be generically approved by FSIS. The rule will reduce regulatory burden and generate a discounted Agency cost savings of $3.3 million over 10 years (discounted at 7 percent).

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

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

• *Increase Accessibility to the Rural Energy for America Program (REAP).* Under REAP, Rural Development provides guaranteed loans and grants to support the purchase, construction, or retrofitting of a renewable energy system. This rulemaking will streamline the application process for grants, lessening the burden to the customer.

• *Reduced Duplication in Farm Programs.* The Farm and Foreign Agricultural Services (FFAS) mission area will reduce the paperwork burden on program participants by consolidating the information collections required to participate in farm programs administered by the Farm Service Agency (FSA) and the Federal crop insurance program administered by the Risk Management Agency (RMA). As a result, producers will be able to spend less time reporting information to USDA. Additionally, FSA and RMA will be better able to share information, thus improving operational efficiency. FFAS will evaluate methods to simplify and standardize, to the extent practical, acreage reporting processes, program dates, and data definitions across the various USDA programs and agencies. FFAS expects to allow producers to use information from their farm-management and precision agriculture systems for reporting production, planted and harvested acreage, and other key information needed to participate in USDA programs. FFAS will also streamline the collection of producer information by FSA and RMA with the agricultural production information collected by the National Agricultural Statistics Service. These process changes will allow for program

data that is common across agencies to be collected once and utilized or redistributed to agency programs in which the producer chooses to participate. Full implementation of the Acreage and Crop Reporting Streamlining Initiative (ACRSI) is planned for 2014. When specific changes are identified, FSA and RMA will make any required conforming changes in their respective regulations.

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

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

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

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

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

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

Promoting International Regulatory Cooperation Under EO 13609

President Obama issued EO 13609 on promoting international regulatory cooperation in May 2012. The EO charges the Regulatory Working Group, an interagency working group chaired by the Administrator of Office of Information and Regulatory Affairs (OIRA), with examining appropriate strategies and best practices for international regulatory cooperation. The EO also directs agencies to identify factors that should be taken into account when evaluating the effectiveness of regulatory approaches used by trading partners with whom the U.S. is engaged in regulatory cooperation. At this time, USDA is identifying international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations, while working closely with the Administration to refine the guidelines implementing the EO. Apart from international regulatory cooperation, the Department has continued to identify regulations with international impacts, as it has done in the past. Such regulations are those that are expected to have international trade and investment effects, or otherwise may be of interest to our international trading partners.

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

Major Regulatory Priorities

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

Food and Nutrition Service

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

Priorities: In addition to responding to provisions of legislation authorizing and modifying Federal nutrition assistance programs, FNS's 2014 regulatory plan supports USDA's Strategic Goal to ''ensure that all of America's children have access to safe, nutritious and balanced meals,'' and its related objectives:

• *Increase Access to Nutritious Food.* This objective represents FNS's efforts to improve nutrition by providing access to program benefits (food consumed at home, school meals, commodities) and distributing State administrative funds to support program operations. To advance *this objective, FNS plans* to publish a final rule from the 2008 Farm Bill addressing SNAP eligibility, certification, and employment and training issues. FNS will also publish a final rule implementing the Healthy, Hunger-Free Kids Act of 2010's Community Eligibility Provision, which eliminates the burden of household applications and increases access to free school lunches and breakfasts for children in eligible high poverty schools. In addition, FNS plans to publish a proposed rule that would enhance the eligibility standards for SNAP retailers in order to improve the availability of more healthful foods.

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

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

• *Promote Healthy Diet and Physical Activity Behaviors.* This objective represents FNS's efforts to ensure that program benefits meet appropriate standards to effectively improve nutrition for program participants, to improve the diets of its clients through nutrition education, and to support the national effort to reduce obesity by promoting healthy eating and physical activity. *In support of this objective, FNS plans to publish* proposed rules updating the meal patterns for the Child and Adult Care Food Program to align them with the latest Dietary Guidelines for Americans, establishing professional standards for school food service and State child nutrition program directors. *FNS also plans to finalize a rule updating food packages in WIC.* FNS's goal is by 2015 to reduce child obesity from 16.9 percent to 15.5 percent, to double the proportion of adults consuming five or more servings of fruits and vegetables daily, and to increase breastfeeding rates among WIC mothers.

Food Safety and Inspection Service

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

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

• *Implement Poultry Slaughter Modernization.* FSIS plans to issue a final rule to implement a new inspection system for young poultry slaughter establishments that would facilitate public health-based inspection. The rule would help prevent thousands of illnesses by allowing front-line inspectors to focus on public health threats such as Salmonella and Campylobacter. The rule would allow for more effective inspection of carcasses and allocation of agency resources, as well as encourage industry to more readily use new technology.

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

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

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

• *Improve the Efficiency of Product Recalls.* FSIS will propose to amend recordkeeping regulations to specify that all official establishments and retail stores that grind or chop raw beef products for sale in commerce must keep records that disclose the identity of the supplier of all source materials that they use in the preparation of each lot of raw ground or chopped product and identify the names of those source materials. FSIS investigators and public health officials frequently use records kept by all levels of the food distribution chain, including the retail level, to identify and trace back product that is the source of the illness the suppliers that produced the source material for the product. Access to this information will improve FSIS's ability to conduct timely and effective consumer foodborne illness investigations and other public health activities throughout the stream of commerce.

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

Animal and Plant Health Inspection Service

Mission: A major part of the mission of APHIS is to protect the health and value of American agricultural and natural resources. APHIS conducts

programs to prevent the introduction of exotic pests and diseases into the United States and conducts surveillance, monitoring, control, and eradication programs for pests and diseases in this country. These activities enhance agricultural productivity and competitiveness and contribute to the national economy and the public health. APHIS also conducts programs to ensure the humane handling, care, treatment, and transportation of animals under the Animal Welfare Act.

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

Agricultural Marketing Service

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

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

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

Farm Service Agency

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

Priorities: FSA is focused on providing the best possible service to producers while protecting the environment by updating and streamlining environmental compliance. FSA is also strengthening its ability to help the Nation respond to national defense emergencies. FSA's priority initiatives are as follows:

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

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

Forest Service

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

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

• *Implement Land Management Planning Framework.* The Forest

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

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

Rural Development

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

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

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

• *Increase Accessibility to the Rural Energy for America Program (REAP).* Under REAP, Rural Development provides guaranteed loans and grants to support the purchase, construction, or retrofitting of a renewable energy system. This rulemaking will streamline the application process for grants, lessening the burden to the customer. The rulemaking is expected to reduce the information collection. REAP will also be revised to ensure a larger number of applicants will be made available by issuing smaller grants. By doing so, funding will be distributed evenly across the applicant pool and encourage greater development of renewable energy.

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

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

Office of the Assistant Secretary for Civil Rights (OASCR)

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

Priorities

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

Departmental Management

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

Priorities

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

Aggregate Costs and Benefits

USDA will ensure that its regulations provide benefits that exceed costs, but are unable to provide an estimate of the aggregated impacts of its regulations. Problems with aggregation arise due to differing baselines, data gaps, and inconsistencies in methodology and the type of regulatory costs and benefits considered. Some benefits and costs associated with rules listed in the regulatory plan cannot currently be quantified as the rules are still being formulated. For 2014, USDA's focus will be to implement the changes to

programs in such a way as to provide benefits while minimizing program complexity and regulatory burden for program participants.

BILLING CODE 3410–90–P

## USDA—AGRICULTURAL MARKETING SERVICE (AMS)

*Proposed Rule Stage*

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

*Priority:* Other Significant.
*Legal Authority:* 7 U.S.C. 6501
*CFR Citation:* 7 CFR 205.
*Legal Deadline:* None.

*Abstract:* The current regulations provide two tracks for replacing dairy animals which are tied to how dairy farmers transition to organic production. Farmers who transition an entire distinct herd must thereafter replace dairy animals with livestock that has been under organic management from the last third of gestation. Farmers who do not transition an entire distinct herd may perpetually obtain replacement animals that have been managed organically for 12 months prior to marketing milk or milk products as organic. The proposed action would eliminate the two track system and require that upon transition, all existing and replacement dairy animals from which milk or milk products are intended to be sold, labeled or represented as organic, must be managed organically from the last third of gestation.

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

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

*Alternatives:* The program considered initiating the rulemaking with an ANPR. It was determined that there is sufficient awareness of the expectations of the organic community to proceed with a proposed rule. As alternatives, we considered the status quo, however, this would continue the disparity between producers who can continually transition conventional dairy animals into organic production and producers who must source dairy animals that are organic from the last third of gestation. Based on the information available, this disparity appears to create a barrier to the development of an organic heifer market. We also considered an action that would restrict the source of breeder stock and movement of breeder stock after they are brought onto an organic operation, however, this would minimize the flexibility of producers to purchase breeder stock from any source as specified under the Organic Foods Production Act.

*Anticipated Cost and Benefits:* Organic producers who routinely convert conventional dairy livestock to organic will either need to find a source to procure organic replacement animals, or begin to raise replacement animals within their operation. Preliminary analysis suggest that less than 5 percent of organic dairies would face higher costs to comply with this action. Organic operations that converted a whole-herd to organic status and do not convert conventional animals for replacements will be able to readily comply with the rule and may find new market opportunities for organic replacement dairy livestock.

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/14 | |

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

## USDA—FARM SERVICE AGENCY (FSA)

*Proposed Rule Stage*

### 2. Environmental Compliance and Related Concerns

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

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

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

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

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

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

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

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

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

*RIN:* 0560–AH02

## USDA—FSA

*Final Rule Stage*

### 3. Agriculture Priorities and Allocations Systems

*Priority:* Other Significant.

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

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

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

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

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

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

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

*Risks:* None.

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

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

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

*RIN:* 0560–AH68

## USDA—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)

*Proposed Rule Stage*

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

*Priority:* Other Significant.

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

*CFR Citation:* 9 CFR 112.

*Legal Deadline:* None.

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* Undetermined.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Additional Information:* Additional information about APHIS and its

programs is available on the Internet at *http://www.aphis.usda.gov.*

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

*RIN:* 0579–AD64

## USDA—APHIS

### 5. Brucellosis and Bovine Tuberculosis; Update of General Provisions

*Priority:* Other Significant.

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

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

*Legal Deadline:* None.

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

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

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses, Governmental Jurisdictions.

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

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

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

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

*RIN:* 0579–AD65

## USDA—APHIS

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

*Priority:* Other Significant.

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

*CFR Citation:* 7 CFR 318 and 319.

*Legal Deadline:* None.

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal.

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

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

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

*RIN:* 0579–AD71

## USDA—APHIS

### 7. User Fees for Agricultural Quarantine and Inspection Services

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

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

*CFR Citation:* 7 CFR 354.

*Legal Deadline:* None.

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

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

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

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

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* Undetermined.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal.

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

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

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

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

*RIN:* 0579–AD77

## USDA—RURAL HOUSING SERVICE (RHS)

*Proposed Rule Stage*

### 8. Civil Rights Compliance Requirements

*Priority:* Other Significant.

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

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

*Legal Deadline:* None.

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

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

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

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

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

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

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

*RIN:* 0575–AA83

## USDA—RHS

### 9. Loan Packager Certification

*Priority:* Other Significant.

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

*CFR Citation:* 7 CFR 3550.

*Legal Deadline:* None.

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

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

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

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

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

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

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

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

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

*Anticipated Cost and Benefits:*

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

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

*RIN:* 0575–AC88

## USDA—FOOD AND NUTRITION SERVICE (FNS)

*Proposed Rule Stage*

### 10. Child Nutrition Program Integrity

*Priority:* Other Significant.

*Legal Authority:* Pub. L. 111–296

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

*Legal Deadline:* None.

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

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

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

*Alternatives:* None identified; this rule implements statutory requirements.

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

*Risks:* None identified.

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* Local, State.

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

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

Lynnette M. Williams, Chief, Planning and Regulatory Affairs Branch, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605–4782, *Email: lynnette.williams@fns.usda.gov*.

*RIN:* 0584–AE08

## USDA—FNS

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

*Priority:* Other Significant.

*Legal Authority:* Pub. L. 111–296

*CFR Citation:* 7 CFR 226.

*Legal Deadline:* None.

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

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

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

*Summary of Legal Basis:* Section 221 of the Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111–296).

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

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

*Risks:* None identified.

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Governmental Jurisdictions.

*Government Levels Affected:* Local, State.

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

Lynnette M. Williams, Chief, Planning and Regulatory Affairs Branch, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605–4782, *Email: lynnette.williams@fns.usda.gov.*

*RIN:* 0584–AE18

## USDA—FNS

### 12. Enhancing Retailer Eligibility Standards in SNAP

*Priority:* Other Significant.

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

*CFR Citation:* 7 CFR 271.2; 7 CFR 278.1.

*Legal Deadline:* None.

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

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

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

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

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

*Risks:* None identified.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* State.

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

Lynnette M. Williams, Chief, Planning and Regulatory Affairs Branch, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605–4782, *Email: lynnette.williams@fns.usda.gov.*

*RIN:* 0584–AE27

## USDA—FNS

*Final Rule Stage*

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

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 1786

*CFR Citation:* 7 CFR 246.

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

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

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

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

*Summary of Legal Basis:* The Child Nutrition Act of 1966, as amended, section 17; especially 17(b)(14) and 17(f)(11).

*Alternatives:* FNS developed a regulatory impact analysis that addressed a variety of alternatives that

were considered in the interim final rulemaking. The regulatory impact analysis was published as an appendix to the interim rule.

*Anticipated Cost and Benefits:* The regulatory impact analysis for this rule provided a reasonable estimate of the anticipated effects of the rule. The regulatory impact analysis was published as an appendix to the interim rule.

*Risks:* This rule applies to WIC State agencies with respect to their selection of foods to be included on their food lists. Opportunities for training on and discussion of the revised WIC food packages will be offered to State agencies and other entities as necessary.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 08/07/06 | 71 FR 44784 |
| NPRM Comment Period End. | 11/06/06 | |
| Interim Final Rule | 12/06/07 | 72 FR 68966 |
| Interim Final Rule Effective. | 02/04/08 | |
| Interim Final Rule Comment Period End. | 02/01/10 | |
| Final Rule | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses, Governmental Jurisdictions.

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

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

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

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

Lynnette M Williams, Chief, Planning and Regulatory Affairs Branch, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605–4782, *Email:* *lynnette.williams@fns.usda.gov.*

*RIN:* 0584–AD77

## USDA—FNS

*Prorule*

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

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

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

*CFR Citation:* 7 CFR 273.

*Legal Deadline:* None.

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

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

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

*Alternatives:* Most aspects of the rule are non-discretionary and tied to explicit, specific requirements for SNAP in the FCEA, and others were new program options the FCEA created that State agencies may include in their administration of the program. FNS did consider alternatives within these mandatory and optional FCEA provisions addressed in the rule. For example, under the new optional provision implementing section 4119 of the FCEA, Telephonic Signature Systems, FNS considered what specific conditions must be satisfied for a signature to be considered a spoken signature.

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

There are many potential societal benefits of this rule, including that certain provisions in the rule will reduce the administrative burden for households and State agencies.

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/04/11 | 76 FR 25414 |
| NPRM Comment Period End. | 07/05/11 | |
| Final Action | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* Local, State.

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

Lynnette M Williams, Chief, Planning and Regulatory Affairs Branch, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605–4782, *Email:* *lynnette.williams@fns.usda.gov.*

*RIN:* 0584–AD87

## USDA—FOOD SAFETY AND INSPECTION SERVICE (FSIS)

*Proposed Rule Stage*

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

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

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

*CFR Citation:* 9 CFR 320.

*Legal Deadline:* None.

*Abstract:* FSIS is proposing to amend its recordkeeping regulations to specify that all official establishments and retail stores that grind raw beef products for sale in commerce must keep records that disclose the identity of the supplier of all source materials that they use in the preparation of each lot of raw ground product and identify the names of those source materials.

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

those caused by the consumption of raw beef ground by official establishments or retail stores.

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

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

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

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

*Anticipated Cost and Benefits:* Costs occur because about 76,093 retail stores and official establishments will need to develop and maintain records, and make those records available for the Agency's review. Using the best available data, FSIS believes that industry recordkeeping costs would be approximately $1.46 million. Agency costs of approximately $0.01 million would result from record reviews at official establishments and retail stores, as well as travel time to and from retail stores.

Annual benefits from this rule come from estimated averted Shiga toxin-producing E.coli illnesses of $1.06 million and $0.58 million due to averted cases of Salmonellosis.

Total benefits from this rule are estimated to be $1.64 million, with a net annual benefit of $0.13 million.

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

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

*Risks:* FSIS estimates that the annual costs of STEC and salmonellosis illnesses that will continue to be incurred without this rule is $1.64 million, which comes from an estimated $1.06 million due to illnesses associated with STECs and an estimated $0.58 million due to cases of salmonellosis.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

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

*RIN:* 0583–AD46

## USDA—FSIS

*Final Rule Stage*

### 16. Modernization of Poultry Slaughter Inspection

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

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

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

*Legal Deadline:* None.

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

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

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

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

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

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

(1) No action.

(2) Propose to implement HACCP-based inspection models pilot in regulations.

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

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

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 01/27/12 | 77 FR 4408 |
| NPRM Comment Period End. | 05/29/12 | 77 FR 24873 |
| Final Action | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Agency Contact:* Rachel Edelstein, Assistant Administrator, Office of Policy and Program Development, Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW., 350–E JLW Building, Washington, DC 20250–3700, *Phone:* 202 205–0495, *Fax:* 202 720–2025, *Email: rachel.edelstein@fsis.usda.gov.*

*RIN:* 0583–AD32

## USDA—FSIS

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

*Priority:* Other Significant.

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

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

*Legal Deadline:* None.

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

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

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

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

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

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 01/23/12 | 77 FR 3159 |
| NPRM Comment Period End. | 03/23/12 | |
| Final Action | 05/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

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

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

*RIN:* 0583–AD41

## USDA—FSIS

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

*Priority:* Other Significant.

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

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

*Legal Deadline:* None.

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

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

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

*Alternatives:*

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

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

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

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

*Risks:* None.

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

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

*RIN:* 0583–AD43

## USDA—FSIS

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

*Priority:* Other Significant.

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

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

*Legal Deadline:* None.

*Abstract:* FSIS has proposed regulations to require the use of the descriptive designation ''mechanically tenderized'' on the labels of raw or partially cooked needle or blade tenderized beef products, including beef products injected with marinade or solution, unless such products are destined to be fully cooked at an official establishment. Beef products that have been needle or blade tenderized are referred to as ''mechanically tenderized'' products. This rule would require that the product name for such beef products include the descriptive designation ''mechanically tenderized'' and accurate description of the beef component. The rule would also require

that the print for all words in the descriptive designation as the product name appear in the same style, color, and size and on a single-color contrasting background. In addition, this rule would require that labels of raw and partially cooked needle or blade tenderized beef products destined for household consumers, hotels, restaurants, or similar institutions include validated cooking instructions stating that these products need to be cooked to a specified minimum internal temperature, and whether they need to be held at that minimum internal temperature for a specified time before consumption, i.e., dwell time or rest time, to ensure that they are thoroughly cooked.

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

*Summary of Legal Basis:* 21 U.S.C. 601 to 695.

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

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

*RIN:* 0583–AD45

## USDA—FOREST SERVICE (FS)

*Proposed Rule Stage*

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

*Priority:* Other Significant.

*Legal Authority:* Not Yet Determined

*CFR Citation:* None.

*Legal Deadline:* None.

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

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

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

*RIN:* 0596–AC82

## USDA—FS

*Final Rule Stage*

### 21. Land Management Planning Rule Policy

*Priority: Other Significant.*

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

*CFR Citation:* 36 CFR 219.

*Legal Deadline:* None.

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

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

*RIN:* 0596–AD06

## USDA—OFFICE OF THE SECRETARY (AgSEC)

*Proposed Rule Stage*

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

*Priority:* Other Significant.

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

*CFR Citation:* 7 CFR 15d.

*Legal Deadline:* None.

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

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

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

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

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

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

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

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

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

*RIN:* 0503–AA52

## USDA—RURAL BUSINESS—COOPERATIVE SERVICE (RBS)

*Proposed Rule Stage*

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

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

*Legal Authority:* Consolidated Farm and Rural Development Act

*CFR Citation:* 7 CFR 4287; 7 CFR 4279.

*Legal Deadline:* None.

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

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

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

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

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

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

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

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Proposed Rule .... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

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

*RIN:* 0570–AA85

## USDA—RBS

*Final Rule Stage*

### 24. Rural Energy for America Program

*Priority:* Other Significant.

*Legal Authority:* 7 U.S.C. 8107

*CFR Citation:* 7 CFR 4280–B.

*Legal Deadline:* None.

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

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

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

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

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

*RIN:* 0570–AA76

## USDA—OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT (OPPM)

*Final Rule Stage*

### 25. Biopreferred Program Guidelines Revisions

*Priority:* Other Significant.

*Legal Authority:* Pub. L. 110–246

*CFR Citation:* 7 CFR 3201.

*Legal Deadline:* None.

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

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

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal.

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

*RIN:* 0599–AA18

**BILLING CODE 3410–90–P**

## DEPARTMENT OF COMMERCE (DOC)

*Statement of Regulatory and Deregulatory Priorities*

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

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

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

- *Innovate* by creating new ideas through cutting-edge science and technology from advances in nanotechnology, to ocean exploration, to broadband deployment, and by protecting American innovations through the patent and trademark system;
- Support *entrepreneurship and commercialization* by enabling community development and strengthening minority businesses and small manufacturers;
- Maintain U.S. economic *competitiveness* in the global marketplace by promoting exports, ensuring a level playing field for U.S. businesses, and ensuring that technology transfer is consistent with our nation's economic and security interests;
- Provide effective management and *stewardship* of our nation's resources and assets to ensure sustainable economic opportunities; and
- Make informed policy decisions and enable better understanding of the economy by providing *accurate economic and demographic data.*

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

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

*Responding to the Administration's Regulatory Philosophy and Principles*

The vast majority of the Commerce's programs and activities do not involve regulation. Of Commerce's 12 primary operating units, only the National Oceanic and Atmospheric Administration (NOAA) will be planning actions that are considered the ''most important'' significant preregulatory or regulatory actions for FY 2013. During the next year, NOAA plans to publish six rulemaking actions that are designated as Regulatory Plan actions. The Bureau of Industry and Security (BIS) will also publish rulemaking actions designated as Regulatory Plan actions. Further information on these actions is provided below.

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

*National Oceanic and Atmospheric Administration*

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

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

Three of NOAA's major components, the National Marine Fisheries Services (NMFS), the National Ocean Service (NOS), and the National Environmental

Satellite, Data, and Information Service (NESDIS), exercise regulatory authority.

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

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

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

Magnuson-Stevens Fishery Conservation and Management Act

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) rulemakings concern the conservation and management of fishery resources in the U.S. Exclusive Economic Zone (generally 3–200 nautical miles). Among the several hundred rulemakings that NOAA plans to issue in FY 2013, a number of the preregulatory and regulatory actions will be significant. The exact number of such rulemakings is unknown, since they are usually initiated by the actions of eight regional Fishery Management Councils (FMCs) that are responsible for preparing fishery management plans (FMPs) and FMP amendments, and for drafting implementing regulations for each managed fishery. NOAA issues regulations to implement FMPs and FMP amendments. Once a rulemaking is triggered by an FMC, the Magnuson-Stevens Act places stringent deadlines upon NOAA by which it must exercise its rulemaking responsibilities. FMPs and FMP amendments for Atlantic highly migratory species, such as bluefin tuna, swordfish, and sharks, are developed directly by NOAA, not by FMCs.

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

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

Marine Mammal Protection Act

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

Endangered Species Act

The Endangered Species Act of 1973 (ESA) provides for the conservation of species that are determined to be ''endangered'' or ''threatened,'' and the conservation of the ecosystems on which these species depend. The ESA authorizes both NMFS and the Fish and Wildlife Service (FWS) to jointly administer the provisions of the MMPA. NMFS manages marine and ''anadromous'' species, and FWS manages land and freshwater species. Together, NMFS and FWS work to protect critically imperiled species from extinction. Of the 1,310 listed species found in part or entirely in the United States and its waters, NMFS has jurisdiction over approximately 60 species. NMFS' rulemaking actions are focused on determining whether any species under its responsibility is an endangered or threatened species and

whether those species must be added to the list of protected species. NMFS is also responsible for designating, reviewing, and revising critical habitat for any listed species. In addition, under the ESA's procedural framework, Federal agencies consult with NMFS on any proposed action authorized, funded, or carried out by that agency that may affect one of the listed species or designated critical habitat, or is likely to jeopardize proposed species or adversely modify proposed critical habitat that is under NMFS' jurisdiction.

NOAA's Regulatory Plan Actions

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

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

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

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

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

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

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

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

*Bureau of Industry and Security*

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

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

export items in order to enhance national security.

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

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

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

Are structurally aligned so that they potentially can be combined into a single list of controlled items.

BIS' current regulatory plan action is designed to implement the initial phase of the President's directive, which will add to BIS' export control purview, military related items that the President determines no longer warrant control under rules administered by the State Department.

*Major Programs and Activities*

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

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

*BIS' Regulatory Plan Actions*

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

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

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

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

*Promoting International Regulatory Cooperation*

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

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

items controlled for chemical and biological weapon nonproliferation purposes. In addition, the National Oceanic and Atmospheric Administration works with other countries' regulatory bodies through regional fishery management organizations to develop fair and internationally-agreed-to fishery standards for the High Seas.

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

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

*Retrospective Review of Existing Regulations*

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

| RIN | Title | Expected to significantly reduce burdens on small businesses? |
|---|---|---|
| 0648–XC164 ..... | Final Rule Implementing a Targeted Acadian Redfish Fishery for Sector Vessels. | |
| 0648–BC50 ..... | Exempted Fishery for the Spiny Dogfish Fishery in the Waters East and West of Cape Cod, MA. | |
| 0648–BC25 ..... | Regulatory amendment to revise requirements for the annual Crab Economic Data Reports under the Bering Sea and Aleutian Islands Crab Rationalization Program. | Yes. |
| 0648–BA93 ..... | Regulatory amendment to modify the Groundfish Retention Standard Program. | |
| 0648–BB79 ..... | Proposed Rule to Implement Changes to the Regulations for Designating Critical Habitat under the Endangered Species Act. | |
| 0648–BB80 ..... | Proposed Rule to Amend the Definition of Destruction or Adverse Modification of Critical Habitat under the Endangered Species Act. | |
| 0648–BB81 ..... | Proposed Rule to Amend the Regulations Governing the Issuance of Incidental Take Statements under Section 7 of the Endangered Species Act. | |
| 0648–BC24 ..... | Final Rule to Revise Regulations for Conducting Impact Analyses for Critical Habitat Designations under the Endangered Species Act. | |
| 0694–AF03 ..... | Export Control Reform Initiative: Strategic Trade Authorization License Exception. | |
| 0694–AF17 ..... | Proposed Revision to the Export Administration Regulations: Control of Items the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0694–AF36 ..... | Proposed Revision to the Export Administration Regulations: Control of Aircraft and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0694–AF41 ..... | Revisions to the Export Administration Regulations: Control of Gas Turbine Engines and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0694–AF17 ..... | Revisions to the Export Administration Regulations: Control of Military Vehicles and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0694–AF42 ..... | Revisions to the Export Administration Regulations: Control of Vessels of War and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0694–AF39 ..... | Revisions to the Export Administration Regulations: Control of Submersible Vessels, Oceanographic Equipment and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0694–AF17 ..... | Revisions to the Export Administration Regulations: Export Control Classification Number 0Y521 Series, Items Not Elsewhere Listed on the Commerce Control List (CCL). | |
| 0694–AF53 ..... | Revisions to the Export Administration Regulations: Control of Energetic Materials and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0694–AF51 ..... | Revisions to the Export Administration Regulations: Auxiliary and Miscellaneous Items that No Longer Warrant Control Under the United States Munitions List and Items on the Wassenaar Arrangement Munitions List. | |
| 0694–AF58 ..... | Revisions to the Export Administration Regulations: Control of Personal Protective Equipment, Shelters, and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List. | |

| RIN | Title | Expected to significantly reduce burdens on small businesses? |
|---|---|---|
| 0694–AF54 ..... | Revisions to the Export Administration Regulations: Control of Military Training Equipment and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0694–AF66 ..... | ''Specially Designed'' Definition. | |
| 0694–AF68 ..... | Feasibility of Enumerating ''Specially Designed'' Components. | |
| 0694–AF65 ..... | Proposed Revisions to the Export Administration Regulations: Implementation of Export Control Reform; Revisions to License Exceptions After Retrospective Regulatory Review. | |
| 0694–AF47 ..... | Revisions to the Export Administration Regulations: Control of Firearms and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0694–AF48 ..... | Revisions to the Export Administration Regulations: Control of Guns and Armament and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0694–AF49 ..... | Revisions to the Export Administration Regulations: Control of Ammunition and Ordnance the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0694–AF64 ..... | Revisions to the Export Administration Regulations: Control of Military Electronic Equipment and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0694–AF37 ..... | Revisions to the Export Administration Regulations (EAR) to Make the Commerce Control List (CCL) Clearer. | |
| 0694–AF56 ..... | EAR Revision: Items Related to Launch Vehicles, Missiles, Rockets, and Military Explosive Devices the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0694–AF60 ..... | Amendment to Licensing Requirements for Exports to Canada of Shotguns, Shotgun Shells and Optical Sighting Devices under the Export Administration Regulations. | Yes. |
| 0694–AF65 ..... | Revisions to the Export Administration Regulations: Initial Implementation of Export Control Reform. | |
| 0694–AF87 ..... | Export Administration Regulations: Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List. | |
| 0651–AC82 ..... | Reduction of Fees for Trademark Applications. | |
| 0651–AC54 ..... | Setting and Adjusting Patent Fees. | |

**BILLING CODE 3410–12–P**

## DEPARTMENT OF DEFENSE

*Statement of Regulatory Priorities*

### Background

The Department of Defense (DoD) is the largest Federal department consisting of three Military departments (Army, Navy, and Air Force), nine Unified Combatant Commands, 17 Defense Agencies, and ten DoD Field Activities. It has 1,412,674 military personnel and 886,975 civilians assigned as of June 30, 2013, and over 200 large and medium installations in the continental United States, U.S. territories, and foreign countries. The overall size, composition, and dispersion of DoD, coupled with an innovative regulatory program, presents a challenge to the management of the Defense regulatory efforts under Executive Order (E.O.) 12866 ''Regulatory Planning and Review'' of September 30, 1993.

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

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

*International Regulatory Cooperation*

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

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

*Retrospective Review of Existing Regulations*

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

| RIN | Rule Title (*expected to significantly reduce burdens on small businesses) |
|---|---|
| 0701–AA76 | Air Force Freedom of Information Act Program. |
| 0701–AA77 | Air Force Privacy Act Program. |
| 0703–AA87 | United States Navy Regulations and Official Records. |
| 0703–AA90 | Guidelines for Archaeological Investigation Permits and Other Research on Sunken Military Craft and Terrestrial Military Craft Under the Jurisdiction of the Department of the Navy. |
| 0703–AA91 | Unofficial Use of the Seal, Emblem, Names, or Initials of the Marine Corps. |
| 0703–AA92 | Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General. |
| 0750–AG47 | Safeguarding Unclassified Controlled Technical Information (DFARS Case 2011–D039). |
| 0750–AG62 | Patents, Data, and Copyrights (DFARS Case 2010–D001). |
| 0750–AH11 | Only One Offer—Further Implementation (DFARS Case 2013–D001). |
| 0750–AH54 | Performance-Based Payments (DFARS Case 2011–D045). |
| 0750–AH86 | Forward Pricing Rate Proposal Adequacy Checklist (DFARS Case 2012–D035). |
| 0750–AI03 | Approval of Rental Waiver Requests (DFARS Case 2013–D006). |
| 0790–AI24 | DoD Freedom of Information Act (FOIA) Program Regulation. |
| 0790–AI30 | Defense Contract Management Agency (DCMA) Privacy Program. |
| 0790–AI42 | Personnel Security Program. |
| 0790–AI51 | DoD Freedom of Information Act (FOIA) Program; Amendment. |
| 0790–AI63 | Alternative Dispute Resolution. |
| 0790–AI71 | National Industrial Security Program (NISP): Procedures for Government Activities.Relating to Foreign Ownership, Control or Influence (FOCI). |
| 0790–AI73 | Withholding of Unclassified Technical Data from Public Disclosure. |
| 0790–AI75 | Presentation of DoD-Related Scientific and Technical Papers at Meetings. |
| 0790–AI77 | Provision of Early Intervention and Special Education Services to Eligible DoD Dependents. |
| 0790–AI80 | National Industrial Security Program: Industrial Security Procedures for Government Activities. |
| 0790–AI84 | National Defense Science and Engineering Graduate (NDSEG) Fellowships. |
| 0790–AI87 | Defense Logistics Agency Freedom of Information Act Program. |
| 0790–AI88 | Shelter for the Homeless. |
| 0790–AI92 | Inspector General; Privacy Act; Implementation. |
| 0790–AJ03 | DoD Privacy Program. |
| 0790–AJ04 | Unlawful Discrimination (On the Basis of Race, Color, National Origin, or Age in Programs or Activities Receiving Federal Financial Assistance From the DoD). |
| 0790–AJ05 | End Use Certificates (EUCs). |
| 0790–AJ06 | Voluntary Education Programs. |
| 0790–AJ07 | Historical Research in the Files of the Office of the Secretary of Defense (OSD). |
| 0790–AJ10 | Enhancement of Protections on Consumer Credit for Members of the Armed Forces and Their Dependents. |
| | COMPLETED RULES |
| 0710–AA66 | Civil Monetary Penalty Inflation Adjustment Rule. |
| 0710–AA60 | Nationwide Permit Program Regulations *. |
| 0750–AH19 | Accelerated Payments to Small Business (DFARS Case 2011–D008). |
| 0750–AH70 | Defense Trade Cooperation Treaty With Australia and the United Kingdom (DFARS Case 2012–D034). |
| 0750–AH87 | System for Award Management Name Changes, Phase 1 Implementation (DFARS Case 2012–D053). |
| 0790–AI54 | Defense Support of Civilian Law Enforcement Agencies. |
| 0790–AI86 | Defense Logistics Agency Privacy Program. DoD also removed 32 CFR part 513, ''Indebtedness of Military Personnel,'' because the part is obsolete and the governing policy is now codified at 32 CFR part 112. |

*Administration Priorities*

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

The Department plans to—

• Finalize the rule to implement section 806 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011), as amended by section 806 of the NDAA for FY 2013. Section 806 requires the evaluation of offeror's supply chain risks for information technology purchases relating to national security systems. This rule enables agencies to exclude sources that are identified as having a supply chain risk in order to minimize the potential risk for purchased supplies and services to maliciously introduce unwanted functions and degrade the integrity and operation of sensitive information technology systems.

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

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

2. Rulemakings of Particular Interest to Small Businesses

The Department plans to—

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

• Finalize the DFARS rule to delete text in DFARS Part 219 that implemented 10 U.S.C. 2323 because 10 U.S.C. 2323 has expired. Removal of the obsolete implementing coverage for 10 U.S.C. 2323 will bring DFARS up to date and provide accurate and indisputable regulations affecting the small business and vendor communities.

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

The Department plans to—

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

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

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

4. Rules To Be Modified, Streamlined, Expanded, or Repealed to Make The Agency's Regulatory Program More Effective or Less Burdensome In Achieving The Regulatory Objectives.

• DFARS Cases 2012–D057, 2013–D005, 2013–D014, 2013–D025; and 2013–D026;—Propose a new convention for prescribing clauses with alternates to provide alternate clauses in full text. This will facilitate selection of alternate clauses using automated contract writing systems. The inclusion of the full text of the alternate clauses in the regulation for use in solicitations and contracts should make the terms of the alternate clauses clearer to offerors and contractors by clarifying paragraph substitutions. As a result, inapplicable paragraphs from the basic clause that are superseded by the alternate will not be included in solicitations or contracts, reducing the potential for confusion.

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

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

*Specific DoD Priorities*

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

1. Defense Procurement and Acquisition Policy

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

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

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

2. Logistics and Material Readiness, Department of Defense

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

• Final Rule: Operational Contract Support. This rule incorporates the latest changes and lessons learned into policy and procedures for operational contract support (OCS), including OCS program management, contract support integration, and the integration of DoD contractor personnel into contingency operations outside the United States. It was required to procedurally close gaps and ensure the correct planning, oversight and management of DoD contractors supporting contingency operations, by updating outdated policy. DoD published an interim final rule on December 29, 2011 (32 CFR part 158, 76 FR 81807–81825) The final rule is expected to be published the first quarter of FY 2014.

3. Installations and Environment, Department of Defense

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

• Final Rule: Mission Compatibility Evaluation Process. This rule implements policy, assigns responsibilities, and prescribes procedures for the establishment and operation of a process for evaluation of proposed projects submitted to the Secretary of Transportation under section 44718 of title 49, United States Code. The evaluation process is established for the purpose of identifying any adverse impact of proposed projects on military operations and readiness, minimizing or mitigating such adverse impacts, and determining if any such projects pose an unacceptable risk to the national security of the United States. The rule also includes procedures for the operation of a central DoD siting clearinghouse to facilitate both informal and formal reviews of proposed projects. This rule is required by section 358 of Public Law 111–383. An interim final rule was published on October 20, 2011 (76 FR 65112). DoD anticipates publishing a final rule in the first quarter of FY 2014.

4. Military Community and Family Policy, Department of Defense

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

plans to publish a rule regarding child development programs:

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

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

5. Health Affairs, Department of Defense

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

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

• Proposed Rule: TRICARE; Reimbursement of Long Term Care Hospitals. The proposed rule implements the statutory provision in 10 United States Code 1079(j)(2) that TRICARE payment methods for institutional care shall be determined to the extent practicable in accordance with the same reimbursement rules as those that apply to payments to providers of services of the same type under Medicare. This proposed rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries for services provided by long term care hospitals. DoD anticipates publishing a proposed rule in the second quarter of FY 2014.

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

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

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

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

• Final Rule: Sexual Assault Prevention and Response (SAPR) Program Procedures. This part implements Department of Defense (DoD) policy and assigns responsibilities for the SAPR Program on prevention, response, and oversight to sexual assault. It is DoD policy to establish a culture free of sexual assault by providing an environment of prevention, education and training, response capability, victim support, reporting procedures, and accountability that enhances the safety and wellbeing of all persons covered by the regulation. An interim final rule was published on April 11, 2013 (78 FR 21715). DoD anticipates publishing a final rule in the second quarter of FY 2014.

7. Personnel and Readiness, Department of Defense

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

• Final Rule: Service Academies. This rule establishes policy, assigns responsibilities, and prescribes procedures for Department of Defense oversight of the Service Academies. The

proposed rule was published October 18, 2007 (72 FR 59053), and included policy that has since changed. The final rule, particularly the explanation of separation policy, will reflect recent changes in the Don't Ask, Don't Tell policy. It will also incorporate changes resulting from interagency coordination. DoD anticipates publishing the final rule in the first or second quarter of FY 2014.

8. Chief Information Officer, Department of Defense

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

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

**BILLING CODE &P**

## DOD—OFFICE OF THE SECRETARY (OS)

*Proposed Rule Stage*

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

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

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

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

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

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

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

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*Agency Contact:* Vicki Michetti, Department of Defense, Office of the Secretary, 6000 Defense Pentagon, Washington, DC 20301–6000, *Phone:* 703 604–3177, *Email:* *vicki.d.michetti.civ@mail.mil.*

*RIN:* 0790–AJ14

## DOD—OS

*Final Rule Stage*

### 27. Service Academies

*Priority:* Other Significant.
*Legal Authority:* 10 U.S.C. 301
*CFR Citation:* 32 CFR 217.
*Legal Deadline:* None.

*Abstract:* The Department is revising and updating policy guidance and oversight of the military service academies. This rule implements 10 U.S.C. 403, 603, and 903 for the establishment and operation of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy. The proposed rule was published October 18, 2007 (72 FR 59053), and included policy that has since changed. The final rule, particularly the explanation of separation policy, will reflect recent changes in the Don't Ask, Don't Tell policy.

*Statement of Need:* The Department of Defense revises and updates the current rule providing the policy guidance and oversight of the military service academies. This rule implements 10 U.S.C. 403, 603, and 903 for the establishment and operation of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

*Summary of Legal Basis:* 10 U.S.C. chapters 403, 603, 903.

*Alternatives:* None. The Federal statute directs the Department of Defense to develop policy, assign responsibilities, and prescribe procedures for operations and oversight of the service academies.

*Anticipated Cost and Benefits:* Administrative costs are negligible and benefits would be clear, concise rules that enable the Secretary of Defense to ensure that the service academies are efficiently operated and meet the needs of the Armed Forces.

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 10/18/07 | 72 FR 59053 |
| NPRM Comment Period End. | 12/17/07 | |
| Final Action ..... | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Additional Information:* DoD Instruction 1322.22.

*Agency Contact:* Paul Nosek, Department of Defense, Office of the Secretary, 4000 Defense Pentagon, Washington, DC 20301–4000, *Phone:* 703 695–5529.

*RIN:* 0790–AI19

## DOD—OS

### 28. Sexual Assault Prevention and Response Program Procedures

*Priority:* Other Significant.

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

*CFR Citation:* 32 CFR 105.

*Legal Deadline:* None.

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

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

*Summary of Legal Basis:* Section 113 of title 10, United States Code; and Public Laws 109–364, 109–163, 108–375, 106–65, 110–417, and 111–84.

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

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

The anticipated benefits associated with this rule include:

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

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

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

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

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

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

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

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

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 04/11/13 | 78 FR 21715 |
| Interim Final Rule Effective. | 04/11/13 | |
| Interim Final Rule Comment Period End. | 06/10/13 | |
| Final Action ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected*: No.

*Government Levels Affected:* None.

*Additional Information:* DoD Instruction 6495.02.

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

*RIN:* 0790–AI36

## DOD—OS

### 29. Operational Contract Support

*Priority:* Other Significant.
*Legal Authority:* Pub. L. 110–181
*CFR Citation:* 32 CFR 158.
*Legal Deadline:* None.
*Abstract:* In accordance with Public Law 110–181 and Public Law 110–417, DoD is revising policy and assigning responsibilities for program management of operational contract support (OCS) in contingency operations and integration of DoD contractor personnel into military contingency operations outside the United States. An interim final rule is required to procedurally close gaps and ensure the correct planning, oversight, and management of DoD contractors supporting contingency operations, by updating the existing outdated policy. The existing policies are causing significant confusion, as they do not reflect current practices and legislative mandates. The apparent mismatch between local Geographic Command guidance and the DoD-wide policies and the Defense Federal Acquisition Regulations Supplement is confusing for those in the field—in particular policy with regard to accountability and visibility requirements. Since the Presidential decision to expand the number of troops in Afghanistan and the subsequent increase of troops and contractors in theater, this issue has become so significant that DoD needs to revise the DoD-wide policies as a matter of urgency.

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

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

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

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

*Risks:* This rule represents an update to the existing DoD Instruction and incorporates the latest changes in policy and procedures. This revision is required to integrate lessons learned and improvements in practices gleaned from 5 years of operational experience. The risk of not publishing this rule is that there would be outdated policy which doesn't reflect practices in the field. This will lead to inefficient and ineffective management of the contractor workforce supporting contingency operations.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 12/29/11 | 76 FR 81807 |
| Interim Final Rule Effective. | 12/29/11 | |
| Interim Final Rule Comment Period End. | 02/27/12 | |
| Final Action ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.
*Small Entities Affected:* No.
*Government Levels Affected:* Federal.
*Additional Information:* DoD Instruction 3020.41.
*Agency Contact:* Kerry Powell, Department of Defense, Office of the Secretary, 3500 Defense Pentagon, Washington, DC 20201–3500, *Phone:* 703 614–1944, *Fax:* 703 697–4942, *Email: kerry.powell@osd.mil.*
*RIN:* 0790–AI48

## DOD—OS

### 30. Mission Compatibility Evaluation Process

*Priority:* Other Significant.
*Legal Authority:* Pub. L. 111–383, sec 358
*CFR Citation:* 32 CFR 211.
*Legal Deadline:* None.
*Abstract:* The Department of Defense (DoD) is issuing this interim final rule to implement section 358 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Public Law 111–383. That section requires that the DoD issue procedures addressing the impacts upon military operations of certain types of structures if they pose an unacceptable risk to the national security of the United States. The structures addressed are those for which an application is required to be filed with the Secretary of Transportation under section 44718 of title 49, United States Code. Section 358 also requires the designation of a lead organization to coordinate DoD review of applications for projects filed with the Secretary of Transportation pursuant to section 44718, and received by the Department of Defense from the Secretary of Transportation. Section 358 also requires the designation of certain officials by the Secretary of Defense to perform functions pursuant to the section and this implementing rule. Section 358 also requires the establishment of a comprehensive strategy for addressing military impacts of renewable energy projects and other energy projects, with the objective of ensuring that the robust development of renewable energy sources and the expansion of the commercial electrical grid may move forward in the United States, while minimizing or mitigating any adverse impacts on military operations and readiness. Implementing that requirement, however, is not required at this time and is not part of this rule. Other aspects of section 358 not required at this time, such as annual reports to Congress, are also not addressed in this rule. Nor does this rule deal with other clearance processes not included in section 358, such as those applied by the Bureau of Land Management, Department of the Interior.

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

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

*Alternatives:* The requirement to have a rule and the policies, responsibilities, and procedures contained in the rule were prescribed by section 358 of Public Law 111–383. In the areas where DoD has discretion, e.g., the internal procedures used within DoD to comply with the law, alternative arrangements

would have no impact on the net economic effects of the rule.

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

The higher standard for objection imposed by section 358 of Public Law 111–383 may allow projects that conflict with military activity, but do not achieve the high level of conflict required by law to object, to proceed. This may impose costs on DoD, e.g., systems testing may have to be moved to alternative test ranges, training, and readiness activities may be curtailed or moved, and changes to operations may have to be implemented to overcome interference with coastal, border, and interior homeland surveillance. The early outreach and negotiation over mitigation required by section 358 may allow modification of some projects to reduce or eliminate their conflict with military activities in cases where the absence of early outreach and negotiation would result in the project proceeding without mitigation. This would provide a benefit to DoD. The net effect of these costs and benefits on DoD has not been quantitatively estimated.

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 10/20/11 | 76 FR 65112 |
| Interim Final Rule Effective. | 10/20/11 | |
| Interim Final Rule Comment Period End. | 12/19/11 | |
| Final Action ..... | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

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

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

*RIN:* 0790–AI69

## DOD—OS

### 31. Child Development Programs (CDPS)

*Priority:* Other Significant.

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

*CFR Citation:* 32 CFR 79.

*Legal Deadline:* None.

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

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

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

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

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected*: None.

*Additional Information:* DoD Instruction 6060.02.

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

*RIN:* 0790–AI81

## DOD—OS

### 32. • Voluntary Education Programs

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

*Legal Authority:* 10 U.S.C. 2005; 10 U.S.C. 2007; EO 13607

*CFR Citation:* 32 CFR 68.

*Legal Deadline:* None.

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

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

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

*Alternatives:* No alternatives are possible.

*Anticipated Cost and Benefits:* Costs are controlled through limitations emplaced in the DoD Uniform Tuition Assistance policy with course and yearly caps. Subject to appropriations, each servicemember pays no more than $250.00 per semester-unit for tuition and fees combined. Each servicemember participating in off-duty, voluntary education is eligible for up to $4,500.00, in aggregate, for each fiscal year. This limitation allows all servicemembers that voluntarily participate to continue their education. Voluntary education programs include: High School Completion/Diploma; Military Tuition Assistance (TA); Postsecondary Degree Programs; Independent Study and Distance Learning Programs; College Credit Examination Program; Academic Skills Program; and Certification/Licensure Programs. Funding for voluntary education programs during 2012 was $660.5 million, which included tuition assistance and operational costs. This funding provided approximately 539,000 individuals (servicemembers and their adult family members) the opportunity to participate in voluntary education programs around the world.

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

*Risks:* There are no risks.

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

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

*RIN:* 0790–AJ06

## DOD—DEFENSE ACQUISITION REGULATIONS COUNCIL (DARC)

*Final Rule Stage*

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

*Priority:* Other Significant.

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

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

*Legal Deadline:* None.

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

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

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

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

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

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

d. Standardize procedures for tracking and reporting intrusions.

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

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

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

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

*Risks:* None.

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal.

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

*RIN:* 0750–AG47

## DOD—DARC

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

*Priority:* Other Significant.

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

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

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

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

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

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

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

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

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

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

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

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

*RIN:* 0750–AH96

## DOD—DARC

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

*Priority:* Other Significant.

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

*CFR Citation:* 48 CFR 203; 48 CFR 252.

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

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

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

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

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

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

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

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

*RIN:* 0750–AH97

## DOD—DARC

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

*Priority:* Other Significant.

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

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

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

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

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

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

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

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

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

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

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

*RIN:* 0750–AI04

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

*Proposed Rule Stage*

### 37. Tricare; Reimbursement of Long Term Care Hospitals

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

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

*CFR Citation:* 32 CFR 199.

*Legal Deadline:* None.

*Abstract:* The proposed rule implements the statutory provision in 10 United States Code 1079(j)(2) that TRICARE payment methods for institutional care shall be determined to the extent practicable in accordance with the same reimbursement rules as those that apply to payments to providers of services of the same type under Medicare. This proposed rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries for services provided by long-term care hospitals.

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

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

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

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

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* Federal.

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

*RIN:* 0720–AB47

## DOD—DODOASHA

*Final Rule Stage*

### 38. Tricare: Certified Mental Health Counselors

*Priority:* Other Significant.

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

*CFR Citation:* 32 CFR 199.

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

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

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

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

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

*RIN:* 0720–AB55

## DOD—DODOASHA

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

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

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

*CFR Citation:* 32 CFR 199.

*Legal Deadline:* None.

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

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

*RIN:* 0720–AB60

BILLING CODE 5001–06–P

## DEPARTMENT OF EDUCATION

### Statement of Regulatory Priorities

### I. Introduction

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

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

Overall, the laws, regulations, and programs we administer will affect nearly every American during his or her life. Indeed, in the 2013–2014 school year about 55 million students will attend an estimated 130,000 elementary and secondary schools in approximately 13,600 districts, and about 21 million students will enroll in degree-granting postsecondary schools. All of these

students may benefit from some degree of financial assistance or support from the Department.

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

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

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

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

## II. Regulatory Priorities

### *A. The Higher Education Act of 1965, as Amended*

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

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

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

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

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

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

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

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

### *D. Individuals With Disabilities Education Act*

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

and auditing local educational agency (LEA) compliance with MOE requirements understand the rules. Specifically, we are seeking public comment on proposed amendments to the regulation regarding local MOE to clarify existing policy and make other related changes regarding: (1) The compliance standard; (2) the eligibility standard; (3) the level of effort required of an LEA in the year after it fails to maintain effort under section 613(a)(2)(A)(iii) of the IDEA; and (4) the consequence for a failure to maintain local effort.

**III. Retrospective Review of Existing Regulations**

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

| RIN | Title of rulemaking | Do we expect this rulemaking to significantly reduce burden on small businesses? |
|---|---|---|
| 1810–AB16 | Title I—Improving the Academic Achievement of the Disadvantaged | No. |
| 1820–AB64 | Assistance to States for the Education of Children with Disabilities—Public Benefits or Insurance | No. |
| 1820–AB65 | Assistance to States for the Education of Children with Disabilities—Maintenance of Effort | No. |
| 1820–AB66 | American Indian Vocational Rehabilitation Services Program | No. |
| 1820–AB67 | Disability and Rehabilitation Research Projects and Centers Program: Disability and Rehabilitation Research: Research Fellowships; Special Projects and Demonstrations for Spinal Cord Injuries. | No. |
| 1840–AD05 | Title IV of the Higher Education Act of 1965, as Amended—Income-Based Repayment, Income-Contingent Repayment, and Total and Permanent Disability. | No. |
| 1840–AD08 | Titles III and V of the Higher Education Act, as Amended | No. |
| 1840–AD11 | Federal Pell Grant Program | Yes. |
| 1840–AD12 | Transitioning from the FFEL Program to the Direct Loan Program and Loan Rehabilitation under the FFEL, Direct Loan, and Perkins Loan Programs. | Undetermined. |
| 1840–AD14 | Negotiated Rulemaking Under Title IV of HEA | Undetermined. |
| 1840–AD15 | Gainful Employment | No. |
| 1890–AA14 | Direct Grant Programs and Definitions that Apply to Department Regulations | No. |

**IV. Principles for Regulating**

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

In deciding when to regulate, we consider the following:

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

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

- Regulate no more than necessary.
- Minimize burden to the extent possible, and promote multiple approaches to meeting statutory requirements if possible.
- Encourage coordination of federally funded activities with State and local reform activities.
- Ensure that the benefits justify the costs of regulating.
- To the extent possible, establish performance objectives rather than specify compliance behavior.
- Encourage flexibility, to the extent possible and as needed to enable institutional forces to achieve desired results.

## ED—OFFICE OF POSTSECONDARY EDUCATION (OPE)

*Proposed Rule Stage*

**40. • Gainful Employment**

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

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

*CFR Citation:* 34 CFR 668.

*Legal Deadline:* None.

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

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

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

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

*Alternatives:* To be determined.

*Anticipated Cost and Benefits:* To be determined.

*Risks:* To be determined.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses, Organizations.

*Government Levels Affected:* None.

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

*RIN:* 1840–AD15

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY (DOE)

*Statement of Regulatory and Deregulatory Priorities*

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

- Promote dependable, affordable and environmentally sound production and distribution of energy;
- Advance energy efficiency and conservation;
- Provide responsible stewardship of the Nation's nuclear weapons;
- Provide a responsible resolution to the environmental legacy of nuclear weapons production; and
- Strengthen U.S. scientific discovery, economic competitiveness, and improve quality of life through innovations in science and technology.

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

*Retrospective Review of Existing Regulations*

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

*Rulemakings Subject to Retrospective Analysis*

| RIN | Title | Small business burden reduction |
|---|---|---|
| 1904–AB57 ..... | Standards for Battery Chargers and External Power Supplies. | |
| 1904–AC46 ..... | Alternative Efficiency Determination Methods and Alternate Rating Methods ..... | This rule is expected to reduce burden on small manufacturers of covered products and equipment. |
| 1904–AC70 ..... | Waiver and Interim Waiver for Consumer Products and Commercial and Industrial Equipment ..... | This rule is expected to reduce burden on small manufacturers of covered products and equipment. |

*Energy Efficiency Program for Consumer Products and Commercial Equipment*

The Energy Policy and Conservation Act (EPCA) requires DOE to set appliance efficiency standards at levels that achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. The Distribution Transformer and Microwave Oven standards, which were already published in 2013, have an estimated net benefit to the nation of up to $16.3 billion over 30 years. By 2045, these standards are estimated to save enough energy to operate the current inventory of all U.S. homes for about three months.

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

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

*Estimate of Combined Aggregate Costs and Benefits*

The regulatory actions included in this Regulatory Plan for battery chargers

and external power supplies, walk-in coolers and freezers, metal halide lamp fixtures, manufactured housing, commercial refrigeration equipment, residential furnace fans, and commercial and industrial electric motors may provide significant benefits to the Nation. DOE believes that the benefits to the Nation of the proposed energy standards for metal halide lamp fixtures, commercial refrigeration equipment and walk-in coolers and freezers (energy savings, consumer average lifecycle cost savings, increase in national net present value, and emission reductions) outweigh the costs (loss of industry net present value and life-cycle cost increases for some consumers). In the proposed rulemakings, DOE estimated that these regulations would produce energy savings of 7.19 to 7.49quads over thirty years. The net benefit to the Nation was estimated to be between $11.16 billion (seven-percent discount rate) and $31.57 billion (three-percent discount rate). DOE believes that the proposed energy standards for external power supplies, residential furnace fans, and commercial and industrial electric motors will also be beneficial to the Nation. However, because DOE has not yet proposed candidate standard levels for this equipment, DOE cannot provide an estimate of combined aggregate costs and benefits for this action. DOE will, however, in compliance with all applicable law, issue standards that provide the maximum energy savings that are technologically feasible and economically justified. Estimates of energy savings will be provided when DOE issues the notice of proposed rulemakings for external power supplies, residential furnace fans, and commercial and industrial electric motors.

**BILLING CODE &P**

## DOE—ENERGY EFFICIENCY AND RENEWABLE ENERGY (EE)

*Proposed Rule Stage*

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

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

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

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

*CFR Citation:* 10 CFR 431.

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

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

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

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

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

*Anticipated Cost and Benefits:* DOE believes that the benefits to the Nation of the proposed energy standards for commercial refrigeration equipment (such as energy savings, consumer average lifecycle cost savings, an increase in national net present value, and emission reductions) outweigh the burdens (such as loss of industry net present value). DOE estimates that energy savings from electricity will be 5.39 quads over 30 years and the benefit to the Nation will be between $8.6 billion and $24.3 billion.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice: Public Meeting, Framework Document Availability. | 01/06/09 | 74 FR 411 |
| Notice: Public Meeting, Data Availability. | 04/05/10 | 75 FR 17080 |
| NPRM Comment Period Extended. | 04/14/10 | 75 FR 41103 |
| Comment Period End. | 05/28/10 | |
| NPRM | 09/11/13 | 78 FR 55781 |
| NPRM Comment Period End. | 11/12/13 | |
| Final Action | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Local, State.

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

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

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

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

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

*Related RIN:* Related to 1904–AB85.

*RIN:* 1904–AB86

## DOE—EE

### 42. Energy Efficiency Standards for Metal Halide Lamp Fixtures

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

*Unfunded Mandates:* Undetermined.

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

*CFR Citation:* 10 CFR 431.

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

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

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

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

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

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

*Anticipated Cost and Benefits:* DOE believes that the benefits to the Nation of the proposed energy standards for metal halide lamp fixtures (such as energy savings, consumer average lifecycle cost savings, an increase in national net present value, and emission reductions) outweigh the burdens (such as loss of industry net present value). DOE estimates that energy savings from electricity will range from 0.80 quads to 1.1 quads over 30 years and the benefit to the Nation will be between $0.95 billion and $3.2 billion.

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

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

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

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

*RIN:* 1904–AC00

## DOE—EE

### 43. Energy Efficiency Standards for Manufactured Housing

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

*Unfunded Mandates:* Undetermined.

*Legal Authority:* 42 U.S.C. 17071

*CFR Citation:* 10 CFR 460.

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* None.

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

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

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

*RIN:* 1904–AC11

## DOE—EE

### 44. Energy Conservation Standards for Commercial Refrigeration Equipment

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

*Unfunded Mandates:* Undetermined.

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

*CFR Citation:* 10 CFR 431.

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

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

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

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

*Alternatives:* The statute requires DOE to conduct rulemakings to review

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

*Anticipated Cost and Benefits:* DOE believes that the benefits to the Nation of the proposed energy standards for commercial refrigeration equipment (such as energy savings, consumer average lifecycle cost savings, an increase in national net present value, and emission reductions) outweigh the burdens (such as loss of industry net present value). DOE estimates that energy savings from electricity will be 1 quad over 30 years and the benefit to the Nation will be between $1.61 billion and $4.07 billion.

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

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

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

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

*RIN:* 1904–AC19

## DOE—EE

### 45. Energy Conservation Standards for Residential Furnace Fans

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

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

*Legal Authority:* 42 U.S.C. 6295 (f)(4)(D)

*CFR Citation:* 10 CFR 430.

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

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

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

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

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

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice: Public Meeting, Framework Document Availability. | 06/03/10 | 75 FR 31323 |
| Comment Period End. | 07/06/10 | |
| Preliminary Analysis. | 07/10/12 | 77 FR 40530 |
| Comment Period End. | 09/10/12 | |
| NPRM; Public Meeting. | 10/25/13 | 78 FR 64067 |
| NPRM Comment Period End. | 12/24/13 | |
| Public Meeting .... | 12/03/13 | |
| Final Action ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

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

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

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

*Related RIN:* Related to 1904–AC21.

*RIN:* 1904–AC22

## DOE—EE

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

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

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

*Legal Authority:* 42 U.S.C. 6313(b)(4)(B)

*CFR Citation:* 10 CFR 431.25.

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

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

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

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

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

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

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice: Public Meeting; Framework Document Availability. | 09/28/10 | 75 FR 59657 |
| Comment Period End. | 11/24/10 | |
| Preliminary Analysis. | 07/23/12 | 77 FR 43015 |
| Comment Period End. | 09/07/12 | |
| NPRM | 11/00/13 | |
| Final Action | 05/00/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* None.

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

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

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

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

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

*Related RIN:* Duplicate of 1904–AC14.

*RIN:* 1904–AC28

## DOE—EE

*Final Rule Stage*

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

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

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

*CFR Citation:* 10 CFR 430.

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

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

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

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

In addition to the existing general definition of ''external power supply,'' EPCA defines a ''Class A external power supply'' (42 U.S.C. 6291(36)(C)) and sets efficiency standards for those products (42 U.S.C. 6295(u)(3)). EPCA directs DOE to publish a final rule to determine whether amended standards should be set for external power supplies or classes of external power supplies. If such determination is positive, DOE would include any amended or new standards as part of that final rule. DOE completed this determination in 2012. 75 FR 27170 (May 14, 2010)

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

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

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice: Public Meeting, Framework Document Availability. | 06/04/09 | 74 FR 26816 |
| Comment Period End. | 07/20/09 | |
| Notice: Public Meeting, Data Availability. | 09/15/10 | 75 FR 56021 |
| Comment Period End. | 10/15/10 | |
| Final Rule (Technical Amendment). | 09/19/11 | 76 FR 57897 |
| NPRM ..... | 03/27/12 | 77 FR 18478 |
| Final Rule: Technical Amendment. | 04/16/12 | 77 FR 22472 |
| NPRM Comment Period End. | 05/29/12 | |
| NPRM Comment Period Reopened. | 06/29/12 | 77 FR 38743 |
| Reopened NPRM Comment Period End. | 07/16/12 | |
| Request for Information. | 03/26/13 | 78 FR 18253 |
| RFI Comment Period End. | 05/28/13 | |
| Final Action ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Local, State.

*Federalism:* This action may have federalism implications as defined in E.O. 13132.

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

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

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

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

*Related RIN:* Related to 1904–AB75.

*RIN:* 1904–AB57

**BILLING CODE–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

*Statement of Regulatory Priorities for Fiscal Year 2014*

As the lead federal agency responsible for protecting the health of all Americans and providing supportive services for vulnerable populations, the Department of Health and Human Services (HHS) implements programs that strengthen the health care system; advance scientific knowledge and innovation; improve the health, safety, and well-being of the American people; increase efficiency, transparency, and accountability of HHS programs; and strengthen the nation's health and human services infrastructure.

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

Expanding Coverage in the Private Health Care Market and Strengthening Medicare

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

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

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

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

Advancing Strategies To Reduce Gun Violence

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

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

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

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

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

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

Safeguarding the Nation's Food Supply

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

- FDA recently issued a proposed rule establishing preventive controls in the manufacture and distribution of animal feeds.[5] This regulation, as well as a companion piece related to human foods, constitute the heart of the food safety program by instituting uniform practices for the manufacture and distribution of food products to ensure that those products are safe for consumption and will not cause or spread disease.
- In another proposed rule, FDA is codifying a provision in the Animal Drug User Fee Amendments of 2008 that requires sponsors of antimicrobial new animal drug products to annually report the amount of antimicrobial active ingredient in those drugs that are sold or distributed for use in food-producing animals, as well as outline other requirements for collecting additional drug distribution data. This rule will help FDA address the problem of antimicrobial resistance and will help ensure that FDA has the necessary information to examine safety concerns related to the use of antibiotics in food-producing animals.[6]

Promoting Children's Health and Well-Being

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

- For example, one final rule would provide the first comprehensive update of Child Care and Development Fund (CCDF) regulations since 1998.[7] The CCDF is a federal program that provides formula grants to states, territories, and tribes. The program provides financial assistance to low-income families to access child care so that they can work or attend a job training or educational program. It also provides funding to improve the quality of child care and increase the supply and availability of care for all families, including those who receive no direct assistance through CCDF. This final rule would make improvements in four key areas: (1) Health and safety; (2) child care quality; (3) family-friendly policies that promote continuity of care and support working families; and (4) program integrity. These changes reflect current research and knowledge about the early care and education sector, state innovations in policies and practices over the past decade, and increased recognition that high quality child care both supports work for low-income parents and promotes children's learning and healthy development.
- Another final rule would amend Head Start program eligibility standards, as a component of an ongoing effort to strengthen the Head Start program and help ensure for children and families most in need access to this high-quality educational program.[8]

Empowering Americans To Make Healthy Choices in the Marketplace

As of 2010, more than one-third of U.S. adults[9] and 17% of all children and adolescents[10] in the United States are obese, representing a dramatic increase in the rise of this health status. Since 1980, the prevalence of obesity among children and adolescents has almost tripled.[11] Obesity has both immediate and long-term effects on the health and quality of life of those affected, increasing their risk for chronic diseases, including heart disease, type 2 diabetes, certain cancers, stroke, and arthritis—as well as increasing medical costs for the individual and the health system.

Building on the momentum of the First Lady's ''Let's Move'' initiative and the Secretary's leadership, HHS has marshaled the skills and expertise from across the Department to address this epidemic with research, public education, and public health strategies. Adding to this effort, FDA will issue several rules designed to provide more useful, easy to understand dietary information—tools that will help millions of American families identify healthy choices in the marketplace.[12]

- One final rule will require restaurants and similar retail food establishments with 20 or more locations to list calorie content information for standard menu items on restaurant menus and menu boards, including drive-through menu boards.[13] Other nutrient information—total calories, fat, saturated fat, cholesterol, sodium, total carbohydrates, sugars, fiber, and total protein—would have to be made available in writing upon request.
- A second final rule will require vending machine operators who own or operate 20 or more vending machines to disclose calorie content for some items.[14] The Department anticipates that such information will ensure that patrons of chain restaurants and vending machines have nutritional information about the food they are consuming.
- A third proposed rule would revise the nutrition and supplement facts labels on packaged food, which has not been updated since 1993 when mandatory nutrition labeling of food was first required. The aim of the proposed revision is to provide updated and easier to read nutrition information

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

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

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

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

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

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

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

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

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

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

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

▪ Another proposed rule will focus on the serving sizes of foods that can reasonably consumed in one serving. This rule would provide consumers with nutrition information based on the amount of food that is typically eaten as a serving, which would assist consumers in maintaining healthy dietary practices.[16]

Reducing the Harms of Tobacco Use

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

Modernizing Medical Product Safety and Availability

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

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

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

Streamlining Regulations To Reduce Regulatory Burdens

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

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

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

▪ In a major undertaking, the Department and White House Office of Science and Technology Policy will propose revisions to the ethical rules governing research on human subjects, often referred to as the Common Rule.[22] The Common Rule governs institutions and researchers supported by HHS, and researchers throughout much of the federal government, in the conduct of research on humans. The proposed revisions will aim to better protect human subjects who are involved in research while facilitating research and reducing burden, delay, and ambiguity for investigators.

## HHS—OFFICE FOR CIVIL RIGHTS (OCR)

*Proposed Rule Stage*

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

*Priority:* Other Significant.

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

*CFR Citation:* 45 CFR 164.

*Legal Deadline:* None.

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

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

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

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

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

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

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

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

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

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

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

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

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

*Risks:* Not applicable.

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* State.

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

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

*RIN:* 0945–AA05

## HHS—FOOD AND DRUG ADMINISTRATION (FDA)

*Proposed Rule Stage*

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

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

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

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371

*CFR Citation:* 21 CFR 101.9; 21 CFR 101.36.

*Legal Deadline:* None.

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

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

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

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

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

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

*Timetable:*

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

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses, Governmental Jurisdictions.

*Government Levels Affected:* Federal, Local.

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

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

*Additional Information:* Includes Retrospective Review under EO 13563.

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

*RIN:* 0910–AF22

## HHS—FDA

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

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

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

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371

*CFR Citation:* 21 CFR 101.9; 21 CFR 101.12.

*Legal Deadline:* None.

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

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

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

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

*Anticipated Cost and Benefits:* If finalized, this rule will affect most foods that are currently required to bear nutrition labeling. It will have a significant cost to industry because food labels on all affected foods will have to be updated. Much of the information currently provided on the Nutrition Facts labels is based on old reference values and scientific information. The proposed changes would provide more current information to assist consumers in constructing a healthful diet.

*Risks:* If serving size information on the Nutrition Facts label is not updated, reference amounts customarily consumed that serve as the basis for serving sizes will continue to be based on old consumption data. Proposed updates to the serving size listed on the Nutrition Facts label will be based on current nationwide consumption data. Without these updates, consumers will not have current information to assist them in constructing a healthy diet.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 04/04/05 | 70 FR 17010 |
| ANPRM Comment Period End. | 06/20/05 | |
| NPRM | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal, State.

*Federalism:* This action may have federalism implications as defined in EO 13132.

*International Impacts:* This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

*Agency Contact:* Cherisa Henderson, Nutritionist, Department of Health and Human Services, Food and Drug Administration, HFS–830, 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 202 402–1450, *Fax:* 301 436–1191, *Email: cherisa.henderson@fda.hhs.gov.*

*RIN:* 0910–AF23

## HHS—FDA

### 51. Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 342; 21 U.S.C. 350c; 21 U.S.C. 350d note; 21 U.S.C. 350g; 21 U.S.C. 350g note; 21 U.S.C. 371; 21 U.S.C. 374; 42 U.S.C. 264; 42 U.S.C. 243; 42 U.S.C. 271; * * *

*CFR Citation:* 21 CFR 507.

*Legal Deadline:* NPRM, Statutory, October 2011, Final Rule to publish 9 months after close of comment period.

The legal deadline for FDA under the Food Safety Modernization Act to promulgate proposed regulations is October 2011 for certain requirements, with a final rule to publish 9 months after the close of the comment period. The Food Safety Modernization Act mandates that FDA promulgate final regulations for certain other provisions by July 2012. Finally, the FDA Amendments Act of 2007 directs FDA to publish final regulations for a subset of the proposed requirements by September 2009.

*Abstract:* FDA is proposing regulations for preventive controls for animal food, including ingredients and mixed animal feed. This action is intended to provide greater assurance that food marketed for all animals, including pets, is safe.

*Statement of Need:* Regulatory oversight of the animal food industry has traditionally been limited and focused on a few known safety issues, so there could be potential human and animal health problems that remain unaddressed. The massive pet food recall due to adulteration of pet food with melamine and cyanuric acid in 2007 is a prime example. The actions taken by two protein suppliers in China affected a large number of pet food suppliers in the United States and created a nationwide problem. By the time the cause of the problem was identified, melamine- and cyanuric acid-contaminated ingredients resulted in the adulteration of millions of individual servings of pet food. Congress passed FSMA, which the President signed into law on January 4, 2011 (Pub. L. 111–353). Section 103 of FSMA amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) by adding section 418 (21 U.S.C. 350g) Hazard Analysis and Risk Based Preventive Controls. In enacting FSMA, Congress sought to improve the safety of food in the United States by taking a risk-based approach to food safety, emphasizing prevention. Section 418 of the FD&C Act requires owners, operators, or agents in charge of food facilities to develop and implement a written plan that describes and documents how their facility will implement the hazard analysis and preventive controls required by this section.

*Summary of Legal Basis:* FDA's authority for issuing this rule is provided in FSMA (Pub. L. 111–353),

which amended the FD&C Act by establishing section 418, which directed FDA to publish implementing regulations. FSMA also amended section 301 of the FD&C Act to add 301(uu) that states the operation of a facility that manufactures, processes, packs, or holds food for sale in the United States, if the owner, operator, or agent in charge of such facility is not in compliance with section 418 of the FD&C Act, is a prohibited act.

FDA is also issuing this rule under the certain provisions of section 402 of the FD&C Act (21 U.S.C. 342) regarding adulterated food.

In addition, section 701(a) of the FD&C Act (21 U.S.C. 371(a)) authorizes the Agency to issue regulations for the efficient enforcement of the Act.

To the extent the regulations are related to communicable disease, FDA's legal authority also derives from sections 311, 361, and 368 of the Public Health Services Act (42 U.S.C. 243, 264 and 271). Finally, FDA is acting under the direction of section 1002(a) of title X of FDAAA of 2007 (21 U.S.C. 2102) which requires the Secretary to establish processing standards for pet food.

*Alternatives:* The Food Safety Modernization Act requires this rulemaking.

*Anticipated Cost and Benefits:* The benefits of the proposed rule would result from fewer cases of contaminated animal food ingredients or finished animal food products. Discovering contaminated food ingredients before they are used in a finished product would reduce the number of recalls of contaminated animal food products. Benefits would include reduced medical treatment costs for animals, reduced loss of market value of live animals, reduced loss of animal companionship, and reduced loss in value of animal food products. More stringent requirements for animal food manufacturing would maintain public confidence in the safety of animal foods and protect animal and human health. FDA lacks sufficient data to quantify the benefits of the proposed rule.

The compliance costs of the proposed rule would result from the additional labor and capital required to perform the hazard analyses, write and implement the preventive controls, monitor and verify the preventive controls, take corrective actions if preventive controls fail to prevent feeds from becoming contaminated, and implement requirements from the operations and practices section.

*Risks:* FDA is proposing this rule to provide greater assurance that food intended for animals is safe and will not cause illness or injury to animals. This rule would implement a risk-based, preventive controls food safety system intended to prevent animal food containing hazards, which may cause illness or injury to animals or humans, from entering into the food supply. The rule would apply to domestic and imported animal food (including raw materials and ingredients). Fewer cases of animal food contamination would reduce the risk of serious illness and death to animals.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 10/29/13 | 78 FR 64736 |
| NPRM Comment Period End. | 02/26/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*International Impacts:* This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

*Agency Contact:* Kim Young, Deputy Director, Division of Compliance, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine, Room 106 (MPN–4, HFV–230), 7519 Standish Place, Rockville, MD 20855, *Phone:* 240 276–9207, *Email: kim.young@fda.hhs.gov*.

*RIN:* 0910–AG10

## HHS—FDA

### 52. ''Tobacco Products'' Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* This action may affect the private sector under Pub. L. 104–4.

*Legal Authority:* 21 U.S.C. 301 *et seq.;* The Federal Food, Drug, and Cosmetic Act; Pub. L. 111–31; The Family Smoking Prevention and Tobacco Control Act

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) provides the Food and Drug Administration (FDA) authority to regulate cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Tobacco Control Act, permits FDA to issue regulations deeming other tobacco products to be subject to the FD&C Act. This proposed rule would deem products meeting the statutory definition of ''tobacco product'' to be subject to the FD&C Act and would specify additional restrictions.

*Statement of Need:* Currently, the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) provides FDA with immediate authority to regulate cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco. The Tobacco Control Act also permits FDA to issue regulations deeming other tobacco products that meet the statutory definition of ''tobacco product'' to also be subject to the Food Drug & Cosmetic Act (FD&C Act). This regulation is necessary to afford FDA the authority to regulate these products which include hookah, electronic cigarettes, cigars, pipe tobacco, other novel tobacco products, and future tobacco products.

*Summary of Legal Basis:* This should include a description of the legal basis for the action and whether any aspect of the action is required by statute or court order (section 4(c)(I)(C) of EO 12866).

Section 901 of the FD&C Act, as amended by the Tobacco Control Act, permits FDA to issue regulations deeming other tobacco products to be subject to the FD&C Act. Section 906(d) provides FDA with the authority to propose restrictions on the sale and distribution of tobacco products, including restrictions on the access to, and the advertising and promotion of, tobacco products if FDA determines that such regulation would be appropriate for the protection of the public health.

*Alternatives:* This should describe, to the extent possible, the alternatives the agency has considered or will consider for analysis (section 4(c)(1)(B) of EO 12866). Special consideration should be given to flexible approaches that ''reduce burdens'' and maintain ''freedom of choice for the public'' (section 4 of EO 13563).

In addition to the benefits and costs of the proposed rule, FDA has estimated the benefits and costs of several alternatives to the proposed rule: deeming only, but exempt newly-deemed products from certain requirements; exempt certain classes of products from certain requirements; deeming only, with no additional provisions; and changes to the compliance periods.

*Anticipated Cost and Benefits:* This should include ''preliminary estimates of the anticipated costs and benefits'' of the regulatory action (section 4(c)(1)(B) of E.O. 12866). Under E.O. 13563, agencies must ''use the best available

techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' Consistent with previous guidance we have provided concerning the implementation of E.O. 12866, the description of costs should include both capital (upfront) costs and annual (recurring) costs. If the benefits are difficult to quantify, we encourage you, to the extent possible, to use nominal units (for example, health effects or injuries avoided) for benefits. Avoid the misclassification of transfer payments as costs or benefits. You should appropriately discount both costs and benefits. To the extent that you cannot quantify costs and benefits, you should describe them in narrative form. (The Unified Agenda format does not permit the use of a columnar format for cost and benefit information. Please provide these data using a narrative format.)

The proposed rule has two parts: one part deems all tobacco products to be subject to the FD&C Act; the other part proposes additional provisions that would apply to newly-deemed products as well as to other covered tobacco products. The proposed deeming action differs from most public health regulations in that it is an enabling regulation. In other words, in addition to directly subjecting newly-deemed ''tobacco products'' to the substantive requirements of Chapter IX of the FD&C Act, it enables FDA to issue further public health regulations related to such products. Thus, almost all the potential benefits and most of the costs that flow from the proposed deeming action would be realized in stages over the long term. The proposed rule would generate some immediate quantifiable benefits by dissuading smokers of small and large cigars, thereby improving health and longevity; it would impose costs in the form of registration, submission, labeling, and other requirements.

*Risks:* This should include, if applicable, a description of ''how the magnitude of the risk addressed by the action relates to other risks within the jurisdiction of the agency'' (section 4(c)(1)(D) of E.O. 12866). You should include a description of the magnitude of the risk the action addresses, the amount by which the agency expects the action to reduce this risk, and the relation of the risk reduction effort to other risks and risk reduction efforts within the agency's jurisdiction.

Adolescence is the peak time for tobacco use initiation and experimentation. In recent years, new and emerging tobacco products, sometimes referred to as ''novel tobacco products,'' have been developed and are becoming an increasing concern to public health due, in part, to their appeal to youth and young adults. Non-regulated tobacco products come in many forms, including electronic cigarettes, nicotine gels, and certain dissolvable tobacco products (i.e., those dissolvable products that do not currently meet the definition of smokeless tobacco under 21 U.S.C. 387(18) because they do not contain cut, ground, powdered, or leaf tobacco and instead contain nicotine extracted from tobacco), and these products are widely available. This deeming rule is necessary to provide FDA with authority to regulate these products (e.g., registration, product and ingredient listing, user fees for certain products, premarket requirements, and adulteration and misbranding provisions). In addition, the additional restrictions that FDA seeks to promulgate for the proposed deemed products would reduce initiation and increase cessation (particularly among youth). This rule is consistent with other approaches that the Agency has taken to address the tobacco epidemic and is particularly necessary given that consumer use may be gravitating to the proposed deemed products.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*International Impacts:* This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

*Agency Contact:* May Nelson, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, 9200 Corporate Boulevard, Rockville, MD 20850, *Phone:* 877 287–1373, *Fax:* 240 276–3904, *Email: may.nelson@fda.hhs.gov*

*RIN:* 0910–AG38

## HHS—FDA

### 53. Reports of Distribution and Sales Information for Antimicrobial Active Ingredients Used in Food-Producing Animals

*Priority:* Other Significant.

*Legal Authority:* 21 U.S.C. 360b(l)(3)

*CFR Citation:* 21 CFR 514.80.

*Legal Deadline:* None.

*Abstract:* Section 105 of the Animal Drug User Fee Amendments of 2008 amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) to require that the sponsor of each antimicrobial new animal drug product submit an annual report to the Food and Drug Administration on the amount of each antimicrobial active ingredient in the drug product that is sold or distributed for use in food-producing animals, including any distributor-labeled product. In addition to codifying these requirements, FDA is exploring additional drug distribution data collection.

*Statement of Need:* Section 105 of the Animal Drug User Fee Amendments of 2008 (ADUFA) amended section 512 of the FD&C Act to require that the sponsor of each new animal drug product that contains an antimicrobial active ingredient submit an annual report to the Food and Drug Administration (FDA, the Agency) on the amount of each antimicrobial active ingredient in the drug product that is sold or distributed for use in food-producing animals, including information on any distributor-labeled product. This legislation was enacted to assist FDA in its continuing analysis of the interactions (including drug resistance), efficacy, and safety of antibiotics approved for use in both humans and food-producing animals (H. Rpt. 110–804). This proposed rulemaking is to codify these requirements. In addition, FDA is exploring the establishment of other reporting requirements to provide for the collection of additional drug distribution data, including reporting sales and distribution data by species.

*Summary of Legal Basis:* Section 105 of ADUFA (110 Pub. L. 316; 122 Stat. 3509) amended section 512 of the FD&C Act (21 U.S.C. 360b) to require that sponsors of applications for new animal drugs containing an antimicrobial active ingredient submit an annual report to the Food and Drug Administration on the amount of each such ingredient in the drug that is sold or distributed for use in food-producing animals, including information on any distributor-labeled product. FDA is also issuing this rule under its authority under section 512(l) of the FD&C Act to collect information relating to approved new animal drugs.

*Alternatives:* This rulemaking codifies the Congressional mandate of ADUFA section 105. The annual reporting required under ADUFA is necessary to address potential problems concerning the safety and effectiveness of antimicrobial new animal drugs. Less

frequent data collection would hinder this purpose.

*Anticipated Cost and Benefits:* Sponsors of antimicrobial drugs sold for use in food-producing animals currently report sales and distribution data to the Agency under section 105 of ADUFA; this rulemaking will codify a current statutory requirement. There may be a minimal additional labor cost if any other reporting requirement is proposed. Additional data beyond the reporting requirements specified in ADUFA section 105 will help the Agency better understand how the use of medically important antimicrobial drugs in food-producing animals may relate to antimicrobial resistance.

*Risks:* Section 105 of ADUFA was enacted to address the problem of antimicrobial resistance, and to help ensure that FDA has the necessary information to examine safety concerns related to the use of antibiotics in food-producing animals. 154 Cong. Rec. H7534.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 07/27/12 | 77 FR 44177 |
| ANPRM Comment Period End. | 09/25/12 | |
| ANPRM Comment Period Extended. | 11/26/12 | 77 FR 59156 |
| NPRM ..... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Agency Contact:* Sharon Benz, Supervisory Animal Scientist, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine, MPN–4, Room 2648, HFV–220, 7529 Standish Place, Rockville, MD 20855, *Phone:* 240 453–6864, *Email: sharon.benz@fda.hhs.gov.*

*RIN:* 0910–AG45

## HHS—FDA

### 54. Revision of Postmarketing Reporting Requirements Discontinuance or Interruption in Supply of Certain Products (Drug Shortages)

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Legal Authority:* Secs 506C, 506C–1, 506D, and 506F of the FDA&C Act, as amended by title X (Drug Shortages) of FDASIA, Pub. L. 112–144, July 9, 2012

*CFR Citation:* 21 CFR 314.81; 21 CFR 314.91.

*Legal Deadline:* NPRM, Statutory, January 9, 2014, Not later than 18 months after the date of enactment of FDASIA, FDA must adopt the final regulation implementing section 506C as amended.

Section 1001 of FDASIA states that not later than 18 months after the date of enactment of FDASIA, the Secretary shall adopt a final regulation implementing section 506C as amended.

*Abstract:* FDASIA amends the FD&C Act to require manufacturers of certain drug products to report discontinuances or interruptions in the manufacturing of these products 6 months prior to the discontinuance or interruption, or if that is not possible, as soon as practicable. Manufacturers must notify FDA of a discontinuance or interruption in the manufacture of drugs that are life-supporting, life-sustaining or intended for use in the prevention or treatment of a debilitating disease or condition. The regulation may include biological products within the notification requirements if it would benefit public health.

*Statement of Need:* The Food and Drug Administration Safety and Innovation Act (FDASIA), Public Law 112–144 (July 9, 2012), amends the FD&C Act to require manufacturers of certain drug products to report to FDA discontinuances or interruptions in the production of these products that are likely to meaningfully disrupt supply 6 months prior to the discontinuance or interruption, or if that is not possible, as soon as practicable. FDASIA also amends the FD&C Act to include other provisions related to drug shortages. Drug shortages have a significant impact on patient access to critical medications and the number of drug shortages has risen steadily since 2005 to a high of 251 shortages in 2011. Notification to FDA of a shortage or an issue that may lead to a shortage is critical—FDA was able to prevent more than 100 shortages in the first three quarters of 2012 due to early notification. This rule will implement the FDASIA drug shortages provisions, allowing FDA to more quickly and efficiently respond to shortages, thereby improving patient access to critical medications and promoting public health.

*Summary of Legal Basis:* Sections 506C, 506C–1, 506D, 506E, and 506F of the FD&C Act, as amended by title X (Drug Shortages) of FDASIA.

*Alternatives:* The principal alternatives assessed were to provide guidance on voluntary notification to FDA or to continue to rely on the requirements under the current interim final rule on notification. These alternatives would not meet the statutory requirement to issue the final regulation required by title X, section 1001 of FDASIA.

*Anticipated Cost and Benefits:* The rule would increase the modest reporting costs associated with notifying FDA of discontinuances or interruptions in the production of certain drug products. The rule would generate benefits in the form of the value of public health gains through more rapid and effective FDA responses to potential or actual drug shortages that otherwise would limit patient access to critical medications.

*Risks:* Drug shortages can significantly impede patient access to critical, sometimes life-saving, medications. Drug shortages, therefore, can pose a serious risk to public health and patient safety. This rule will require early notification of potential shortages, enabling FDA to more quickly and effectively respond to potential or actual drug shortages that otherwise would limit patient access to critical medications.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/04/13 | 78 FR 65904 |
| NPRM Comment Period End. | 01/03/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* None.

*Agency Contact:* Valerie Jensen, Department of Health and Human Services, Food and Drug Administration, White Oak, Building 22, Room 6202, 10903 New Hampshire Avenue, Silver Spring, MD 20903, *Phone:* 301 796–0737.

*RIN:* 0910–AG88

## HHS—FDA

### 55. Supplemental Applications Proposing Labeling Changes for Approved Drugs and Biological Products

*Priority:* Other Significant.

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 352; 21 U.S.C. 353; 21 U.S.C. 355; 21 U.S.C. 371; 42 U.S.C. 262; * * *

*CFR Citation:* 21 CFR 314.70; 21 CFR 314.97; 21 CFR 314.150; 21 CFR 601.12.

*Legal Deadline:* None.

*Abstract:* This proposed rule would amend the regulations regarding new drug applications (NDAs), abbreviated new drug applications (ANDAs), and biologics license applications (BLAs) to revise and clarify procedures for changes to the labeling of an approved

drug to reflect certain types of newly acquired information in advance of FDA's review of such change. The proposed rule would describe the process by which information regarding a ''changes being effected'' (CBE) labeling supplement submitted by an NDA or ANDA holder would be made publicly available during FDA's review of the labeling change. The proposed rule also would clarify requirements for the NDA holder for the reference listed drug and all ANDA holders to submit conforming labeling revisions after FDA has taken an action on the NDA and/or ANDA holder's CBE labeling supplement. These proposed revisions to FDA's regulations would create parity between NDA holders and ANDA holders with respect to submission of CBE labeling supplements.

*Statement of Need:* In the current marketplace, approximately 80 percent of drugs dispensed are generic drugs approved in ANDAs. ANDA holders, like NDA holders and BLA holders, are required to promptly review all adverse drug experience information obtained or otherwise received, and comply with applicable reporting and recordkeeping requirements. However, under current FDA regulations, ANDA holders are not permitted to use the CBE supplement process in the same manner as NDA holders and BLA holders to independently update product labeling with certain newly acquired safety information. This regulatory difference recently has been determined to mean that an individual can bring a product liability action for ''failure to warn'' against an NDA holder, but generally not an ANDA holder. This may alter the incentives for generic drug manufacturers to comply with current requirements to conduct robust postmarketing surveillance, evaluation, and reporting, and to ensure that their product labeling is accurate and up-to-date. Accordingly, there is a need for ANDA holders to be able to independently update product labeling to reflect certain newly acquired safety information as part of the ANDA holder's independent responsibility to ensure that its product labeling is accurate and up-to-date. Allowing ANDA holders to update product labeling through CBE supplements in the same manner as NDA holders and BLA holders may improve communication of important, newly acquired drug safety information to prescribing healthcare providers and the public.

*Summary of Legal Basis:* The FD&C Act (21 U.S.C. 301 *et seq.*) and the PHS Act (42 U.S.C. 201 *et seq.*) provide FDA with authority over the labeling for drugs and biological products, and authorize the Agency to enact regulations to facilitate FDA's review and approval of applications regarding the labeling for those products. FDA's authority to extend the CBE supplement process for certain safety-related labeling changes to ANDA holders arises from the same authority under which FDA's regulations relating to NDA holders and BLA holders were issued.

*Alternatives:* FDA considered several alternatives that would allow certain requirements of the proposed rule to vary, such as proposing a new category of supplements for certain labeling changes being effected in 30 days.

*Anticipated Cost and Benefits:* The economic benefits to the public health from adoption of the proposed rule are not quantified. By allowing all application holders to update labeling based on newly acquired information that meets the criteria for a CBE supplement, communication of important drug safety information to prescribing health care providers and the public could be improved. The primary estimate of the costs of the proposed rule includes costs to ANDA and NDA holders for submitting and reviewing CBE supplements.

*Risks:* This proposed rule is intended to remove obstacles to the prompt communication of safety-related labeling changes that meet the regulatory criteria for a CBE supplement. The proposed rule may encourage generic drug companies to participate more actively with FDA in ensuring the timeliness, accuracy, and completeness of drug safety labeling in accordance with current regulatory requirements. FDA's posting of information on its Web site regarding the safety-related labeling changes proposed in pending CBE supplements would enhance transparency and facilitate access by health care providers and the public so that such information may be used to inform treatment decisions.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 11/13/13 | 78 FR 67985 |
| NPRM Comment Period End. | 01/13/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Undetermined.

*Agency Contact:* Janice L. Weiner, Senior Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 51, Room 6304, 10903 New Hampshire Avenue, Silver Spring, MD 20993–0002, *Phone:* 301 796–3601, *Fax:* 301 847–8440, *Email: janice.weiner@fda.hhs.gov.*

*RIN:* 0910–AG94

## HHS—FDA

### 56. Veterinary Feed Directive

*Priority:* Other Significant.

*Legal Authority:* 21 U.S.C. 354; 21 U.S.C. 360b; 21 U.S.C. 360ccc; 21 U.S.C. 360ccc–1; 21 U.S.C. 371

*CFR Citation:* 21 CFR 514; 21 CFR 558.

*Legal Deadline:* None.

*Abstract:* The Animal Drug Availability Act created a new category of products called veterinary feed directive drugs (VFD drugs). This rulemaking is intended to provide for the increased efficiency of the VFD program.

*Statement of Need:* Before 1996, two options existed for regulating the distribution of animal drugs, including drugs in animal feed: (1) over-the-counter (OTC) and (2) prescription (Rx). In 1996 the Animal Drug Availability Act (ADAA) created a new category of products called veterinary feed directive (VFD) drugs. VFD drugs are new animal drugs intended for use in or on animal feed, which are limited to use under the professional supervision of a licensed veterinarian in the course of the veterinarian's professional practice. In order for animal feed containing a VFD drug to be used in animals, a licensed veterinarian must first issue an order, called a veterinary feed directive (or VFD), providing for such use. The Food and Drug Administration (FDA, the Agency) finalized its regulation to implement the VFD-related provisions of the ADAA in December 2000.

Since that time, FDA has received informal comments that the VFD process is overly burdensome. As a result, FDA began exploring ways to improve the VFD program's efficiency. To that end, FDA published an advanced notice of proposed rulemaking on March 29, 2010 (75 FR 15387), and draft text of a proposed regulation, which it published April 13, 2012 (77 FR 22247). The proposed revisions to the VFD process are also intended to support the Agency's initiative to transition certain new animal drug products containing medically important antimicrobial drugs from an OTC status to a status that requires veterinary oversight.

The proposed rule, if finalized, will make the following changes to the VFD

regulations at section 558.6 (21 CFR 558.6): 1) Reorganize the VFD regulations to make them more user-friendly. This proposal will replace the six subsections of the existing regulations with three subsections that better identify what is expected from each party involved in the VFD process; 2) Provide increased flexibility for licensed veterinarians and animal producers to align with the most recent practice standards, technological and medical advances, and practical considerations, to assure the safe and effective use of VFD drugs; 3) Provide for the continued availability through the current feed mill distribution system of those Category I drugs that move to VFD dispensing status. This will prevent potential shortages of antimicrobial drugs needed by food animal producers for judicious therapeutic uses on their farms and ranches; and 4) Lower the recordkeeping burden for all involved parties to align with other feed manufacturing recordkeeping requirements, thus eliminating the need for two separate filing systems.

*Summary of Legal Basis:* FDA's authority for issuing this rule is provided in the ADAA (Pub. L. 104–250), which amended the Federal Food, Drug, & Cosmetic Act (FD&C Act) by establishing section 504.

*Alternatives:* An alternative to the proposed rule that would ease the burden on VFD drug manufacturers would be to allow additional time to comply with the proposed labeling requirements for currently approved VFD drugs, for example, 1 or more years after the final rule becomes effective. This would not affect any new VFD drug approvals after the effective date of the final rule, and it could provide a transition period for current VFD manufacturers to coordinate the labeling changes to the specimen labeling, representative labeling, the VFD form itself, and advertising within the usual frequency of label changes.

*Anticipated Cost and Benefits:* The estimated one-time costs to industry from this proposed rule, if finalized, are the costs to review the rule and prepare a compliance plan. In addition FDA estimates that the government will incur costs associated with reviewing the VFD drug labeling supplements that are expected to be submitted by VFD drug manufacturers. The expected benefit of this proposal is a general improvement in the efficiency of the VFD process. Additionally, the reduction in veterinarian labor costs due to this rule is expected to result in an annual cost savings.

*Risks:* As FDA begins to implement the judicious use principles for medically important antimicrobial drugs based on the framework set forth in Guidance for Industry #209, which published April 13, 2012, it is critical that the Agency makes the VFD program as efficient as possible for stakeholders while maintaining adequate protection for human and animal health. The provisions included in this proposed rule are based on stakeholder input received in response to multiple opportunities for public comment, and represent FDA's best effort to strike the appropriate balance between protection of human and animal health and programmatic efficiency.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 03/29/10 | 75 FR 15387 |
| ANPRM Comment Period End. | 06/28/10 | |
| NPRM | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Agency Contact:* Sharon Benz, Supervisory Animal Scientist, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine, MPN–4, Room 2648, HFV–220, 7529 Standish Place, Rockville, MD 20855, *Phone:* 240 453–6864. *Email: sharon.benz@fda.hhs.gov.*

*RIN:* 0910–AG95

## HHS—FDA

*Final Rule Stage*

### 57. Food Labeling: Calorie Labeling of Articles of Food Sold in Vending Machines

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* FDA published a proposed rule to establish requirements for nutrition labeling of certain food items sold in certain vending machines. FDA also proposed the terms and conditions for vending machine operators registering to voluntarily be subject to the requirements. FDA is issuing a final rule, and taking this action to carry out section 4205 of the Patient Protection and Affordable Care Act.

*Statement of Need:* This rulemaking was mandated by section 4205 of the Patient Protection and Affordable Care Act (Affordable Care Act).

*Summary of Legal Basis:* On March 23, 2010, the Affordable Care Act (Pub. L. 111–148) was signed into law. Section 4205 amended 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) by, among other things, creating new clause (H) to require that vending machine operators, who own or operate 20 or more machines, disclose calories for certain food items. FDA has the authority to issue this rule under sections 403(q)(5)(H) and 701(a) of the FD&C Act (21 U.S.C. 343(q)(5)(H), and 371(a)). Section 701(a) of the FD&C Act vests the Secretary of Health and Human Services, and, by delegation, the Food and Drug Administration (FDA) with the authority to issue regulations for the efficient enforcement of the FD&C Act.

*Alternatives:* Section 4205 of the Affordable Care Act requires the Secretary (and by delegation, the FDA) to establish by regulation requirements for calorie labeling of articles of food sold from covered vending machines. Therefore, there are no alternatives to rulemaking. FDA has analyzed alternatives that may reduce the burden of the rulemaking, including analyzing the benefits and costs of: Restricting the flexibility of the format for calorie disclosure, lengthening the compliance time, and extending the coverage of the rule to bulk vending machines without selection buttons.

*Anticipated Cost and Benefits:* Any vending machine operator operating fewer than 20 machines may voluntarily choose to be covered by the national standard. It is anticipated that vending machine operators that own or operate 20 or more vending machines will bear costs associated with adding calorie information to vending machines. FDA initially estimated that the total cost of complying with section 4205 of the Affordable Care Act and this rulemaking would be approximately $25.8 million initially, with a recurring cost of approximately $24 million.

Because comprehensive national data for the effects of vending machine labeling do not exist, FDA has not quantified the benefits associated with section 4205 of the Affordable Care Act and this rulemaking. Some studies have shown that some consumers consume fewer calories when calorie content information is displayed at the point of purchase. Consumers will benefit from having this important nutrition information to assist them in making healthier choices when consuming food away from home. Given the very high costs associated with obesity and its associated health risks, FDA estimates

that if 0.02 percent of the adult obese population reduces energy intake by at least 100 calories per week, then the benefits of section 4205 of the Affordable Care Act and this rulemaking would be at least as large as the costs.

*Risks:* Americans now consume an estimated one-third of their total calories from foods prepared outside the home and spend almost half of their food dollars on such foods. This rule will provide consumers with information about the nutritional content of food to enable them to make healthier food choices, and may help mitigate the trend of increasing obesity in America.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/06/11 | 76 FR 19238 |
| NPRM Comment Period End. | 07/05/11 | |
| Final Action ..... | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses, Governmental Jurisdictions.

*Government Levels Affected:* Federal, Local, State.

*Federalism:* This action may have federalism implications as defined in EO 13132.

*Agency Contact:* Daniel Reese, Food Technologist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS–820), 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–2126, *Email: daniel.reese@fda.hhs.gov.*

*RIN:* 0910–AG56

## HHS—FDA

### 58. Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* This action may affect the private sector under Pub. L. 104–4.

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* FDA published a proposed rule in the **Federal Register** to establish requirements for nutrition labeling of standard menu items in chain restaurants and similar retail food establishments. FDA also proposed the terms and conditions for restaurants and similar retail food establishments registering to voluntarily be subject to the Federal requirements. FDA is issuing a final rule, and taking this action to carry out section 4205 of the Patient Protection and Affordable Care Act.

*Statement of Need:* This rulemaking was mandated by section 4205 of the Patient Protection and Affordable Care Act (Affordable Care Act).

*Summary of Legal Basis:* On March 23, 2010, the Affordable Care Act (Pub. L. 111–148) was signed into law. Section 4205 of the Affordable Care Act amended 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) by, among other things, creating new clause (H) to require that certain chain restaurants and similar retail food establishments with 20 or more locations disclose certain nutrient information for standard menu items. FDA has the authority to issue this rule under sections 403(a)(1), 403(q)(5)(H), and 701(a) of the FD&C Act (21 U.S.C. 343(a)(1), 343(q)(5)(H), and 371(a)). Section 701(a) of the FD&C Act vests the Secretary of Health and Human Services, and, by delegation, the Food and Drug Administration (FDA) with the authority to issue regulations for the efficient enforcement of the FD&C Act.

*Alternatives:* Section 4205 of the Affordable Care Act requires the Secretary, and by delegation the FDA, to establish by regulation requirements for nutrition labeling of standard menu items for covered restaurants and similar retail food establishments. Therefore, there are no alternatives to rulemaking. FDA has analyzed alternatives that may reduce the burden of this rulemaking, including analyzing the benefits and costs of expanding and contracting the set of establishments covered by this rule and shortening or lengthening the compliance time relative to the rulemaking.

*Anticipated Cost and Benefits:* Chain restaurants and similar retail food establishments covered by the Federal law operating in local jurisdictions that impose different nutrition labeling requirements will benefit from having a uniform national standard. Any restaurant or similar retail food establishment with fewer than 20 locations may voluntarily choose to be covered by the national standard. It is anticipated that chain restaurants with 20 or more locations will bear costs for adding nutrition information to menus and menu boards. FDA initially estimated that the total cost of section 4205 and this rulemaking would be approximately $80 million, annualized over 10 years, with a low annualized estimate of approximately $33 million and a high annualized estimate of approximately $125 million over 10 years. These costs (which are subject to change in the final rule) included an initial cost of approximately $320 million with an annually recurring cost of $45 million.

Because comprehensive national data for the effects of menu labeling do not exist, FDA has not quantified the benefits associated with section 4205 of the Affordable Care Act and this rulemaking. Some studies have shown that some consumers consume fewer calories when menus have information about calorie content displayed. Consumers will benefit from having important nutrition information for the approximately 30 percent of calories consumed away from home. Given the very high costs associated with obesity and its associated health risks, FDA estimates that if 0.6 percent of the adult obese population reduces energy intake by at least 100 calories per week, then the benefits of section 4205 of the Affordable Care Act and this rule will be at least as large as the costs.

*Risks:* Americans now consume an estimated one-third of their total calories on foods prepared outside the home and spend almost half of their food dollars on such foods. Unlike packaged foods that are labeled with nutrition information, foods in restaurants, for the most part, do not have nutrition information that is readily available when ordered. Dietary intake data have shown that obese Americans consume over 100 calories per meal more when eating food away from home rather than food at home. This rule will provide consumers information about the nutritional content of food to enable them to make healthier food choices and may help mitigate the trend of increasing obesity in America.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/06/11 | 76 FR 19192 |
| NPRM Comment Period End. | 07/05/11 | |
| Final Action ..... | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses, Governmental Jurisdictions.

*Government Levels Affected:* Federal, Local, State.

*Federalism:* This action may have federalism implications as defined in EO 13132.

*Agency Contact:* Daniel Reese, Food Technologist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS–820), 5100

Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–2126, *Email: daniel.reese@fda.hhs.gov.*

*RIN:* 0910–AG57

## HHS—CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS)

*Proposed Rule Stage*

### 59. Fire Safety Requirements for Certain Health Care Facilities (CMS–3277–P)

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395

*CFR Citation:* 42 CFR 403; 42 CFR 416; 42 CFR 418; 42 CFR 460; 42 CFR 482; 42 CFR 483; 42 CFR 485.

*Legal Deadline:* None.

*Abstract:* This proposed rule would amend the fire safety standards for hospitals; critical access hospital long-term care facilities; intermediate care facilities for the intellectually disabled; ambulatory surgery centers hospices, which provide in-patient services; religious non-medical health care institutions; and programs of all-inclusive care for the elderly facilities. Further, this proposed rule would adopt the 2012 edition of the Life Safety Code and eliminate references in our regulations to all earlier editions.

*Statement of Need:* By adopting the 2012 editions of the Life Safety Code (NFPA 101) and the Health Care Facilities Code (NFPA 99) we will bring CMS standards up-to-date with the most recent requirements. Currently, Medicare and Medicaid facilities are following the 2000 NFPA 101 Life Safety Code standards, and CMS regulations do not require compliance with NFPA 99.

*Summary of Legal Basis:* The rule would amend certain provisions of the Social Security Act in order to adopt fire safety standards for hospitals, critical access hospitals, long-term care facilities, intermediate care facilities for individuals with intellectual disabilities, ambulatory surgery centers, hospices which provide inpatient services, religious non-medical health care institutions, and programs of all-inclusive care for the elderly facilities.

*Alternatives:* None. A rule is needed to update requirements for Medicare and Medicaid facilities.

*Anticipated Cost and Benefits:* We estimate that the effect of this rule will not be economically significant and the cost for facilities to implement this rule will be minimal.

*Risks:* None. We expect the health care, fire safety, and building safety communities will support this rule.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Additional Information:* Includes Retrospective Review under EO 13563.

*Agency Contact:* Kristin Shifflett, Health Insurance Specialist Clinical Standard Group, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, Mail Stop S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–4133, *Email: kristin.shifflett@cms.hhs.gov.*

*RIN:* 0938–AR72

## HHS—CMS

### 60. Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS): Special Payment Rules (CMS–6012–P)

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 1395m(h)(1); Pub. L. 106–554 (BIPA), sec 427

*CFR Citation:* 42 CFR 424.

*Legal Deadline:* None.

*Abstract:* This proposed rule would specify the qualification standards and the type of prosthetic and orthotic devices billable to the Medicare program. It also proposes the accreditation deadline for the entities billing orthotics and prosthetics and identifies the DMEPOS product categories exempt from accreditation requirements.

*Statement of Need:* CMS believes it is the intent of the Congress to strengthen DMEPOS supplier standards in order to protect beneficiaries and ensure the integrity of the Medicare program. Historically, there has been no Medicare requirement that a supplier of prosthetics and custom fabricated orthotics be certified or meet educational requirements other than what a state law may require. This proposed rule would provide a basis to improve the quality of orthotics and prosthetics furnished to Medicare beneficiaries by establishing minimum national supplier and practitioner qualifications and accreditation requirements for DMEPOS suppliers.

*Summary of Legal Basis:* Section 1834(h) of the Social Security Act (the Act) establishes the payment rules for orthotics and prosthetics that are described in section 1861(s)(9) of the Act and in our regulations.

*Alternatives:* None. A rule is necessary to implement the proposed provisions.

*Anticipated Cost and Benefits:* This proposed rule is expected to provide savings for the Medicare program by establishing stringent safeguards that would protect the Medicare Trust Fund. It would also provide a basis to improve the provision and the quality of prosthetics and custom fabricated orthotics to Medicare beneficiaries by establishing that DMEPOS suppliers have the qualifications, specialized education, training, licensure, and certification.

*Risks:* Not publishing this proposed rule puts Medicare beneficiaries at risk. Beneficiaries would be best served by establishing safeguards that would provide a basis to improve the provision of quality prosthetics and custom fabricated orthotics to Medicare beneficiaries by establishing practitioner qualifications and accreditation requirements for DMEPOS suppliers.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Undetermined.

*Agency Contact:* Sandra Bastinelli, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–3630, *Email: sandra bastinelli@cms.hhs.gov.*

*RIN:* 0938–AR84

## HHS—CMS

### 61. • Eligibility, Enrollment, and Appeals Updates (CMS–9949–P)

*Priority:* Other Significant. Major status under 5 U.S.C. 801 is undetermined.

*Unfunded Mandates:* Undetermined.

*Legal Authority:* Pub. L. 11–148 secs 1301 to 1304; secs 1311 to 1313; secs 1321 and 1322; secs 1331 and 1332; secs 1334 and 1402

*CFR Citation:* 45 CFR 155; 45 CFR 156.

*Legal Deadline:* None.

*Abstract:* This proposed rule would update policy based on experience with initial open enrollment.

*Statement of Need:* The Affordable Care Act establishes an initial open

enrollment period beginning October 1, 2013, and annual open enrollment periods in subsequent years. CMS expects that updates or revisions to existing policy may be necessary based on our experience with the initial open enrollment. These updates would be implemented before the second open enrollment period begins.

*Summary of Legal Basis:* This rule would address updates to provisions included in Title I of the Affordable Care Act.

*Alternatives:* None. Revisions made to the existing Exchange regulations would require rulemaking.

*Anticipated Cost and Benefits:* An estimate of costs or benefits will be completed once the necessary policy updates have been determined.

*Risks:* If this rule is not published, the Exchanges may not continue to function optimally.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Small Entities Affected:* Businesses, Governmental Jurisdictions.

*Government Levels Affected:* Federal, State.

*Federalism:* Undetermined.

*Agency Contact:* Manasse Spencer, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–1642, *Email: spencer.manasse@cms.hhs.gov.*

*RIN:* 0938–AS02

## HHS—CMS

### 62. • Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2015 Rates (CMS–1607–P)

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* Undetermined.

*Legal Authority:* Sec. 1886(d) of the Social Security Act

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* NPRM, Statutory, April 1, 2014. Final, Statutory, August 1, 2014.

*Abstract:* This annual proposed rule would revise the Medicare hospital inpatient and long-term care hospital prospective payment systems for operating and capital-related costs. This proposed rule would implement changes arising from our continuing experience with these systems.

*Statement of Need:* CMS annually revises the Medicare hospital inpatient prospective payment systems (IPPS) for operating and capital-related costs to implement changes arising from our continuing experience with these systems. In addition, we describe the proposed changes to the amounts and factors used to determine the rates for Medicare hospital inpatient services for operating costs and capital-related costs. Also, CMS annually updates the payment rates for the Medicare prospective payment system (PPS) for inpatient hospital services provided by long-term care hospitals (LTCHs). The rule solicits comments on the proposed IPPS and LTCH payment rates and new policies. CMS will issue a final rule containing the payment rates for the FY 2015 IPPS and LTCHs at least 60 days before October 1, 2014.

*Summary of Legal Basis:* The Social Security Act (the Act) sets forth a system of payment for the operating costs of acute care hospital inpatient stays under Medicare Part A (Hospital Insurance) based on prospectively set rates. The Act requires the Secretary to pay for the capital-related costs of hospital inpatient and long term care stays under a PPS. Under these systems, Medicare payment for hospital inpatient and long term care operating and capital-related costs is made at predetermined, specific rates for each hospital discharge. These changes would be applicable to services furnished on or after October 1, 2014.

*Alternatives:* None. This implements a statutory requirement.

*Anticipated Cost and Benefits:* Total expenditures will be adjusted for FY 2015.

*Risks:* If this regulation is not published timely, inpatient hospital and LTCH services will not be paid appropriately beginning October 1, 2014.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal.

*Federalism:* This action may have federalism implications as defined in EO 13132.

*Agency Contact:* Roechel Kujawa, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C4–07–07, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–9111, *Email: roechel.kujawa@cms.hhs.gov.*

*RIN:* 0938–AS11

## HHS—CMS

### 63. • CY 2015 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1612–P)

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* Undetermined.

*Legal Authority:* Social Security Act, secs 1102, 1871 and 1848

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* Final, Statutory, November 1, 2014.

*Abstract:* This annual proposed rule would revise payment polices under the Medicare physician fee schedule, and make other policy changes to payment under Medicare Part B. These changes would apply to services furnished beginning January 1, 2015.

*Statement of Need:* The statute requires that we establish each year, by regulation, payment amounts for all physicians' services furnished in all fee schedule areas. This rule would implement changes affecting Medicare Part B payment to physicians and other Part B suppliers. The final rule has a statutory publication date of November 1, 2014, and an implementation date of January 1, 2015.

*Summary of Legal Basis:* Section 1848 of the Social Security Act (the Act) establishes the payment for physician services provided under Medicare. Section 1848 of the Act imposes a deadline of no later than November 1 for publication of the final rule or final physician fee schedule.

*Alternatives:* None. This implements a statutory requirement.

*Anticipated Cost and Benefits:* Total expenditures will be adjusted for CY 2015.

*Risks:* If this regulation is not published timely, physician services will not be paid appropriately, beginning January 1, 2015.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*Agency Contact:* Kathy Bryant, Deputy Director, Division of Practitioner

Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C4–01–27, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–3448, *Email: kathy.bryant@cms.hhs.gov.*

*RIN:* 0938–AS12

## HHS—CMS

### 64. • CY 2015 Hospital Outpatient Prospective Payment System (PPS) Policy Changes and Payment Rates, and CY 2015 Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1613–P)

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* Undetermined.

*Legal Authority:* sec 1833 of the Social Security Act

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* Final, Statutory, November 1, 2014.

*Abstract:* This annual proposed rule would revise the Medicare hospital outpatient prospective payment system (PPS) to implement statutory requirements and changes arising from our continuing experience with this system. The proposed rule describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule proposes changes to the ambulatory surgical center payment system list of services and rates.

*Statement of Need:* Medicare pays over 4,000 hospitals for outpatient department services under the hospital outpatient prospective payment system (OPPS). The OPPS is based on groups of clinically similar services called ambulatory payment classification groups (APCs). CMS annually revises the APC payment amounts based on the most recent claims data, proposes new payment policies, and updates the payments for inflation using the hospital operating market basket. Medicare pays roughly 5,000 Ambulatory Surgical Centers (ASCs) under the ASC payment system. CMS annually revises the payment under the ASC payment system, proposes new policies, and updates payments for inflation. CMS will issue a final rule containing the payment rates for the 2015 OPPS and ASC payment system at least 60 days before January 1, 2015.

*Summary of Legal Basis:* Section 1833 of the Social Security Act establishes Medicare payment for hospital outpatient services and ASC services. The rule revises the Medicare hospital OPPS and ASC payment system to implement applicable statutory requirements. In addition, the rule describes changes to the outpatient APC system, relative payment weights, outlier adjustments, and other amounts and factors used to determine the payment rates for Medicare hospital outpatient services paid under the prospective payment system as well as changes to the rates and services paid under the ASC payment system. These changes would be applicable to services furnished on or after January 1, 2015.

*Alternatives:* None. This is a statutory requirement.

*Anticipated Cost and Benefits:* Total expenditures will be adjusted for CY 2015.

*Risks:* If this regulation is not published timely, outpatient hospital and ASC services will not be paid appropriately beginning January 1, 2015.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal.

*Federalism:* Undetermined.

*Agency Contact:* Marjorie Baldo, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare Management, Mail Stop C4–03–06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–4617, *Email: marjorie.baldo@cms.hhs.gov.*

*RIN:* 0938–AS15

## HHS—CMS

*Final Rule Stage*

### 65. CLIA Programs And HIPAA Privacy Rule; Patients' Access to Test Reports (CMS–2319–F)

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 263a

*CFR Citation:* 42 CFR 493; 45 CFR 164.

*Legal Deadline:* None.

*Abstract:* This CMS–CDC–OCR rule amends the Clinical Laboratory Improvement Amendments of 1988 (CLIA) regulations to specify that, upon a patient's request, the laboratory may provide access to completed test reports that, using the laboratory's authentication process, can be identified as belonging to that patient. Subject to conforming amendments, the rule retains the existing provisions that provide for release of test reports to authorized persons and, if applicable, the individuals (or their personal representative) responsible for using the test reports and, in the case of reference laboratories, the laboratory that initially requested the test. In addition, this rule also amends the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule to provide individuals the right to receive their test reports directly from laboratories by removing the exceptions for CLIA-certified laboratories and CLIA-exempt laboratories from the provision that provides individuals with the right of access to their protected health information.

*Statement of Need:* The current CLIA regulations and related laws of the states and territories pose potential barriers to the laboratory exchange of test reports directly with the patient. This rule implements changes that support of the Secretary's efforts of achieving patient-centered and health IT-enabled health care and allow patients direct access to their test reports from a laboratory

*Summary of Legal Basis:* The final rule removes the exceptions to an individual's right of access related to CLIA and CLIA-exempt laboratories. HIPAA-covered laboratories will be required to provide an individual (or the individual's personal representative) with access, upon request, to the individual's completed test reports (and other information maintained in a designated record set) in accordance with the provisions of section 164.524 of the Privacy regulations.

*Alternatives:* Several alternatives were considered before selecting the approach in this final rule to provide access to laboratory test reports upon a patient's request. One alternative would have been to leave the regulations as written without making any changes. However, this option would leave in place the restrictions on patients' direct access to their laboratory test results and would therefore impede the goal of promoting patient-centered health care. Another alternative would have been to revise the definition of ''authorized person'' under CLIA to specifically include a patient as an authorized person. This alternative was not considered feasible because the definition of ''authorized person'' in the CLIA regulations also permits individuals to order tests, and it defers to state law for authorization. A last alternative considered would have been to require the laboratory to automatically provide each test report directly to each patient rather than the permissive approach to provide patients access to their reports upon request. However, this alternative would have

had the potential of significantly increasing the cost for laboratories since 100 percent of the 350 million to 703 million test reports issued annually would need to be provided to the patients.

*Anticipated Cost and Benefits:* We estimate that this rule will not have an economically significant impact on laboratories. It will facilitate the ability of patients to compare test results over time and to share this information with future physicians or multiple physicians. This improved information sharing is likely to improve health care, especially for patients and providers who do not have access to electronic health records in the near term.

*Risks:* None. This rule will allow laboratories to use existing processes for patient access or develop new procedures that are appropriate for their facility. It expands an individual's right of access to include receiving test reports directly from laboratories. This rule does not alter the role of the ordering or treating provider in reporting and explaining test results to patients.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 09/14/11 | 76 FR 56712 |
| NPRM Comment Period End. | 11/14/11 | |
| Final Action ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses, Governmental Jurisdictions.

*Government Levels Affected:* State.

*Additional Information:* Includes Retrospective Review under EO 13563.

*Agency Contact:* Judith Yost, Director, Division of Laboratory Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, 7500 Security Boulevard, Baltimore, MD 21244–1850, *Phone:* 410 786–3531, *Email: judith.yost@cms.hhs.gov.*

*RIN:* 0938–AQ38

## HHS—ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF)

*Final Rule Stage*

### 66. Head Start Eligibility Determination

*Priority:* Other Significant.

*Legal Authority*: 42 U.S.C. 9801 *et seq.*

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* This rule would amend Head Start program regulations to clarify and strengthen procedures for determining eligibility for Head Start program enrollment, including procedures to document and verify such eligibility. The intent is to reduce the risk of providing Head Start services to persons who are ineligible for those services.

*Statement of Need:* This final rule will amend Head Start program regulations to clarify and strengthen procedures for determining eligibility for Head Start program enrollment, including procedures to document and verify such eligibility. The intent is to reduce the risk of providing Head Start services to persons who are ineligible for those services. The final rule directly responds to the findings of an investigation by the Government Accountability Office (GAO) that the Head Start program is at risk of having over-income children enrolled while legitimate under-income and categorically eligible children are put on wait lists.

*Summary of Legal Basis:* This final rule is published under the authority granted to the Secretary of Health and Human Services by section 644(c) of the Head Start Act, as amended by the Improving Head Start for School Readiness Act of 2007, as well as sections 645(a)(1)(A) and 645A(c) of the Act.

*Alternatives:* Upon learning of GAO's investigation findings, the Administration for Children and Families (ACF) immediately took numerous actions within our statutory and regulatory authority to respond to GAO's findings and to bolster program integrity efforts across the Head Start and Early Head Start programs; prevent future fraud and mismanagement; and ensure that every slot is reserved for an eligible child. For example, ACF issued a Program Instruction on May 10, 2010, entitled, ''Income Eligibility for Enrollment'' (ACF–PI–HS–10–01), which reminds grantees of their legal obligations to verify the eligibility of each child served and determine eligibility in accordance with the Head Start statute and regulations, as well as the serious consequences for falsifying eligibility determinations. However, we believe GAO's findings necessitate the implementation of new enrollment procedures, as contained in this final regulation, in order to reiterate and strengthen the requirements. Therefore, we are issuing this final regulation with requirements for Head Start and Early Head Start agency staff regarding verification, documentation, and certification of the information submitted by the applicants prior to determining if a pregnant woman or child is eligible for participation in a Head Start or Early Head Start program. This final regulation will ensure that taxpayer dollars are spent in conformance with the purpose and requirements of the Head Start Act and that the neediest children and families in our country benefit from the program's services.

*Anticipated Cost and Benefits:* There will not be a significant economic impact from this final rule. The estimated total cost of implementation of these rules for all grantees is approximately $132,188 annually.

*Risks:* Not applicable.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/18/11 | 76 FR 14841 |
| NPRM Comment Period End. | 04/18/11 | |
| Final Action ..... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Colleen Rathgeb, Division Director, Policy and Budget, HS, Department of Health and Human Services, Administration for Children and Families, 1250 Maryland Avenue SW., Washington, DC 20024, *Phone:* 202 205–7378, *Email: colleen.rathgeb@acf.hhs.gov.*

*RIN:* 0970–AC46

## HHS—ACF

### 67. Child Care and Development Fund Reforms To Support Child Development and Working Families

*Priority:* Other Significant.

*Legal Authority:* Sec. 658E and other provisions of the Child Care and Development Block Grant Act of 1990, as amended

*CFR Citation:* 45 CFR 98.

*Legal Deadline:* None.

*Abstract:* This rule would provide the first comprehensive update of Child Care and Development Fund (CCDF) regulations since 1998. It would make changes in four key areas: (1) Improving health and safety; (2) improving the quality of child care; (3) establishing family-friendly policies; and (4) strengthening program integrity. The rule seeks to retain much of the flexibility afforded to States, territories, and tribes consistent with the nature of a block grant.

*Statement of Need:* The CCDF program has far-reaching implications for America's poorest children. It provides child care assistance to 1.6

million children from nearly 1 million low-income working families and families who are attending school or job training. Half of the children served are living at or below poverty level. In addition, children who receive CCDF are cared for alongside children who do not receive CCDF, by approximately 570,000 participating child care providers, some of whom lack basic assurances needed to ensure children are safe, healthy, and learning. Since 1996, a body of research has demonstrated the importance of the early years on brain development and has shown that high-quality, consistent child care can positively impact later success in school and life. This is especially true for low-income children who face a school readiness and achievement gap and can benefit the most from high-quality early learning environments. In light of this research, many States, territories, and tribes, working collaboratively with the Federal Government, have taken important steps over the last 15 years to make the CCDF program more child-focused and family-friendly; however, implementation of these evidence-informed practices is uneven across the country and critical gaps remain. This regulatory action is needed in order to increase accountability in the CCDF program by ensuring that all children receiving federally funded child care assistance are in safe, quality programs that both support their parent's labor market participation, and help children develop the tools and skills they need to reach their full potential. A major focus of this final rule is to raise the bar on quality by establishing a floor of health and safety standards for child care paid for with Federal funds. National surveys have demonstrated that most parents logically assume that their child care providers have had a background check, have had training in child health and safety, and are regularly monitored. However, State policies surrounding the training and oversight of child care providers vary widely. In some States, many children receiving CCDF subsidies are cared for by providers that have little to no oversight with respect to compliance with basic standards designed to safeguard children's well-being, such as first-aid and safe sleep practices. This can leave children in unsafe conditions, even as their care is being funded with public dollars. In addition, the final rule empowers all parents who choose child care, regardless of whether they receive a Federal subsidy, with better information to make the best choices for their children. This includes providing parents with information about the quality of child care providers and making information about providers' compliance with health and safety regulations more transparent so that parents can be aware of the safety track record of providers when it's time to choose child care.

*Summary of Legal Basis:* This final regulation is being issued under the authority granted to the Secretary of Health and Human Services by the CCDBG Act (42 U.S.C. 9858 *et seq.*) and section 418 of the Social Security Act (42 U.S.C. 618).

*Alternatives:* The Administration for Children and Families considered a range of approaches to improve early childhood care and education, including administrative and regulatory action. ACF has taken administrative actions to recommend that States adopt stronger health and safety requirements and provided technical assistance to States. Despite these efforts to assist States in making voluntary reforms, unacceptable health and safety lapses remain. An alternative to this rule would be to take no regulatory action or to limit the nature of the required standards and the degree to which those standards are prescriptive. ACF believes this rulemaking is the preferable alternative to ensure children's health and safety and promote their learning and development.

*Anticipated Cost and Benefits:* Changes in this final rule directly benefit children and parents who use CCDF assistance to pay for child care. The 1.6 million children who are in child care funded by CCDF would have stronger protections for their health and safety, which addresses every parent's paramount concern. All children in the care of a participating CCDF provider will be safer because that provider is more knowledgeable about health and safety issues. In addition, the families of the 12 million children who are served in child care will benefit from having clear, accessible information about the safety compliance records and quality indicators of providers available to them as they make critical choices about where their children will be cared for while they work. Provisions also will benefit child care providers by encouraging States to invest in high quality child care providers and professional development and to take into account quality when they determine child care payment rates. A primary reason for revising the CCDF regulations is to better reflect current State and local practices to improve the quality of child care. Therefore, there are a significant number of States, territories, and tribes that have already implemented many of these policies. The cost of implementing the changes in this final rule will vary depending on a State's specific situation. ACF does not believe the costs of this final regulatory action would be economically significant and that the tremendous benefits to low-income children justify costs associated with this final rule.

*Risks:* Not applicable.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/20/13 | 78 FR 29422 |
| NPRM Comment Period End. | 08/05/13 | |
| Final Action | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* State, Tribal.

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## DEPARTMENT OF HOMELAND SECURITY (DHS)

*Fall 2013 Statement of Regulatory Priorities*

The Department of Homeland Security (DHS or Department) was created in 2003 pursuant to the Homeland Security Act of 2002, Public Law 107–296. DHS has a vital mission: To secure the Nation from the many threats we face. This requires the dedication of more than 225,000 employees in jobs that range from aviation and border security to emergency response, from cybersecurity analyst to chemical facility inspector. Our duties are wide-ranging, but our goal is clear—keeping America safe.

Our mission gives us six main areas of responsibility:

1. *Prevent* Terrorism and Enhance Security,
2. *Secur*e and Manage Our Borders,
3. *Enforce and Administer our Immigration Laws,*
4. *Safeguard* and Secure Cyberspace,
5. *Ensur*e Resilience to Disasters, and
6. Mature and Strengthen DHS.

In achieving these goals, we are continually strengthening our partnerships with communities, first

responders, law enforcement, and government agencies—at the State, local, tribal, Federal, and international levels. We are accelerating the deployment of science, technology, and innovation in order to make America more secure, and we are becoming leaner, smarter, and more efficient, ensuring that every security resource is used as effectively as possible. For a further discussion of our main areas of responsibility, see the DHS Web site at *http://www.dhs.gov/our-mission*.

The regulations we have summarized below in the Department's fall 2013 regulatory plan and in the agenda support the Department's responsibility areas listed above. These regulations will improve the Department's ability to accomplish its mission.

The regulations we have identified in this year's fall regulatory plan continue to address legislative initiatives including, but not limited to, the following acts: The Implementing Recommendations of the 9/11 Commission Act of 2008 (9/11 Act), Public Law 110–53 (Aug. 3, 2007); Public Law 109–295 (Oct. 4, 2006); the *Consolidated Natural Resources Act of 2008 (CNRA), Public Law No. 110–220 (May 7, 2008); the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109–347 (Oct. 13, 2006); the* Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Public Law 110–329 (Sep. 30, 2008), and the Sandy Recovery Improvement Act (SRIA), Public Law 113–2 (Jan. 29, 2013).

DHS strives for organizational excellence and uses a centralized and unified approach in managing its regulatory resources. The Office of the General Counsel manages the Department's regulatory program, including the agenda and regulatory plan. In addition, DHS senior leadership reviews each significant regulatory project to ensure that the project fosters and supports the Department's mission.

The Department is committed to ensuring that all of its regulatory initiatives are aligned with its guiding principles to protect civil rights and civil liberties, integrate our actions, build coalitions and partnerships, develop human resources, innovate, and be accountable to the American public.

DHS is also committed to the principles described in Executive Orders 13563 and 12866 (as amended). Both Executive Orders direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

Finally, the Department values public involvement in the development of its regulatory plan, agenda, and regulations, and takes particular concern with the impact its rules have on small businesses. DHS and each of its components continue to emphasize the use of plain language in our notices and rulemaking documents to promote a better understanding of regulations and increased public participation in the Department's rulemakings.

*Retrospective Review of Existing Regulations*

Pursuant to Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), DHS identified the following regulatory actions as associated with retrospective review and analysis. Some of the regulatory actions on the below list may be completed actions, which do not appear in The Regulatory Plan. You can find more information about these completed rulemakings in past publications of the Unified Agenda (search the Completed Actions sections) on *www.reginfo.gov*. Some of the entries on this list, however, are active rulemakings. You can find entries for these rulemakings on *www.regulations.gov.*

| RIN | Rule |
|---|---|
| 1615–AB92 | Employment Authorization for Certain H–4 Spouses. |
| 1615–AB95 | Immigration Benefits Business Transformation: Nonimmigrants; Student and Exchange Visitor Program. |
| 1625–AA16 | Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978. |
| 1625–AB38 | Update to Maritime Security. |
| 1625–AB80 | Revision to Transportation Worker Identification Credential (TWIC) Requirements for Mariners. |
| 1625–XXXX | Inland Waterways Navigation Regulations. |
| 1651–AA96 | Definition of Form I–94 to Include Electronic Format. |
| 1651–AA94 | Internet Publication of Administrative Seizure/Forfeiture Notices. |
| 1651–XXXX | Passenger List/Crew List I–418. |
| 1652–AA43 | Modification of the Aviation Security Infrastructure Fee (ASIF) (Market Share). |
| 1652–AA61 | Standardized Vetting, Adjudication, and Redress Services. |
| 1653–AA44 | Amendment to Accommodate Process Changes with SEVIS II Implementation. |
| 1660–AA75 | Debris Removal: Eligibility of Force Account Labor Straight-Time Costs Under the Public Assistance Program for Hurricane Sandy. |
| 1660–AA77 | Change in Submission Requirements for State Mitigation Plans. |

*Promoting International Regulatory Cooperation*

Pursuant to Sections 3 and 4(b) of Executive Order 13609 ''Promoting International Regulatory Cooperation'' (May 1, 2012), DHS has identified the following regulatory actions that have significant international impacts. Some of the regulatory actions on the below list may be completed actions. You can find more information about these completed rulemakings in past publications of the Unified Agenda (search the Completed Actions sections) on *www.reginfo.gov.* Some of the entries on this list, however, are active rulemakings. You can find entries for these rulemakings on *www.regulations.gov.*

| RIN | Rule |
|---|---|
| 1625–AB38 | Updates to Maritime Security. |
| 1651–AA70 | Importer Security Filing and Additional Carrier Requirements. |

| RIN | Rule |
|---|---|
| 1651–AA72 | Changes to the Visa Waiver Program To Implement the Electronic System for Travel Authorization (ESTA) Program. |
| 1651–AA98 | Amendments to Importer Security Filing and Additional Carrier Requirements. |
| 1651–AA96 | Definition of Form I–94 to Include Electronic Format. |

DHS participates in some international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations. For example, the U.S. Coast Guard is the primary U.S. representative to the International Maritime Organization (IMO) and plays a major leadership role in establishing international standards in the global maritime community. IMO's work to establish international standards for maritime safety, security, and environmental protection closely aligns with the U.S. Coast Guard regulations. As an IMO member nation, the U.S. is obliged to incorporate IMO treaty provisions not already part of U.S. domestic policy into regulations for those vessels affected by the international standards. Consequently, the U.S. Coast Guard initiates rulemakings to harmonize with IMO international standards such as treaty provisions and the codes, conventions, resolutions, and circulars that supplement them.

Also, President Obama and Prime Minister Harper created the Canada-U.S. Regulatory Cooperation Council (RCC) in February 2011. The RCC is an initiative between both federal governments aimed at pursuing greater alignment in regulation, increasing mutual recognition of regulatory practices and establishing smarter, more effective and less burdensome regulations in specific sectors. The Canada-U.S. RCC initiative arose out of the recognition that high level, focused, and sustained effort would be required to reach a more substantive level of regulatory cooperation. Since its creation in early 2011, the U.S. Coast Guard has participated in stakeholder consultations with their Transport Canada counterparts and the public, drafted items for inclusion in the RCC Action Plan, and detailed work plans for each included Action Plan item.

The fall 2013 regulatory plan for DHS includes regulations from DHS components—including U.S. Citizenship and Immigration Services (USCIS), the U.S. Coast Guard (Coast Guard), U.S. Customs and Border Protection (CBP), the U.S. Immigration and Customs Enforcement (ICE), and the Transportation Security Administration (TSA), which have active regulatory programs. In addition, it includes regulations from the Department's major offices and directorates such as the National Protection and Programs Directorate (NPPD). Below is a discussion of the fall 2013 regulatory plan for DHS regulatory components, offices, and directorates.

*United States Citizenship and Immigration Services*

U.S. Citizenship and Immigration Services (USCIS) administers immigration benefits and services while protecting and securing our homeland. USCIS has a strong commitment to welcoming individuals who seek entry through the U.S. immigration system, providing clear and useful information regarding the immigration process, promoting the values of citizenship, and assisting those in need of humanitarian protection. Based on a comprehensive review of the planned USCIS regulatory agenda, USCIS will promulgate several rulemakings to directly support these commitments and goals.

Regulations To Facilitate Retention of High-Skilled Workers

*Employment Authorization for Certain H–4 Dependent Spouses.* USCIS will propose to amend its regulations to extend eligibility for employment authorization to H–4 dependent spouses of principal H–1B nonimmigrants who have begun the process of seeking lawful permanent resident status through employment and have extended their authorized period of admission or ''stay'' in the United States under section 104(c) or 106(a) of Public Law 106–313, also known as the American Competitiveness in the Twenty-First Century Act of 2000 (AC21). Allowing the eligible class of H–4 dependent spouses to work encourages professionals with high-demand skills to remain in the country and help spur innovation and growth of U.S. businesses.

*Enhancing Opportunities for High-Skilled Workers.* USCIS will propose to amend its regulations affecting high-skilled workers within the nonimmigrant classifications for specialty occupation professionals from Chile and Singapore (H–1B1) and from Australia (E–3), to include these classifications in the list of classes of aliens authorized for employment incident to status with a specific employer, to extend automatic employment authorization extensions with pending extension of stay requests, and to update filing procedures. USCIS will also propose to amend regulations regarding continued employment authorization for nonimmigrant workers in the Commonwealth of the Northern Mariana Islands (CNMI)—only Transitional Worker (CW–1) classification. Finally, USCIS will propose amendments related to the immigration classification for employment-based first preference (EB–1) outstanding professors or researchers to allow the submission of comparable evidence. These changes will encourage and facilitate the employment and retention of these high-skilled workers.

Improvements to the Immigration System

*Requirements for Filing Motions and Administrative Appeals.* USCIS will propose to revise the procedural regulations governing appeals and motions to reopen or reconsider before its Administrative Appeals Office, and to require that applicants and petitioners exhaust administrative remedies before seeking judicial review of an unfavorable decision. The changes proposed by the rule will streamline the procedures before the Administrative Appeals Office and improve the efficiency of the adjudication process.

*Regulations Related to the Commonwealth of Northern Mariana Islands.* This final rule amends DHS and Department of Justice (DOJ) regulations to comply with the Consolidated Natural Resources Act of 2008 (CNRA). The CNRA extends the immigration laws of the United States to the Consolidated Northern Mariana Islands (CNMI). In 2009, USCIS issued an interim final rule to implement conforming amendments to the DHS and DOJ regulations. This joint DHS–DOJ final rule titled ''Application of Immigration Regulations to the CNMI'' would finalize the 2009 interim final rule.

Regulatory Changes Involving Humanitarian Benefits

*Asylum and Withholding Definitions.* USCIS plans a regulatory proposal to amend the regulations that govern asylum eligibility and refugee status determinations. The amendments are expected to revise the portions of the

existing regulations that deal with determinations of whether suffered or feared persecution is on account of a protected ground, the requirements for establishing that the government is unable or unwilling to protect the applicant, and the definition of membership in a particular social group. This proposal would provide greater clarity and consistency in this important area of the law.

*Exception to the Persecution Bar for Asylum, Refugee, or Temporary Protected Status, and Withholding of Removal.* In a joint rulemaking, DHS and DOJ will propose amendments to existing DHS and DOJ regulations to resolve ambiguity in the statutory language precluding eligibility for asylum, refugee resettlement, temporary protected status, and withholding or removal of an applicant who ordered, incited, assisted, or otherwise participated in the persecution of others. The proposed rule would provide a limited exception for persecutory actions taken by the applicant under duress and would clarify the required level of the applicant's knowledge of the persecution.

*''T'' and ''U'' Nonimmigrants.* USCIS plans additional regulatory initiatives related to T nonimmigrants (victims of trafficking) and U nonimmigrants (victims of criminal activity). USCIS hopes to provide greater consistency in eligibility, application and procedural requirements for these vulnerable groups, their advocates, and the community through these regulatory initiatives. These rulemakings will contain provisions to adjust documentary requirements for this vulnerable population and provide greater clarity to the law enforcement community.

*Application of the William Wilberforce Trafficking Victims Protection Act of 2008.* In a joint rulemaking, DHS and DOJ will propose amendments to implement the William Wilberforce Trafficking Victims Protection Act of 2008 (TVPRA). This statute specified that USCIS has initial jurisdiction over an asylum application filed by an unaccompanied alien child in removal proceedings before an immigration judge. DHS and DOJ implemented this legislation with interim procedures that the TVPRA mandated within 90 days after enactment. The proposed rule would amend both agencies' regulations to finalize the procedures to determine when an alien child is unaccompanied and how jurisdiction would be transferred to USCIS for initial adjudication of the child's asylum application. In addition, this rule would address adjustment of status for special immigrant juveniles and voluntary departure for unaccompanied alien children in removal proceedings.

*United States Coast Guard*

The U.S. Coast Guard (Coast Guard) is a military, multi-mission, maritime service of the United States and the only military organization within DHS. It is the principal federal agency responsible for maritime safety, security, and stewardship and delivers daily value to the Nation through multi-mission resources, authorities, and capabilities.

Effective governance in the maritime domain hinges upon an integrated approach to safety, security, and stewardship. The Coast Guard's policies and capabilities are integrated and interdependent, delivering results through a network of enduring partnerships. The Coast Guard's ability to field versatile capabilities and highly-trained personnel is one of the U.S. Government's most significant and important strengths in the maritime environment.

America is a maritime nation, and our security, resilience, and economic prosperity are intrinsically linked to the oceans. Safety, efficient waterways, and freedom of transit on the high seas are essential to our well-being. The Coast Guard is leaning forward, poised to meet the demands of the modern maritime environment. The Coast Guard creates value for the public through solid prevention and response efforts. Activities involving oversight and regulation, enforcement, maritime presence, and public and private partnership foster increased maritime safety, security, and stewardship.

The statutory responsibilities of the Coast Guard include ensuring marine safety and security, preserving maritime mobility, protecting the marine environment, enforcing U.S. laws and international treaties, and performing search and rescue. The Coast Guard supports the Department's overarching goals of mobilizing and organizing our Nation to secure the homeland from terrorist attacks, natural disasters, and other emergencies. The rulemaking projects identified for the Coast Guard in the Unified Agenda, and the rules appearing in the fall 2013 Regulatory Plan below, contribute to the fulfillment of those responsibilities and reflect our regulatory policies.

*Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978.* The International Maritime Organization (IMO) comprehensively amended the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978, in 1995 and 2010. The 1995 amendments came into force on February 1, 1997. This project implements those amendments by revising current rules to ensure that the Coast Guard complies with the STCW Convention's requirements. The Coast Guard published a notice of proposed rulemaking (NPRM) on November 17, 2009, and supplemental NPRMs (SNPRMs) on March 23, 2010 and August 1, 2011. The proposed changes are primarily substantive and: (1) Are necessary to continue to give full and complete effect to the STCW Convention; (2) incorporate lessons learned from implementation of the STCW through the interim rule and through policy letters and Navigation and Vessel Inspection Circulars; and (3) attempt to clarify regulations that have generated confusion. The Coast Guard has reviewed and analyzed public comments to the SNPRM, and intends to publish a final rule complying with the requirements of the newly amended STCW Convention. This rulemaking is associated with DHS's retrospective review and analysis efforts.

*Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System.* The Coast Guard intends to expand the applicability of notice of arrival and departure (NOAD) and automatic identification system (AIS) requirements to include more commercial vessels. This rule, once final, would expand the applicability of notice of arrival (NOA) requirements to include additional vessels, establish a separate requirement for vessels to submit notices of departure (NOD) when departing for a foreign port or place, set forth a mandatory method for electronic submission of NOA and NOD, and modify related reporting content, timeframes, and procedures. This rule would also extend the applicability of AIS requirements beyond Vessel Traffic Service (VTS) areas to all U.S. navigable waters and require additional commercial vessels install and use AIS. These changes are intended to improve navigation safety, enhance our ability to identify and track vessels, and heighten the Coast Guard's overall maritime domain awareness, thus helping the Coast Guard address threats to maritime transportation safety and security and mitigate the possible harm from such threats.

*Offshore Supply Vessels of 6000 or more GT ITC.* The Coast Guard Authorization Act of 2010 (the Act) removed the size limit on offshore

supply vessels (OSVs) and directed the Coast Guard to issue, as soon as practicable, an interim rule to implement section 617 of the Act. As required by the Act, this interim rule is intended to provide for the safe carriage of oil, hazardous substances, and individuals in addition to crew on OSVs of at least 6000 gross tonnage as measured under the International Convention on Tonnage Measurement of Ships (6,000 GT ITC). In developing the regulation, the Coast Guard is taking into account the characteristics of OSVs, their methods of operation, and their service in support of exploration, exploitation, or production of offshore mineral or energy resources.

*United States Customs and Border Protection*

U.S. Customs and Border Protection (CBP) is the federal agency principally responsible for the security of our Nation's borders, both at and between the ports of entry and at official crossings into the United States. CBP must accomplish its border security and enforcement mission without stifling the flow of legitimate trade and travel. The primary mission of CBP is its homeland security mission, that is, to prevent terrorists and terrorist weapons from entering the United States. An important aspect of this priority mission involves improving security at our borders and ports of entry, but it also means extending our zone of security beyond our physical borders.

CBP is also responsible for administering laws concerning the importation into the United States of goods, and enforcing the laws concerning the entry of persons into the United States. This includes regulating and facilitating international trade; collecting import duties; enforcing U.S. trade, immigration and other laws of the United States at our borders; inspecting imports, overseeing the activities of persons and businesses engaged in importing; enforcing the laws concerning smuggling and trafficking in contraband; apprehending individuals attempting to enter the United States illegally; protecting our agriculture and economic interests from harmful pests and diseases; servicing all people, vehicles and cargo entering the United States; maintaining export controls; and protecting U.S. businesses from theft of their intellectual property.

In carrying out its priority mission, CBP's goal is to facilitate the processing of legitimate trade and people efficiently without compromising security. Consistent with its primary mission of homeland security, CBP intends to finalize several rules during the next fiscal year that are intended to improve security at our borders and ports of entry. CBP is also automating some procedures that increase efficiencies and reduce the costs and burdens to travelers. We have highlighted some of these rules below.

*Electronic System for Travel Authorization (ESTA).* On June 9, 2008, CBP published an interim final rule amending DHS regulations to implement the Electronic System for Travel Authorization (ESTA) for aliens who wish to enter the United States under the Visa Waiver Program (VWP) at air or sea ports of entry. This rule is intended to fulfill the requirements of section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act). The rule establishes ESTA and delineates the data field DHS has determined will be collected by the system. The rule requires that each alien traveling to the United States under the VWP must obtain electronic travel authorization via the ESTA System in advance of such travel. VWP travelers may obtain the required ESTA authorization by electronically submitting to CBP biographic and other information that was previously submitted to CBP via the I–94W Nonimmigrant Alien Arrival/Departure Form (I–94W). ESTA became mandatory on January 12, 2009. Therefore, VWP travelers must either obtain travel authorization in advance of travel under ESTA or obtain a visa prior to traveling to the United States.

The shift from a paper to an electronic form and requiring the data in advance of travel enables CBP to determine before the alien departs for the U.S., the eligibility of nationals from VWP countries to travel to the United States and to determine whether such travel poses a law enforcement or security risk. By modernizing the VWP, the ESTA increases national security and provides for greater efficiencies in the screening of international travelers by allowing for vetting of subjects of potential interest well before boarding, thereby reducing traveler delays based on lengthy processes at ports of entry. On August 9, 2010, CBP published an interim final rule amending the ESTA regulations to require ESTA applicants to pay a congressionally mandated fee which is the sum of two amounts, a $10 travel promotion fee for an approved ESTA and a $4.00 operational fee for the use of ESTA set by the Secretary of Homeland Security to at least ensure the recovery of the full costs of providing and administering the ESTA system. During the next fiscal year, CBP intends to issue a final rule that will finalize the two ESTA rulemakings, the 2008 ESTA interim final rule and the 2010 ESTA fee interim final rule.

*Importer Security Filing and Additional Carrier Requirements.* The Security and Accountability for Every Port Act of 2006 (SAFE Port Act) calls for CBP to promulgate regulations to require the electronic transmission of additional data elements for improved high-risk targeting. This includes appropriate security elements of entry data for cargo destined for the United States by vessel prior to loading of such cargo on vessels at foreign seaports. The SAFE Port Act requires that the information collected reasonably improve CBP's ability to identify high-risk shipments to prevent smuggling and ensure cargo safety and security.

On November 25, 2008, CBP published an interim final rule titled ''Importer Security filing and Additional Carrier Requirements,'' amending CBP Regulations to require carriers and importers to provide to CBP, via a CBP approved electronic data interchange system, information necessary to enable CBP to identity high-risk shipments to prevent smuggling and ensure cargo safety and security. This rule, which became effective on January 26, 2009, improves CBP risk assessment and targeting capabilities, facilitates the prompt release of legitimate cargo following its arrival in the United States, and assists CBP in increasing the security of the global trading system. The comment period for the interim final rule ended on June 1, 2009. CBP has conducted a structured review of data elements for which CBP provided certain flexibilities for compliance in the interim final rule and is analyzing the comments in light of the structured review. CBP intends to publish a final rule during the next fiscal year.

*Implementation of the Guam-CNMI Visa Waiver Program.* CBP published an interim final rule in November 2008 amending the DHS regulations to replace the current Guam Visa Waiver Program with a new Guan-CNMI Visa Waiver Program. This rule implements portions of the Consolidated National Resources Act of 2008 (CNRA), which extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and among others things, provides for a visa waiver program for travel to Guam and the CNMI. The amended regulations set forth the requirements for nonimmigrant visitors who seek admission for business or pleasure and solely for entry into and stay on Guam or the CNMI without a visa. The rule also establishes six ports of entry in the CNMI for purposes of administering and enforcing the Guam-CNMI Visa Waiver

Program. CBP intends to issue a final rule during the next fiscal year.

*Definition of Form I–94 To Include Electronic Format.* On March 27, 2013, CBP published an interim final rule titled ''Definition of Form I–94 to Include Electronic Format.'' DHS issues the Form I–94 to certain aliens and uses the Form I–94 for various purposes such as documenting status in the United States, the approved length of stay, and departure. DHS generally issues the Form I–94 to aliens at the time they lawfully enter the United States. The rule amended the DHS regulations to add a new definition of the term ''Form I–94,'' which includes the collection of arrival/departure and admission or parole information by DHS, whether in paper or electronic format. The definition also clarified various terms that are associated with the use of the Form I–94 to accommodate an electronic version of the Form I–94. The rule also added a valid, unexpired nonimmigrant DHS admission or parole stamp in a foreign passport to the list of documents designated as evidence of alien registration. These revisions to the regulations will enable DHS to transition to an automated process whereby DHS will create a Form I–94 in an electronic format based on passenger, passport and visa information DHS currently obtains electronically from air and sea carriers and the Department of State as well as through the inspection process. CBP intends to publish a final rule during the next fiscal year.

In the above paragraphs, DHS discusses the CBP regulations that foster DHS's mission. CBP also issues regulations related to the mission of the Department of the Treasury. Under section 403(1) of the Homeland Security Act of 2002, the former-U.S. Customs Service, including functions of the Secretary of the Treasury relating thereto, transferred to the Secretary of Homeland Security. As part of the initial organization of DHS, the Customs Service inspection and trade functions were combined with the immigration and agricultural inspection functions and the Border Patrol and transferred into CBP. It is noted that certain regulatory authority of the U.S. Customs Service relating to customs revenue function was retained by the Department of the Treasury (see the Department of the Treasury Regulatory Plan). In addition to its plans to continue issuing regulations to enhance border security, CBP, during fiscal year 2014, expects to continue to issue regulatory documents that will facilitate legitimate trade and implement trade benefit program. CBP regulations regarding the customs revenue function are discussed in the Regulatory Plan of the Department of the Treasury.

*Federal Emergency Management Agency*

The Federal Emergency Management Agency (FEMA) does not have any significant regulatory actions planned for fiscal year 2014.

*Federal Law Enforcement Training Center*

The Federal Law Enforcement Training Center (FLETC) does not have any significant regulatory actions planned for fiscal year 2014.

*United States Immigration and Customs Enforcement*

ICE is the principal criminal investigative arm of the Department of Homeland Security and one of the three Department components charged with the civil enforcement of the Nation's immigration laws. Its primary mission is to protect national security, public safety, and the integrity of our borders through the criminal and civil enforcement of Federal law governing border control, customs, trade, and immigration.

During fiscal year 2014, ICE will pursue rulemaking actions to make improvements in three critical subject areas: Setting national standards to prevent, detect, and respond to sexual abuse and assault in DHS confinement facilities; enabling Libyan nationals, who were previously barred from doing so, to engage in aviation or nuclear-related studies in the United States; and updating and enhancing policies and procedures governing the Student and Exchange Visitor Program (SEVP).

*Setting National Standards To Prevent, Detect, and Respond to Sexual Abuse and Assault in DHS Confinement Facilities.* In cooperation with DHS and CBP, ICE will set national detention standards to prevent, detect, and respond to sexual abuse and assault in DHS confinement facilities. For purposes of this rulemaking, DHS confinement facilities are broken down into two distinct types: (1) immigration detention facilities and (2) holding facilities. The final standards will reflect existing ICE and other DHS detention policies.

This regulation is in response to the President's May 17, 2012 Memorandum titled ''Implementing the Prison Rape Elimination Act.'' The President issued the Memorandum on the same day that the Department of Justice issued its final rule in response to the Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. 15601 *et seq.* President Obama's Memorandum affirmed the goals of PREA and directed Federal agencies with confinement facilities to propose and institute rules or procedures necessary to satisfy the requirements of PREA. Additionally, the Violence Against Women Reauthorization Act of 2013 (VAWA), which was enacted on March 7, 2013, included a section addressing sexual abuse in custodial settings. On December 19, 2012, DHS issued a proposed rule, which proposed standards for preventing, detecting, and responding to sexual abuse and assault in DHS confinement facilities. DHS intends to issue the final rule during fiscal year 2014.

*Enabling Libyan Nationals To Engage in Aviation or Nuclear-Related Studies in the United States.* ICE is considering regulatory action that would rescind the regulatory provisions promulgated in 1983 that terminated the nonimmigrant status and barred the granting of certain immigration benefits to Libyan nationals and foreign nationals acting on behalf of Libyan entities who are engaging in or seeking to obtain studies or training in aviation maintenance, flight operations, or nuclear-related fields. As the U.S. and U.N. have lifted most of the restrictions and sanctions that had been imposed toward Libya, the U.S. Government and the Government of Libya have normalized their relationship and are working to establish robust diplomatic, military, and economic ties. The rescission of this regulation would permit DHS and other agencies of the U.S. Government to continue to improve outreach to Libyan counterparts. This rulemaking would rescind the restrictions that deny nonimmigrant status and benefits to a specific group of Libyan nationals. DHS intends to issue a rulemaking on this matter in fiscal year 2014.

*Updating and Enhancing Limitations on Designated School Official Assignment and Study by F–2 and M–2 Nonimmigrants.* ICE is working on revising the current regulation that limits the number of designated school officials (DSOs) that may be nominated for the oversight of each school's campus(es) where international students are enrolled. In addition, ICE is working to modify the regulatory restrictions placed on the dependents of an F–1 or M–1 nonimmigrant student, in order to permit F–2 and M–2 nonimmigrants to enroll in less than a full course of study at an SEVP-certified school. Currently, schools are limited to ten DSOs per school or per campus in a multi-campus school. ICE has found that the current DSO limit of ten per campus is too constraining, especially in schools that have large numbers of F and M nonimmigrant students. ICE believes that, in many circumstances,

elimination of a DSO limit may improve the capability of DSOs to meet their liaison, reporting and oversight responsibilities. In addition, ICE recognizes that there is increasing global competition to attract the best and brightest international students to study in our schools. Allowing a more flexible approach—by permitting F–2 and M–2 nonimmigrant spouses and children to engage in study in the United States at SEVP-certified schools, so long as that study does not amount to a full course of study—will provide greater incentive for international students to travel to the United States for their education.

*National Protection and Programs Directorate*

The National Protection and Programs Directorate's (NPPD) vision is a *safe, secure, and resilient infrastructure where the American way of life can thrive. NPPD leads the national effort to protect and enhance the resilience of the nation's physical and cyber infrastructure.*

*Ammonium Nitrate Security Program.* Recognizing both the economic importance of ammonium nitrate and the fact that ammonium nitrate is susceptible to use by terrorists in explosive devices, Congress granted DHS the authority to ''regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility . . . to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.'' This authority is contained in section 563 of the Fiscal Year 2008 DHS Appropriations Act, which amended the Homeland Security Act of 2002. This authority is contained in a new Secure Handling of Ammonium Nitrate subtitle of the Homeland Security Act (HSA) (Subtitle J, 6 U.S.C. 488–488i).

The Secure Handling of Ammonium Nitrate provisions of the HSA direct DHS to promulgate regulations requiring potential buyers and sellers of ammonium nitrate to register with DHS, in order to obtain ammonium nitrate registration numbers from DHS. The HSA also requires DHS to screen each applicant against the Terrorist Screening Database. The statute also requires sellers of ammonium nitrate to verify the identities of those individuals seeking to purchase ammonium nitrate; to record certain information about each sale or transfer of ammonium nitrate; and to report thefts and losses of ammonium nitrate to federal authorities.

On October 29, 2008, DHS published an Advance Notice of Proposed Rulemaking (ANPRM) for a Secure Handling of Ammonium Nitrate Program. DHS received a number of public comments. DHS reviewed those comments and published a notice of proposed rulemaking (NPRM) on August 3, 2011. DHS accepted public comments concerning the NPRM until December 1, 2011, and is now reviewing and adjudicating the public comments as the Department moves forward in developing a final rule for an Ammonium Nitrate Security Program.

The final rule is intended to aid the Federal Government in its efforts to prevent the misappropriation of ammonium nitrate for use in acts of terrorism and to limit terrorists' abilities to threaten the Nation's critical infrastructure and key resources. By securing the Nation's supply of ammonium nitrate through the implementation of this rule, it will be more difficult for terrorists to obtain ammonium nitrate materials for use in terrorist acts.

*Transportation Security Administration*

The Transportation Security Administration (TSA) protects the Nation's transportation systems to ensure freedom of movement for people and commerce. TSA is committed to continuously setting the standard for excellence in transportation security through its people, processes, and technology as we work to meet the immediate and long-term needs of the transportation sector.

In fiscal year 2014, TSA will promote the DHS mission by emphasizing regulatory efforts that allow TSA to better identify, detect, and protect against threats against various modes of the transportation system, while facilitating the efficient movement of the traveling public, transportation workers, and cargo.

*Passenger Screening Using Advanced Imaging Technology (AIT).* TSA intends to issue a final rule to amend its civil aviation regulations to address whether screening and inspection of an individual, conducted to control access to the sterile area of an airport or to an aircraft, may include the use of advanced imaging technology (AIT). TSA published an NPRM on March 26, 2012, to comply with the decision rendered by the U.S. Court of Appeals for the District Columbia Circuit in Electronic Privacy Information Center (EPIC) v. U.S. Department of Homeland Security on July 15, 2011. 653 F.3d 1 (D.C. Cir. 2011). The Court directed TSA to conduct notice and comment rulemaking on the use of AIT in the primary screening of passengers.

*Security Training for Surface Mode Employees.* TSA will propose regulations to enhance the security of several non-aviation modes of transportation. In particular, TSA will propose regulations requiring freight railroad carriers, public transportation agencies (including rail mass transit and bus systems), passenger railroad carriers, and over-the-road bus operators to conduct security training for front line employees. This regulation would implement sections 1408 (Public Transportation), 1517 (Freight Railroads), and 1534(a) (Over the Road Buses) of the Implementing Recommendations of the 9/11 Commission Act of 2008 (9/11 Act). In compliance with the definitions of frontline employees in the pertinent provisions of the 9/11 Act, the notice of proposed rulemaking (NPRM) would define which employees are required to undergo training. The NPRM would also propose definitions for transportation security-sensitive materials, as required by section 1501 of the 9/11 Act.

*Aircraft Repair Station Security.* TSA will finalize a rule requiring repair stations that are certificated by the Federal Aviation Administration under 14 CFR part 145 to adopt and implement standard security programs and to comply with security directives issued by TSA. On November 18, 2009, TSA issued a notice of proposed rulemaking (NPRM). The final rule will also codify the scope of TSA's existing inspection program and could require regulated parties to allow DHS officials to enter, inspect, and test property, facilities, and records relevant to repair stations. This rulemaking action will implement section 1616 of the 9/11 Act.

*Standardized Vetting, Adjudication, and Redress Process and Fees.* TSA is developing a proposed rule to revise and standardize the procedures, adjudication criteria, and fees for most of the security threat assessments (STA) of individuals that TSA conducts. DHS is considering a proposal that would include procedures for conducting STAs for transportation workers from almost all modes of transportation, including those covered under the 9/11 Act. In addition, TSA will propose equitable fees to cover the cost of the STAs and credentials for some personnel. TSA plans to identify new efficiencies in processing STAs and ways to streamline existing regulations by simplifying language and removing redundancies.

As part of this proposed rule, TSA will propose revisions to the Alien Flight Student Program (AFSP) regulations. TSA published an interim final rule for ASFP on September 20, 2004. TSA regulations require aliens seeking to train at Federal Aviation Administration-regulated flight schools to complete an application and undergo an STA prior to beginning flight

training. There are four categories under which students currently fall; the nature of the STA depends on the student's category. TSA is considering changes to the AFSP that would improve equity among fee payers and enable the implementation of new technologies to support vetting.

*United States Secret Service*

The United States Secret Service does not have any significant regulatory actions planned for fiscal year 2014.

*DHS Regulatory Plan for Fiscal Year 2014*

A more detailed description of the priority regulations that comprise DHS's fall 2013 regulatory plan follows.

## DHS—OFFICE OF THE SECRETARY (OS)

*Final Rule Stage*

### 68. Ammonium Nitrate Security Program

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* This action may affect the private sector under Pub. L. 104–4.

*Legal Authority:* 2008 Consolidated Appropriations Act, sec 563, subtitle J—Secure Handling of Ammonium Nitrate, Pub. L. 110–161

*CFR Citation:* 6 CFR 31

*Legal Deadline:* NPRM, Statutory, May 26, 2008, Publication of Notice of Proposed Rulemaking. Final, Statutory, December 26, 2008, Publication of Final Rule.

*Abstract:* This rulemaking will implement the December 2007 amendment to the Homeland Security Act entitled ''Secure Handling of Ammonium Nitrate.'' The amendment requires the Department of Homeland Security to ''regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility . . .to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.''

*Statement of Need:* Pursuant to section 563 of the 2008 Consolidated Appropriations Act, subtitle J—Secure Handling of Ammonium Nitrate, Public Law 110–161, the Department of Homeland Security is required to promulgate a rulemaking to create a registration regime for certain buyers and sellers of ammonium nitrate. This rule would create that regime, and would aid the Federal Government in its efforts to prevent the misappropriation of ammonium nitrate for use in acts of terrorism. By preventing such misappropriation, this rule could limit terrorists' abilities to threaten the public and to threaten the Nation's critical infrastructure and key resources. By securing the Nation's supply of ammonium nitrate, it should be much more difficult for terrorists to obtain ammonium nitrate materials for use in improvised explosive devices. As a result, there is a direct value in the deterrence of a catastrophic terrorist attack using ammonium nitrate, such as the Oklahoma City attack that killed over 160 and injured 853 people.

*Summary of Legal Basis*: Section 563 of the 2008 Consolidated Appropriations Act, subtitle J—Secure Handling of Ammonium Nitrate, Public Law 110–161, authorizes and requires this rulemaking.

*Alternatives:* The Department considered several alternatives when developing the Ammonium Nitrate Security Program proposed rule. The alternatives considered were: (a) Register individuals applying for an AN Registered User Number using a paper application (via facsimile or the U.S. mail) rather than through in person application at a local Cooperative Extension office or only through a web-based portal; (b) verify AN Purchasers through both an Internet based verification portal and call center rather than only a verification portal or call center; (c) communicate with applicants for an AN Registered User Number through U.S. Mail rather than only through email or a secure web-based portal; (d) establish a specific capability within the Department to receive, process, and respond to reports of theft or loss rather than leverage a similar capability which already exists with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); (e) require AN Facilities to maintain records electronically in a central database provided by the Department rather than providing flexibility to the AN Facility to maintain their own records either in paper or electronically; (f) require agents to register with the Department prior to the sale or transfer of ammonium nitrate involving an agent rather than allow oral confirmation of the agent with the AN Purchaser on whose behalf the agent is working; and (g) exempt explosives from this regulation rather than not exempting them. As part of its notice of proposed rulemaking, the Department sought public comment on the numerous alternative ways in which the Department could carry out the requirements of the Secure Handling of Ammonium Nitrate provisions of the Homeland Security Act.

*Anticipated Cost and Benefits:* In its proposed rule, the Department estimated the number of entities that purchase ammonium nitrate to range from 64,950 to 106,200. These purchasers include farms, fertilizer mixers, farm supply wholesalers and cooperatives (co-ops), golf courses, landscaping services, explosives distributors, mines, retail garden centers, and lab supply wholesalers. The Department estimated the number of entities that sell ammonium nitrate to be between 2,486 and 6,236, many of which are also purchasers. These sellers include ammonium nitrate fertilizer and explosive manufacturers, fertilizer mixers, farm supply wholesalers and co-ops, retail garden centers, explosives distributors, fertilizer applicator services, and lab supply wholesalers. Individuals or firms that provide transportation services within the distribution chain may be categorized as sellers, agents, or facilities depending upon their business relationship with the other parties to the transaction. The total number of potentially regulated farms and other businesses ranges from 64,986 to 106,236 (including overlap between the categories).

The cost of the proposed rule ranges from $300 million to $1,041 million over 10 years at a 7 percent discount rate. The primary estimate is the mean which is $670.6 million. For comparison, at a 3 percent discount rate, the cost of the program ranges from $364 million to $1.3 billion with a primary (mean) estimate of $814 million. The average annualized cost for the program ranges from $43 million to $148 million (with a mean of $96 million), also employing a 7 percent discount rate.

Because the value of the benefits of reducing risk of a terrorist attack is a function of both the probability of an attack and the value of the consequence, it is difficult to identify the particular risk reduction associated with the implementation of this rule. These elements and related qualitative benefits include point of sale identification requirements and requiring individuals to be screened against the Terrorist Screening Database (TSDB), resulting in known bad actors being denied the ability to purchase ammonium nitrate.

The Department of Homeland Security aims to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to terrorism. By preventing the misappropriation or use of ammonium nitrate in acts of terrorism, this rulemaking will support the Department's efforts to prevent terrorist attacks and reduce the Nation's vulnerability to terrorist attacks. This rulemaking is complementary to other

Department programs seeking to reduce the risks posed by terrorism, including the Chemical Facility Anti-Terrorism Standards program (which seeks in part to prevent terrorists from gaining access to dangerous chemicals) and the Transportation Worker Identification Credential program (which seeks in part to prevent terrorists from gaining access to certain critical infrastructure), among other programs.

*Risks:* Explosives containing ammonium nitrate are commonly used in terrorist attacks. Such attacks have been carried out both domestically and internationally. The 1995 Murrah Federal Building attack in Oklahoma City claimed the lives of 167 individuals and demonstrated firsthand to America how ammonium nitrate could be misused by terrorists. In addition to the Murrah Building attack, the Provisional Irish Republican Army used ammonium nitrate as part of its London, England bombing campaign in the early 1980s. More recently, ammonium nitrate was used in the 1998 East African Embassy bombings and in the November 2003 bombings in Istanbul, Turkey. Additionally, since the events of 9/11, stores of ammonium nitrate have been confiscated during raids on terrorist sites around the world, including sites in Canada, England, India, and the Philippines.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 10/29/08 | 73 FR 64280 |
| Correction | 11/05/08 | 73 FR 65783 |
| ANPRM Comment Period End. | 12/29/08 | |
| NPRM | 08/03/11 | 76 FR 46908 |
| Notice of Public Meetings. | 10/07/11 | 76 FR 62311 |
| Notice of Public Meetings. | 11/14/11 | 76 FR 70366 |
| NPRM Comment Period End. | 12/01/11 | |
| Final Rule | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal.

*Federalism:* This action may have federalism implications as defined in EO 13132.

*URL For More Information: www.regulations.gov.*

*URL For Public Comments: www.regulations.gov.*

*Agency Contact:* Jon MacLaren, Chief, Rulemaking Section, Department of Homeland Security, Office of the Secretary, Infrastructure Security Compliance Division (NPPD/ISCD), Mail Stop 0610, 245 Murray Lane SW., Arlington, VA 20598–0610, *Phone:* 703 235–5263, *Email: jon.m.maclaren@hq.dhs.gov.*

*RIN:* 1601–AA52

## DHS—U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS)

*Proposed Rule Stage*

### 69. Asylum and Withholding Definitions

*Priority:* Other Significant.

*Legal Authority:* 8 U.S.C. 1103; 8 U.S.C. 1158; 8 U.S.C. 1226; 8 U.S.C. 1252; 8 U.S.C. 1282

*CFR Citation:* 8 CFR 2; 8 CFR 208.

*Legal Deadline:* None.

*Abstract:* This rule proposes to amend Department of Homeland Security regulations that govern asylum eligibility. The amendments focus on portions of the regulations that deal with the definitions of membership in a particular social group, the requirements for failure of State protection, and determinations about whether persecution is inflicted on account of a protected ground. This rule codifies long-standing concepts of the definitions. It clarifies that gender can be a basis for membership in a particular social group. It also clarifies that a person who has suffered or fears domestic violence may under certain circumstances be eligible for asylum on that basis. After the Board of Immigration Appeals published a decision on this issue in 1999, Matter of R–A-, Int. Dec. 3403 (BIA 1999), it became clear that the governing regulatory standards required clarification. The Department of Justice began this regulatory initiative by publishing a proposed rule addressing these issues in 2000.

*Statement of Need*: This rule provides guidance on a number of key interpretive issues of the refugee definition used by adjudicators deciding asylum and withholding of removal (withholding) claims. The interpretive issues include whether persecution is inflicted on account of a protected ground, the requirements for establishing the failure of State protection, and the parameters for defining membership in a particular social group. This rule will aid in the adjudication of claims made by applicants whose claims fall outside of the rubric of the protected grounds of race, religion, nationality, or political opinion. One example of such claims which often fall within the particular social group ground concerns people who have suffered or fear domestic violence. This rule is expected to consolidate issues raised in a proposed rule in 2000 and to address issues that have developed since the publication of the proposed rule. This rule should provide greater stability and clarity in this important area of the law. This rule will also provide guidance to the following adjudicators: USCIS asylum officers, Department of Justice Executive Office for Immigration Review (EOIR) immigration judges, and members of the EOIR Board of Immigration Appeals (BIA).

*Summary of Legal Basis:* The purpose of this rule is to provide guidance on certain issues that have arisen in the context of asylum and withholding adjudications. The 1951 Geneva Convention relating to the Status of Refugees contains the internationally accepted definition of a refugee. United States immigration law incorporates an almost identical definition of a refugee as a person outside his or her country of origin ''who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.'' Section 101(a)(42) of the Immigration and Nationality Act.

*Alternatives:* A sizable body of interpretive case law has developed around the meaning of the refugee definition. Historically, much of this case law has addressed more traditional asylum and withholding claims based on the protected grounds of race, religion, nationality, or political opinion. In recent years, however, the United States increasingly has encountered asylum and withholding applications with more varied bases, related, for example, to an applicant's gender or sexual orientation. Many of these new types of claims are based on the ground of ''membership in a particular social group,'' which is the least well-defined of the five protected grounds within the refugee definition.

On December 7, 2000, DOJ published a proposed rule in the **Federal Register** providing guidance on the definitions of ''persecution'' and ''membership in a particular social group.'' Before DHS publishes a new proposed rule, DHS will consider how the nexus between persecution and a protected ground might be further conceptualized; how membership in a particular social group might be defined and evaluated; and what constitutes a State's inability or unwillingness to protect the applicant where the persecution arises from a non-State actor. The alternative to publishing this rule would be to allow the standards governing this area of law to continue to develop piecemeal

through administrative and judicial precedent. This approach has resulted in inconsistent and confusing standards, and the Department has therefore determined that promulgation of the new proposed rule is necessary.

*Anticipated Cost and Benefits:* By providing a clear framework for key asylum and withholding issues, we anticipate that adjudicators will have clear guidance, increasing administrative efficiency and consistency in adjudicating these cases. The rule will also promote a more consistent and predictable body of administrative and judicial precedent governing these types of cases. We anticipate that this will enable applicants to better assess their potential eligibility for asylum, and to present their claims more efficiently when they believe that they may qualify, thus reducing the resources spent on adjudicating claims that do not qualify. In addition, a more consistent and predictable body of law on these issues will likely result in fewer appeals, both administrative and judicial, and reduce associated litigation costs. The Department has no way of accurately predicting how this rule will impact the number of asylum applications filed in the United States. Based on anecdotal evidence and on the reported experience of other nations that have adopted standards under which the results are similar to those we anticipate for this rule, we do not believe this rule will cause a change in the number of asylum applications filed.

*Risks:* The failure to promulgate a final rule in this area presents significant risk of further inconsistency and confusion in the law. The Government's interests in fair, efficient, and consistent adjudications would be compromised.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 12/07/00 | 65 FR 76588 |
| NPRM Comment Period End. | 01/22/01 | |
| NPRM | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Additional Information:* CIS No. 2092–00 Transferred from RIN 1115–AF92.

*Agency Contact:* Ted Kim, Deputy Chief, Asylum Division, Office of Refugee, Asylum, and International Operations, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW., Suite 6030, Washington, DC 20259, *Phone:* 202 272–1614, *Fax:* 202 272–1994, *Email: ted.h.kim@uscis.dhs.gov.*

*RIN:* 1615–AA41

## DHS—USCIS

### 70. Exception to the Persecution Bar for Asylum, Refugee, and Temporary Protected Status, and Withholding of Removal

*Priority:* Other Significant.

*Legal Authority:* 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1158; 8 U.S.C. 1226; Pub. L. 107–26; Pub. L. 110–229

*CFR Citation:* 8 CFR 1; 8 CFR 207; 8 CFR 208; 8 CFR 240; 8 CFR 244; 8 CFR 1001; 8 CFR 1208; 8 CFR 1240.

*Legal Deadline:* None.

*Abstract:* This joint rule proposes amendments to Department of Homeland Security (DHS) and Department of Justice (DOJ) regulations to describe the circumstances under which an applicant will continue to be eligible for asylum, refugee, or temporary protected status, special rule cancellation of removal under the Nicaraguan Adjustment and Central American Relief Act, and withholding of removal, even if DHS or DOJ has determined that the applicant's actions contributed, in some way, to the persecution of others when the applicant's actions were taken when the applicant was under duress.

*Statement of Need:* This rule resolves ambiguity in the statutory language precluding eligibility for asylum, refugee, and temporary protected status of an applicant who ordered, incited, assisted, or otherwise participated in the persecution of others. The proposed amendment would provide a limited exception for actions taken by the applicant under duress and clarify the required levels of the applicant's knowledge of the persecution.

*Summary of Legal Basis:* In Negusie v. Holder, 129 S. Ct. 1159 (2009), the Supreme Court addressed whether the persecutor bar should apply where an alien's actions were taken under duress. DHS believes that this is an appropriate subject for rulemaking and proposes to amend the applicable regulations to set out its interpretation of the statute. In developing this regulatory initiative, DHS has carefully considered the purpose and history behind enactment of the persecutor bar, including its international law origins and the criminal law concepts upon which they are based.

*Alternatives:* DHS did consider the alternative of not publishing a rulemaking on these issues. To leave this important area of the law without an administrative interpretation would confuse adjudicators and the public.

*Anticipated Cost and Benefits:* The programs affected by this rule exist so that the United States may respond effectively to global humanitarian situations and assist people who are in need. USCIS provides a number of humanitarian programs and protection to assist individuals in need of shelter or aid from disasters, oppression, emergency medical issues, and other urgent circumstances. This rule will advance the humanitarian goals of the asylum/refugee program, and other specialized programs. The main benefits of such goals tend to be intangible and difficult to quantify in economic and monetary terms. These forms of relief have not been available to individuals who engaged in persecution of others under duress. This rule will allow an exception to this bar from protection for applicants who can meet the appropriate evidentiary standard. Consequently, this rule may result in a small increase in the number of applicants for humanitarian programs. To the extent a small increase in applicants occurs, there could be additional fee costs incurred by these applicants.

*Risks:* If DHS were not to publish a regulation, the public would face a lengthy period of confusion on these issues. There could also be inconsistent interpretations of the statutory language, leading to significant litigation and delay for the affected public.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Ronald W. Whitney, Deputy Chief, Refugee and Asylum Law Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Chief Counsel, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 415 293–1244, *Fax:* 202 272–1411, *Email: ronald.w.whitney@uscis.dhs.gov.*

*RIN:* 1615–AB89

## DHS—USCIS

### 71. Employment Authorization for Certain H–4 Dependent Spouses

*Priority:* Other Significant.

*Legal Authority:* INA sec 214(a)(1) 8 U.S.C. 1184(a)(1); INA 274A(h)(3) 8 U.S.C. 1324a(h)(3); 8 CFR 274a.12(c); sec 104(c) of Pub. L. 106–313; sec 106(a) of Pub. L. 106–313; . . .

*CFR Citation:* 8 CFR 274a.12(c).

*Legal Deadline:* None.

*Abstract:* The Department of Homeland Security (DHS) proposes to amend its regulations by extending the availability of employment authorization to certain H–4 dependent spouses of principal H–1B nonimmigrants who have begun the process of seeking lawful permanent resident status through employment. Allowing the eligible class of H–4 dependent spouses to work encourages professionals with high demand skills to remain in the country and help spur the innovation and growth of U.S. companies.

*Statement of Need:* DHS believes that allowing for extension of H–1B status past the 6th year for workers who are the beneficiaries of certain pending or approved employment-based immigrant petitions or labor certification applications would minimize the disruption to U.S. businesses employing H–1B workers that would result if such workers were required to leave the United States. DHS recognizes that the limitation on the period of stay is not the only event that could cause an H–1B worker to leave his or her employment and cause disruption to the employer's business, inclusive of the loss of significant time and money invested in the immigration process. The rule, as proposed by this NPRM, is intended to mitigate some of the negative economic effects of limiting H–1B households to one income during lengthy waiting periods in the adjustment of status process. Also, this rule will encourage H–1B skilled workers to not abandon their adjustment application because their H–4 spouse is unable to work.

*Summary of Legal Basis:* Sections 103(a), and 274A(h)(3) of the Immigration and Nationality Act (INA) generally authorize the Secretary to provide for employment authorization for aliens in the United States. In addition, section 214(a)(1) of the INA authorizes the Secretary to prescribe regulations setting terms and conditions of admission of nonimmigrants.

*Alternatives:* An alternative considered by DHS was to permit employer authorization for all H–4 dependent spouses. Congress has expressed concern with avoiding the disruption to U.S. businesses caused by the required departure of H–1B workers (for whom the businesses intended to file employment-based immigrant visa petitions) upon the expiration of workers' maximum six-year period of authorized stay. Although the inability of an H–4 spouse to work may cause an H–1B worker to consider departing from the United States prior to his or her eligibility for an H–1B extension. This alternative was rejected in favor of the proposed process to limit employment authorization to the smaller sub-class of H–4 nonimmigrants who intend to remain in the United States permanently.

*Anticipated Cost and Benefits:* The proposed changes would only impact spouses of H–1B workers who have been admitted or have extended their stay under the provisions of AC21. The costs of the rule would stem from filing fees and the opportunity costs of time associated with filing an Application for Employment Authorization for those eligible H–4 spouses who decide to seek employment while residing in the United States. Allowing certain H–4 spouses the opportunity to work would result in a negligible increase to the overall domestic labor force.

The benefits of this rule are retaining highly-skilled persons who intend to adjust to lawful permanent resident status. This is important when considering the contributions of these individuals to the U.S. economy, including advances in entrepreneurial and research and development endeavors, which are highly correlated with overall economic growth and job creation. In addition, the proposed amendments would bring U.S. immigration laws more in line with other countries that seek to attract skilled foreign workers.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Additional Information:* Includes Retrospective Review under E.O. 13563.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Kevin J. Cummings, Chief, Business and Foreign Workers Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email:* *kevin.j.cummings@uscis.dhs.gov.*

*RIN:* 1615–AB92

## DHS—USCIS

### 72. Application of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to Unaccompanied Alien Children Seeking Asylum

*Priority:* Other Significant.

*Unfunded Mandates:* Undetermined.

*Legal Authority:* Pub. L. 110–457

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* This rule implements the provisions of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Public Law 110–457, 122 Stat. 5074 (Dec. 23, 2008) relating to unaccompanied alien children seeking asylum. Specifically, the rule proposes to amend Department of Homeland Security (DHS) and Department of Justice (DOJ) regulations relating to asylum applications filed by unaccompanied alien children. The rule will amend both DHS and DOJ regulations to reflect that U.S. Citizenship and Immigration Services (USCIS) has initial jurisdiction over any asylum application filed by an unaccompanied alien child. The rule will also add new special procedures for all children in interviews before USCIS officers and for unaccompanied alien children in proceedings before immigration judges in the Executive Office for Immigration Review.

*Statement of Need:* The TVPRA mandated promulgation of regulations taking into account the specialized needs of unaccompanied alien children and addressing both procedural and substantive aspects of handling unaccompanied alien children's cases. This rule will replace existing agency guidance on the specialized needs of unaccompanied alien children. The rule will also incorporate policies in agency guidance implementing the TVPRA. Such guidance has been in effect since March 2009 and, based on experience gained in following the guidance, will be revised in the rule.

*Summary of Legal Basis:* The purpose of this rule is to comply with the TVPRA mandate to promulgate regulations taking into account the specialized needs of unaccompanied alien children and addressing both procedural and substantive aspects of handling unaccompanied alien children's cases.

*Alternatives:* N/A.

*Anticipated Cost and Benefits:* This rule will codify existing agency

guidance on the specialized needs of unaccompanied alien children in accordance with implementing the TVPRA. In addition, the regulation will codify improvements that DHS has implemented over the passage of time since TVPRA to incorporate lessons learned and operational efficiencies for USCIS and EOIR. DHS anticipates that this rule would result in benefits both to the Federal Government by streamlining the processing of cases for asylum by unaccompanied children, and to the public by ensuring that DHS regulations are transparent in the eligibility and application requirements for this vulnerable population. DHS anticipates that any costs associated with establishing eligibility for asylum under the TVPRA would be outweighed by the benefits of this rulemaking.

*Risks:* N/A.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Federal.

*Agency Contact:* Ted Kim, Deputy Chief, Asylum Division, Office of Refugee, Asylum, and International Operations, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW., Suite 6030, Washington, DC 20259, *Phone:* 202 272–1614, *Fax:* 202 272–1994, *Email: ted.h.kim@uscis.dhs.gov.*

*RIN:* 1615–AB96

## DHS—USCIS

### 73. Administrative Appeals Office: Procedural Reforms To Improve Efficiency

*Priority:* Other Significant.

*Legal Authority:* 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1304; 6 U.S.C. 112

CFR Citation: 8 CFR 103; 8 CFR 204; 8 CFR 205; 8 CFR 210; 8 CFR 214; 8 CFR 245a; 8 CFR 320; 8 CFR 105 (new); . . .

*Legal Deadline:* None.

*Abstract:* This proposed rule revises the requirements and procedures for the filing of motions and appeals before the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services, and its Administrative Appeals Office. The proposed changes are intended to streamline the existing processes for filing motions and appeals and will reduce delays in the review and appellate process. This rule also proposes additional changes necessitated by the establishment of DHS and its components.

*Statement of Need:* This rule proposes to make numerous changes to streamline the current appeal and motion processes which: (1) Will result in cost savings to the Government, applicants, and petitioners; and (2) will provide for a more efficient use of USCIS officer and clerical staff time, as well as more uniformity with Board of Immigration Appeals appeal and motion processes.

*Summary of Legal Basis:* 5 U.S.C. 301; 5 U.S.C 552; 5 U.S.C. 552a; 8 U.S.C. 1101 and notes 1102, 1103, 1151, 1153, 1154, 1182, 1184, 1185 note (sec. 7209 of Pub. L. 108–458; title VII of Pub. L. 110–229), 1186a, 1187, 1221,1223, 1225 to 1227, 1255a, and 1255a note, 1281, 1282, 1301 to 1305, 1324a, 1356, 1372, 1379, 1409(c), 1443 to 1444, 1448, 1452, 1455, 1641, 1731 to 1732; 31 U.S.C. 9701; 48 U.S.C. 1901, 1931 note; section 643, Public Law 104–208, 110, Stat. 3009–708; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau; title VII of Public Law 110–229; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); Public Law 82–414, 66 Stat. 173, 238, 254, 264; title VII of Public Law 110–229; E.O. 12356.

*Alternatives:* The alternative to this rule would be to continue under the current process without change.

*Anticipated Cost and Benefits:* As a result of streamlining the appeal and motion process, DHS anticipates quantitative and qualitative benefits to DHS and the public. We also anticipate cost savings to DHS and applicants as a result of the proposed changes.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected*: Governmental Jurisdictions.

*Government Levels Affected:* None.

*Additional Information:* Previously 1615–AB29 (CIS 2311–04), which was withdrawn in 2007.

*Agency Contact:* William K. Renwick, Supervisory Citizenship and Immigration Appeals Officer, Department of Homeland Security, U.S. Citizenship and Immigration Services, Administrative Appeals Office, Washington, DC 20529–2090, *Phone:* 703 224–4501, *Email: william.k.renwick@uscis.dhs.gov.*

*Related RIN:* Duplicate of 1615–AB29.

*RIN:* 1615–AB98

## DHS—USCIS

### 74. Enhancing Opportunities for H–1B1, CW–1, and E–3 Nonimmigrants and EB–1 Immigrants

*Priority:* Other Significant.

*Legal Authority:* 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1151; 8 U.S.C. 1153; 8 U.S.C. 1154; 8 U.S.C. 1182; 8 U.S.C. 1184; 8 U.S.C. 1186a; 8 U.S.C. 1255; 8 U.S.C. 1641; . . .

*CFR Citation:* 8 CFR 204; 8 CFR 214; 8 CFR 248; 8 CFR 274a.

*Legal Deadline:* None.

*Abstract:* The Department of Homeland Security (DHS) proposes to amend its regulations affecting high-skilled workers within the nonimmigrant classifications for specialty occupation professionals from Chile and Singapore (H–1B1) and from Australia (E–3), and the immigration classification for employment-based first preference (EB–1) outstanding professors and researchers. Additionally, it proposes to amend regulations regarding continued employment authorization for nonimmigrant workers in the Commonwealth of the Northern Mariana Islands (CNMI)—Only Transitional Worker (CW–1) classification. DHS proposes changes that would harmonize the regulations for E–3, H–1B1, and CW–1 nonimmigrant classifications with existing regulations for other similarly situated nonimmigrant classifications. DHS is proposing these changes to the regulations to benefit these high-skilled workers and CW–1 transitional workers by removing unnecessary hurdles that place such workers at a disadvantage when compared to similarly situated workers in other visa classifications.

*Statement of Need:* DHS proposes changes to harmonize the regulations for E–3, H–1B1, and CW–1 nonimmigrant classifications with the existing regulations for other, similarly situated nonimmigrant classifications. These changes to the regulations would benefit these highly skilled workers and CW–1 transitional workers by removing unnecessary hurdles that place such workers at a disadvantage when compared to similarly situated workers in other visa classifications.

*Anticipated Cost and Benefits:* The portion of the proposed rule addressing E–3 and H–1B1, and CW–1 nonimmigrant classifications would extend the period of authorized employment while requests for an

extension of stay for these employment-based nonimmigrant visa classifications are being reviewed. The regulations at 8 CFR 274a.12(b)(20) generally provide aliens in specific nonimmigrant classifications with authorization to continue employment with the same employer for a 240-day period beyond the period specified on the Arrival-Departure Record, Form I–94, as long as a timely application for an extension of stay is filed on an alien's behalf. This provision applies only to the classifications specified in the regulation which does not currently include the E–3, H–1B1, and CW–1 nonimmigrant classifications. By harmonizing the regulations for E–3, H–1B1, and CW–1 nonimmigrants with the other listed nonimmigrant classifications, this proposed rule would provide equity for these nonimmigrants relative to other nonimmigrant classifications.

The proposed rule also would help employers of E–3, H–1B1, and CW–1 nonimmigrants avoid potential interruptions of employment for E–3, H–1B1, and CW–1 employees during the period that requests for an extension of these employment-based nonimmigrant visa classifications are being reviewed. These disruptions could result in lost wages for an employee and lost productivity for an employer. DHS does not have data on the number of employers or E–3, H–1B1, and CW–1 nonimmigrants experiencing disruption in employment by not receiving an approval of the extension before the expiration date specified on the Arrival-Departure Record or the duration (length of time) of any disruption. The portion of the proposed rule addressing the evidentiary requirements for the EB–1 outstanding professor and researcher employment-based immigrant classification would allow for the submission of comparable evidence (achievements not listed in the criteria such as important patents or prestigious, peer-reviewed funding grants) for that listed in 8 CFR 204.5(i)(3)(i)(A) through (F) to establish that the EB–1 professor or researcher is recognized internationally as outstanding in his or her academic field. Similar to the benefits of harmonizing E–3, H–1B1, and CW–1 provisions, the harmonization of the evidentiary requirements for EB–1 outstanding professors and researchers with other comparable employment-based immigrant classifications would provide equity for EB–1 outstanding professors and researchers relative to those other employment-based visa categories. The proposed rule may also facilitate petitioners' recruitment of the EB–1 outstanding professors and researchers by expanding the range of evidence that may be adduced to support their petitions.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses, Organizations.

*Government Levels Affected:* None.

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*RIN:* 1615–AC00

## DHS—USCIS

*Final Rule Stage*

### 75. Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status

*Priority:* Other Significant.

*Legal Authority:* 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101 to 1104; 8 U.S.C. 1182; 8 U.S.C. 1184; 8 U.S.C. 1187; 8 U.S.C. 1201; 8 U.S.C. 1224 to 1227; 8 U.S.C. 1252 to 1252a; 22 U.S.C. 7101; 22 U.S.C. 7105; Pub. L. 113–4

*CFR Citation:* 8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 274a; 8 CFR 299.

*Legal Deadline:* None.

*Abstract:* T classification was created by 107(e) of the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Public Law 106–386. The T nonimmigrant classification was designed for eligible victims of severe forms of trafficking in persons who aid law enforcement with their investigation or prosecution of the traffickers, and who can establish that they would suffer extreme hardship involving unusual and severe harm if they were removed from the United States. The rule streamlines application procedures and responsibilities for the Department of Homeland Security (DHS) and provides guidance to the public on how to meet certain requirements to obtain T nonimmigrant status. Several reauthorizations, including the Violence Against Women Act (VAWA) of 2013, Public Law 113–4, have made amendments to the T nonimmigrant status provisions of the Immigration and Naturalization Act. This rule implements those amendments.

*Statement of Need:* T nonimmigrant status is available to eligible victims of severe forms of trafficking in persons who: (1) Are victims of a severe form of trafficking in persons (defined by section 103 of the TVPA), (2) are physically present in the United States, American Samoa, Commonwealth of the Northern Mariana Islands, or at a port of entry, on account of trafficking (including the alien having been allowed entry into the United States for participation in investigative or judicial processes associated with an act or perpetrator of trafficking), (3) have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking in persons (or are under 18 years of age or are unable to cooperate due to physical or psychological trauma), and (4) would suffer extreme hardship involving unusual and severe harm if removed from the United States. This rule addresses the essential elements that must be demonstrated for classification as a T nonimmigrant alien and implements statutory amendments to these elements, streamlines the procedures to be followed by applicants to apply for T nonimmigrant status, and evidentiary guidance to assist in the application process.

*Summary of Legal Basis:* Section 107(e) of the Trafficking Victims Protection Act (TVPA), Public Law 106–386, as amended, established the T classification to provide immigration relief for certain eligible victims of severe forms of trafficking in persons who assist law enforcement authorities in investigating and prosecuting the perpetrators of these crimes.

*Alternatives:* To provide victims with immigration benefits and services, keeping in mind the purpose of the T visa also being a law enforcement tool, DHS is considering and using suggestions from stakeholders in developing this regulation. These suggestions came in the form of public comment to the 2002 interim final rule as well as from over ten years of experience with the T nonimmigrant status program, including regular meetings with stakeholders and regular outreach events.

*Anticipated Cost and Benefits:* Applicants for T nonimmigrant status do not pay application or biometric fees. The anticipated benefits of these expenditures include: Assistance to trafficked victims and their families, prosecution of traffickers in persons, and the elimination of abuses caused by

trafficking activities. Benefits which may be attributed to the implementation of this rule are expected to be: (1) An increase in the number of cases brought forward for investigation and/or prosecution; (2) Heightened awareness by the law enforcement community of trafficking in persons; and (3) Streamlining the application process for victims.

*Risks:* There is a 5,000-person limit to the number of individuals who can be granted T–1 status per fiscal year. Eligible applicants who are not granted T–1 status due solely to the numerical limit will be placed on a waiting list maintained by U.S. Citizenship and Immigration Services (USCIS).

To protect T–1 applicants and their families, USCIS will use various means to prevent the removal of T–1 applicants on the waiting list, and their family members who are eligible for derivative T status, including its existing authority to grant deferred action, parole, and stays of removal.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 01/31/02 | 67 FR 4784 |
| Interim Final Rule Effective. | 03/04/02 | |
| Interim Final Rule Comment Period End. | 04/01/02 | |
| Interim Final Rule | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal, Local, State.

*Additional Information:* Transferred from RIN 1115–AG19.

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*RIN:* 1615–AA59

## DHS—USCIS

### 76. New Classification for Victims of Criminal Activity; Eligibility for the U Nonimmigrant Status

*Priority:* Other Significant.

*Legal Authority:* 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101; 8 U.S.C. 1101 (note); 8 U.S.C. 1102; Pub. L. 113–4

*CFR Citation:* 8 CFR 103; 8 CFR 204; 8 CFR 212; 8 CFR 214; 8 CFR 299.

*Legal Deadline:* None.

*Abstract:* This rule sets forth application and eligibility requirements for U nonimmigrant status. The U classification is for non-U.S. Citizen/Lawful Permanent Resident victims of certain crimes who cooperate with an investigation or prosecution of those crimes. There is a limit of 10,000 principals per fiscal year. This rule establishes the procedures to be followed to petition for the U nonimmigrant classifications. Specifically, the rule addresses the essential elements that must be demonstrated to receive the nonimmigrant classification, procedures that must be followed to file a petition and evidentiary guidance to assist in the petitioning process. Eligible victims will be allowed to remain in the United States if granted U nonimmigrant status. The Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110–457, and the Violence Against Women Act (VAWA) of 2013, Public Law 113–4, made amendments to the U nonimmigrant status provisions of the Immigration and Nationality Act. The Department of Homeland Security had issued an interim final rule in 2007. DHS will issue another interim final rule to make the changes required by the legislation.

*Statement of Need:* This regulation is necessary to allow alien victims of certain crimes to petition for U nonimmigrant status. U nonimmigrant status is available to eligible victims of certain qualifying criminal activity who: (1) Has suffered substantial physical or mental abuse as a result of the qualifying criminal activity; (2) the alien possesses information about the crime; (3) the alien has been, is being, or is likely to be helpful in the investigation or prosecution of the crime; and (4) the criminal activity took place in the United States, including military installations and Indian country, or the territories or possessions of the United States. This rule addresses the eligibility requirements that must be met for classification as a U nonimmigrant alien and implements statutory amendments to these requirements, streamlines the procedures to petition for U nonimmigrant status, and provides evidentiary guidance to assist in the petition process.

*Summary of Legal Basis:* Congress created the U nonimmigrant classification in the Battered Immigrant Women Protection Act of 2000 (BIWPA) to provide immigration relief for alien victims of certain qualifying criminal activity and who are helpful to law enforcement in the investigation or prosecution of these crimes.

*Alternatives:* To provide victims with immigration benefits and services and keeping in mind the purpose of the U visa as a law enforcement tool, DHS is considering and using suggestions from stakeholders in developing this regulation. These suggestions came in the form of public comment from the 2007 interim final rule as well as USCIS' six years of experience with the U nonimmigrant status program, including regular meetings and outreach events with stakeholders and law enforcement.

*Anticipated Cost and Benefits:* DHS estimated the total annual cost of this interim rule to petitioners to be $6.2 million in the interim final rule published in 2007. This cost included the biometric services fee, the opportunity cost of time needed to submit the required forms, the opportunity cost of time required and cost of traveling to visit a USCIS Application Support Center. DHS is currently in the process of updating our cost estimates since U nonimmigrant visa petitioners are no longer required to pay the biometric services fee.

The anticipated benefits of these expenditures include assistance to victims of qualifying criminal activity and their families and increases in arrests and prosecutions of criminals nationwide. Additional benefits include heightened awareness by law enforcement of victimization of aliens in their community, and streamlining the petitioning process so that victims may benefit from this immigration relief.

Risks: There is a statutory cap of 10,000 principal U nonimmigrant visas that may be granted per fiscal year at INA 214(p)(2). Eligible petitioners who are not granted principal U–1 nonimmigrant status due solely to the numerical limit will be placed on a waiting list maintained by U.S. Citizenship and Immigration Services (USCIS).

To protect U–1 petitioners and their families, USCIS will use various means to prevent the removal of U–1 petitioners and their eligible family members on the waiting list, including exercising its authority to allow deferred action, parole, and stays of removal, in cooperation with other DHS components.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 09/17/07 | 72 FR 53013 |
| Interim Final Rule Effective. | 10/17/07 | |
| Interim Final Rule Comment Period End. | 11/17/07 | |
| Interim Final Rule | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal, Local, State.

*Additional Information:* Transferred from RIN 1115–AG39.

*URL for More Information: www.regulations.gov.*

*URL for Public Comments: www.regulations.gov.*

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*RIN:* 1615–AA67

## DHS—USCIS

### 77. Application of Immigration Regulations to the Commonwealth of the Northern Mariana Islands

*Priority*: Other Significant.

*Legal Authority:* Pub. L. 110–229

*CFR Citation:* 8 CFR 208 and 209; 8 CFR 214 and 215; 8 CFR 217; 8 CFR 235; 8 CFR 248; 8 CFR 264; 8 CFR 274a.

*Legal Deadline:* Final, Statutory, November 28, 2009, Consolidated Natural Resources Act (CNRA) of 2008.

*Abstract:* This final rule amends the Department of Homeland Security (DHS) and the Department of Justice (DOJ) regulations to comply with the Consolidated Natural Resources Act of 2008 (CNRA). The CNRA extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI). This rule finalizes the interim rule and implements conforming amendments to their respective regulations.

*Statement of Need:* This rule finalizes the interim rule to conform existing regulations with the CNRA. Some of the changes implemented under the CNRA affect existing regulations governing both DHS immigration policy and procedures and proceedings before the immigration judges and the Board. Accordingly, it is necessary to make amendments both to the DHS regulations and to the DOJ regulations. The Secretary and the Attorney General are making conforming amendments to their respective regulations in this single rulemaking document.

*Summary of Legal Basis:* Congress extended the immigration laws of the United States to the CNMI. The stated purpose of the CNRA is to ensure effective border control procedures, to properly address national security and homeland security concerns by extending U.S. immigration law to the CNMI (phasing-out the CNMI's nonresident contract worker program while minimizing to the greatest extent practicable the potential adverse economic and fiscal effects of that phase-out), to maximize the CNMI's potential for future economic and business growth, and to assure worker protections from the potential for abuse and exploitation.

*Anticipated Cost and Benefits*: Costs: The interim rule established basic provisions necessary for the application of the INA to the CNMI and updated definitions and existing DHS and DOJ regulations in areas that were confusing or in conflict with how they are to be applied to implement the INA in the CNMI. As such, that rule made no changes that had identifiable direct or indirect economic impacts that could be quantified.

*Benefits:* This final rule makes additional regulatory changes in order to lessen the adverse impacts of the CNRA on employers and employees in the CNMI and assist the CNMI in its transition to the INA.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 10/28/09 | 74 FR 55725 |
| Interim Final Rule Comment Period End. | 11/27/09 | |
| Correction ..... | 12/22/09 | 74 FR 67969 |
| Final Action ..... | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Additional Information:* CIS 2460–08.

*URL for More Information: www.regulations.gov.*

*URL for Public Comments: www.regulations.gov.*

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*Related RIN:* Related to 1615–AB76, Related to 1615–AB75.

*RIN:* 1615–AB77

## DHS—U.S. COAST GUARD (USCG)

*Final Rule Stage*

### 78. Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978

*Priority:* Other Significant.

*Legal Authority:* 46 U.S.C. 2103; 46 U.S.C. 71; 46 U.S.C. 73; DHS Delegation No. 0170.1

*CFR Citation:* 46 CFR 10; 46 CFR 11; 46 CFR 12; 46 CFR 15.

*Legal Deadline:* None.

*Abstract:* The International Maritime Organization (IMO) comprehensively amended the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978, in 1995 and 2010. The 1995 amendments came into force on February 1, 1997. This project implements those amendments by revising current rules to ensure that the United States complies with their requirements on: The training of merchant mariners, the documenting of their qualifications, and watch-standing and other arrangements aboard seagoing merchant ships of the United States. In addition, the Coast Guard has identified the need for additional changes to the interim rule issued in 1997. This project supports the Coast Guard's broad role and responsibility of maritime safety. It also supports the roles and responsibilities of the Coast Guard of reducing deaths and injuries of crew members on domestic merchant vessels and eliminating substandard vessels from the navigable waters of the United States.The Coast Guard published an NPRM on November 17, 2009, and Supplemental NPRMs (SNPRM) on March 23, 2010 and August 1, 2011.

At a June 2010 diplomatic conference, the IMO adopted additional amendments to the STCW convention which change the minimum training requirements for seafarers. In response to feedback and to the adoption of those amendments, the Coast Guard developed a second Supplemental NPRM to incorporate the 2010 Amendments into the 1990 interim rule.

*Statement of Need:* The Coast Guard proposed to amend its regulations to implement changes to its interim rule published on June 26, 1997. These proposed amendments go beyond changes found in the interim rule and seek to more fully incorporate the requirements of the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, as amended (STCW), in the requirements for the credentialing of

United States merchant mariners. The new changes are primarily substantive and: (1) Are necessary to continue to give full and complete effect to the STCW Convention; (2) Incorporate lessons learned from implementation of the STCW through the interim rule and through policy letters and NVICs; and (3) Attempt to clarify regulations that have generated confusion.

*Summary of Legal Basis:* The authority for the Coast Guard to prescribe, change, revise, or amend these regulations is provided under 46 U.S.C. 2103 and 46 U.S.C. chapters 71 and 73; and Department of Homeland Security Delegation No. 0170.1.

*Alternatives:* For each proposed change, the Coast Guard has considered various alternatives. We considered using policy statements, but they are not enforceable. We also considered taking no action, but this does not support the Coast Guard's fundamental safety and security mission. Additionally, we considered comments made during our 1997 rulemaking to formulate our alternatives. When we analyzed issues, such as license progression and tonnage equivalency, the alternatives chosen were those that most closely met the requirements of STCW.

*Anticipated Cost and Benefits:* In the SNPRM, we estimated the annualized cost of this rule over a 10-year period to be $32.8 million per year at a 7 percent discount rate. We estimate the total 10-year cost of this rulemaking to be $230.7 million at a 7 percent discount rate.

The changes in anticipated costs since the publication of 2009 NPRM are due to the 2010 amendments to the STCW Convention: Medical examinations and endorsements, leadership and management skills, engine room management training, tankerman endorsements, safety refresher training, and able seafarer deck and engine certification requirements. However, there would be potential savings from the costs of training requirements as the Coast Guard would accept various methods for demonstrating competence, including the on-the-job training and preservation of the ''hawsepipe'' programs.

We anticipate the primary benefit of this rulemaking is to ensure that the U.S. meets its obligations under the STCW Convention. Another benefit is an increase in vessel safety and a resulting decrease in the risk of shipping casualties.

*Risks:* No risks.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice of Meeting | 08/02/95 | 60 FR 39306 |
| Supplemental NPRM Comment Period End. | 09/29/95 | |
| Notice of Inquiry .. | 11/13/95 | 60 FR 56970 |
| Comment Period End. | 01/12/96 | |
| NPRM ..... | 03/26/96 | 61 FR 13284 |
| Notice of Public Meetings. | 04/08/96 | 61 FR 15438 |
| NPRM Comment Period End. | 07/24/96 | |
| Notice of Intent .... | 02/04/97 | 62 FR 5197 |
| Interim Final Rule | 06/26/97 | 62 FR 34505 |
| Interim Final Rule Effective. | 07/28/97 | |
| NPRM ..... | 11/17/09 | 74 FR 59353 |
| NPRM Comment Period End. | 02/16/10 | |
| Supplemental NPRM. | 03/23/10 | 75 FR 13715 |
| Supplemental NPRM. | 08/01/11 | 76 FR 45908 |
| Public Meeting Notice. | 08/02/11 | 76 FR 46217 |
| Supplemental NPRM Comment Period End. | 09/30/11 | |
| Final Rule ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*International Impacts:* This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

*Additional Information*: The docket number for this rulemaking is USCG–2004–17914. The docket is located at *www.regulations.gov*. The old docket number is CGD 95–062.

Includes Retrospective Review under EO 13563.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov*.

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*RIN:* 1625–AA16

## DHS—USCG

### 79. Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System

*Priority:* Other Significant.

*Legal Authority:* 33 U.S.C. 1223; 33 U.S.C. 1225; 33 U.S.C. 1231; 46 U.S.C. 3716; 46 U.S.C. 8502 and ch 701; sec 102 of Pub. L. 107–295; EO 12234

*CFR Citation:* 33 CFR 62; 33 CFR 66; 33 CFR 160; 33 CFR 161; 33 CFR 164; 33 CFR 165; 33 CFR 101; 33 CFR 110; 33 CFR 117; 33 CFR 151; 46 CFR 4; 46 CFR 148.

*Legal Deadline*: None.

*Abstract:* This rulemaking would expand the applicability for Notice of Arrival and Departure (NOAD) and Automatic Identification System (AIS) requirements. These expanded requirements would better enable the Coast Guard to correlate vessel AIS data with NOAD data, enhance our ability to identify and track vessels, detect anomalies, improve navigation safety, and heighten our overall maritime domain awareness.

The NOAD portion of this rulemaking could expand the applicability of the NOAD regulations by changing the minimum size of vessels covered below the current 300 gross tons, require a notice of departure when a vessel is departing for a foreign port or place, and mandate electronic submission of NOAD notices to the National Vessel Movement Center. The AIS portion of this rulemaking would expand current AIS carriage requirements for the population identified in the Safety of Life at Sea (SOLAS) Convention and the Marine Transportation Marine Transportation Security Act (MTSA) of 2002.

*Statement of Need:* There is no central mechanism in place to capture vessel, crew, passenger, or specific cargo information on vessels less than or equal to 300 gross tons (GT) intending to arrive at or depart from U.S. ports unless they are arriving with certain dangerous cargo (CDC) or at a port in the 7th Coast Guard District; nor is there a requirement for vessels to submit notification of departure information. The lack of NOAD information of this large and diverse population of vessels represents a substantial gap in our maritime domain awareness (MDA). We can minimize this gap and enhance MDA by expanding NOAD applicability to vessels greater than 300 GT, all foreign commercial vessels and all U.S. commercial vessels coming from a foreign port, and further enhance (and corroborate) MDA by tracking those vessels (and others) with AIS. This information is necessary in order to expand our MDA and provide The Nation maritime safety and security.

*Summary of Legal Basis:* This rulemaking is based on congressional authority provided in the Ports and Waterways Safety Act (see 33 U.S.C. 1223(a)(5), 1225, 1226, and 1231) and section 102 of the Maritime

Transportation Security Act of 2002 (codified at 46 U.S.C. 70114).

*Alternatives:* Our goal is to extend our MDA and to identify anomalies by correlating vessel NOAD data with AIS data. NOAD and AIS information from a greater number of vessels, as proposed in this rulemaking, would expand our MDA. We considered expanding NOAD and AIS to even more vessels, but we determined that we needed additional legislative authority to expand AIS beyond what we propose in this rulemaking, and that it was best to combine additional NOAD expansion with future AIS expansion. Although not in conjunction with a proposed rule, the Coast Guard sought comment regarding expansion of AIS carriage to other waters and other vessels not subject to the current requirements (68 FR 39369, Jul. 1, 2003; USCG 2003–14878; see also 68 FR 39355). Those comments were reviewed and considered in drafting this rule and are available in this docket. To fulfill our statutory obligations, the Coast Guard needs to receive AIS reports and NOADs from vessels identified in this rulemaking that currently are not required to provide this information. Policy or other nonbinding statements by the Coast Guard addressed to the owners of these vessels would not produce the information required to sufficiently enhance our MDA to produce the information required to fulfill our Agency obligations.

*Anticipated Cost and Benefits:* This rulemaking will enhance the Coast Guard's regulatory program by making it more effective in achieving the regulatory objectives, which, in this case, is improved MDA. We provide flexibility in the type of AIS system that can be used, allowing for reduced cost burden. This rule is also streamlined to correspond with Customs and Border Protection's APIS requirements, thereby reducing unjustified burdens. We are further developing estimates of cost and benefit that were published in 2008. In the 2008 NPRM, we estimated that both segments of the proposed rule would affect approximately 42,607 vessels. The total number of domestic vessels affected is approximately 17,323 and the total number of foreign vessels affected is approximately 25,284. We estimated that the 10-year total present discounted value or cost of the proposed rule to U.S. vessel owners is between $132.2 and $163.7 million (7 and 3 percent discount rates, respectively, 2006 dollars) over the period of analysis.

The Coast Guard believes that this rule, through a combination of NOAD and AIS, would strengthen and enhance maritime security. The combination of NOAD and AIS would create a synergistic effect between the two requirements. Ancillary or secondary benefits exist in the form of avoided injuries, fatalities, and barrels of oil not spilled into the marine environment. In the 2008 NPRM, we estimated that the total discounted benefit (injuries and fatalities) derived from 68 marine casualty cases analyzed over an 8-year data period from 1996 to 2003 for the AIS portion of the proposed rule is between $24.7 and $30.6 million using $6.3 million for the value of statistical life (VSL) at 7 percent and 3 percent discount rates, respectively. Just based on barrels of oil not spilled, we expect the AIS portion of the proposed rule to prevent 22 barrels of oil from being spilled annually.

The Coast Guard may revise costs and benefits for the final rule to reflect changes resulting from public comments.

*Risks:* Considering the economic utility of U.S. ports, waterways, and coastal approaches, it is clear that a terrorist incident against our U.S. Maritime Transportation System (MTS) would have a direct impact on U.S. users and consumers and could potentially have a disastrous impact on global shipping, international trade, and the world economy. By improving the ability of the Coast Guard both to identify potential terrorists coming to the United States while the terrorists are far from our shores and to coordinate appropriate responses and intercepts before the vessel reaches a U.S. port, this rulemaking would contribute significantly to the expansion of MDA, and consequently is instrumental in addressing the threat posed by terrorist actions against the MTS.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 12/16/08 | 73 FR 76295 |
| Notice of Public Meeting. | 01/21/09 | 74 FR 3534 |
| Notice of Second Public Meeting. | 03/02/09 | 74 FR 9071 |
| NPRM Comment Period End. | 04/15/09 | |
| Notice of Second Public Meeting Comment Period End. | 04/15/09 | |
| Final Rule | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Additional Information:* We have indicated in past notices and rulemaking documents, and it remains the case, that we have worked to coordinate implementation of AIS MTSA requirements with the development of our ability to take advantage of AIS data (68 FR 39355 and 39370, Jul. 1, 2003).

The docket number for this rulemaking is USCG–2005–21869. The docket can be found at *www.regulations.gov*.

*URL for More Information: www.regulations.gov.*

*URL for Public Comments: www.regulations.gov.*

*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, 2703 Martin Luther King Jr. Avenue SE., STOP 7501, Washington, DC 20593–7501, *Phone:* 202 372–1218, *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

### 80. Transportation Worker Identification Credential (TWIC); Card Reader Requirements

*Priority:* Other Significant.

*Legal Authority:* 33 U.S.C. 1226; 33 U.S.C. 1231; 46 U.S.C. ch 701; 50 U.S.C. 191 and 192; EO 12656

*CFR Citation:* 33 CFR, subchapter H.

*Legal Deadline:* Final, Statutory, August 20, 2010, SAFE Port Act, codified at 46 U.S.C. 70105(k). The final rule is required 2 years after the commencement of the pilot program.

The final rule is required 2 years after the commencement of the pilot program.

*Abstract:* The Coast Guard is establishing electronic card reader requirements for maritime facilities and vessels to be used in combination with TSA's Transportation Worker Identification Credential. Congress enacted several statutory requirements within the Security and Accountability for Every (SAFE) Port Act of 2006 to guide regulations pertaining to TWIC readers, including the need to evaluate TSA's final pilot program report as part of the TWIC reader rulemaking. During the rulemaking process, we will take into account the final pilot data and the

various conditions in which TWIC readers may be employed. For example, we will consider the types of vessels and facilities that will use TWIC readers, locations of secure and restricted areas, operational constraints, and need for accessibility. Recordkeeping requirements, amendments to security plans, and the requirement for data exchanges (i.e., Canceled Card List) between TSA and vessel or facility owners/operators will also be addressed in this rulemaking.

*Statement of Need:* The Maritime Transportation Security Act (MTSA) of 2002 explicitly required the issuance of a biometric transportation security card to all U.S. merchant mariners and to workers requiring unescorted access to secure areas of MTSA-regulated facilities and vessels. On May 22, 2006, the Transportation Security Administration (TSA) and the Coast Guard published a notice of proposed rulemaking (NPRM) to carry out this statute, proposing a Transportation Worker Identification Credential (TWIC) Program where TSA conducts security threat assessments and issues identification credentials, while the Coast Guard requires integration of the TWIC into the access control systems of vessels, facilities, and Outer Continental Shelf facilities. Based on comments received during the public comment period, TSA and the Coast Guard split the TWIC rule. The final TWIC rule, published in January of 2007, addressed the issuance of the TWIC and use of the TWIC as a visual identification credential at access control points. In an ANPRM, published in March of 2009, and NPRM, published in April of 2013, the Coast Guard proposed a risk-based approach to TWIC reader requirements and included proposals to classify MTSA-regulated vessels and facilities into one of three risk groups, based on specific factors related to TSI consequence, and apply TWIC reader requirements for vessels and facilities in conjunction with their relative risk-group placement.

This rulemaking is necessary to comply with the SAFE Port Act and to complete the implementation of the TWIC Program in our ports. By requiring electronic card readers at vessels and facilities, the Coast Guard will further enhance port security and improve access control measures.

*Summary of Legal Basis:* The statutory authorities for the Coast Guard to prescribe, change, revise, or amend these regulations are provided under 33 U.S.C. 1226, 1231; 46 U.S.C. chapter 701; 50 U.S.C. 191, 192; Executive Order 12656, 3 CFR 1988 Comp., p. 585; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

*Alternatives:* The implementation of TWIC reader requirements is mandated by the SAFE Port Act. We considered several alternatives in the formulation of this proposal. These alternatives were based on risk analysis of different combinations of facility and vessel populations facing TWIC reader requirements. The preferred alternative selected allowed the Coast Guard to target the highest risk entities while minimizing the overall burden.

*Anticipated Cost and Benefits:* The main cost drivers of this rule are the acquisition and installation of TWIC readers and the maintenance of the affected entity's TWIC reader system. Initial Costs, which we would distribute over a phased-in implementation period, consist predominantly of the costs to purchase, install, and integrate approved TWIC readers into their current physical access control system. Recurring annual costs will be driven by costs associated with canceled card list updates, opportunity costs associated with delays and replacement of TWICs that cannot be read, and maintenance of the affected entity's TWIC reader system. As reported in the NPRM Regulatory Analysis, the total 10-year total industry and government cost for the TWIC is $234.3 million undiscounted and $186.1 discounted at 7 percent. The benefits of the rulemaking include the enhancement of the security of vessel ports and other facilities by ensuing that only individuals who hold valid TWICs are granted unescorted access to secure areas at those locations. Rule We estimate the annualized cost of this rule to industry to be $26.5 million at a 7 percent discount rate.

*Risks:* USCG used risk-based decision-making to develop this rulemaking. Based on this analysis, the Coast Guard has proposed requiring higher-risk vessels and facilities to meet the requirements for electronic TWIC inspection, while continuing to allow lower-risk vessels and facilities to use TWIC as a visual identification credential.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 03/27/09 | 74 FR 13360 |
| Notice of Public Meeting. | 04/15/09 | 74 FR 17444 |
| ANPRM Comment Period End. | 05/26/09 | |
| Notice of Public Meeting Comment Period End. | 05/26/09 | |
| NPRM | 03/22/13 | 78 FR 20558 |
| NPRM Comment Period Extended. | 05/10/13 | 78 FR 27335 |
| NPRM Comment Period Extended End. | 06/20/13 | |
| Final Rule | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses, Governmental Jurisdictions.

*Government Levels Affected:* None.

*Additional Information:* The docket number for this rulemaking is USCG–2007–28915. The docket can be found at *www.regulations.gov.*

*URL for More Information: www.regulations.gov.*

*URL for Public Comments: www.regulations.gov.*

*Agency Contact:* LCDR Loan O'Brien, Project Manager, Department of Homeland Security, U.S. Coast Guard, Commandant, (CG–FAC–2), 2703 Martin Luther King Jr. Avenue SE., STOP 7501, Washington, DC 20593–7501, *Phone:* 202 372–1133, *Email: loan.t.o'brien@uscg.mil.*

*Related RIN:* Related to 1625–AB02.

*RIN:* 1625–AB21

## DHS—USCG

### 81. Offshore Supply Vessels of at Least 6000 GT ITC

*Priority:* Other Significant. Major status under 5 U.S.C. 801 is undetermined.

*Legal Authority:* Pub. L. 111–281, sec 617

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* Other, Statutory, January 1, 2012, Coast Guard Authorization Act of 2010.

*Abstract:* The Coast Guard Authorization Act of 2010 removed the size limit on offshore supply vessels (OSVs). The Act also directed the Coast Guard to issue, as soon as is practicable, a regulation to implement section 617 of the Act and to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on vessels of at least 6,000 gross tonnage as measured under the International Convention on Tonnage Measurement of Ships (6,000 GT ITC). Accordingly, the Coast Guard's rule will address design, manning, carriage of personnel, and related topics for OSVs of at least 6,000 GT ITC. This rulemaking will meet the requirements of the Act and will support the Coast Guard's mission of marine safety, security, and stewardship.

*Statement of Need:* In section 617 of Public Law 111–281, Congress removed OSV tonnage limits and instructed the Coast Guard to promulgate regulations to implement the amendments and authorities of section 617. Additionally, Congress directed the Coast Guard to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on OSVs of at least 6,000 GT ITC.

*Summary of Legal Basis:* The statutory authority to promulgate these regulations is found in section 617(f) of Public Law 111–281.

*Alternatives:* The Coast Guard Authorization Act removed OSV tonnage limits and the Coast Guard will examine alternatives during the development of the regulatory analysis.

*Anticipated Cost and Benefits:* The Coast Guard is currently developing a regulatory impact analysis of regulations that ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on OSVs of at least 6,000 GT ITC. A potential benefit of this rulemaking is the ability of industry to expand and take advantage of new commercial opportunities in the building of larger OSVs.

*Risks:* No risks.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* LCDR Heather Mattern, Program Manager (CG–ENG–1), Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., STOP 7509, Washington, DC 20593–7509, *Phone:* 202 372–1361, *Email: heather.r.mattern@uscg.mil.*

*RIN:* 1625–AB62

## DHS—U.S. CUSTOMS AND BORDER PROTECTION (USCBP)

*Final Rule Stage*

### 82. Importer Security Filing and Additional Carrier Requirements (Section 610 Review)

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* This action may affect the private sector under Pub. L. 104–4.

*Legal Authority:* Pub. L. 109–347, sec 203; 5 U.S.C. 301; 19 U.S.C. 66; 19 U.S.C. 1431; 19 U.S.C. 1433 to 1434; 19 U.S.C. 1624; 19 U.S.C. 2071 (note); 46 U.S.C. 60105

*CFR Citation:* 19 CFR 4; 19 CFR 12.3; 19 CFR 18.5; 19 CFR 103.31a; 19 CFR 113; 19 CFR 123.92; 19 CFR 141.113; 19 CFR 146.32; 19 CFR 149; 19 CFR 192.14.

*Legal Deadline:* None.

*Abstract:* This final rule implements the provisions of section 203 of the Security and Accountability for Every Port Act of 2006. On November 25, 2008, CBP published an interim final rule (CBP Dec. 08–46) in the **Federal Register** (73 FR 71730), that finalized most of the provisions proposed in the NPRM. The interim final rule did not finalize six data elements that were identified as areas of potential concern for industry during the rulemaking process and, for which, CBP provided some type of flexibility for compliance with those data elements. CBP solicited public comment on these six data elements, conducted a structured review, and also invited comments on the revised Regulatory Assessment and Final Regulatory Flexibility Analysis. [See 73 FR 71782–85 for regulatory text and 73 CFR 71733–34 for general discussion.] The remaining requirements of the rule were adopted as final. CBP plans to issue a final rule after CBP completes a structured review of the flexibilities and analyzes the comments.

*Statement of Need:* This rule improves CBP's risk assessment and targeting capabilities and enables the agency to facilitate the prompt release of legitimate cargo following its arrival in the United States. The information will assist CBP in increasing the security of the global trading system and, thereby, reducing the threat to the United States and world economy.

*Summary of Legal Basis:* Pursuant to section 203 of the Security and Accountability for Every Port Act of 2006 (Pub. L. 109–347, 6 U.S.C. 943) (SAFE Port Act), the Secretary of Homeland Security, acting through the Commissioner of CBP, must promulgate regulations to require the electronic transmission of additional data elements for improved high-risk targeting, including appropriate security elements of entry data for cargo destined to the United States by vessel prior to loading of such cargo on vessels at foreign seaports.

*Alternatives:* CBP is considering whether to maintain the flexibilities on the data elements that were not finalized in the interim final rule.

*Anticipated Cost and Benefits:* CBP is currently developing a regulatory impact analysis based on the comments and the structured review of the data elements not finalized in the interim final rule.

*Risks:* No risks.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 01/02/08 | 73 FR 90 |
| NPRM Comment Period End. | 03/03/08 | |
| NPRM Comment Period Extended. | 02/01/08 | 73 FR 6061 |
| NPRM Comment Period End. | 03/18/08 | |
| Interim Final Rule | 11/25/08 | 73 FR 71730 |
| Interim Final Rule Effective. | 01/26/09 | |
| Interim Final Rule Comment Period End. | 06/01/09 | |
| Correction | 07/14/09 | 74 FR 33920 |
| Correction | 12/24/09 | 74 FR 68376 |
| Final Action | 08/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*International Impacts:* This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Craig Clark, Program Manager, Vessel Manifest & Importer Security Filing, Office of Cargo and Conveyance Security, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229, *Phone:* 202 344–3052, *Email: craig.clark@cbp.dhs.gov.*

*RIN:* 1651–AA70

## DHS—USCBP

### 83. Changes to the Visa Waiver Program To Implement the Electronic System for Travel Authorization (ESTA) Program

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Legal Authority:* 8 U.S.C. 1103; 8 U.S.C. 1187

*CFR Citation:* 8 CFR 217.5.

*Legal Deadline:* None.

*Abstract:* CBP issued an interim final rule which implemented the Electronic System for Travel Authorization (ESTA) for aliens who travel to the United States under the Visa Waiver Program (VWP) at air or sea ports of entry. Under the rule, VWP travelers must provide certain biographical information to CBP

electronically before departing for the United States. This advance information allows CBP to determine before their departure whether these travelers are eligible to travel to the United States under the VWP and whether such travel poses a security risk. The interim final rule also fulfilled the requirements of section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act). In addition to fulfilling a statutory mandate, the rule serves the twin goals of promoting border security and legitimate travel to the United States. By modernizing the VWP, the ESTA increases national security and provides for greater efficiencies in the screening of international travelers by allowing for vetting of subjects of potential interest well before boarding, thereby reducing traveler delays at the ports of entry. CBP requested comments on all aspects of the interim final rule and plans to issue a final rule after completion of the comment analysis.

*Statement of Need:* The rule fulfills the requirements of section 711 of the 9/11 Act to develop and implement a fully automated electronic travel authorization system in advance of travel for VWP travelers. The advance information allows CBP to determine before their departure whether VWP travelers are eligible to travel to the United States and to determine whether such travel poses a law enforcement or security risk. In addition to fulfilling a statutory mandate, the rule serves the twin goals of promoting border security and legitimate travel to the United States. ESTA increases national security by allowing for vetting of subjects of potential interest before they depart for the United States. It promotes legitimate travel to the United States by providing for greater efficiencies in the screening of travelers thereby reducing traveler delays upon arrival at U.S. ports of entry.

*Summary of Legal Basis:* The ESTA program is based on congressional authority provided under section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53) and section 217 of the Immigration and Nationality Act (INA), 8 U.S.C. 1187.

*Alternatives:* When developing the interim final rule, CBP considered three alternatives to this rule:

1. The ESTA requirements in the rule, but with a $1.50 fee per each travel authorization (more costly).

2. The ESTA requirements in the rule, but with only the name of the passenger and the admissibility questions on the I–94W form (less burdensome).

3. The ESTA requirements in the rule, but only for the countries entering the VWP after 2009 (no new requirements for VWP, reduced burden for newly entering countries).

CBP determined that the rule provides the greatest level of enhanced security and efficiency at an acceptable cost to traveling public and potentially affected air carriers.

*Anticipated Cost and Benefits:* The purpose of ESTA is to allow DHS and CBP to establish the eligibility of certain foreign travelers to travel to the United States under the VWP, and whether the alien's proposed travel to the United States poses a law enforcement or security risk. Upon review of such information, DHS will determine whether the alien is eligible to travel to the United States under the VWP.

*Costs to Air & Sea Carriers:* CBP estimated that eight U.S.-based air carriers and eleven sea carriers will be affected by the rule. An additional 35 foreign-based air carriers and five sea carriers will be affected. CBP concluded that costs to air and sea carriers to support the requirements of the ESTA program could cost $137 million to $1.1 billion over the next 10 years depending on the level of effort required to integrate their systems with ESTA, how many passengers they need to assist in applying for travel authorizations, and the discount rate applied to annual costs.

*Costs to Travelers:* ESTA will present new costs and burdens to travelers in VWP countries who were not previously required to submit any information to the U.S. Government in advance of travel to the United States. Travelers from Roadmap countries who become VWP countries will also incur costs and burdens, though these are much less than obtaining a nonimmigrant visa (category B1/B2), which is currently required for short-term pleasure or business to travel to the United States. CBP estimated that the total quantified costs to travelers will range from $1.1 billion to $3.5 billion depending on the number of travelers, the value of time, and the discount rate. Annualized costs are estimated to range from $133 million to $366 million.

*Benefits:* As set forth in section 711 of the 9/11 Act, it was the intent of Congress to modernize and strengthen the security of the Visa Waiver Program under section 217 of the Immigration and Nationality Act (INA, 8 U.S.C. 1187) by simultaneously enhancing program security requirements and extending visa-free travel privileges to citizens and eligible nationals of eligible foreign countries that are partners in the war on terrorism.

By requiring passenger data in advance of travel, CBP may be able to determine, before the alien departs for the United States, the eligibility of citizens and eligible nationals from VWP countries to travel to the United States under the VWP, and whether such travel poses a law enforcement or security risk. In addition to fulfilling a statutory mandate, the rule serves the twin goals of promoting border security and legitimate travel to the United States. By modernizing the VWP, ESTA is intended to both increase national security and provide for greater efficiencies in the screening of international travelers by allowing for the screening of subjects of potential interest well before boarding, thereby reducing traveler delays based on potentially lengthy processes at U.S. ports of entry.

CBP concluded that the total benefits to travelers could total $1.1 billion to $3.3 billion over the period of analysis. Annualized benefits could range from $134 million to $345 million.

In addition to these benefits to travelers, CBP and the carriers should also experience the benefit of not having to administer the I–94W except in limited situations. While CBP has not conducted an analysis of the potential savings, it should accrue benefits from not having to produce, ship, and store blank forms. CBP should also be able to accrue savings related to data entry and archiving. Carriers should realize some savings as well, though carriers will still have to administer the Customs Declaration forms for all passengers aboard the aircraft and vessel.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Action. | 06/09/08 | 73 FR 32440 |
| Interim Final Rule Effective. | 08/08/08 | |
| Interim Final Rule Comment Period End. | 08/08/08 | |
| Notice—Announcing Date Rule Becomes Mandatory. | 11/13/08 | 73 FR 67354 |
| Final Action ..... | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*International Impacts:* This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

*Additional Information: http://www.cbp.gov/xp/cgov/travel/id_visa/esta/.*

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Suzanne Shepherd, Director, Electronic System for Travel Authorization, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229, *Phone:* 202 344–2073, *Email:* *suzanne.m.shepherd@cbp.dhs.gov.*

*Related RIN:* Related to 1651–AA83.

*RIN:* 1651–AA72

## DHS—USCBP

### 84. Implementation of the Guam-CNMI Visa Waiver Program (Section 610 Review)

*Priority:* Other Significant. Major under 5 U.S.C. 801.

*Legal Authority:* Pub. L. 110–229, sec 702

*CFR Citation*: 8 CFR 100.4; 8 CFR 212.1; 8 CFR 233.5; 8 CFR 235.5; 19 CFR 4.7b; 19 CFR 122.49a.

*Legal Deadline:* Final, Statutory, November 4, 2008, Pub. L. 110–229.

*Abstract:* This rule amends Department of Homeland Security (DHS) regulations to implement section 702 of the Consolidated Natural Resources Act of 2008 (CNRA). This law extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a joint visa waiver program for travel to Guam and the CNMI. This rule implements section 702 of the CNRA by amending the regulations to replace the current Guam Visa Waiver Program with a new Guam-CNMI Visa Waiver Program. The amended regulations set forth the requirements for nonimmigrant visitors who seek admission for business or pleasure and solely for entry into and stay on Guam or the CNMI without a visa. This rule also establishes six ports of entry in the CNMI for purposes of administering and enforcing the Guam-CNMI Visa Waiver Program. Section 702 of the Consolidated Natural Resources Act of 2008 (CNRA), subject to a transition period, extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a visa waiver program for travel to Guam and/or the CNMI. On January 16, 2009, the Department of Homeland Security (DHS), through CBP, issued an interim final rule in the **Federal Register** replacing the then-existing Guam Visa Waiver Program with the Guam-CNMI Visa Waiver Program and setting forth the requirements for nonimmigrant visitors seeking admission into Guam and/or the CNMI under the Guam-CNMI Visa Waiver Program. As of November 28, 2009, the Guam-CNMI Visa Waiver Program is operational. This program allows nonimmigrant visitors from eligible countries to seek admission for business or pleasure for entry into Guam and/or the CNMI without a visa for a period of authorized stay not to exceed forty-five days. This rulemaking would finalize the January 2009 interim final rule.

*Statement of Need:* Previously, aliens who were citizens of eligible countries could apply for admission to Guam at a Guam port of entry as nonimmigrant visitors for a period of fifteen (15) days or less, for business or pleasure, without first obtaining a nonimmigrant visa, provided that they are otherwise eligible for admission. Section 702(b) of the CNRA, supersedes the Guam visa waiver program by providing for a visa waiver program for Guam and the Commonwealth of the Northern Mariana Islands (Guam-CNMI Visa Waiver Program). Section 702(b) required DHS to promulgate regulations within 180 days of enactment of the CNRA to allow nonimmigrant visitors from eligible countries to apply for admission into Guam and the CNMI, for business or pleasure, without a visa, for a period of authorized stay of no longer than forty-five (45) days.

Under the interim final rule, a visitor seeking admission under the Guam-CNMI Visa Waiver Program must be a national of an eligible country and must meet the requirements enumerated in the current Guam visa waiver program as well as additional requirements that bring the Guam-CNMI Visa Waiver Program into soft alignment with the U.S. Visa Waiver Program provided for in 8 CFR 217. The country eligibility requirements take into account the intent of the CNRA and ensure that the regulations meet current border security needs. The country eligibility requirements are designed to: (1) Ensure effective border control procedures, (2) properly address national security and homeland security concerns in extending U.S. immigration law to the CNMI, and (3) maximize the CNMI's potential for future economic and business growth. This interim rule also provided that visitors from the People's Republic of China and Russia have provided a significant economic benefit to the CNMI. However, nationals from those countries cannot, at this time, seek admission under the Guam-CNMI Visa Waiver Program due to security concerns. Pursuant to section 702(a) of the CNRA, which extends the immigration laws of the United States to the CNMI, this rule also establishes six ports of entry in the CNMI to enable the Secretary of Homeland Security (the Secretary) to administer and enforce the Guam-CNMI Visa Waiver Program.

*Summary of Legal Basis:* The Guam-CNMI Visa Waiver Program is based on congressional authority provided under 702(b) of the Consolidated Natural Resources Act of 2008 (CNRA).

*Alternatives:* None.

*Anticipated Cost and Benefits:* CBP is currently evaluating the costs and benefits associated with finalizing the interim final rule. The most significant change for admission to the CNMI as a result of the rule was for visitors from those countries who are not included in either the existing U.S. Visa Waiver Program or the Guam-CNMI Visa Waiver Program established by the rule. These visitors must apply for U.S. visas, which require in-person interviews at U.S. embassies or consulates and higher fees than the CNMI assessed for its visitor entry permits. These are losses associated with the reduced visits from foreign travelers who no longer visited the CNMI upon implementation of this rule. The anticipated benefits of the rule were enhanced security that would result from the federalization of the immigration functions in the CNMI.

*Risks:* No risks.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 01/16/09 | 74 FR 2824 |
| Interim Final Rule Effective. | 01/16/09 | |
| Interim Final Rule Comment Period End. | 03/17/09 | |
| Technical Amendment; Change of Implementation Date. | 05/28/09 | 74 FR 25387 |
| Final Action ..... | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*International Impacts:* This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Paul Minton, CBP Officer (Program Manager), Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229, *Phone:* 202 344–2723, *Email:* *paul.a.minton@cbp.dhs.gov.*

*Related RIN:* Related to 1651–AA81.
*RIN:* 1651–AA77

## DHS—USCBP

### 85. Definition of Form I–94 to Include Electronic Format

*Priority:* Other Significant.
*Legal Authority:* 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1201; 8 U.S.C. 1301; 8 U.S.C. 1303 to 1305; 5 U.S.C. 301; Pub. L. 107–296, 116 stat 2135; 6 U.S.C. 1 *et seq.*
*CFR Citation:* 8 CFR 1.4; 8 CFR 264.1(b).
*Legal Deadline:* None.
*Abstract:* Currently, CBP generally issues the Form I–94 to aliens at the time they lawfully enter the United States. CBP is transitioning to an automated process whereby it will create a Form I–94 in an electronic format based on passenger, passport, and visa information currently obtained electronically from air and sea carriers and the Department of State as well as through the inspection process. The Form I–94 is issued by DHS to certain aliens upon arrival in the United States or when changing status in the United States. The Form I–94 is used to document arrival and departure and provides evidence of the terms of admission or parole. Prior to this rule, the Form I–94 was solely a paper form that was completed by the alien upon arrival. After the implementation of the Advance Passenger Information System (APIS) following 9/11, CBP began collecting information on aliens traveling by air or sea to the United States electronically from carriers in advance of arrival. For aliens arriving in the United States by air or sea, CBP obtains almost all of the information contained on the paper Form I–94 electronically and in advance via APIS. The few fields on the Form I–94 that are not collected via APIS are either already collected by the Department of State and transmitted to CBP or can be collected by the CBP Officer from the individual at the time of inspection. This means that CBP no longer needs to collect Form I–94 information as a matter of course directly from aliens traveling to the United States by air or sea. At this time, the automated process will apply only to aliens arriving at air and sea ports of entry.
*Statement of Need:* This rule makes the necessary changes to the regulations to enable CBP to transition to an automated process whereby CBP will create an electronic Form I–94 based on the information in its databases.
*Summary of Legal Basis:* Section 103(a) of the Immigration and Nationality Act (INA) generally authorizes the Secretary of Homeland Security to establish such regulations and prescribe such forms of reports, entries, and other papers necessary to carry out his or her authority to administer and enforce the immigration and nationality laws and to guard the borders of the United States against illegal entry of aliens.
*Alternatives:* CBP considered two alternatives to this rule: eliminating the paper Form I–94 in the air and sea environments entirely and providing the paper Form I–94 to all travelers who are not B–1/B–2 travelers. Eliminating the paper Form I–94 option for refugees, applicants for asylum, parolees, and those travelers who request one would not result in a significant cost savings to CBP and would harm travelers who have an immediate need for an electronic Form I–94 or who face obstacles to accessing their electronic Form I–94. A second alternative to the rule is to provide a paper Form I–94 to any travelers who are not B–1/B–2 travelers. Under this alternative, travelers would receive and complete the paper Form I–94 during their inspection when they arrive in the United States. The electronic Form I–94 would still be automatically created during the inspection, but the CBP Officer would need to verify that the information appearing on the form matches the information in CBP's systems. In addition, CBP would need to write the Form I–94 number on each paper Form I–94 so that their paper form matches the electronic record. As noted in the analysis, 25.1 percent of aliens are non-B–1/B–2 travelers. Filling out and processing this many paper Forms I–94 at airports and seaports would increase processing times considerably. At the same time, it would only provide a small savings to the individual traveler.
*Anticipated Cost and Benefits:* With the implementation of this rule, CBP will no longer collect Form I–94 information as a matter of course directly from aliens traveling to the United States by air or sea. Instead, CBP will create an electronic Form I–94 for foreign travelers based on the information in its databases. This rule makes the necessary changes to the regulations to enable CBP to transition to an automated process.
Both CBP and aliens would bear costs as a result of this rule. CBP would bear costs to link its data systems and to build a Web site so aliens can access their electronic Forms I–94. CBP estimates that the total cost for CBP to link data systems, develop a secure Web site, and fully automate the Form I–94 fully will equal about $1.3 million in calendar year 2012. CBP will incur costs of $0.09 million in subsequent years to operate and maintain these systems. Aliens arriving as diplomats and students would bear costs when logging into the Web site and printing electronic I–94s. The temporary workers and aliens in the ''Other/Unknown'' category bear costs when logging into the Web site, traveling to a location with public internet access, and printing a paper copy of their electronic Form I–94. Using the primary estimate for a traveler's value of time, aliens would bear costs between $36.6 million and $46.4 million from 2013 to 2016. Total costs for this rule for 2013 would range from $34.2 million to $40.1 million, with a primary estimate of costs equal to $36.7 million.
CBP, carriers, and foreign travelers would accrue benefits as a result of this rule. CBP would save contract and printing costs of $15.6 million per year of our analysis. Carriers would save a total of $1.3 million in printing costs per year. All aliens would save the eight-minute time burden for filling out the paper Form I–94 and certain aliens who lose the Form I–94 would save the $330 fee and 25-minute time burden for filling out the Form I–102. Using the primary estimate for a traveler's value of time, aliens would obtain benefits between $112.6 million and $141.6 million from 2013 to 2016. Total benefits for this rule for 2013 would range from $110.7 million to $155.6 million, with a primary estimate of benefits equal to $129.5 million.
Overall, this rule results in substantial cost savings (benefits) for foreign travelers, carriers, and CBP. CBP anticipates a net benefit in 2013 of between $59.7 million and $98.7 million for foreign travelers, $1.3 million for carriers, and $15.5 million for CBP. Net benefits to U.S. entities (carriers and CBP) in 2013 total $16.8 million. CBP anticipates the total net benefits to both domestic and foreign entities in 2013 range from $76.5 million to $115.5 million. In our primary analysis, the total net benefits are $92.8 million in 2013. For the primary estimate, annualized net benefits range from $78.1 million to $80.0 million, depending on the discount rate used.
Risks: N/A.
*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 03/27/13 | 78 FR 18457 |
| Interim Final Rule Comment Period End. | 04/26/13 | |

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule Effective. | 04/26/13 | |
| Final Action ..... | 10/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*International Impacts:* This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

*Additional Information:* Includes Retrospective Review under E.O. 13563.

*URL for More Information: www.regulations.gov.*

*URL for Public Comments: www.regulations.gov.*

*Agency Contact:* Suzanne Shepherd, Director, Electronic System for Travel Authorization, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229, *Phone:* 202 344–2073, *Email: suzanne.m.shepherd@cbp.dhs.gov.*

*RIN:* 1651–AA96

## DHS—TRANSPORTATION SECURITY ADMINISTRATION (TSA)

*Proposed Rule Stage*

### 86. Security Training for Surface Mode Employees

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Legal Authority:* 49 U.S.C. 114; Pub. L. 110–53, secs. 1408, 1517, and 1534

*CFR Citation:* 49 CFR 1520; 49 CFR 1570; 49 CFR 1580; 49 CFR 1582 (new); 49 CFR 1584 (new).

*Legal Deadline:* Final, Statutory, November 1, 2007, Interim Rule for public transportation agencies is due 90 days after date of enactment.

Final, Statutory, February 3, 2008, Rule for railroads and over-the-road buses are due 6 months after date of enactment.

Final, Statutory, August 3, 2008, Rule for public transportation agencies is due 1 year after date of enactment.

According to sec. 1408 of Public Law 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266), interim final regulations for public transportation agencies are due 90 days after the date of enactment (Nov. 1, 2007), and final regulations are due 1 year after the date of enactment of this Act. According to sec. 1517 of the same Act, final regulations for railroads and over-the-road buses are due no later than 6 months after the date of enactment.

*Abstract:* The Transportation Security Administration (TSA) intends to propose a new regulation to address the security of freight railroads, public transportation, passenger railroads, and over-the-road buses in accordance with the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act). As required by the 9/11 Act, the rulemaking will propose that certain railroads, public transportation agencies, and over-the-road bus companies provide security training to their frontline employees in the areas of security awareness, operational security, incident prevention and response, and security exercises that test effectiveness of training. The rulemaking will also propose extending security coordinator and reporting security incident requirements applicable to rail operators under current 49 CFR part 1580 to the non-rail transportation components of covered public transportation agencies and over-the-road buses. The regulation will take into consideration any current security training requirements or best practices.

*Statement of Need:* Employee training is an important and effective tool for averting or mitigating potential terrorist attacks by terrorists or others with malicious intent who may target surface transportation and plan or perpetrate actions that may cause significant injuries, loss of life, or economic disruption.

*Summary of Legal Basis:* 49 U.S.C. 114; sections 1408, 1517, and 1534 of Public Law 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266).

*Alternatives:* TSA is required by statute to publish regulations requiring security training programs for these owner/operators. As part of its notice of proposed rulemaking, TSA will seek public comment on the alternative ways in which the final rule could carry out the requirements of the statute.

*Anticipated Cost and Benefits:* TSA has not quantified benefits. TSA, however, expects that the primary benefit of the Security Training NPRM will be the enhancement of the United States surface transportation security by reducing the vulnerability of surface mode transportation employees.

*Risks:* The Department of Homeland Security aims to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to terrorism. By providing for security training for personnel, TSA intends in this rulemaking to reduce the risk of a terrorist attack on this transportation sector.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 08/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Local.

*URL for Public Comments: www.regulations.gov.*

*Agency Contact:* Chandru (Jack) Kalro, Deputy Director, Surface Division, 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:* 571 227–1145, *Fax:* 571 227–2935, *Email: jack.kalro@tsa.dhs.gov.*

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*Related RIN:* Related to 1652–AA56, Merged with 1652–AA57, Merged with 1652–AA59.

*RIN:* 1652–AA55

## DHS—TSA

### 87. Standardized Vetting, Adjudication, and Redress Services

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* Undetermined.

*Legal Authority:* 49 U.S.C. 114, 5103A, 44903 and 44936; 46 U.S.C. 70105; 6 U.S.C. 469; Pub. L. 110–53, secs. 1411, 1414, 1520, 1522 and 1602

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* The Transportation Security Administration (TSA) intends to

propose new regulations to revise and standardize the procedures, adjudication criteria, and fees for most of the security threat assessments (STA) of individuals for which TSA is responsible. The scope of the rulemaking will include transportation workers from all modes of transportation who are required to undergo an STA, including surface maritime and aviation workers. In accordance with the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), the notice of proposed rulemaking (NPRM) will address STAs for frontline employees for public transportation agencies and railroads.

In addition, TSA will propose fees to cover the cost of all STAs. TSA plans to improve efficiencies in processing STAs and streamline existing regulations by simplifying language and removing redundancies.

As part of this proposed rule, TSA will propose revisions to the Alien Flight Student Program (AFSP) regulations. TSA published an interim final rule for ASFP on September 20, 2004. TSA regulations require aliens seeking to train at Federal Aviation Administration-regulated flight schools to complete an application and undergo an STA prior to beginning flight training. There are four categories under which students currently fall; the nature of the STA depends on the student's category. TSA is considering changes to the AFSP that would improve the equity among fee payers and enable the implementation of new technologies to support vetting.

*Statement of Need:* Through this rulemaking, TSA proposes to carry out statutory mandates to perform security threat assessments (STA) of certain transportation workers pursuant to the 9/11 Act. Also, TSA proposes to fully satisfy 6 U.S.C. 469, which requires TSA to fund security threat assessment and credentialing activities through user fees. The proposed rulemaking would reduce reliance on appropriations for certain vetting services; minimize redundant background checks; and increase transportation security by enhancing identification and immigration verification standards.

*Summary of Legal Basis:* 49 U.S.C. 114(f): Under the Aviation and Transportation Security Act (ATSA), (Pub. L. 170–71, Nov. 19, 2001, 115 Stat. 597), TSA assumed responsibility to assess security in all modes of transportation and minimize threats to national and transportation security. TSA is required to vet certain aviation workers pursuant to 49 U.S.C. 44903 and 44936. TSA is required to vet individuals with unescorted access to maritime facilities pursuant to the Maritime Transportation Security Act (MTSA) (Pub. L. 107–295, sec. 102, Nov. 25, 2002, 116 Stat. 2064), codified at 46 U.S.C. 70105.

Pursuant to the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) (Pub. L. 107–56, Oct. 25, 2001, 115 Stat. 272), TSA vets individuals seeking hazardous materials endorsements (HME) for commercial drivers licensed by the States.

In the Implementing Recommendation of the 9/11 Commission Act of 2007 (Pub. L. 110–53, Aug. 3, 2007, 121 Stat. 266), Congress directed TSA to vet additional populations of transportation workers, including certain public transportation and railroad workers.

In 6 U.S.C. 469, Congress directed TSA to fund vetting and credentialing programs in the field of transportation through user fees.

*Alternatives:* TSA considered a number of viable alternatives to lessen the impact of the proposed regulations on entities deemed ''small'' by the Small Business Administration (SBA) standards. This included: (1) Extending phone pre-enrollment to populations eligible to enroll via the Web; and (2) changing the current delivery and activation process for applicants to receive credentials through the mail rather than returning to the enrollment center. These alternatives are discussed in detail in the proposed rule and regulatory evaluation.

*Anticipated Cost and Benefits:* TSA conducted a regulatory evaluation to estimate the costs regulated entities, individuals, and TSA would incur to comply with the requirements of the NPRM. The NPRM would impose new requirements for some individuals, codify existing requirements not included in the Code of Federal Regulations (CFR), and modify current STA requirements for many transportation workers. The primary benefits of the NPRM are that it would reduce reliance on appropriations to cover certain vetting services; improve security by requiring new and enhanced vetting; reduce the need for redundant background checks; and improve TSA's vetting product, process, and structure. TSA estimates that the NPRM would result in a cost savings to the alien flight student program. The estimated total savings for alien flight students, over a 5-year period is approximately $18 million at 7 percent discount rate.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 08/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*Additional Information:* Includes Retrospective Review under E.O. 13563.

*URL for Public Comments: www.regulations.gov.*

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*Related RIN:* Related to 1652–AA35.

*RIN:* 1652–AA61

## DHS—TSA

*Final Rule Stage*

### 88. Aircraft Repair Station Security

*Priority:* Other Significant. Major under 5 U.S.C. 801.

*Legal Authority:* 49 U.S.C. 114; 49 U.S.C. 44924

*CFR Citation:* 49 CFR 1554.

*Legal Deadline:* Final, Statutory, August 8, 2004, Rule within 240 days of the date of enactment of Vision 100.

Final, Statutory, August 3, 2008, Rule within 1 year after the date of enactment of 9/11 Commission Act.

Section 611(b)(1) of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108–176; Dec. 12, 2003; 117 Stat. 2490), codified at 49 U.S.C. 44924, requires that TSA issue ''final regulations to ensure the security of foreign and domestic aircraft repair

stations.'' Section 1616 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–531; Aug. 3, 2007; 21 Stat. 266) requires TSA issue a final rule on foreign repair station security.

*Abstract:* Pursuant to the requirements of section 611 of Vision 100—Century of Aviation Reauthorization Act and section 1616 of the 9/11 Commission Act of 2007, the Transportation Security Administration (TSA) is developing a regulation to improve the security of domestic and foreign aircraft repair stations. TSA published a notice of proposed rulemaking (NPRM) on November 18, 2009, and requested public comment by January 19, 2010. At the request of the stakeholders, TSA extended the comment period to February 19, 2010; this provided the aviation industry and other interested entities and individuals additional time to submit comments. The NPRM proposed to require certain repair stations that are certificated by the Federal Aviation Administration (FAA) to adopt and carry out a security program. TSA is working on a final rule that would finalize this rulemaking project. Throughout the development of this rulemaking, TSA has coordinated its efforts with the FAA to ensure that the rulemaking does not interfere with FAA's ability or authority to regulate part 145 repair station safety matters.

*Statement of Need:* The Transportation Security Administration (TSA) proposed regulations to improve the security of domestic and foreign aircraft repair stations. The NPRM proposed to require certain repair stations that are certificated by the Federal Aviation Administration to adopt and carry out a security program. The NPRM proposed to codify the scope of TSA's existing inspection program. The proposal also provides procedures for repair stations to seek review of any TSA determination that security measures are deficient.

*Summary of Legal Basis:* Section 611(b)(1) of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108–176; Dec. 12, 2003; 117 Stat. 2490), codified at 49 U.S.C. 44924, requires that TSA issue ''final regulations to ensure the security of foreign and domestic aircraft repair stations'' within 240 days from date of enactment of Vision 100. Section 1616 of Public Law 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266) requires that the FAA may not certify any foreign repair stations if the regulations are not issued within 1 year after the date of enactment of the 9/11 Commission Act unless the repair station was previously certificated or is in the process of certification.

*Alternatives:* TSA is required by statute to publish regulations for aircraft repair stations. As part of its notice of proposed rulemaking, TSA sought public comment on the numerous alternative ways in which the final rule could carry out the requirements of the statute.

*Anticipated Cost and Benefits:* In the NPRM, TSA anticipated costs to aircraft repair stations mainly related to the establishment of security programs. The NPRM estimated total cost of the program is $344.4 million (10-year, undiscounted) and $241 million (discounted at 7 percent). As TSA tightens security in other areas of aviation, repair stations increasingly may become attractive targets for terrorist organizations attempting to evade aviation security protections currently in place. TSA also used a break-even analysis to assess the trade-off between the beneficial effects and the costs of implementing the rulemaking. The NPRM break-even analysis used three attack scenarios to determine the degree to which the rule must reduce the overall risk of a terrorist attack in order for the expected benefits to justify the estimated rule costs. TSA is revising the NPRM costs and benefits estimates for the final rule.

*Risks:* The Department of Homeland Security aims to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to terrorism. In the regulation, TSA will focus on preventing unauthorized access to repair work and to aircraft to prevent sabotage or hijacking.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice—Public Meeting; Request for Comments. | 02/24/04 | 69 FR 8357 |
| Report to Congress. | 08/24/04 | |
| NPRM | 11/18/09 | 74 FR 59873 |
| NPRM Comment Period End. | 01/19/10 | |
| NPRM Comment Period Extended. | 12/29/09 | 74 FR 68774 |
| NPRM Extended Comment Period End. | 02/19/10 | |
| Final Rule | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*URL for Public Comments:* *www.regulations.gov.*

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*RIN:* 1652–AA38

## DHS—TSA

### 89. Passenger Screening Using Advanced Imaging Technology

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Legal Authority:* 49 U.S.C. 44925

*CFR Citation:* 49 CFR 1540.107.

*Legal Deadline:* None

*Abstract:* The Transportation Security Administration (TSA) intends to issue a final rule to address whether screening and inspection of an individual, conducted to control access to the sterile area of an airport or to an aircraft, may include the use of advanced imaging technology (AIT). The NPRM was published on March 26, 2012, to comply with the decision rendered by the U.S. Court of Appeals for the District of Columbia Circuit in Electronic Privacy Information Center (EPIC) v. U.S. Department of Homeland Security on July 15, 2011. 653 F.3d 1 (D.C. Cir. 2011). The Court directed TSA to conduct notice and comment rulemaking on the use of AIT in the primary screening of passengers.

*Statement of Need:* TSA is issuing a final rule to respond to the decision of the U.S. Court of Appeals for the District of Columbia Circuit in EPIC v. DHS 653 F.3d 1 (D.C. Cir. 2011).

*Summary of Legal Basis:* In its decision in EPIC v. DHS 653 F.3d 1

(D.C. Cir. 2011), the Court of Appeals for the District of Columbia Circuit found that TSA failed to justify its failure to conduct notice and comment rulemaking and remanded to TSA for further proceedings.

*Alternatives:* As alternatives to the preferred regulatory proposal presented in the NPRM, TSA examined three other options. These alternatives include a continuation of the screening environment prior to 2008 (no action), increased use of physical pat-down searches that supplements primary screening with walk through metal detectors (WTMDs), and increased use of explosive trace detection (ETD) screening that supplements primary screening with WTMDs. These alternatives, and the reasons why TSA rejected them in favor of the proposed rule, are discussed in detail in Chapter 3 of the AIT NPRM Regulatory Evaluation.

*Anticipated Cost and Benefits:* TSA reports that the net cost of AIT deployment from 2008–2011 has been $841.2 million (undiscounted) and that TSA has borne over 99 percent of all costs related to AIT deployment. TSA projects that from 2012–2015 net AIT related costs will be approximately $1.5 billion (undiscounted), $1.4 billion at a three percent discount rate, and $1.3 billion at a seven percent discount rate. During 2012–2015, TSA estimates it will also incur over 98 percent of AIT-related costs with equipment and personnel costs being the largest categories of expenditures.

The operations described in this rule produce benefits by reducing security risks through the deployment of AIT that is capable of detecting both metallic and non-metallic weapons and explosives. Terrorists continue to test our security measures in an attempt to find and exploit vulnerabilities. The threat to aviation security has evolved to include the use of non-metallic explosives. AIT is a proven technology based on laboratory testing and field experience and is an essential component of TSA's security screening because it provides the best opportunity to detect metallic and nonmetallic anomalies concealed under clothing.

*Risks:* DHS aims to prevent terrorist attacks and to reduce the vulnerability of the United States to terrorism. By screening passengers with AIT, TSA will reduce the risk that a terrorist will smuggle a non-metallic threat on board an aircraft.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/26/13 | 78 FR 18287 |
| NPRM Comment Period End. | 06/24/13 | |
| Final Rule ..... | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*URL for Public Comments: www.regulations.gov.*

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*RIN:* 1652–AA67

## DHS—U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (USICE)

*Proposed Rule Stage*

### 90. Adjustments to Limitations on Designated School Official Assignment and Study by F–2 and M–2 Nonimmigrants

*Priority:* Other Significant.

*Legal Authority:* 8 U.S.C. 1101 to 1103; 8 U.S.C. 1182; 8 U.S.C. 1184

*CFR Citation:* 8 CFR 214.2(f)(15); 8 CFR 214.3(a); 8 CFR 214.

*Legal Deadline:* None.

*Abstract:* The proposed rule would revise 8 CFR parts 214.2 and 214.3. First, it would provide additional flexibility to schools in determining the number of designated school officials (DSOs) to nominate for the oversight of the school's campuses where international students are enrolled. Current regulation limits the number of DSOs to 10 per school, or 10 per campus in a multi-campus school. Second, the proposed rule would permit F–2 and M–2 spouses and children accompanying academic and vocational nonimmigrant students with F–1 or M–1 nonimmigrant status to enroll in study at an SEVP-certified school so long as any study remains less than a full course of study.

*Statement of Need:* The Department of Homeland Security proposes to amend its regulations under the Student and Exchange Visitor Program to improve management of international student programs and increase opportunities for study by spouses and children of nonimmigrant students. The proposed rule would grant school officials more flexibility in determining the number of designated school officials (DSOs) to nominate for the oversight of campuses. The rule also would provide greater incentive for international students to study in the United States by permitting accompanying spouses and children of academic and vocational nonimmigrant students with F–1 or M–1 nonimmigrant status to enroll in less than a full course of study at an SEVP-certified school.

*Anticipated Cost and Benefits:* The anticipated costs of the NPRM derive from the existing requirements for the training and reporting to DHS of additional DSOs. The primary benefits of the NPRM are providing flexibility to schools in the number of DSOs allowed and providing greater incentive for international students to study in the United States by permitting accompanying spouses and children of academic and vocational nonimmigrant students in F–1 or M–1 status to enroll in study at a SEVP-certified school so long as they are not engaged in a full course of study.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*International Impacts:* This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

*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

*Final Rule Stage*

### 91. Standards To Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities (Section 610 Review)

*Priority:* Other Significant.

*Legal Authority:* 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1103; 8 U.S.C. 1182

*CFR Citation:* 6 CFR 115.

*Legal Deadline:* Final, Statutory, September 3, 2013, VAWA Reauthorization Act.

VAWA Reauthorization Act.

*Abstract:* The Department of Homeland Security (DHS) proposes to issue final regulations setting detention standards to prevent, detect, and respond to sexual abuse and assault in DHS confinement facilities. These regulations address and respond to public comments received on the notice of proposed rulemaking published December 19, 2012, at 77 FR 75300.

*Statement of Need:* The purpose of this rulemaking is to finalize regulations setting standards to prevent, detect, and respond to sexual abuse in Department of Homeland Security (DHS) confinement facilities. The standards build on current U.S. Immigration and Customs Enforcement (ICE) Performance Based National Detention Standards (PBNDS) and other DHS detention policies. Also, this rulemaking is a response to the President's May 17, 2012 Memorandum, ''Implementing the Prison Rape Elimination Act,'' which directs all agencies with Federal confinement facilities to propose rules or procedures setting standards to prevent, detect, and respond to sexual abuse in confinement facilities. In addition, the Violence Against Women Reauthorization Act of 2013 requires DHS to publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in immigration detention and holding facilities. See Public Law 113–4 (Mar. 7, 2013).

*Anticipated Cost and Benefits:* The final rule will impose standards to prevent, detect, and respond to sexual abuse and assault in DHS confinement facilities. These facilities consist of immigration detention facilities and holding facilities. The standards will impose new requirements for some facilities and codify current requirements for other facilities. Such standards will require Federal, State, and local agencies, as well as private entities that operate confinement facilities, to incur costs in implementing and complying with those standards. The primary benefit of the rule will be improvements to the prevention, detection, and response to sexual abuse and assault. DHS will follow DOJ methodology for monetizing the value of preventing sexual abuse incidents, which includes consideration for costs of medical and mental health care treatment as well as pain, suffering, and diminished quality of life, among other factors. DHS will use a break-even analysis to assess the trade-off between the beneficial effects of the regulation and the costs of implementing the rule. The break-even analysis uses the monetized estimates of incidents avoided to determine the degree to which the regulation must reduce the annual incidence of sexual abuse for the costs of compliance to break even with the monetized benefits of the standards. This does not include non-monetizable benefits of sexual abuse avoidance. The rule will include a Regulatory Impact Assessment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 12/19/12 | 77 FR 75300 |
| NPRM Comment Period Extended. | 02/07/13 | 78 FR 8987 |
| NPRM Comment Period End. | 02/19/13 | |
| NPRM Extended Comment Period End. | 02/26/13 | |
| Final Action | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Governmental Jurisdictions.

*Government Levels Affected:* Federal, Local, State.

*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

## DHS—USICE

### 92. • Rescinding Suspension of Enrollment for Certain F and M Nonimmigrant Students From Libya and Third Country Nationals Acting on Behalf of Libyan Entities

*Priority:* Other Significant. Major status under 5 U.S.C. 801 is undetermined.

*Legal Authority:* 8 U.S.C. 1101; 8 U.S.C. 1102; 8 U.S.C. 1103; 8 U.S.C. 1182; 8 U.S.C. 1184; 8 U.S.C. 1186a; 8 U.S.C. 1187; 8 U.S.C. 1221; 8 U.S.C. 1281; 8 U.S.C. 1282; 8 U.S.C. 1301 to 1305; 8 U.S.C. 1372; 48 U.S.C. 1806

*CFR Citation:* 8 CFR 214.5.

*Legal Deadline:* None.

*Abstract:* The Department of Homeland Security (DHS) is amending its regulations by rescinding the regulatory provisions promulgated in 1983 that terminated the nonimmigrant status and barred the granting of certain immigration benefits to Libyan nationals and foreign nationals acting on behalf of Libyan entities who are engaging in or seeking to obtain studies or training in aviation maintenance, flight operations, or nuclear-related fields. The United States Government and the Government of Libya have normalized their relationship and most of the restrictions and sanctions imposed by the United States and the United Nations toward Libya have been lifted. Therefore, DHS, after consultation with the Department of State and the Department of Defense, is considering rescinding the restrictions that deny nonimmigrant status and benefits to a specific group of Libyan nationals.

*Statement of Need:* The Department of Homeland Security (DHS) will amend its regulations by rescinding the regulatory provisions promulgated in 1983 that terminated the nonimmigrant status and barred the granting of certain immigration benefits to Libyan nationals and foreign nationals acting on behalf of Libyan entities who are engaging in or seeking to obtain studies or training in aviation maintenance, flight operations, or nuclear-related fields. The United States Government and the Government of Libya have normalized their diplomatic relations and most of the restrictions and sanctions imposed by the United States and the United Nations toward Libya have been lifted. Therefore, DHS, after consultation with the Department of State and the Department of Defense, finds it necessary to rescind the restrictions that deny nonimmigrant status and benefits to a specific group of Libyan nationals.

*Anticipated Cost and Benefits:* The regulatory action will rescind the regulation which prohibits Libyan

nationals, or any other foreign nationals acting on behalf of Libyan entities, from engaging in aviation maintenance, flight operation, or nuclear-related studies or training in the United States. The rescission would permit DHS and other agencies of the U.S. government to provide training and technical assistance in the justice, defense, and border security sectors to the new Libyan government. This will contribute to the growing relationship between the two governments.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Final Action ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Undetermined.

*International Impacts:* This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

*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.*

*RIN:* 1653–AA69

**BILLING CODE 9110–9B–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

*Statement of Regulatory Priorities*

The Regulatory Plan for the Department of Housing and Urban Development (HUD) for Fiscal Year (FY) 2014 highlights some of the most significant regulatory initiatives that HUD seeks to complete during the upcoming fiscal year. As the Federal agency that serves as the nation's housing agency, committed to addressing the housing needs of Americans, promoting economic and community development, and enforcing the nation's fair housing laws, HUD plays a significant role in the lives of families and communities throughout America. Through its programs, HUD works to strengthen the housing market and protect consumers; meet the need for quality affordable rental homes; utilize housing as a platform for improving quality of life; and build inclusive and sustainable communities free from discrimination.

The rules highlighted in the Regulatory Plan for FY 2014 focus on the following elements of establishing sustainable communities: promoting energy efficiency in construction and rehabilitation of housing assisted with HUD funds, and planning for and implementing pre-disaster and adaptative mitigation strategies to establish disaster-resilient communities. The focus on energy efficiency is consistent with President Obama's call, in his State of the Union Address, for Federal, State and local Governments and the American public to focus on investments in energy efficiency.

*Promoting Energy Efficiency.* Given the scale and scope of HUD's expenditures on utilities, at a time of shrinking Federal budgets, this is a critical fiscal issue as well as one that has significant implications for housing affordability and the financial security of the HUD-assisted housing market. The level of expenditures on energy-related rental costs by HUD is substantial, both in relation to HUD's annual budget and total energy-related expenditures by the Federal Government. In the marketplace, energy costs are also a significant cost burden for lower-income families. This burden, especially when added to housing and transportation costs, can create difficulties for these families in covering other household expenses. Energy costs can also affect the financial stability of multifamily housing. Secretary Donovan's direction that energy efficiency be prioritized in HUD programs and this Regulatory Plan is consistent with these realities.

*Establishing Disaster-Resilient Communities.* The devastation caused by Hurricane Sandy reminded the nation of the importance of establishing building codes to help ensure that housing is located and built to withstand the impacts of existing risks and those associated with future climate change, in hard hit regions and across the country. HUD's strategic plan focuses on promoting the use of climate-resilient and disaster resistant development patterns, building siting, design, and construction. Such focus should help facilitate the establishment of disaster-resilient and sustainable communities.

*Priority: Promoting Energy Efficiency While Maintaining Affordability*

Much of HUD's portfolio of public and assisted housing was built before the advent of modern energy codes, creating both environmental and affordability challenges for building owners, residents, and the Federal Government. Toward that end, HUD has been reviewing energy-efficiency standards across the Department to work toward standardizing energy efficiency and green goals and establishing uniform tracking and reporting systems. One of the concerns in applying energy efficiency standards to HUD's public and assisted housing or to new HUD-assisted housing construction or rehabilitation is that it could potentially affect the affordability of such housing. In the regulatory action described herein, HUD (together with the U.S. Department of Agriculture (USDA)) proposes to bring HUD programs into compliance with the most recent energy efficiency codes required by the Energy Independence and Security Act of 2007 (EISA) and to present an analysis that the compliance with the updated codes would not negatively affect the availability or affordability of new construction of single and multifamily housing covered by EISA.

Regulatory Action: HUD-USDA Joint Notice on Affordability Determination—Energy Efficiency Standards

The Energy Independence and Security Act of 2007 (EISA) establishes procedures for HUD and the USDA to adopt revisions to the 2006 International Energy Conservation Code (IECC) and ASHRAE 90.1–2004, subject to (1) a determination that the revised codes do not negatively affect the availability or affordability of new construction of single and multifamily housing covered by the Act, and (2) a determination by the Secretary of Energy that the revised codes ''would improve energy efficiency.'' This action would announce HUD's and USDA's preliminary determination that the 2009 IECC and (with the exception of Hawaii) ASHRAE 90.1–2007 will not negatively affect the affordability and availability of housing covered by the Act.

As required by the Energy Conservation and Production Act, the Department of Energy (DOE) has published Final Determinations that the 2009 IECC and ASHRAE 90.1–2007 standards would improve energy efficiency. This Notice therefore announces the results of HUD and USDA's analysis of housing impacted by the 2009 IECC and ASHRAE 90.1–2007.

In this notice, HUD submits that ''affordability'' is a measure of whether a home built to the updated energy code is affordable to potential home buyers or renters and ''availability'' of housing is a measure associated with whether builders will make such housing available to consumers at the higher

code level—i.e., whether the higher cost per unit as a result of complying with the revised code will impact whether that unit is likely to be built or not.

Based on DOE findings on improvements in energy efficiency and energy savings, and HUD and USDA determinations on housing affordability and availability presented in the notice, HUD and USDA submit for comment that HUD and USDA have determined that adoption of the codes will not adversely impact the affordability or the availability of the covered housing.

*Priority: Assessing Energy and Physical Needs of Public Housing*

HUD's energy strategy is designed to address the issue of residential energy costs, an aging public and assisted housing stock, and growing fiscal demands on HUD's budget to cover household and rental property utility costs. HUD also hopes to address the disproportionate energy cost burden on low- and moderate-income families, and improve the health and quality of HUD-assisted housing for building residents. Toward that end, through the Recovery Act Management and Performance System, work has begun to enable the collection of energy-efficient unit data and establish a baseline for tracking energy investments made through the Public Housing Capital Fund grant program.

Regulatory Action: Public Housing Energy Audits and Physical Needs Assessments

This final rule updates and enhances HUD's requirements for energy audits and physical needs assessments (PNA's) conducted by housing authorities in order to assess the energy needs and physical needs of their projects. The revisions to the energy audit requires the performance of substantially more useful energy audits than the current regulation and lays the foundation for potential future incentives or other tools for implementing energy conservation measures or green measures. Also, the rule facilitates greater synchronization between the energy audit and the PNA, so that energy audit data can be better integrated into the PNA and allow for future capital planning activities which take into consideration possible energy savings. By requiring greater coordination between the PNA and the energy audit, the rule ensures that energy-saving recommendations from the energy audit may result in work items to address physical needs.

*Priority: Building for Resiliency While Maintaining Affordability*

As communities begin to recover from the devastating effects of Hurricane Sandy, HUD has determined that it is important to recognize lessons learned and employ mitigation actions that ensure that structures located in floodplains are built or rebuilt stronger, safer, and less vulnerable to future flooding events.

Regulatory Action: Floodplain Management and Protection of Wetlands; Building at Base Flood Elevations Plus 1

This proposed rule would require that new construction and substantial improvements to structures in a floodplain be elevated or flood-proofed to a base flood elevation of best available data of the Federal Emergency Management Agency (FEMA) plus one foot. HUD's experience in the wake of Hurricane Sandy indicates that unless structures in floodplains are properly designed, constructed and elevated, they may not withstand future severe flooding events. Building to FEMA's best available data plus one foot will reduce property damage, economic loss, and loss of life, and will also benefit homeowners by reducing flood insurance rates. The best available data plus one foot standard proposed by this rule was made after considering the last ten years of FEMA flood mitigation efforts and provides, in HUD's view, the best assessment of risk. This higher elevation provides an extra buffer of one foot above the best available data to ensure the long term resilience of communities. It also takes into account projected sea level rise, which is not considered in current FEMA maps and flood insurance costs. Building to this standard will, consistent with the executive order, reduce the risk of flood loss, minimize the impact of floods on human safety, health, and welfare, and promote sound, sustainable, long-term planning informed by a more accurate evaluation of risk and take into account possible sea level rise.

*Aggregate Costs and Benefits*

Executive Order 12866, as amended, requires the agency to provide its best estimate of the combined aggregate costs and benefits of all regulations included in the agency's Regulatory Plan that will be made effective in calendar year 2014. HUD expects that the neither the total economic costs nor the total efficiency gains will exceed $100 million.

*Priority Regulations in HUD's FY 2014 Regulatory Plan*

## HUD—OFFICE OF THE SECRETARY

*Proposed Rule Stage*

Affordability Determination—Energy Efficiency Standards

*Priority:* Significant.

*Legal Authority:* 42 U.S.C. 12709; 42 U.S.C. 6833; 42 U.S.C. 3535(d)

*CFR Citation:* 24 CFR Chapter 1.

*Legal Deadline:* None.

*Abstract:* The Energy Independence and Security Act of 2007 (EISA) establishes procedures for the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture (USDA) to adopt revisions to the 2006 International Energy Conservation Code (IECC) and ASHRAE 90.1–2004, subject to (1) a determination that the revised codes do not negatively affect the availability or affordability of new construction of single and multifamily housing covered by the Act, and (2) a determination by the Secretary of Energy that the revised codes ''would improve energy efficiency.'' [1] This Notice announces HUD and USDA's preliminary determination that the 2009 IECC and (with the exception of Hawaii) ASHRAE 90.1–2007 will not negatively affect the affordability and availability of housing covered by the Act. As of July 2013, 32 States plus the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam have already adopted the 2009 IECC, its equivalent or a higher standard for single family homes, and 38 States plus the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam have adopted ASHRAE 90.1–2007, its equivalent or a higher standard for multifamily buildings. The remaining States committed to adopting these codes under provisions of the American Recovery and Reinvestment Act (ARRA) of 2009. For those States that have not yet adopted either of these standards, this Notice relies on several studies that show that these codes are overwhelmingly cost effective, in that the incremental cost of the 2009 IECC code is typically less than 0.5% of total construction costs, and those costs pay for themselves very quickly through energy savings. According to one study, simple paybacks for the 2009 IECC average 3.45 years, and ''mortgage paybacks'' on these additional

[1] Energy Independence and Security Act of 2007, Section 481(d).

investments are typically less than 1 year (on average 10.25 months).

*Statement of Need:* Section 481 of the Energy Independence and Security Act of 2007 (EISA) amends the energy code provisions contained in Section 109 of Cranston-Gonzalez National Affordable Housing Act of 1990 (Cranston-Gonzalez). Section 109(a) of Cranston-Gonzalez, as amended by EISA, allowed for HUD and USDA to collaborate and develop their own energy efficiency building standards for statutorily specified HUD and USDA programs if the agencies developed standards met or exceeded the 2006 IECC or ASHRAE 90.1–2004. However, if the two agencies did not act on this option, EISA specifies that the 2006 IECC and ASHRAE 90.1–2004 would apply.

The two agencies did not develop independent energy efficiency building standards, and therefore the 2006 IECC or ASHRAE 90.1–2004 currently apply to covered HUD and USDA programs. Section 109(d) of Cranston-Gonzalez establishes procedures for updating agency standards following revisions to the 2006 IECC and ASHRAE 90.1–2004 code standards. Section 109(d) provides that revisions to the IECC or ASHRAE codes will apply to HUD and/or USDA's programs if (1) either agency ''make(s) a determination that the revised codes do not negatively affect the availability or affordability'' of new construction housing covered by the Act, and (2) the Secretary of the Department of Energy (DOE) has made a determination under section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) that the revised codes would improve energy efficiency (see 42 U.S.C. 12709(d)). Since DOE has made its determination of improved efficiency, HUD and USDA must assess the impact of the more recent codes on the affordability and availability of HUD- and USDA-funded new construction is currently being assessed by the two agencies. This notice presents that assessment.

*Summary of Legal Basis:* In the absence of HUD and USDA developing their own energy efficiency codes, EISA provides for the automatic application of 2006 IECC and ASHRAE 90.1–2004. As revised IECC and ASHRAE codes are produced, under EISA, HUD and USDA must, following DOE's determination of revised codes improving energy efficiency (if that is in fact DOE's determination), provide an assessment of the impact of the revised codes on the affordability and availability of housing under the covered programs. If HUD and USDA determine no negative impact, the revised codes then become the applicable codes.

*Alternatives:* The alternative provided to HUD and USDA under EISA was to develop their own energy efficiency codes. HUD and USDA did not exercise that option. IECC and ASHRAE are familiar energy codes, revised codes, as required by statute, are reviewed by DOE as a measure to determine improved or enhanced energy efficiency. A new energy efficiency code developed by HUD and USDA would have introduced a new code with which builders would have to comply. As the joint HUD-USDA notice states, well over 30 States have adopted IECC and ASHRAE as governing building codes.

*Anticipated Cost and Benefits:* In its assessment of improved efficiency, which includes a cost-benefit analysis, for each of the 35 States and the District of Columbia examined by DOE, DOE identified every building element that would change as a result of adopting the 2009 IECC in that State. Assuming a standard reference house, DOE used a computer model to assess building energy savings that would be achieved under the new code. DOE's model assumed a 2,400 square foot house with regional modifications to foundation systems that reflect local building practices. After analyzing the impact for each state, DOE found that, on a national basis, compliance with the 2009 IECC will yield an annual median cost savings of $243.37, ranging from a high of $468 in Kansas to a low of $200.50 in Massachusetts.

With respect to costs, and based on studies that DOE relied upon it was determined that the weighted average incremental cost of complying with the 2009 IECC over existing state codes would be $840.77, yielding a median annual energy cost savings of $243.37, for a simple payback of 3.45 years. This weighted average incremental cost of $840.77 represents less than 0.32 percent of the average cost of a new home estimated by BCAP in 2009 ($267,451).

*Risks:* This rule poses no risk to public health, safety, or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |
| NPRM Comment Period End | | |
| Final Action | | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* No.

*Agency Contact:* Michael Freedberg, Office of Sustainable Housing and Communities, U.S. Department of Housing and Urban Development, *Phone:* 202–402–4366.

*RIN:* 2501–ZA01

**BILLING CODE–P**

## HUD—OFFICE OF PUBLIC AND INDIAN HOUSING

*Final Rule Stage*

Public Housing Energy Audits and Physical Needs Assessments

*Priority:* Significant.

*Legal Authority:* 42 U.S.C. 1437g, 42 U.S.C. 1437z–2, 42 U.S.C. 1437z-7, and 3535(d)

*CFR Citation:* 24 CFR Parts 905, 965.

*Legal Deadline:* None.

*Abstract:* This final rule revises: (1) HUD's energy audit requirements applicable to HUD's public housing program for the purpose of clarifying such requirements, as well as identifying energy conservation measures (ECMs) that need to be addressed in the audit and procedures for improved coordination with physical needs assessments; and (2) HUD's existing codified regulations governing a physical needs assessment (PNA) undertaken by a public housing agency (PHA). A PNA identifies all of the work that a PHA would need to undertake to bring each of its projects up to the applicable modernization and energy conservation standards.

With respect to the energy audit requirements, the final rule distinguishes between ''core ECMs'' that must be addressed and ''advanced ECMs'' that may be addressed. The rule establishes minimum requirements for energy auditors. With respect to the PNA, this rule would require PHAs to project the current modernization and life-cycle replacement repair needs of its projects over a 20-year period, rather than a 5-year period, because the 20-year period coincides better with the useful life of individual properties and their building components and systems to ensure the long-term viability of the property. Additionally, this rule provides for integration of the performance of the PNA with the performance of an energy audit, and basic qualifications for PNA providers.

*Statement of Need:* In an environment of competing priorities, managers need tools to prioritize needs and to model alternative strategies. A PNA an energy audit are essential tools to a long term strategy for the proactive management of property to move away from inefficient and reactionary management that contributes to property deterioration and obsolescence. Strategies to reduce

energy costs are key to HUDs mission of providing long term affordable housing to those most in need—funds spent on utilities are not spent on property improvements and reduce the proportion of tenant rent payments that are used more usefully for physical maintenance and improvement. Energy audits reveal strategies for saving limited resources that can be recycled into more improvements than would otherwise occur.

*Summary of Legal Basis:* The Energy Policy Act of 2005, Pub. L. 109–58 (Approved August 8, 2005), amended section 9(d)(1) of the U.S. Housing Act of 1937, 42 U.S.C. 1437g(d)(1), to add at subparagraphs (K) and (L), as two of the capital and management activities under the capital fund, improvement of energy use and water efficiency, and ''integrated utility management and capital planning to maximize energy conservation and efficiency measures.'' This rule provides for the integrated utility management and capital planning necessary to fulfill this mandate.

*Alternatives:* HUD determined that its primary alternative was to not revise its regulations concerning physical needs assessment and energy audits. Other than inaction, there is not an alternative to: Extending the requirement to perform a physical needs assessment to all PHAs to provide the data needed for better management of the Capital Fund; to changing the current 5-year term of the required PNA to a 20-year term to create a useful strategic planning tool for authorities, and to provide HUD with longer term visibility of needs in the housing portfolio; or to implementing provisions of the Energy Policy Act of 2005 requiring ''integrated utility management and capital planning to maximize energy conservation and efficiency measures.'' However, the current lack of integration between energy audits and the PNA, as well as the overly short life-cycle planning period, make inaction a non-viable approach when it comes to assuring that HUD's requirements for the capital fund are in compliance with the Energy Policy Act of 2005, that the PHA's capital needs will be met, and that actions taken to meet those needs will be integrated with necessary energy improvements.

*Anticipated Cost and Benefits:* With respect to the energy audit, there are minor costs to the extent that the requirements for the energy audit in this rule exceed the current requirements. HUD's analysis suggests that using conservative assumptions, the economic burden of energy audits to PHAs would be $39,864,536 ($32.86× 1,213,163) every 5 years, or $7,972,907 annually. A mitigating adjustment of 50 percent to account for the existing burden is not an unreasonable assumption. Such an adjustment would reduce the 5-year and annual additional burden to $19,932,268 and $3,986,453, respectively.

With respect to PNAs, HUD estimates that full compliance with the rule will cost PHAs, collectively, up to $29 million once every 5 years or an average of $5.9 million annually. The rule will not have any budgetary impact to the Federal Government, as costs to implement the PNA will be accommodated within HUD's existing budget authority.

There are also benefits to this rule. With respect to energy audits, for example, if this rule resulted in a 10 percent increase in efficiency, that would translate into significant savings for PHAs, which often pay for utilities in the form of a utility allowance for residents. With respect to PNAs, benefits include identifying capital expenses far enough in advance to allow for consideration of the most efficient method of payment; identifying synergies in the timing and intensity of capital improvements, and avoiding duplicative or wasteful expenditures; making possible a preventive maintenance strategy to maximize the useful life of property components; encouraging the implementation of energy efficiency measures; and increased occupancy and enhanced health and safety as a result of more habitable units.

*Risks:* This rule poses no risk to public health, safety, or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/17/11 | |
| NPRM Comment Period End. | 1/18/12 | |
| Final Action ..... | 3/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* No.

*Agency Contact:* Jeffrey Riddel, Director, Office of Capital Improvements, Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, *Phone:* 202 402–7378.

*RIN:* RIN 2577–AC84, RIN–2577–AC81

BILLING CODE–P

## HUD—OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

*Proposed Rule Stage*

Floodplain Management and Protection of Wetlands; Building at Base Flood Elevations Plus 1

*Priority:* Significant.

*Legal Authority:* 42 U.S.C. 3535(d) and 4332; and Executive Order 11991, 3 CFR, 1977 Comp., p.123

*CFR Citation:* 24 CFR Parts 50 and 55.

*Legal Deadline:* None.

*Abstract:* As communities begin to recover from the devastating effects of Hurricane Sandy, HUD has determined that it is important to recognize lessons learned to employ mitigation actions that ensure that structures located in floodplains are built or rebuilt stronger, safer, and less vulnerable to future flooding events. As a result, this proposed rule would require that new construction and substantial improvements to structures in a floodplain be elevated or flood-proofed to the base flood elevation of the best available data of the Federal Emergency Management Agency (FEMA) plus one foot. For non-residential structures that are not critical actions,, HUD is also proposing that grantees may, as an alternative to designing and building at base flood elevation plus one foot, design and construct projects such that below the flood level, using the best available flood data plus one foot, the structure is flood-proofed. HUD would, except for changing ''base flood level'' to ''base flood elevation plus one foot,'' adopt the Federal Emergency Management Agency's definition of flood-proofing. Building to this standard will, consistent with Executive Order 11988 (Floodplain Management), reduce the risk of flood loss, minimize the impact of floods on human safety, health, and welfare, and promote sound, sustainable, long-term planning informed by a more accurate evaluation of risk and take into account possible sea level rise.

*Statement of Need:* HUD's experience in the wake of Hurricane Sandy is that unless structures in floodplains are properly designed, constructed and elevated, they may not withstand future severe flooding events. Building to FEMA's best available data plus one foot will reduce property damage, economic loss, and loss of life, and will also benefit homeowners by reducing flood insurance rates. The best available data plus one foot standard proposed by this rule was made after considering the last ten years of FEMA flood mitigation efforts and provides, in HUD's view, the best assessment of risk. This higher

elevation provides an extra buffer of one foot above the best available data to ensure the long term resilience of communities. It also takes into account projected sea level rise, which is not considered in current FEMA maps and flood insurance costs.

*Summary of Legal Basis:* Executive Order 11988 (E.O. 11988) entitled, ''Floodplain Management'' issued May 24, 1977 (published on May 25, 1977 at 42 FR 26951) requires Federal agencies to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. A floodplain refers to the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands that, at a minimum, are subject to a one percent or greater chance of flooding in any given year (often referred to as the ''100-year'' flood or ''base flood''). Consistent with E.O. 11988, when no practicable alternative exists to floodplain development, HUD requires the design or modification of the proposed action to minimize potential adverse impact to and from the floodplain. HUD has implemented E.O. 11988 and its 8 step review process through regulations at 24 CFR part 55.

*Alternatives:* Two alternatives exist that would produce the same effect as the current rule, an actuarially fair flood insurance program and complete prohibition of new construction or substantial rehabilitation in areas below an equivalent flood plain level, which as mentioned below in the discussion of an anticipated costs and benefits, averages to approximately the 250-year level. The actuarially fair flood insurance program would need to be established by legislation and the complete prohibition of new construction or substantial rehabilitation in areas below and equivalent flood plain level is action that would likely need to be taken by State and/or local jurisdictions and likely not to occur. Therefore this rule is undertaken to help ensure that HUD funds are used prudently in connection with any new construction or substantial rehabilitation in areas below flood plain level.

*Anticipated Cost and Benefits:* Increasing the base elevation of a structure in a floodplain will increase the construction cost and decrease the annual flood insurance premium. The additional cost for each additional foot of vertical elevation varies from 0.3 percent–0.5 percent of the base building cost.[1] The construction cost for multifamily properties averages $100,000 per unit for new construction. The average size of HUD-assisted properties in 100-year floodplains is approximately 100 units. [2] Thus, construction costs per property total approximately $10.0 million. Applying the midpoint of the cost range stated above, 0.4 percent, construction costs would increase by $40,000 per property. HUD estimates that approximately 75 properties are placed in service annually in 100-year floodplains and therefore would be affected by this rule. It is not clear, however, how many of these are built to BFE+1, so these estimates should be considered an upper bound. The aggregate annual cost of adding this increase to an owners mortgage at 3.5 percent, would increase costs $3.264 million assuming a 3 percent discount rate and $2.146 million assuming a 7 percent discount rate.

The benefits of this rule include decreased flood insurance premiums for property owners and decreased costs to tenants to avoided search costs for temporary replacement housing and lost wages. The annual premium for the maximum multifamily coverage of $250,000 at the 100-year flood level is $1,359. This decreases to $660 at one foot above the 100-year flood plain level for an annual savings of $699. Assuming a 30-year useful life and returns to these savings to the owner of 3.5 percent annually, the discounted savings for a property totals $23,303, and $1.748 million in aggregate assuming a 3 percent discount rate, and $13,962 per property or $1.047 million in aggregate assuming a 7 percent discount rate.

The significant benefits also accrue to tenants who avoid costs of moving from a flooded property. The family cost of moving a two-bedroom apartment costs approximately $800 plus lost wages. This analysis uses the national median hourly wage reported by BLS of $16.71. If an affected households' wage earners are unable to work for a combined 40 hours each due to a flood-related apartment search and move, a family would lose $668. Combined, a flood would cost each tenant $1,468. There is a 1 percent chance each year that a 100-year flood will occur. Increasing the base elevation by one foot would place the building, on average, to a 250-year flood plane, which has a 0.4 percent probability of occurring each year. Thus, this rule decreases the annual risk by 0.6 percent. The discounted value of decreased expected tenant costs is $8.81 per tenant ($1,468 * 0.6%). The discounted 30-year value of these avoided costs is $178 per tenant assuming a 3 percent discount rate and $117 per tenant assuming a 7 percent discount rate. Aggregating over 100 tenants per property and 75 properties, the total benefit to tenants is $1.334 million assuming a 3 percent discount rate and $0.877 million assuming a 7 percent discount rate.

There are also unvalued benefits to tenants of avoiding relocation. Being forced to relocate on short notice creates considerable stress and uncertainty for families. Further, some families may not be able to find affordable housing in their immediate area and will be forced to move far, sometimes out of State. Long distance moves removes a family from their local social network leads and adds additional stress not only on adults, but also on children who may be forced to enroll in difference schools.

Finally, this rule also eliminates renovations and replacements that are paid for by FEMA insurance claims. Flood damage could require various internal renovations and replacement of necessary building utility systems, including electrical and heating systems. Although flood insurance covers $250,000, this analysis assumes approximately $50,000 in damage per property. This damage represents a cost to society that would otherwise not have occurred in the presence of actuarially fair insurance rates. The discounted value of this cost for 100 properties totals $0.454 million assuming a 3 percent discount rate and $0.299 million assuming a 7 percent discount.

Valued benefits of this rule total $3.536 million assuming a 3 percent discount rate and $2.223 million assuming a 7 percent discount.

*Risks:* This rule poses no risk to public health, safety, or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/01/14 | |
| NPRM Comment Period End | | |
| Final Action | | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* No.

[1] In 2012, Congress passed the Flood Insurance Reform Act which calls on the Federal Emergency Management Agency (FEMA), and other agencies, to make a number of changes to the way the National Flood Insurance Program (NFIP) is run. Key provisions of the legislation will require the NFIP to raise rates to reflect true flood risk. Depending on when actuarially fair rates are applied, the impact of this rule would significantly decrease as the market failure, which this rule addresses, is eliminated.

*Agency Contact:* Danielle Schopp, Director Office of Environment and Energy, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, *Phone:* 202–708–1201.

*RIN:* 2501

## HUD—OFFICE OF THE SECRETARY (HUDSEC)

*Proposed Rule Stage*

**93. • Floodplain Management and Protection of Wetlands; Building Elevation (FR–5717)**

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 3535(d); ; 42 U.S.C. 3001, *et seq.,* EO 11990; EO 11988

*CFR Citation:* 24 CFR 50; 24 CFR 55.

*Legal Deadline:* None.

*Abstract:* As communities begin to recover from the devastating effects of Hurricane Sandy, HUD has determined that it is important to recognize lessons learned to employ mitigation actions that ensure that structures located in floodplains are built or rebuilt stronger, safer, and less vulnerable to future flooding events. As a result, this proposed rule would require, as part of the decisionmaking process established to ensure compliance with Executive Order 11988 (Floodplain Management) that new construction or substantial improvement in a floodplain be elevated or floodproofed to the base flood elevation of the Federal Emergency Management Agency's best available data plus one foot. Building to this standard will, consistent with the executive order, reduce the risk of flood loss, minimize the impact of floods on human safety, health, and welfare, and promote sound, sustainable, long-term planning informed by a more accurate evaluation of risk and take into account possible sea level rise. This rule also proposes to revise a categorical exclusion available when HUD performs the environmental review by making it consistent with changes to a similar categorical exclusion that is available to HUD grantees or other responsible entities when they perform the environmental review. This change will make the review standard identical regardless of whether HUD or a grantee is performing the review.

*Statement of Need:* HUD's experience in the wake of Hurricane Sandy is that unless structures in floodplains are properly designed, constructed and elevated, they may not withstand future severe flooding events. Building to FEMA's best available data plus one foot will reduce property damage, economic loss, and loss of life, and will also benefit homeowners by reducing flood insurance rates. The best available data plus one foot standard proposed by this rule was made after considering the last ten years of FEMA flood mitigation efforts and provides, in HUD's view, the best assessment of risk. This higher elevation provides an extra buffer of one foot above the best available data to ensure the long term resilience of communities. It also takes into account projected sea level rise, which is not considered in current FEMA maps and flood insurance costs.

*Summary of Legal Basis:* Executive Order 11988 (E.O. 11988) entitled, ''Floodplain Management'' issued May 24, 1977 (published on May 25, 1977 at 42 FR 26951) requires Federal agencies to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. A floodplain refers to the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands that, at a minimum, are subject to a one percent or greater chance of flooding in any given year (often referred to as the ''100-year'' flood or ''base flood''). Consistent with E.O. 11988, when no practicable alternative exists to floodplain development, HUD requires the design or modification of the proposed action to minimize potential adverse impact to and from the floodplain. HUD has implemented E.O. 11988 and its 8 step review process through regulations at 24 CFR part 55.

*Alternatives:* Two alternatives exist that would produce the same effect as the current rule, an actuarially fair flood insurance program and complete prohibition of new construction or substantial rehabilitation in areas below an equivalent flood plain level, which as mentioned below in the discussion of an anticipated costs and benefits, averages to approximately the 250-year level. The actuarially fair flood insurance program would need to be established by legislation and the complete prohibition of new construction or substantial rehabilitation in areas below and equivalent flood plain level is action that would likely need to be taken by State and/or local jurisdictions and likely not to occur. Therefore this rule is undertaken to help ensure that HUD funds are used prudently in connection with any new construction or substantial rehabilitation in areas below flood plain level.

*Anticipated Cost and Benefits:* Increasing the base elevation of a structure in a floodplain will increase the construction cost and decrease the annual flood insurance premium. The additional cost for each additional foot of vertical elevation varies from 0.3 percent–0.5 percent of the base building cost. The construction cost for multifamily properties averages $100,000 per unit for new construction. The average size of HUD-assisted properties in 100-year floodplains is approximately 100 units. [2] Thus, construction costs per property total approximately $10.0 million. Applying the midpoint of the cost range stated above, 0.4 percent, construction costs would increase by $40,000 per property. HUD estimates that approximately 75 properties are placed in service annually in 100-year floodplains and therefore would be affected by this rule. It is not clear, however, how many of these are built to BFE+1, so these estimates should be considered an upper bound. The aggregate annual cost of adding this increase to an owners mortgage at 3.5 percent, would increase costs $3.264 million assuming a 3 percent discount rate and $2.146 million assuming a 7 percent discount rate.

The benefits of this rule include decreased flood insurance premiums for property owners and decreased costs to tenants to avoided search costs for temporary replacement housing and lost wages. The annual premium for the maximum multifamily coverage of $250,000 at the 100-year flood level is $1,359. This decreases to $660 at one foot above the 100-year flood plain level for an annual savings of $699. Assuming a 30-year useful life and returns to these savings to the owner of 3.5 percent annually, the discounted savings for a property totals $23,303, and $1.748 million in aggregate assuming a 3 percent discount rate, and $13,962 per property or $1.047 million in aggregate assuming a 7 percent discount rate.

The significant benefits also accrue to tenants who avoid costs of moving from a flooded property. The family cost of moving a two-bedroom apartment costs approximately $800 plus lost wages. This analysis uses the national median hourly wage reported by BLS of $16.71. If an affected households' wage earners are unable to work for a combined 40 hours each due to a flood-related apartment search and move, a family would lose $668. Combined, a flood would cost each tenant $1,468. There is a 1 percent chance each year that a 100-year flood will occur. Increasing the base elevation by one foot would place the building, on average, to a 250-year

flood plane, which has a 0.4 percent probability of occurring each year. Thus, this rule decreases the annual risk by 0.6 percent. The discounted value of decreased expected tenant costs is $8.81 per tenant ($1,468 * 0.6%). The discounted 30-year value of these avoided costs is $178 per tenant assuming a 3 percent discount rate and $117 per tenant assuming a 7 percent discount rate. Aggregating over 100 tenants per property and 75 properties, the total benefit to tenants is $1.334 million assuming a 3 percent discount rate and $0.877 million assuming a 7 percent discount rate.

There are also unvalued benefits to tenants of avoiding relocation. Being forced to relocate on short notice creates considerable stress and uncertainty for families. Further, some families may not be able to find affordable housing in their immediate area and will be forced to move far, sometimes out of state. Long distance moves removes a family from their local social network leads and adds additional stress not only on adults, but also on children who may be forced to enroll in difference schools.

Finally, this rule also eliminates renovations and replacements that are paid for by FEMA insurance claims. Flood damage could require various internal renovations and replacement of necessary building utility systems, including electrical and heating systems. Although flood insurance covers $250,000, this analysis assumes approximately $50,000 in damage per property. This damage represents a cost to society that would otherwise not have occurred in the presence of actuarially fair insurance rates. The discounted value of this cost for 100 properties totals $0.454 million assuming a 3 percent discount rate and $0.299 million assuming a 7 percent discount.

Valued benefits of this rule total $3.536 million assuming a 3 percent discount rate and $2.223 million assuming a 7 percent discount.

*Risks:* This rule poses no risk to public health, safety, or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Jerimiah Sanders, Environmental Review Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, *Phone:* 202 402–4571.

*RIN:* 2501–AD62

## HUD—HUDSEC

### 94. • Affordability Determination—Energy Efficiency Standards (FR–5647–N–01)

*Priority:* Other Significant.

*Legal Authority:* Not Yet Determined

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* The Energy Independence and Security Act of 2007 (EISA) requires the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture (USDA) to adopt the most recent revisions to the 2006 International Energy Conservation Code (IECC) and ASHRAE 90.1–2004, subject to (1) a determination that the revised codes do not negatively affect the availability or affordability of new construction of single and multifamily housing covered by the Act, and (2) a determination by the Secretary of Energy that the revised codes ''would improve energy efficiency.'' This Notice announces HUD and USDA's preliminary determination that the 2009 IECC and (with the exception of Hawaii) ASHRAE 90.1–2007 will not negatively affect the affordability and availability of housing covered by the Act. As of November 2012, 32 States plus the District of Columbia have already adopted the 2009 IECC for single family homes, and 35 States plus the District of Columbia have adopted ASHRAE 90.1–2007 for multifamily buildings. The remaining States are committed to adopting these codes under provisions of the American Recovery and Reinvestment Act (ARRA) of 2009. For those States that have not yet adopted either of these standards, this Notice relies on several studies that show that these codes are overwhelmingly cost effective, in that the incremental cost of the 2009 IECC code is typically less than 0.5 percent of total construction costs, and those costs pay for themselves very quickly through energy savings. According to one study, simple paybacks for the 2009 IECC average 3.45 years, and ''mortgage paybacks'' on these additional investments are typically less than 1 year (on average 10.25 months).

*Statement of Need:* Section 481 of the Energy Independence and Security Act of 2007 (EISA) amends the energy code provisions contained in Section 109 of Cranston-Gonzalez National Affordable Housing Act of 1990 (Cranston-Gonzalez). Section 109(a) of Cranston-Gonzalez, as amended by EISA, allowed for HUD and USDA to collaborate and develop their own energy efficiency building standards for statutorily specified HUD and USDA programs if the agencies developed standards met or exceeded the 2006 IECC or ASHRAE 90.1–2004. However, if the two agencies did not act on this option, EISA specifies that the 2006 IECC and ASHRAE 90.1–2004 would apply.

The two agencies did not develop independent energy efficiency building standards, and therefore the 2006 IECC or ASHRAE 90.1–2004 currently apply to covered HUD and USDA programs. Section 109(d) of Cranston-Gonzalez establishes procedures for updating agency standards following revisions to the 2006 IECC and ASHRAE 90.1–2004 code standards. Section 109(d) provides that revisions to the IECC or ASHRAE codes will apply to HUD and/or USDA's programs if (1) either agency ''make(s) a determination that the revised codes do not negatively affect the availability or affordability'' of new construction housing covered by the Act, and (2) the Secretary of the Department of Energy (DOE) has made a determination under section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) that the revised codes would improve energy efficiency (see 42 U.S.C. 12709(d)). Since DOE has made its determination of improved efficiency, HUD and USDA must assess the impact of the more recent codes on the affordability and availability of HUD- and USDA-funded new construction is currently being assessed by the two agencies. This notice presents that assessment.

*Summary of Legal Basis:* In the absence of HUD and USDA developing their own energy efficiency codes, EISA provides for the automatic application of 2006 IECC and ASHRAE 90.1–2004. As revised IECC and ASHRAE codes are produced, under EISA, HUD and USDA must, following DOE's determination of revised codes improving energy efficiency (if that is in fact DOE's determination), provide an assessment of the impact of the revised codes on the affordability and availability of housing under the covered programs. If HUD and USDA determine no negative impact, the revised codes then become the applicable codes.

*Alternatives:* The alternative provided to HUD and USDA under EISA was to develop their own energy efficiency codes. HUD and USDA did not exercise that option. IECC and ASHRAE are familiar energy codes, revised codes, as required by statute, are reviewed by DOE as a measure to determine improved or enhanced energy

efficiency. A new energy efficiency code developed by HUD and USDA would have introduced a new code with which builders would have to comply. As the joint HUD–USDA notice states, well over 30 States have adopted IECC and ASHRAE as governing building codes.

*Anticipated Cost and Benefits:* In its assessment of improved efficiency, which includes a cost-benefit analysis, for each of the 35 States and the District of Columbia examined by DOE, DOE identified every building element that would change as a result of adopting the 2009 IECC in that State. Assuming a standard reference house, DOE used a computer model to assess building energy savings that would be achieved under the new code. DOE's model assumed a 2,400 square foot house with regional modifications to foundation systems that reflect local building practices. After analyzing the impact for each State, DOE found that, on a national basis, compliance with the 2009 IECC will yield an annual median cost savings of $243.37, ranging from a high of $468 in Kansas to a low of $200.50 in Massachusetts.

With respect to costs, and based on studies that DOE relied upon it was determined that the weighted average incremental cost of complying with the 2009 IECC over existing state codes would be $840.77, yielding a median annual energy cost savings of $243.37, for a simple payback of 3.45 years. This weighted average incremental cost of $840.77 represents less than 0.32 percent of the average cost of a new home estimated by BCAP in 2009 ($267,451).

*Risks:* This rule poses no risk to public health, safety, or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*Agency Contact:* Michael Freedberg, Department of Housing and Urban Development, Office of the Secretary, 451 7th St. SW., Washington, DC 20410, *Phone:* 202 402–4366.

*RIN:* 2501–AD64

## HUD—OFFICE OF PUBLIC AND INDIAN HOUSING (PIH)

*Final Rule Stage*

### 95. Public Housing Energy Audits and Physical Needs Assessments (FR–5507)

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 3535(d)

*CFR Citation:* 24 CFR 905.300.

*Legal Deadline:* NPRM, Statutory, December 2011.

*Abstract:* This final rule consolidates the Physical Needs Assessment (PNA) rule (FR–5361) with the Public Housing Energy Audit rule (FR–5507). With respect to the energy audit, the rule would distinguish between ''core energy conservation measures'' (ECMs) that must be addressed and ''advanced ECMs'' that may be addressed. The rule would also establish minimum requirements for energy auditors and moves the energy audit requirements to a different part of HUD's title of the Code of Federal Regulations. With respect to the PNA, the rule would require public housing agencies to project current modernization and life-cycle replacement repair needs of its projects over a 20-year period, rather than a 5-year period, to better coincide with the useful life of individual properties and their building components and systems to ensure the long-term viability of the property. HUD would consolidate these two rules to facilitate greater synchronization between the energy audit and the PNA, so that energy audit data can be better integrated into the PNA and allow for future capital planning activities that take into consideration possible energy savings.

*Statement of Need:* In an environment of competing priorities, managers need tools to prioritize needs and to model alternative strategies. A PNA an energy audit are essential tools to a long-term strategy for the proactive management of property to move away from inefficient and reactionary management that contributes to property deterioration and obsolescence. Strategies to reduce energy costs are key to HUDs mission of providing long-term affordable housing to those most in need—funds spent on utilities are not spent on property improvements and reduce the proportion of tenant rent payments that are used more usefully for physical maintenance and improvement. Energy audits reveal strategies for saving limited resources that can be recycled into more improvements than would otherwise occur.

*Summary of Legal Basis:* The Energy Policy Act of 2005, Public Law 109–58 (Approved August 8, 2005), amended section 9(d)(1) of the U. S. Housing Act of 1937, 42 U.S.C. 1437g(d)(1), to add at subparagraphs (K) and (L), as two of the capital and management activities under the capital fund, improvement of energy use and water efficiency, and ''integrated utility management and capital planning to maximize energy conservation and efficiency measures.'' This rule provides for the integrated utility management and capital planning necessary to fulfill this mandate.

*Alternatives:* HUD determined that its primary alternative was to not revise its regulations concerning physical needs assessment and energy audits. Other than inaction, there is not an alternative to: extending the requirement to perform a physical needs assessment to all PHAs to provide the data needed for better management of the Capital Fund; to changing the current 5 year term of the required PNA to a 20 year term to create a useful strategic planning tool for authorities, and to provide HUD with longer term visibility of needs in the housing portfolio; or to implementing provisions of the Energy Policy Act of 2005 requiring ''integrated utility management and capital planning to maximize energy conservation and efficiency measures''. However, the current lack of integration between energy audits and the PNA, as well as the overly short life-cycle planning period, make inaction a non-viable approach when it comes to assuring that HUD's requirements for the capital fund are in compliance with the Energy Policy Act of 2005, that the PHA's capital needs will be met, and that actions taken to meet those needs will be integrated with necessary energy improvements.

*Anticipated Cost and Benefits:* With respect to the energy audit, there are minor costs to the extent that the requirements for the energy audit in this rule exceed the current requirements. HUD's analysis suggests that using conservative assumptions, the economic burden of energy audits to PHAs would be $39,864,536 ($32.86 × 1,213,163) every 5 years, or $7,972,907 annually. A mitigating adjustment of 50 percent to account for the existing burden is not an unreasonable assumption. Such an adjustment would reduce the 5-year and annual additional burden to $19,932,268 and $3,986,453, respectively.

With respect to PNAs, HUD estimates that full compliance with the rule will cost PHAs, collectively, up to $29 million once every 5 years or an average of $5.9 million annually. The rule will not have any budgetary impact to the Federal Government, as costs to

implement the PNA will be accommodated within HUD's existing budget authority.

There are also benefits to this rule. With respect to energy audits, for example, if this rule resulted in a 10 percent increase in efficiency, that would translate into significant savings for PHAs, which often pay for utilities in the form of a utility allowance for residents. With respect to PNAs, benefits include identifying capital expenses far enough in advance to allow for consideration of the most efficient method of payment; identifying synergies in the timing and intensity of capital improvements, and avoiding duplicative or wasteful expenditures; making possible a preventive maintenance strategy to maximize the useful life of property components; encouraging the implementation of energy efficiency measures; and increased occupancy and enhanced health and safety as a result of more habitable units.

*Risks:* This rule poses no risk to public health, safety, or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/17/11 | 76 FR 71287 |
| NPRM Comment Period End. | 01/18/12 | |
| Final Action ..... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* None.

*Agency Contact:* Jeffrey Riddel, Director, Capital Program Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 451 7th Street SW., Washington, DC 20410, *Phone:* 202 402–7378.

*RIN:* 2577–AC84

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR (DOI)

*Statement of Regulatory Priorities*

The Department of the Interior (DOI) is the principal Federal steward of our Nation's public lands and resources, including many of our cultural treasures. DOI serves as trustee to Native Americans and Alaska native trust assets and is responsible for relations with the island territories under United States jurisdiction. The Department manages more than 500 million acres of Federal lands, including 401 park units, 560 wildlife refuges, and approximately 1.7 billion of submerged offshore acres. These areas include natural resources that are essential for America's industry—oil and gas, coal, and minerals such as gold and uranium. On public lands and the Outer Continental Shelf, Interior provides access for renewable and conventional energy development and manages the protection and restoration of surface mined lands.

The Department protects and recovers endangered species; protects natural, historic, and cultural resources; manages water projects that are a lifeline and economic engine for many communities in the West; manages forests and fights wildfires; manages Federal energy resources; regulates surface coal mining operations; reclaims abandoned coal mines; educates children in Indian schools; and provides recreational opportunities for over 400 million visitors annually in the Nation's national parks, public lands, national wildlife refuges, and recreation areas.

The DOI will continue to review and update its regulations and policies to ensure that they are effective and efficient, and that they promote accountability and sustainability. The DOI will emphasize regulations and policies that:

- Promote environmentally responsible, safe, and balanced development of renewable and conventional energy on our public lands and the Outer Continental Shelf (OCS);
- Use the best available science to ensure that public resources are protected, conserved, and used wisely;
- Preserve America's natural treasures for future generations;
- Improve the nation-to-nation relationship with American Indian tribes;
- Promote partnerships with States, tribes, local governments, other groups, and individuals to achieve common goals; and
- Promote transparency, fairness, accountability, and the highest ethical standards while maintaining performance goals.

*Major Regulatory Areas*

The DOI bureaus implement congressionally mandated programs through their regulations. Some of these regulatory programs include:

- Developing onshore and offshore energy, including renewable, mineral, oil and gas, and other energy resources;
- Regulating surface coal mining and reclamation operations on public and private lands;
- Managing migratory birds and preserving marine mammals and endangered species;
- Managing dedicated lands, such as national parks, wildlife refuges, National Landscape Conservation System lands, and American Indian trust lands;
- Managing public lands open to multiple use;
- Managing revenues from American Indian and Federal minerals;
- Fulfilling trust and other responsibilities pertaining to American Indians and Alaska Natives;
- Managing natural resource damage assessments; and
- Managing assistance programs.

*Regulatory Policy*

The DOI's regulatory programs seek to operate programs transparently, efficiently, and cooperatively while maximizing protection of our land, resources, and environment in a fiscally responsible way by:

(1) Protecting Natural, Cultural, and Heritage Resources.

The Department's mission includes protecting and providing access to our Nation's natural and cultural heritage and honoring our trust responsibilities to tribes. We are committed to this mission and to applying laws and regulations fairly and effectively. Our priorities include protecting public health and safety, restoring and maintaining public lands, protecting threatened and endangered species, ameliorating land- and resource-management problems on public lands, and ensuring accountability and compliance with Federal laws and regulations.

(2) Sustainably Using Energy, Water, and Natural Resources.

Since the beginning of the Obama Administration, the Department has focused on renewable energy issues and has established priorities for environmentally responsible development of renewable energy on public lands and the OCS. Industry has started to respond by investing in the development of wind farms off the Atlantic seacoast and solar, wind, and geothermal energy facilities throughout the West. Power generation from these new energy sources produces virtually no greenhouse gases and, when done in an environmentally responsible manner, harnesses with minimum impact abundant renewable energy. The Department will continue its intra- and inter-departmental efforts to move forward with the environmentally responsible review and permitting of renewable energy projects on public lands, and will identify how its regulatory processes can be improved to facilitate the responsible development of these resources.

In implementing these priorities through its regulations, the Department

will create jobs and contribute to a healthy economy while protecting our signature landscapes, natural resources, wildlife, and cultural resources.

(3) Empowering People and Communities.

The Department strongly encourages public participation in the regulatory process and will continue to actively engage the public in the implementation of priority initiatives. Throughout the Department, individual bureaus and offices are ensuring that the American people have an active role in managing our Nation's public lands and resources.

For example, every year FWS establishes migratory bird hunting seasons in partnership with flyway councils composed of State fish and wildlife agencies. FWS also holds a series of public meetings to give other interested parties, including hunters and other groups, opportunities to participate in establishing the upcoming season's regulations. Similarly, BLM uses Resource Advisory Councils to advise on management of public lands and resources. These citizen-based groups allow individuals from all backgrounds and interests to have a voice in management of public lands.

In June 2013, NPS published the final rule revising the regulations for management of demonstrations and the sale or distribution of printed matter in most areas of the National Park System to allow a small-group exception to permit requirements. In essence, under specific criteria, demonstrations and the sale or distribution of printed matter involving 25 or fewer persons may be held in designated areas, without first obtaining a permit; i.e. making it easier for individuals and small groups to express their views.

*Retrospective Review of Regulations*

President Obama's Executive Order 13563 directs agencies to make the regulatory system work better for the American public. Regulations should ''. . . protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation.'' DOI's plan for retrospective regulatory review identifies specific efforts to relieve regulatory burdens, add jobs to the economy, and make regulations work better for the American public while protecting our environment and resources. The DOI plan seeks to strengthen and maintain a culture of retrospective review by consolidating all regulatory review requirements into DOI's annual regulatory plan.[1]

In examining its existing regulations, DOI has also taken a hybrid regulatory approach, incorporating flexible, performance based standards with existing regulatory requirements where possible to strengthen safety and environmental protection across the onshore and offshore oil and natural gas industry while minimizing additional burdens on the economy. The Department routinely meets with stakeholders to solicit feedback and gather input on how to incorporate performance based standards. DOI has received helpful public input through this process and will continue to participate in this effort with relevant interagency partners as part of its retrospective regulatory review.

Under section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulation Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan.

| Bureau | Title & RIN | Description | Reduces burdens on small business? |
|---|---|---|---|
| Office of Natural Resources Revenue. | Oil and Gas Royalty Valuation. 1012–AA13 | DOI is exploring a simplified market-based approach to arrive at the value of oil and gas for royalty purposes that could dramatically reduce accounting and paperwork requirements and costs on industry and better ensure proper royalty valuation by creating a more transparent royalty calculation method. | Yes. |
| Fish and Wildlife Service ..... | ESA Section 7 Consultation Process; Incidental Take Statements. 1018–AX85 | Court decisions rendered over the last decade regarding the adequacy of incidental take statements have prompted us, along with the National Marine Fisheries Service (NOAA, Commerce), to consider clarifying our regulations concerning two aspects of issuance of incidental take statements during section 7 consultation under the Endangered Species Act. A proposed rule published on September 4, 2013. The proposed regulatory changes specifically address the use of surrogates to express the limit of exempted take and how to determine when deferral of an incidental take exemption is appropriate. This is a joint rulemaking with NOAA. | No. |

[1] DOI conducts regulatory review under numerous statutes, Executive orders, memoranda, and policies, including but not limited to the Regulatory Flexibility Act of 1980 (RFA), the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Executive Orders 12866 and 13563, and the DOI Departmental Manual.

| Bureau | Title & RIN | Description | Reduces burdens on small business? |
|---|---|---|---|
| Fish and Wildlife Service ..... | Regulations Governing Designation of Critical Habitat Under Section 4 of the ESA. 1018–AX86 | The proposed rule would amend existing regulations governing the designation of critical habitat under section 4 of the Endangered Species Act. The proposed amendments would make minor edits to the scope and purpose, add and remove some definitions, and clarify the criteria for designating critical habitat. A number of factors, including litigation and FWS's experience over the years in interpreting and applying the statutory definition of critical habitat, have highlighted the need to clarify or revise the current regulations. This is a joint rulemaking with NOAA. | No. |
| Fish and Wildlife Service ..... | Policy Regarding Implementation of Section 4(b)(2) of the Endangered Species Act. 1018–AX87 | This draft policy would articulate our position on how we consider partnerships and conservation plans, habitat conservation plans, tribal lands, military lands, and Federal lands in the exclusion process. This draft policy is meant to complement the proposed amendments to our regulations regarding exclusions from critical habitat and is intended to clarify expectations regarding critical habitat and provide for a credible, predictable, and simplified critical-habitat-exclusion process. This policy would foster clarity and consistency in the designation of critical habitat in an effort to ensure that the purposes of the Endangered Species Act are fully met. We will seek public review and comment on the proposed policy. This is a joint policy with NOAA. | No. |
| Fish and Wildlife Service ..... | ESA Section 7 Consultation Regulations; Definition of ''Destruction or Adverse Modification'' of Critical Habitat. 1018–AX88 | The proposed rule would amend the existing regulations governing section 7 consultation under the Endangered Species Act to revise the definition of ''destruction or adverse modification'' of critical habitat. The current regulatory definition has been invalidated by the courts for being inconsistent with the language of the Endangered Species Act. The revised definition will provide the Services and Federal agencies with greater clarity in how to ensure that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat, consistent with section 7(a)(2) of the ESA. We therefore need to propose a revised definition and seek public review and comment. This is a joint rulemaking with NOAA. | No. |
| Bureau of Indian Affairs ..... | Procedures for Establishing that an Indian Group Exists as an Indian Tribe. 1076–AF18 | The Department is examining its regulations governing the process and criteria by which Indian groups are federally acknowledged as Indian tribes to determine how regulatory changes could increase transparency, timeliness, efficiency, and flexibility, while maintaining the integrity of the acknowledgment process. | No. |
| National Park Service, Fish and Wildlife Service, Bureau of Land Mgt), Bureau of Reclamation, and Bureau of Indian Affairs. | Commercial Filming on Public Lands. 1024–AD30 | This joint effort between the National Park Service, Fish and Wildlife Service, Bureau of Land Management, Bureau of Reclamation, and Bureau of Indian Affairs has created consistent regulations and a unified DOI fee schedule for commercial filming and still photography on public land. It provides the commercial filming industry with a predictable fee for using Federal lands, while earning the Government a fair return for the use of the land. The final regulation was published on August 22, 2013. The proposed fee schedule with request for public comment was published on the same date. Following comment analyses a final fee schedule will be published. | Yes. |

DOI bureaus work to make our regulations easier to comply with and understand. Our regulatory process ensures that bureaus share ideas on how to reduce regulatory burdens while meeting the requirements of the laws they enforce and improving their stewardship of the environment and resources. Results include:

- Effective stewardship of our Nation's resources in a way that is responsive to the needs of small businesses;
- Increased benefits per dollars spent by carefully evaluating the economic effects of planned rules; and
- Improved compliance and transparency by use of plain language in our regulations and guidance documents.

*Bureaus and Offices Within DOI*

The following sections give an overview of some of the major regulatory priorities of DOI bureaus and offices.

Bureau of Indian Affairs

The Bureau of Indian Affairs (BIA) administers and manages 55 million acres of surface land and 57 million acres of subsurface minerals held in trust by the United States for Indians and Indian tribes, provides services to approximately 1.9 million Indians and Alaska Natives, and maintains a government-to-government relationship with the 566 federally recognized Indian tribes. BIA's mission is to enhance the quality of life, promote economic opportunity, and protect and improve the trust assets of American Indians, Indian tribes, and Alaska Natives, as well as to provide quality education opportunities to students in Indian schools.

In the coming year, BIA will continue its focus on improved management of trust responsibilities with each regulatory review and revision. BIA will also continue to promote economic development in Indian communities by ensuring the regulations support, rather than hinder, productive land management. In addition, BIA will focus on updating Indian education regulations and on other regulatory changes to increase transparency in support of the President's Open Government Initiative.

In the coming year, BIA's regulatory priorities are to:

- Develop regulations to meet the Indian trust reform goals for rights-of-ways across Indian land.
- Develop regulatory changes necessary for improved Indian education.

BIA is reviewing regulations that require the Bureau of Indian Education to follow 23 different State adequate yearly progress standards; the review will determine whether a uniform standard would better meet the needs of students at Bureau-funded schools. With regard to undergraduate education, the Bureau of Indian Education is reviewing regulations that address grants to tribally controlled community colleges and other Indian education regulations. These reviews will identify provisions that need to be updated to comply with applicable statutes and ensure that the proper regulatory framework is in place to support students of Bureau-funded schools.

- Develop regulatory changes to reform the process for Federal acknowledgment of Indian tribes.

Over the years, BIA has received significant comments from American Indian groups and members of Congress on the Federal acknowledgment process. Most of these comments claim that the current process is cumbersome and overly restrictive. BIA is reviewing the Federal acknowledgment regulations to determine how regulatory changes may streamline the acknowledgment process and clarify criteria by which an Indian group is examined.

- Revise regulations to reflect updated statutory provisions and increase transparency.

BIA is making a concentrated effort to improve the readability and precision of its regulations. Because trust beneficiaries often turn to the regulations for guidance on how a given BIA process works, BIA is ensuring that each revised regulation is written as clearly as possible and accurately reflects the current organization of the Bureau. The Bureau is also simplifying language and eliminating obsolete provisions. In the coming year, the Bureau also plans to revise regulations regarding rights-of-way (25 CFR 169); Indian Reservation Roads (25 CFR 170); and certain regulations specific to the Osage Nation.

Bureau of Land Management

BLM manages the 245-million-acre National System of Public Lands, located primarily in the western States, including Alaska, and the 700-million-acre subsurface mineral estate located throughout the Nation. In doing so, BLM manages such varied uses as energy and mineral development, outdoor recreation, livestock grazing, and forestry and woodlands products. BLM's complex multiple-use mission affects the lives of millions of Americans, including those who live near and visit the public lands, as well as those who benefit from the commodities, such as minerals, energy, or timber, produced from the lands' rich resources. In undertaking its management responsibilities, BLM seeks to conserve our public lands' natural and cultural resources and sustain the health and productivity of the public lands for the use and enjoyment of present and future generations. In the coming year, BLM's highest regulatory priorities include:

- Revising antiquated hydraulic fracturing regulations.

BLM's existing regulations applicable to hydraulic fracturing were promulgated over 20 years ago and do not reflect modern technology. In seeking to modernize its requirements and ensure the protection of our Nation's public lands, BLM has proposed a rule that would disclose to the public chemicals used in hydraulic fracturing on public land and Indian land, strengthen regulations related to well-bore integrity, and address issues related to flowback water.

- Creating a competitive process for offering lands for solar and wind energy development.

BLM is preparing a proposed rule that would establish an efficient competitive process for leasing public lands for solar and wind energy development. The amended regulations would establish competitive bidding procedures for lands within designated solar and wind energy development leasing areas, define qualifications for potential bidders, and structure the financial arrangements necessary for the process. The proposed rule would enhance BLM's ability to capture fair market value for the use of public lands, ensure fair access to leasing opportunities for renewable energy development, and foster the growth and development of the renewable energy sector of the economy.

- Preventing waste of produced oil and gas and regulating use for beneficial purposes.

A proposed rule would cover the prevention of waste by minimizing the amount of venting and flaring that takes place on oil and gas production facilities on Federal and Indian lands. It would also delineate which activities qualify for beneficial use of the oil and gas resource to ensure that proper royalties are paid on oil and gas removed from Federal and Trust lands.

- Seeking public input on managing waste mine methane.

BLM plans to issue an advance notice of proposed rulemaking (ANPRM) requesting information from the public that might assist the bureau in the establishment of a program to capture, use, or destroy waste mine methane from Federal coal leases and Federal leases for other solid minerals.

- Ensuring a fair return to the American taxpayer for oil shale development.

The rule would encourage responsible development of federal oil shale resources and evaluate necessary safeguards to protect scarce water resources and important wildlife habitat while assuring a fair royalty to the American people.

Bureau of Ocean Energy Management (BOEM)

The Bureau of Ocean Energy Management (BOEM) promotes energy independence, environmental protection and economic development through responsible, science-based management of offshore conventional and renewable energy resources. It is dedicated to fostering the development of both conventional and renewable energy and mineral resources on the Outer Continental Shelf (OCS) in an

efficient and effective manner, balancing the need for economic growth with the protection of the environment and conservation of the nation's scarce resources. The Bureau is committed to fostering the expansion of domestic energy production, domestic energy independence and providing essential revenues to support the economic development of the country. BOEM thoughtfully considers and balances the potential environmental impacts involved in exploring and extracting these resources. BOEM's near-term regulatory agenda will focus on a number of issues, including:

• Expanding renewable energy resources.

As part of President Obama's comprehensive plan to move our economy toward domestic clean energy sources, BOEM is holding offshore renewable energy lease sales for the first time in U.S. history. BOEM is preparing to develop a number of standards and criteria to facilitate the more effective use of wind turbine technology on the OCS. The Bureau is completing a rulemaking to provide additional time for applicants for renewable projects to submit certain plans for which BOEM found the regulatory timeline to be unreasonable. This is designed to provide an appropriate balance between ensuring diligent progress on our renewable energy leases and accounting for the needs of renewable energy developers.

Two proposed rulemakings address recommendations submitted to BOEM by the Transportation Research Board of the National Academies and its stakeholders. Specifically, these include recommendations to: Develop and incorporate state of the art wind turbine design standards and to clarify the role of Certified Verification Agents as part of the process of designing, fabricating, and installing offshore wind energy facilities for the OCS.

• Promoting safe drilling activities on the Alaska Outer Continental Shelf.

BOEM, jointly with the Bureau of Safety and Environmental Enforcement (BSEE), is developing proposed rules to promote safe, responsible, and effective drilling activities on the Alaska Outer Continental Shelf, while also ensuring the protection of Alaska's coastal communities and the marine environment.

• Protecting the Environment.

In a continuing effort to minimize the risk that oil spills will occur and that the effects of any future potential spills can be minimized and fully mitigated, BOEM is raising the limits of liability associated with future spills up to the statutory maximum. BOEM is also revising its regulations designed to oversee the Oil Spill Financial Responsibility process for which it is responsible. In addition, working in close conjunction with the U.S. Coast Guard and the Department of Justice, BOEM is making a concerted effort to make sure that all necessary resources will be made available to address all potential contingencies of an oil spill and associated damages.

• Updating BOEM's Air Quality Program.

Until recently, the Department of the Interior (DOI) has exercised jurisdiction for air quality only for OCS sources operating in the Gulf of Mexico. In fiscal year 2012, Congress expanded DOI's authority by transferring to it responsibility for monitoring OCS air quality off the north coast of Alaska. In light of this change, BOEM is undertaking a thorough review of its air quality program. BOEM intends to exercise its mandate by ensuring the responsible development of natural resources in both regions by ensuring that regulations are developed to appropriately balance environmental needs and requirements against the needs for economic development. In doing this, BOEM is consulting and coordinating its efforts with the U.S. Fish and Wildlife Service, the National Park Service and the Environmental Protection Agency.

• Protecting OCS Sand, Gravel, and Shell Resources.

In light of the continuing need to provide resources to protect the coast from natural disasters like Hurricane Sandy, BOEM is developing policies and goals to formally address the use of OCS sand, gravel, or shell resources funded by the Federal government. These policies are intended to ensure that necessary sand and gravel resources remain available to help communities that have been harmed by hurricanes and other disasters, so that beaches and other natural resources can effectively be restored, without adversely impacting the development of transmission lines and pipelines needed for energy development projects. Taken together, these policies will ensure that the development of renewable and conventional energy resources continues to take place in areas adjacent to key sand and gravel resource zones and that sand and gravel resources continue to be available for construction projects, shore protection, beach replenishment, or wetlands restoration purposes.

Bureau of Safety and Environmental Enforcement

BSEE's mission is to regulate safety, emergency preparedness, environmental responsibility and appropriate development and conservation of offshore oil and natural gas resources. BSEE's regulatory priorities are guided by the BSEE FY 2012–2015 Strategic Plan, which includes two strategic goals to focus the Bureau's priorities in fulfillment of its mission:

□ Regulate, enforce, and respond to OCS development using the full range of authorities, policies, and tools to compel safety and environmental responsibility and appropriate development of offshore oil and natural gas resources.

□ Build and sustain the organizational, technical, and intellectual capacity within and across BSEE's key functions—capacity that keeps pace with OCS industry technology improvements, innovates in regulation and enforcement, and reduces risk through systemic assessment and regulatory and enforcement actions.

The Three-Year Strategic Plan reflects the intent of BSEE to build a bureau capable of keeping pace with the rapidly advancing technologies employed by the industry, building and sustaining its organizational, technical, and intellectual capacity, and instilling a commitment to safe practices at all levels of offshore operations, at all times. Additionally, the strategic plan incorporates BSEE's approach to address numerous recommendations contained in Government Accountability Office, Office of Inspector General (OIG), and other external reports.

BSEE has identified the following four areas of regulatory priorities: (1) Compliance; (2) Oil Spill Response; (3) Alaska; and (4) Managing and Mitigating Risk. Among the specific regulatory priorities that will be BSEE's priorities over the course of the next year are:

• Compliance.

BSEE will finalize revisions of its rule on production safety systems and expand the use of lifecycle analysis of critical equipment. This rule addresses issues such as subsurface safety devices, safety device testing, and expands the requirements for operating production systems on the OCS.

• Oil Spill Response.

BSEE will update regulations for offshore oil spill response planning and preparedness. This rule will incorporate lessons learned from the 2010 Deepwater Horizon spill, improved preparedness capability standards, and

applicable research findings. This regulatory update will establish standards that drive owners, lessees, and operators to use all applicable tools in a system-based plan that demonstrates the ability to respond to oil spills quickly and effectively.

• Alaska.

BSEE is working with BOEM on a joint proposed rule to promote safe, responsible, and effective drilling activities on the Alaska OCS while ensuring protection of Alaska's communities and marine environment.

• Managing and Mitigating Risk.

BSEE will develop a proposed rule containing requirements on blowout preventers and critical reforms in the areas of well design, well control, casing, cementing, real-time monitoring, and subsea containment. This proposed rule will address and implement multiple recommendations resulting from various investigations from the Macondo blowout.

Office of Natural Resources Revenue

The Office of Natural Resources Revenue (ONRR) will continue to collect, account for, and disburse revenues from Federal offshore energy and mineral leases and from onshore mineral leases on Federal and Indian lands. The program operates nationwide and is primarily responsible for timely and accurate collection, distribution, and accounting for revenues associated with mineral and energy production. ONRR's regulatory plan priorities for the upcoming year include:

• Simplifying valuation regulations.

ONRR plans to simplify the regulations at 30 CFR part 1206 for establishing the value for royalty purposes of: (1) Oil and natural gas produced from Federal leases; and (2) coal and geothermal resources produced from Federal and Indian leases. Additionally, the proposed rules would consolidate sections of the regulations common to all minerals, such as definitions and instructions regarding how a payor should request a valuation determination. ONRR published Advance Notices of Proposed Rulemaking (ANPRMs) to initiate the rulemaking process and to obtain input from interested parties.

Office of Surface Mining Reclamation and Enforcement

The Office of Surface Mining Reclamation and Enforcement (OSM) was created by the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Under SMCRA, OSM has two principal functions—the regulation of surface coal mining and reclamation operations and the reclamation and restoration of abandoned coal mine lands. In enacting SMCRA, Congress directed OSM to ''strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy.'' In response to its statutory mandate, OSM has sought to develop and maintain a stable regulatory program that is safe, cost-effective, and environmentally sound. A stable regulatory program ensures that the coal mining industry has clear guidelines for operation and reclamation, and that citizens know how the program is being implemented.

OSM's Federal regulatory program sets minimum requirements for obtaining a permit for surface and underground coal mining operations, sets performance standards for those operations, requires reclamation of lands and waters disturbed by mining, and requires enforcement to ensure that the standards are met. OSM is the primary regulatory authority for SMCRA enforcement until a State or Indian tribe develops its own regulatory program, which is no less effective than the Federal program. When a State or Indian tribe achieves ''primacy,'' it assumes direct responsibility for permitting, inspection, and enforcement activities under its federally approved regulatory program. The regulatory standards in Federal program states and in primacy states are essentially the same with only minor, non-substantive differences. Today, 24 States have primacy, including 23 of the 24 coal producing States. OSM's regulatory priorities for the coming year will focus on:

• Stream Protection.

Protect streams and related environmental resources from the adverse effects of surface coal mining operations; and

• Coal Combustion Residues.

Establish Federal standards for the beneficial use of coal combustion residues on active and abandoned coal mines.

U.S. Fish and Wildlife Service

The mission of the U.S. Fish and Wildlife Service (FWS) is to work with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. FWS also helps ensure a healthy environment for people by providing opportunities for Americans to enjoy the outdoors and our shared natural heritage.

FWS fulfills its responsibilities through a diverse array of programs that:

• Protect and recover endangered and threatened species;

• Monitor and manage migratory birds;

• Restore native aquatic populations and nationally significant fisheries;

• Enforce Federal wildlife laws and regulate international trade;

• Conserve and restore wildlife habitat such as wetlands;

• Help foreign governments conserve wildlife through international conservation efforts;

• Distribute Federal funds to States, territories, and tribes for fish and wildlife conservation projects; and

• Manage the more than 150-million-acre National Wildlife Refuge System, which protects and conserves fish and wildlife and their habitats and allows the public to engage in outdoor recreational activities.

Over the course of the next year, FWS regulatory priorities will include:

• Critical habitat regulations under the Endangered Species Act (ESA).

FWS will issue rules to clarify definitions of ''critical habitat'' and ''destruction or adverse modification,'' to improve our consultation process in regard to issuing incidental take statements, and otherwise make improvements to the process of critical habitat designation.

• Bald and Golden Eagle Protection Act regulatory reform.

In an effort to promote renewable energy while carrying out our responsibility to protect certain species of birds, we will finalize our proposal to revise our regulations for permits for nonpurposeful take of eagles. By proposing to extend the maximum term for programmatic permits to 30 years, as long as certain requirements are met, we will facilitate the development of renewable energy projects that are designed to be in operation for many decades.

• Protecting refuges.

We will issue a proposed rule to ensure that all operators conducting oil or gas operations on NWRS lands do so in a manner that prevents or minimizes damage to the lands, visitor values, and management objectives.

• Making regulations more user-friendly.

We will issue rules to amend the format of the ESA lists to make them more user-friendly for the public, to correct errors in regard to taxonomy, to include rules issued by the National Marine Fisheries Service for marine species, and to more clearly describe areas where listed species are protected.

National Park Service

NPS preserves unimpaired the natural and cultural resources and values within more than 400 units of the

National Park System encompassing nearly 84 million acres of lands and waters for the enjoyment, education, and inspiration of this and future generations. NPS also cooperates with partners to extend the benefits of natural and resource conservation and outdoor recreation throughout the United States and the world.

To achieve this mission NPS adheres to the following guiding principles:

- *Excellent Service:* Providing the best possible service to park visitors and partners.
- *Productive Partnerships:* Collaborating with Federal, State, tribal, and local governments, private organizations, and businesses to work toward common goals.
- *Citizen Involvement:* Providing opportunities for citizens to participate in the decisions and actions of the National Park Service.
- *Heritage Education:* Educating park visitors and the general public about their history and common heritage.
- *Outstanding Employees:* Empowering a diverse workforce committed to excellence, integrity, and quality work.
- *Employee Development:* Providing developmental opportunities and training so employees have the ''tools to do the job'' safely and efficiently.
- *Wise Decisions:* Integrating social, economic, environmental, and ethical considerations into the decision-making process.
- *Effective Management:* Instilling a performance management philosophy that fosters creativity, focuses on results, and requires accountability at all levels.
- *Research and Technology:* Incorporating research findings and new technologies to improve work practices, products, and services.

NPS' regulatory priorities for the coming year include:

- Managing Off Road Vehicle Use

(1) Curecanti National Recreation Area: A proposed rule published in July of 2013. The rule would designate routes and areas within Curecanti National Recreation Area where off-road vehicles (ORVs) and snowmobiles will be allowed within the recreation area. ORV use will primarily occur below the high water line of the Blue Mesa Reservoir. The rule also would provide for designation of new snowmobile access points and designates snowmobile routes from the access points to the frozen surface of the Blue Mesa Reservoir.

(2) Fire Island National Seashore: The rule would define applicable terms, designates driving routes, driving conditions, and establishes permit conditions for ORV use within Fire Island National Seashore.

(3) Wrangell St.-Elias National Preserve: The rule would (i) designate trails in the Nabesna District of Wrangell-St. Elias National Preserve where ORVs may be used for recreational purposes; (ii) impose ORV size and weight restrictions; and (iii) close areas to ORV use for subsistence purposes in designated wilderness.

(4) Lake Meredith NRA: The rule would designate ORV routes, addresses required safety equipment, speed limits and clarifies ORV use for the benefit of NPS personnel and the public.

(5) Glen Canyon NRA: The rule would authorize ORV use, designate routes and areas, and establish criteria for operation of ORVs.

- Managing Bicycling

NPS rules would authorize and manage designate bicycles routes and allow for management of bicycle use on designated routes at Cuyahoga Valley National Park, New River Gorge National River, Chattahoochee NRA, Sleeping Bear Dunes National Lakeshore, and Lake Meredith National Recreation Area.

- Implementing the Native American Graves Protection and Repatriation Act

(1) A rule will correct inaccuracies or inconsistencies in the 43 CFR part 10 regulations, implementing the Native American Graves Protection and Repatriation Act, which have been identified by or brought to the attention of the Department of the Interior.

(21) A new rule would establish a process for disposition of Unclaimed Human Remains and Funerary Objects discovered after November 16, 1990, on Federal or Indian Lands.

(2) A rule revising the existing regulations would describe the NAGPRA process in plain language with clear time parameters, eliminate ambiguity, clarify terms, and include Native Hawaiians in the process. The rule would eliminate unnecessary requirements for museums and would not add process or new information collection.

- Regulating Non-Federal Oil and Gas Activity on NPS Land

The rule would account for new technology and industry practices, eliminate regulatory exemptions, update new legal requirements, remove caps on bond amounts, and allow the NPS to recover compliance costs associated with administering the regulations.

Bureau of Reclamation

The Bureau of Reclamation's mission is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. To accomplish this mission, we employ management, engineering, and science to achieve effective and environmentally sensitive solutions.

Reclamation projects provide: Irrigation water service, municipal and industrial water supply, hydroelectric power generation, water quality improvement, groundwater management, fish and wildlife enhancement, outdoor recreation, flood control, navigation, river regulation and control, system optimization, and related uses. We have continued to focus on increased security at our facilities. As we undertake our responsibilities, we are continually reviewing the regulations and policies that govern our work and considering potential improvements to streamline our processes while protecting our nation's water resources and the environment.

**BILLING CODE 4310–10–P**

## DEPARTMENT OF JUSTICE (DOJ)—FALL 2013

*Statement of Regulatory Priorities*

The mission of the Department of Justice is to enforce the law and defend the interests of the United States according to the law, to ensure public safety against foreign and domestic threats, to provide Federal leadership in preventing and controlling crime, to seek just punishment for those guilty of unlawful behavior, and to ensure the fair and impartial administration of justice for all Americans. In carrying out its mission, the Department is guided by four core values: (1) Equal justice under the law; (2) honesty and integrity; (3) commitment to excellence; and (4) respect for the worth and dignity of each human being. The Department of Justice is primarily a law enforcement agency, not a regulatory agency; it carries out its principal investigative, prosecutorial, and other enforcement activities through means other than the regulatory process.

The regulatory priorities of the Department include initiatives in the areas of civil rights, criminal law enforcement and immigration. These initiatives are summarized below. In addition, several other components of the Department carry out important responsibilities through the regulatory

process. Although their regulatory efforts are not separately discussed in this overview of the regulatory priorities, those components have key roles in implementing the Department's anti-terrorism and law enforcement priorities.

Civil Rights Division

The Department is including five disability nondiscrimination rulemaking initiatives in its Regulatory Plan: (1) Implementation of the ADA Amendments Act of 2008 in the ADA regulations (titles II and III); (2) Implementation of the ADA Amendments Act of 2008 in the Department's section 504 regulations; (3) Nondiscrimination on the Basis of Disability by Public Accommodations: Movie Captioning and Audio Description; (4) Accessibility of Web Information and Services of State and Local Governments; and (5) Accessibility of Web Information and Services of Public Accommodations.

The Department's other disability nondiscrimination rulemaking initiatives, while important priorities for the Department's rulemaking agenda, will be included in the Department's long-term actions for fiscal year 2015. As will be discussed more fully below, these initiatives include: (1) Accessibility of Medical Equipment and Furniture; (2) Accessibility of Beds in Guestrooms with Mobility Features in Places of Lodging; (3) Next Generation 9–1–1 Services; and (4) Accessibility of Equipment and Furniture. The Department will also be revising its regulations for Coordination of Enforcement of Non-Discrimination in Federally Assisted Programs.

*ADA Amendments Act.* In September 2008, Congress passed the ADA Amendments Act, which revises the definition of ''disability'' to more broadly encompass impairments that substantially limit a major life activity. In early fiscal year 2014, the Department plans to propose amendments to both its title II and title III ADA regulations and the Department plans to propose amendments to its section 504 regulations to implement the ADA Amendments Act of 2008 in the last quarter of fiscal year 2014.

*Captioning and Audio Description in Movie Theaters.* Title III of the ADA requires public accommodations to take ''such steps as may be necessary to ensure that no individual with a disability is treated differently because of the absence of auxiliary aids and services, unless the covered entity can demonstrate that taking such steps would cause a fundamental alteration or would result in an undue burden.'' 42 U.S.C. section 12182(b)(2)(A)(iii). Both open and closed captioning and audio recordings are examples of auxiliary aids and services that should be provided by places of public accommodations, 28 CFR section 36.303(b)(1)–(2). The Department stated in the preamble to its 1991 rule that ''[m]ovie theaters are not required . . . to present open-captioned films,'' 28 CFR part 36, app. C (2011), but it did not address closed captioning and audio description in movie theaters. In the movie theater context, ''closed captioning'' refers to captions that only the patron requesting the closed captions can see because the captions are delivered to the patron at or near the patron's seat. Audio description is a technology that enables individuals who are blind or have low vision to enjoy movies by providing a spoken narration of key visual elements of a visually delivered medium, such as actions, settings, facial expressions, costumes, and scene changes.

Since 1991, there have been many technological advances in the area of closed captioning and audio description for first-run movies. In June 2008, the Department issued a Notice of Proposed Rulemaking (NPRM) to revise the ADA title III regulation, 73 FR 34466, in which the Department stated that it was considering options for requiring that movie theater owners or operators exhibit movies that are captioned or that provide video (narrative) description. The Department issued an ANPRM on July 26, 2010, to obtain more information regarding issues raised by commenters; to seek comment on technical questions that arose from the Department's research; and to learn more about the status of digital conversion. In addition, the Department sought information regarding whether other technologies or areas of interest (e.g., 3D) have developed or are in the process of development that would either replace or augment digital cinema or make any regulatory requirements for captioning and audio description more difficult or expensive to implement. The Department received approximately 1171 public comments in response to its movie captioning and audio description ANPRM. The Department is in the process of completing its review of these comments and expects to publish an NPRM addressing captioning and audio description in movie theaters in early fiscal year 2014.

*Web site Accessibility.* The Internet as it is known today did not exist when Congress enacted the ADA, yet today the World Wide Web plays a critical role in the daily personal, professional, civic, and business life of Americans. The ADA's expansive nondiscrimination mandate reaches goods and services provided by public accommodations and public entities using Internet Web sites. Being unable to access Web sites puts individuals at a great disadvantage in today's society, which is driven by a dynamic electronic marketplace and unprecedented access to information. On the economic front, electronic commerce, or ''e-commerce,'' often offers consumers a wider selection and lower prices than traditional, ''brick-and-mortar'' storefronts, with the added convenience of not having to leave one's home to obtain goods and services. For individuals with disabilities who experience barriers to their ability to travel or to leave their homes, the Internet may be their only way to access certain goods and services. Beyond goods and services, information available on the Internet has become a gateway to education, socializing, and entertainment.

The Internet is also dramatically changing the way that governmental entities serve the public. Public entities are increasingly providing their constituents access to government services and programs through their Web sites. Through Government Web sites, the public can obtain information or correspond with local officials without having to wait in line or be placed on hold. They can also pay fines, apply for benefits, renew State-issued identification, register to vote, file taxes, request copies of vital records, and complete numerous other everyday tasks. The availability of these services and information online not only makes life easier for the public but also often enables governmental entities to operate more efficiently and at a lower cost.

The ADA's promise to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of American civic and economic life will be achieved in today's technologically advanced society only if it is clear to State and local governments, businesses, educators, and other public accommodations that their Web sites must be accessible. Consequently, the Department is considering amending its regulations implementing title II and title III of the ADA to require public entities and public accommodations that provide products or services to the public through Internet Web sites to make their sites accessible to and usable by individuals with disabilities.

In particular, the Department's ANPRM on Web site accessibility sought public comment regarding what standards, if any, it should adopt for Web site accessibility, whether the

Department should adopt coverage limitations for certain entities, like small businesses, and what resources and services are available to make existing Web sites accessible to individuals with disabilities. The Department also solicited comments on the costs of making Web sites accessible and on the existence of any other effective and reasonably feasible alternatives to making Web sites accessible. The Department received approximately 440 public comments and is in the process of reviewing these comments. The Department anticipates publishing separate NPRMs addressing Web site accessibility pursuant to titles II and III of the ADA. The Department projects publishing the title II Web site Accessibility NPRM in early fiscal year 2014 with the publication of the title III NPRM to follow towards the middle of fiscal year 2014.

The final rulemaking initiatives from the 2010 ANPRMs are included in the Department's long-term priorities projected for fiscal year 2015:

*Next Generation 9–1–1.* This ANPRM sought information on possible revisions to the Department's regulation to ensure direct access to Next Generation 9–1–1 (NG 9–1–1) services for individuals with disabilities. In 1991, the Department of Justice published a regulation to implement title II of the Americans with Disabilities Act of 1990 (ADA). That regulation requires public safety answering points (PSAPs) to provide direct access to persons with disabilities who use analog telecommunication devices for the deaf (TTYs), 28 CFR 35.162. Since that rule was published, there have been major changes in the types of communications technology used by the general public and by people who have disabilities that affect their hearing or speech. Many individuals with disabilities now use the Internet and wireless text devices as their primary modes of telecommunications. At the same time, PSAPs are planning to shift from analog telecommunications technology to new Internet-Protocol (IP)-enabled NG 9–1–1 services that will provide voice and data (such as text, pictures, and video) capabilities. As PSAPs transition from the analog systems to the new technologies, it is essential that people with communication disabilities be able to use the new systems. Therefore, the Department published this ANPRM to begin to develop appropriate regulatory guidance for PSAPs that are making this transition. The Department is in the process of completing its review of the approximately 146 public comments it received in response to its NG 9–1–1 ANPRM and expects to publish an NPRM addressing accessibility of NG 9–1–1 in fiscal year 2015.

*Equipment and Furniture.* Both title II and title III of the ADA require covered entities to make reasonable modifications in their programs or services to facilitate participation by persons with disabilities. In addition, covered entities are required to ensure that people are not excluded from participation because facilities are inaccessible or because the entity has failed to provide auxiliary aids. The use of accessible equipment and furniture is often critical to an entity's ability to provide a person with a disability equal access to its services. Changes in technology have resulted in the development and improved availability of accessible equipment and furniture that benefit individuals with disabilities. The 2010 ADA Standards include accessibility requirements for some types of fixed equipment (*e.g.,* ATMs, washing machines, dryers, tables, benches and vending machines) and the Department plans to look to these standards for guidance, where applicable, when it proposes accessibility standards for equipment and furniture that is not fixed. The ANPRM sought information about other categories of equipment, including beds in accessible guest rooms, and medical equipment and furniture. The Department received approximately 420 comments in response to its ANPRM and is in the process of reviewing these comments. The Department plans to publish in early fiscal year 2015 a separate NPRM pursuant to title III of the ADA on beds in accessible guest rooms and a more detailed ANPRM pursuant to titles II and III of the ADA that focuses solely on accessible medical equipment and furniture. The remaining items of equipment and furniture addressed in the 2010 ANPRM will be the subject of an NPRM that the Department anticipates publishing in late fiscal year 2015.

*Coordination of Enforcement of Non-Discrimination in Federally Assisted Programs.* In addition to the foregoing disability-related regulatory initiatives, the Department is planning to revise the co-ordination regulations implementing title VI of the Civil Rights Act, which have not been updated in over 30 years. Among other things, the updates will revise outdated provisions, streamline procedural steps, streamline and clarify provisions regarding information and data collection, promote opportunities to encourage public engagement, and incorporate current law regarding meaningful access for individuals who are limited English proficient.

## Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

ATF issues regulations to enforce the Federal laws relating to the manufacture and commerce of firearms and explosives. ATF's mission and regulations are designed to, among other objectives, curb illegal traffic in, and criminal use of, firearms and explosives, and to assist State, local, and other Federal law enforcement agencies in reducing crime and violence. The Department is including one rulemaking initiative from ATF in its Regulatory Plan. The Department is planning to finalize a proposed rule to amend ATF's regulations regarding the making or transferring of a firearm under the National Firearms Act. As proposed, this rule would (1) add a definition for the term ''responsible person''; (2) require each responsible person of a corporation, trust or legal entity to complete a specified form, and to submit photographs and fingerprints; and (3) modify the requirements regarding the certificate of the chief law enforcement officer.

ATF will continue, as a priority during fiscal year 2014, to seek modifications to its regulations governing commerce in firearms and explosives. ATF plans to issue regulations to finalize the current interim rules implementing the provisions of the Safe Explosives Act, title XI, subtitle C, of Public Law 107–296, the Homeland Security Act of 2002 (enacted Nov. 25, 2002). ATF also has begun a rulemaking process that will lead to promulgation of a revised set of regulations (27 CFR part 771) governing the procedure and practice for proposed denial of applications for explosives licenses or permits and proposed revocation of such licenses and permits. In addition, ATF also has several other rulemaking initiatives as part of the Department's rulemaking agenda.

Pursuant to Executive Order 13563 ''Improving Regulation and Regulatory Review,'' ATF has proposed a rulemaking proceeding to amend existing regulations and extend the term of import permits for firearms, ammunition, and defense articles from 1 year to 2 years. The additional time will allow importers sufficient time to complete the importation of an authorized commodity before the permit expires and eliminate the need for importers to submit new and duplicative import applications. ATF believes that extending the term of import permits will result in substantial cost and time savings for both ATF and industry.

Drug Enforcement Administration (DEA)

DEA is the primary agency responsible for coordinating the drug law enforcement activities of the United States and also assists in the implementation of the President's National Drug Control Strategy. DEA implements and enforces Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and the Controlled Substances Import and Export Act (21 U.S.C. 801–971), as amended, and referred to as the Controlled Substances Act (CSA). DEA's mission is to enforce the CSA and its regulations and bring to the criminal and civil justice system those organizations and individuals involved in the growing, manufacture, or distribution of controlled substances and listed chemicals appearing in or destined for illicit traffic in the United States. DEA promulgates the CSA implementing regulations in title 21 of the Code of Federal Regulations (CFR), parts 1300 to 1321. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while ensuring a sufficient supply of controlled substances and listed chemicals for legitimate medical, scientific, research, and industrial purposes.

Pursuant to its statutory authority, DEA continuously evaluates new and emerging substances to determine whether such substances should be controlled under the CSA. During fiscal year 2014, in addition to initiating temporary scheduling actions to prevent immediate harm to the public safety, DEA will also consider petitions to schedule or reschedule various substances. Among other regulatory reviews and initiatives, DEA also plans to finalize regulations implementing the Secure and Responsible Drug Disposal Act of 2010 (Pub. L. 111–273) to provide means for individuals to safely and securely dispose of controlled substances.

Bureau of Prisons

The Federal Bureau of Prisons issues regulations to enforce the Federal laws relating to its mission: to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens. During the next 12 months, in addition to other regulatory objectives aimed at accomplishing its mission, the Bureau will continue its ongoing efforts to: streamline regulations, eliminating unnecessary language and improving readability; improve disciplinary procedures through a revision of the subpart relating to the disciplinary process; reduce the introduction of contraband through various means, such as clarifying drug and alcohol surveillance testing programs; protect the public from continuing criminal activity committed within prison; and enhance the Bureau's ability to more closely monitor the communications of high-risk inmates.

Executive Office for Immigration Review (EOIR)

On March 1, 2003, pursuant to the Homeland Security Act of 2002 (HSA), the responsibility for immigration enforcement and border security and for providing immigration-related services and benefits, such as naturalization, immigrant petitions, and work authorization, was transferred from the Justice Department's former Immigration and Naturalization Service (INS) to the Department of Homeland Security (DHS). However, the immigration judges and the Board of Immigration Appeals (Board) in EOIR remain part of the Department of Justice. The immigration judges adjudicate approximately 400,000 cases each year to determine whether aliens should be ordered removed from the United States or should be granted some form of relief from removal. The Board has jurisdiction over appeals from the decisions of immigration judges, as well as other matters. Accordingly, the Attorney General has a continuing role in the conducting of removal hearings, the granting of relief from removal, and custody determinations regarding the detention of aliens pending completion of removal proceedings. The Attorney General also is responsible for civil litigation and criminal prosecutions relating to the immigration laws.

In several pending rulemaking actions, the Department is working to revise and update the regulations relating to removal proceedings in order to improve the efficiency and effectiveness of the hearings, including, but not limited to: a joint regulation with DHS to provide guidance on a number of issues central to the adjudication of applications for asylum and withholding of removal; a joint regulation with DHS to provide, with respect to applicants who are found to have engaged in persecution of others, a limited exception for actions taken by the applicant under duress; a joint regulation with DHS to implement procedures that address the specialized needs of unaccompanied alien children in removal proceedings pursuant to the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008; a proposed regulation to establish procedures for the filing and adjudication of motions to reopen removal, deportation, and exclusion proceedings based upon a claim of ineffective assistance of counsel; and a proposed regulation to improve the recognition and accreditation process for organizations and representatives that appear in immigration proceedings before EOIR. Finally, in response to Executive Order 13653, the Department is retrospectively reviewing EOIR's regulations to eliminate regulations that unnecessarily duplicate DHS's regulations and update outdated references to the pre-2002 immigration system.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan.* However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. The final Justice Department plan can be found at: *http://www.justice.gov/open/doj-rr-final-plan.pdf*

| RIN | Title | Description |
|---|---|---|
| 1140–AA42 | Importation of Arms, Ammunition and Implements of War and Machine Guns, Destructive Devices, and Certain Other Firearms; Extending the Term of Import Permits. | The regulations in 27 CFR 447 and 479 generally provide that firearms, ammunition, and defense articles may not be imported into the United States except pursuant to a permit. Section 447.43 provides that import permits are valid for one year from their issuance date. ATF will consider whether these regulations could be revised to achieve the same regulatory objective in a manner that is less burdensome for both industry and ATF. This rulemaking could reduce paperwork burdens on the small entities that apply for these permits by as much as half. |
| 1125–AA71 | Retrospective Regulatory Review Under E.O. 13563 of 8 CFR Parts 1003, 1103, 1211, 1212, 1215, 1216, 1235. | Advance notice of future rulemaking concerning appeals of DHS decisions (8 CFR part 1103), documentary requirements for aliens (8 CFR parts 1211 and 1212), control of aliens departing from the United States (8 CFR part 1215), procedures governing conditional permanent resident status (8 CFR part 1216), and inspection of individuals applying for admission to the United States (8 CFR part 1235). A number of attorneys, firms, and organizations in immigration practice are small entities. EOIR believes this rule will improve the efficiency and fairness of adjudications before EOIR by, for example, eliminating duplication, ensuring consistency with the Department of Homeland Security's regulations in chapter I of title 8 of the CFR, and delineating more clearly the authority and jurisdiction of each agency. |

**Executive Order 13609—Promoting International Regulatory Cooperation**

The Department is not currently engaged in international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations.

## DOJ—CIVIL RIGHTS DIVISION (CRT)

*Proposed Rule Stage*

**96. Implemenation of the ADA Amendments Act of 2008 (Title II and TitleE III of the ADA)**

*Priority:* Other Significant.

*Legal Authority:* Pub. L. 110–325; 42 U.S.C. 12134(a); 42 U.S.C. 12186(b)

*CFR Citation:* 28 CFR 35; 28 CFR 36.

*Legal Deadline:* None.

*Abstract:* This rule would propose to amend the Department's regulations implementing title II and title III of the Americans with Disabilities Act (ADA), 28 CFR part 35 and 28 CFR part 36, to implement changes to the ADA enacted in the ADA Amendments Act of 2008, Public Law 110–325, 122 Stat. 3553 (Sept. 25, 2008). The ADA Amendments Act took effect on January 1, 2009.

The ADA Amendments Act amended the Americans with Disabilities Act, 42 U.S.C. 12101, *et seq.,* to clarify terms within the definition of disability and to establish standards that must be applied to determine if a person has a covered disability. These changes are intended to mitigate the effects of the Supreme Court's decisions in *Sutton* v. *United Airlines,* 527 U.S. 471 (1999), and *Toyota Motor Manufacturing* v. *Williams,* 534, U.S. 184 (2002). Specifically, the ADA Amendments Act (1) adds illustrative lists of ''major life activities,'' including ''major bodily functions,'' that provide more examples of covered activities and covered conditions than are now contained in agency regulations (sec. 3[2]); (2) clarifies that a person who is ''regarded as'' having a disability does not have to be regarded as being substantially limited in a major life activity (sec. 3[3]); and (3) adds rules of construction regarding the definition of disability that provide guidance in applying the term ''substantially limits'' and prohibit consideration of mitigating measures in determining whether a person has a disability (sec. 3[4]).

*Statement of Need:* This rule is necessary to bring the Department's ADA regulations into compliance with the ADA Amendments Act of 2008, which became effective on January 1, 2009. In addition, this rule is necessary to make the Department's ADA title II and title III regulations consistent with the ADA title I regulations issued on March 25, 2011 by the Equal Employment Opportunity Commission (EEOC) incorporating the ADA Amendments Act definition of disability.

*Summary of Legal Basis:* The summary of the legal basis of authority for this regulation is set forth above in the abstract.

*Alternatives:* In order to ensure consistency in application of the ADA Amendments Act across titles I, II and III of the ADA, this rule is intended to be consistent with the language of the EEOC's rule implementing the ADA Amendments Act with respect to title I of the ADA (employment). The Department will, however, consider alternative regulatory language suggested by commenters so long as it maintains that consistency.

*Anticipated Cost and Benefits:* The Department's preliminary analysis indicates that the proposed rule would not be ''economically significant,'' that is, the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities. According to the Department's preliminary analysis, it is anticipated that the rule will cost between $36.32 million and $61.8 million in the first year (the year with the highest costs). The Department estimates that in the first year of the implementation of the proposed rule, approximately 142,000 students will take advantage of additional testing accommodations than otherwise would have been able to without the changes made to the definition of disability to conform to the ADA Amendments Act. The Department believes that this will result in benefits for many of these individuals in the form of significantly higher earnings potential. The Department expects that the rule will also have significant non-quantifiable benefits to persons with newly covered disabilities in other contexts, such as benefits of non-exclusion from the programs, services and activities of state and local governments and public accommodations, and the benefits of access to reasonable modifications of policies, practices and procedures to meet their needs in a variety of contexts. In this NPRM, the Department will be soliciting public comment in response to its preliminary analysis.

*Risks:* The ADA authorizes the Attorney General to enforce the ADA and to promulgate regulations implementing the law's requirements.

Failure to update the Department's regulations to conform to statutory changes and to be consistent with the EEOC regulations under title I of the ADA will interfere with the Department's enforcement efforts and lead to confusion about the law's requirements among entities covered by titles I, II and III of the ADA, as well as members of the public.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses, Governmental Jurisdictions.

*Government Levels Affected:* Local, State.

*Agency Contact:* Rebecca B. Bond, Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20530, *Phone:* 800 514–0301.

*RIN:* 1190–AA59

## DOJ—CRT

### 97. Implementation of the ADA Amendments Act of 2008 (Section 504 of the Rehabilitation Act of 1973)

*Priority:* Other Significant.

*Legal Authority:* Pub. L. 110–325; 29 U.S.C. 794 (sec 504 of the Rehabilitation Act of 1973, as amended); EO 12250 (45 FR 72955; 11/04/1980)

*CFR Citation:* 28 CFR 39; 28 CFR 41; 28 CFR 42, subpart G.

*Legal Deadline:* None.

*Abstract:* This rule would propose to amend the Department's regulations implementing section 504 of the Rehabilitation Act of 1973, as amended, 28 CFR part 39 and part 42, subpart G, and its regulation implementing Executive Order 12250, 28 CFR part 41, to reflect statutory amendments to the definition of disability applicable to section 504 of the Rehabilitation Act, which were enacted in the ADA Amendments Act of 2008, Public Law 110–325, 122 Stat. 3553 (Sep. 25, 2008). The ADA Amendments Act took effect on January 1, 2009.

The ADA Amendments Act revised 29 U.S.C. section 705, to make the definition of disability used in the nondiscrimination provisions in title V of the Rehabilitation Act consistent with the amended ADA requirements. These amendments (1) add illustrative lists of ''major life activities,'' including ''major bodily functions,'' that provide more examples of covered activities and covered conditions than are now contained in agency regulations (sec. 3[2]); (2) clarify that a person who is ''regarded as'' having a disability does not have to be regarded as being substantially limited in a major life activity (sec. 3[3]); and (3) add rules of construction regarding the definition of disability that provide guidance in applying the term ''substantially limits'' and prohibit consideration of mitigating measures in determining whether a person has a disability (sec. 3[4]).

The Department anticipates that these changes will be published for comment in a proposed rule within the next 12 months. During the drafting of these revisions, the Department will also review the currently published rules to ensure that any other legal requirements under the Rehabilitation Act have been properly addressed in these regulations.

*Statement of Need:* This rule is necessary to bring the Department's prior section 504 regulations into compliance with the ADA Amendments Act of 2008, which became effective on January 1, 2009.

*Summary of Legal Basis:* The summary of the legal basis of authority for this regulation is set forth above in the abstract.

*Alternatives:* Because this NPRM implements statutory changes to the Section 504 definition of disability, there are no appropriate alternatives to issuing this NPRM.

*Anticipated Cost and Benefits:* The Department's preliminary assessment in this early stage of the rulemaking process is that this rule will not be ''economically significant,'' that is, that the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal Governments or communities. The Department's Section 504 rule will incorporate the same changes made by the ADA Amendments Act to the definition of disability as are included in the proposed changes to the ADA title II and title III rules (1190–AA59), which will be published in the **Federal Register** in the near future. Therefore, we do not believe that the revisions to the Department's existing Section 504 federally assisted regulations will have any additional economic impact, because public and private entities that receive federal financial assistance from the Department are also likely to be subject to titles II or III of the ADA. The Department expects to consider further the economic impact of the proposed rule on the Department's existing Section 504 federally conducted regulations, but anticipates that the rule will not be economically significant within the meaning of Executive Order 12866. This is because the revisions to these regulations will only apply to the Department's programs and activities and how those programs and activities are operated so as to ensure compliance with the nondiscrimination requirements of Section 504. In the NPRM, the Department will be soliciting public comment in response to its initial assessment of the impact of the proposed rule.

*Risks:* Failure to update the Department's Section 504 regulations to conform to statutory changes will interfere with the Department's enforcement efforts and lead to confusion about the law's requirements among entities that receive Federal financial assistance from the Department or who participate in its federally conducted programs.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses, Governmental Jurisdictions.

*Government Levels Affected:* Local, State.

*Federalism:* Undetermined.

*Agency Contact:* Rebecca B. Bond, Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20530, *Phone:* 800 514–0301.

*RIN:* 1190–AA60

## DOJ—CRT

### 98. Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of Public Accommodations

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Legal Authority:* 42 U.S.C. 12101, *et seq.*

*CFR Citation:* 28 CFR 36.

*Legal Deadline:* None.

*Abstract:* The Department of Justice is considering proposed revisions to the regulation implementing title III of the Americans with Disabilities Act (ADA) in order to address the obligations of public accommodations to make goods, services, facilities, privileges, accommodations, or advantages they offer via the Internet, specifically at sites on the World Wide Web (Web), accessible to individuals with

disabilities. The ADA requires that public accommodations provide individuals with disabilities with full and equal enjoyment of their goods, services, facilities, privileges, advantages, and accommodations. 42. U.S.C. 12182. The Internet as it is known today did not exist when Congress enacted the ADA. Today the Internet, most notably the sites on the Web, plays a critical role in the daily personal, professional, and business life of most Americans. Increasingly, private entities of all types are providing goods and services to the public through Web sites that operate as places of public accommodation under title III of the ADA. Many Web sites of public accommodations, however, render use by individuals with disabilities difficult or impossible due to barriers posed by Web sites designed without accessible features.

Being unable to access Web sites puts individuals with disabilities at a great disadvantage in today's society, which is driven by a global marketplace and unprecedented access to information. On the economic front, electronic commerce, or ''e-commerce,'' often offers consumers a wider selection and lower prices than traditional ''brick-and-mortar'' storefronts, with the added convenience of not having to leave one's home to obtain goods and services. Beyond goods and services, information available on the Internet has become a gateway to education. Schools at all levels are increasingly offering programs and classroom instruction through Web sites. Many colleges and universities offer degree programs online; some universities exist exclusively on the Internet. The Internet also is changing the way individuals socialize and seek entertainment. Social networks and other online meeting places provide a unique way for individuals to meet and fraternize. These networks allow individuals to meet others with similar interests and connect with friends, business colleagues, elected officials, and businesses. They also provide an effective networking opportunity for entrepreneurs, artists, and others seeking to put their skills and talents to use. Web sites also bring a myriad of entertainment and information options for internet users—from games and music to news and videos.

The ADA's promise to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of American civic and economic life will be achieved in today's technologically advanced society only if it is clear to businesses, educators, and other public accommodations, that their Web sites must be accessible. Consequently, the Department is proposing to amend its title III regulation to expressly address the obligations of public accommodations to make the Web sites they use to provide their goods and services to the public accessible to and usable by individuals with disabilities under the legal framework established by the ADA. The proposed regulation will propose the scope of the obligation to provide accessibility when persons with disabilities attempt to access Web sites of public accommodations, as well as propose the technical standards necessary to comply with the ADA.

*Statement of Need:* Many people with disabilities use ''assistive technology'' to enable them to use computers and access the Internet. Individuals who are blind or have low vision who cannot see computer monitors may use screen readers—devices that speak the text that would normally appear on a monitor. People who have difficulty using a computer mouse can use voice recognition software to control their computers with verbal commands. People with other types of disabilities may use still other kinds of assistive technology. New and innovative assistive technologies are being introduced every day.

Web sites that do not accommodate assistive technology, for example, can create unnecessary barriers for people with disabilities, just as buildings not designed to accommodate individuals with disabilities can prevent some individuals from entering and accessing services. Web designers may not realize how simple features built into a Web site will assist someone who, for instance, cannot see a computer monitor or use a mouse. In addition, in many cases, these Web sites do not provide captioning for videos or live events streamed over the Web, leaving persons who are deaf or hard of hearing unable to access the information that is being provided.

Although the Department has been clear that the ADA applies to Web sites of private entities that meet the definition of ''public accommodations,'' inconsistent court decisions, differing standards for determining Web accessibility, and repeated calls for Department action indicate remaining uncertainty regarding the applicability of the ADA to Web sites of entities covered by title III. For these reasons, the Department plans to propose amendments to its regulation so as to make clear to entities covered by the ADA their obligations to make their Web sites accessible. Despite the need for action, the Department appreciates the need to move forward deliberatively. Any regulations the Department adopts must provide specific guidance to help ensure Web access to individuals with disabilities without hampering innovation and technological advancement on the Web.

*Summary of Legal Basis:* The ADA requires that public accommodations provide individuals with disabilities with full and equal enjoyment of their goods, services, facilities, privileges, advantages, and accommodations. 42 U.S.C. 12182. Increasingly, private entities of all types are providing goods and services to the public through Web sites that operate as places of public accommodation under title III of the ADA.

*Alternatives:* The Department intends to consider various alternatives for ensuring full access to Web sites of public accommodations, including alternative implementation schedules and technical requirements applicable to certain Web features or based on a covered entity's size. The Department will solicit public comment addressing its proposed alternatives.

*Anticipated Cost and Benefits:* The Department anticipates that this rule will be ''economically significant.'' The Department believes that revising its title III rule to clarify the obligations of public accommodations to provide accessible Web sites will significantly increase the opportunities of individuals with disabilities to access the variety of goods and services public accommodations offer on the Web, while increasing the number of customers that access the Web sites to procure the goods and services offered by these public accommodations. In drafting this NPRM, the Department will attempt to minimize the compliance costs to public accommodations, while ensuring the benefits of compliance to persons with disabilities. At this stage in the process, the Department is not yet able to provide a preliminary estimate of costs and benefits .

*Risks:* If the Department does not revise its ADA title III regulations to address Web site accessibility, persons with disabilities will continue to be unable to access the many goods and services of public accommodations available on the Web to individuals without disabilities.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 07/26/10 | 75 FR 43460 |
| ANPRM Comment Period End. | 01/24/11 | |
| NPRM | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Small Entities Affected:* Businesses.

*Government Levels Affected*: None.

*Additional Information:* See also RIN 1190–AA65 which was split from this RIN of 1190–AA61.

*Agency Contact:* Rebecca B. Bond, Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20530, *Phone:* 800 514–0301.

*RIN:* 1190–AA61

## DOJ—CRT

### 99. Nondiscrimination on the Basis of Disability; Movie Captioning and Audio Description

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 12101, *et seq.*

*CFR Citation:* 28 CFR 36.

*Legal Deadline:* None.

*Abstract:* Following its advance notice of proposed rulemaking published on July 26, 2010, the Department plans to publish a proposed rule addressing the requirements for captioning and video description of movies exhibited in movie theatres under title III of the Americans with Disabilities Act of 1990 (ADA). Title III prohibits discrimination on the basis of disability in the activities of places of public accommodation (private entities whose operations affect commerce and that fall into one of twelve categories listed in the ADA). 42 U.S.C. 12181–12189. Title III makes it unlawful for places of public accommodation, such as movie theaters, to discriminate against individuals with disabilities in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation (42 U.S.C. 12182[a]). Moreover, title III prohibits places of public accommodation from affording an unequal or lesser service to individuals or classes of individuals with disabilities than is offered to other individuals (42 U.S.C. 12182(b)(1)(A)(ii)). Title III requires places of public accommodation to take ''such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently because of the absence of auxiliary aids and services, such as captioning and video description, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden'' (42 U.S.C. 12182(b)(2)(A)(iii)).

*Statement of Need:* A significant- and increasing-proportion of Americans have hearing or vision disabilities that prevent them from fully and effectively understanding movies without captioning or audio description. For persons with hearing and vision disabilities, the unavailability of captioned or audio-described movies inhibits their ability to socialize and fully take part in family outings and deprives them of the opportunity to meaningfully participate in an important aspect of American culture. Many individuals with hearing or vision disabilities who commented on the Department's 2010 ANPRM remarked that they have not been able to enjoy a commercial movie unless they watched it on TV, or that when they took their children to the movies they could not understand what they were seeing or discuss what was happening with their children.

Today, more and more movies are produced with captions and audio description. However, despite the underlying ADA obligation, the advancement of digital technology and the availability of captioned and audio-described films, many movie theaters are still not exhibiting captioned or audio-described movies, and when they do exhibit them, they are only for a few showings of a movie, and usually at off-times. Recently, a number of theater companies have committed to provide greater availability of captioning and audio description. In some cases, these have been nationwide commitments; in other cases it has only been in a particular state or locality. A uniform Federal ADA requirement for captioning and audio description is necessary to ensure that access to movies for persons with hearing and vision disabilities is not dictated by the individual's residence or the presence of litigation in their locality.

In addition, the movie theater industry is in the process of converting its movie screens to use digital technology, and the Department believes that it will be extremely helpful to provide timely guidance on the ADA requirements for captioning and audio description so that the industry may factor this into its conversion efforts and minimize costs.

*Summary of Legal Basis:* The summary of the legal basis of authority for this regulation is set forth above in the abstract.

*Alternatives:* The Department will consider any public comments that propose achievable alternatives that will still accomplish the goal of providing access to movies for persons with hearing and vision disabilities. However, the Department believes that the baseline alternative of not providing such access would be inconsistent with the provisions of title III of the ADA.

*Anticipated Cost and Benefits:* The Department's preliminary analysis indicates that the proposed rule would not be ''economically significant,'' that is, that the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities. In the NPRM, the Department will be soliciting public comment in response to its preliminary analysis regarding the costs imposed by the rule.

*Risks:* Without the proposed changes to the Department's title III regulation, persons with hearing and vision disabilities will continue to be denied access to movies shown in movie theaters and movie theater owners and operators will not understand what they are required to do in order to provide auxiliary aids and services to patrons with hearing and vision disabilities.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 07/26/10 | 75 FR 43467 |
| ANPRM Comment Period End. | 01/24/11 | |
| NPRM | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Agency Contact:* Rebecca B. Bond, Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20530, *Phone:* 800 514–0301.

*RIN:* 1190–AA63

## DOJ—CRT

### 100. Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Governments

*Priority:* Economically Significant. Major status under 5 U.S.C. 801 is undetermined.

*Legal Authority:* 42 U.S.C. 12101 *et seq.*

*CFR Citation:* 28 CFR 35.

*Legal Deadline:* None.

*Abstract:* The Department published an ANPRM on July 26, 2010, RIN 1190–

AA61, that addressed issues relating to proposed revisions of both the title II and title III ADA regulations in order to provide guidance on the obligations of covered entities to make programs, services and activities offered over the Web accessible to individuals with disabilities.

The Department has now divided the rulemakings in the next step of the rulemaking process so as to proceed with separate notices of proposed rulemakings for title II and title III. The title III rulemaking on Web accessibility will continue under RIN 1190–AA61 and the title II rulemaking will continue under the new RIN 1190–AA65. This rulemaking will provide specific guidance to State and local governments in order to make services, programs, or activities offered to the public via the Web accessible to individuals with disabilities.

The ADA requires that State and local governments provide qualified individuals with disabilities equal access to their programs, services, or activities unless doing so would fundamentally alter the nature of their programs, services, or activities or would impose an undue burden. 42 U.S.C. 12132. The Internet as it is known today did not exist when Congress enacted the ADA; yet today the Internet is dramatically changing the way that governmental entities serve the public. Taking advantage of new technology, citizens can now use State and local government Web sites to correspond online with local officials; obtain information about government services; renew library books or driver's licenses; pay fines; register to vote; obtain tax information and file tax returns; apply for jobs or benefits; and complete numerous other civic tasks. These Government Web sites are important because they allow programs and services to be offered in a more dynamic, interactive way in order to increase citizen participation; increase convenience and speed in obtaining information or services; reduce costs in providing information about Government services and administering programs; reduce the amount of paperwork; and expand the possibilities of reaching new sectors of the community or offering new programs or services.

Many States and localities have begun to improve the accessibility of portions of their Web sites. However, full compliance with the ADA's promise to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of the programs, services, and activities provided by State and local Governments in today's technologically advanced society will only occur if it is clear to public entities that their Web sites must be accessible. Consequently, the Department intends to publish a Notice of Proposed Rulemaking (NPRM) to amend its title II regulations to expressly address the obligations of public entities to make the Web sites they use to provide programs, activities, or services or information to the public accessible to and usable by individuals with disabilities under the legal framework established by the ADA. The proposed regulation will propose the scope of the obligation to provide accessibility when persons with disabilities access public Web sites, as well as propose the technical standards necessary to comply with the ADA.

*Statement of Need:* Many people with disabilities use ''assistive technology'' to enable them to use computers and access the Internet. Individuals who are blind or have low vision who cannot see computer monitors may use screen readers—devices that speak the text that would normally appear on a monitor. People who have difficulty using a computer mouse can use voice recognition software to control their computers with verbal commands. People with other types of disabilities may use still other kinds of assistive technology. New and innovative assistive technologies are being introduced every day.

Web sites that do not accommodate assistive technology, for example, can create unnecessary barriers for people with disabilities, just as buildings not designed to accommodate people with disabilities prevent some individuals from entering and accessing services. Web designers may not realize how simple features built into a Web site will assist someone who, for instance, cannot see a computer monitor or use a mouse. In addition, in many cases, these Web sites do not provide captioning for videos or live events streamed over the web, leaving persons who are deaf or hard of hearing unable to access the information that is being provided. Although an increasing number of State and local Governments are making efforts to provide accessible Web sites, because there are no specific ADA standards for Web site accessibility, these Web sites vary in actual usability.

*Summary of Legal Basis:* The ADA requires that State and local Governments provide qualified individuals with disabilities equal access to their programs, services, or activities unless doing so would fundamentally alter the nature of their programs, services, or activities or would impose an undue burden. 42. U.S.C. 12132.

*Alternatives:* The Department intends to consider various alternatives for ensuring full access to Web sites of State and local Governments and will solicit public comment addressing these alternatives.

*Anticipated Cost and Benefits:* The Department anticipates that this rule will be ''economically significant,'' that is, that the rule will have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal Governments or communities. However, the Department believes that revising its title II rule to clarify the obligations of State and local Governments to provide accessible Web sites will significantly increase the opportunities for citizens with disabilities to participate in, and benefit from, State and local Government programs, activities, and services. It will also ensure that individuals have access to important information that is provided over the Internet, including emergency information. The Department also believes that providing accessible Web sites will benefit State and local Governments as it will increase the numbers of citizens who can use these Web sites, and thus improve the efficiency of delivery of services to the public. In drafting this NPRM, the Department will attempt to minimize the compliance costs to State and local Governments while ensuring the benefits of compliance to persons with disabilities.

*Risks:* If the Department does not revise its ADA title II regulations to address Web site accessibility, persons with disabilities in many communities will continue to be unable to access their State and local governmental services in the same manner available to citizens without disabilities, and in some cases will not be able to access those services at all.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 07/26/10 | 75 FR 43460 |
| ANPRM Comment Period End. | 01/21/11 | |
| NPRM | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Small Entities Affected:* Governmental Jurisdictions.

*Government Levels Affected:* Local, State.

*Federalism:* Undetermined.

*Additional Information:* Split from RIN 1190–AA61.

*Agency Contact:* Rebecca B. Bond, Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20530, *Phone:* 800 514–0301.

*RIN:* 1190–AA65

## DOJ—BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES (ATF)

*Proposed Rule Stage*

### 101. Machine Guns, Destructive Devices and Certain Other Firearms; Background Checks for Responsible Persons of a Corporation, Trust, or Other Legal Entity With Respect To Making or Transferring a Firearm

*Priority:* Other Significant.
*Legal Authority:* 26 U.S.C. 7805
CFR Citation: 27 CFR 479
*Legal Deadline:* None.

*Abstract:* The Department of Justice is planning to finalize a proposed rule to amend the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) regarding the making or transferring of a firearm under the National Firearms Act. As proposed, the rule would (1) add a definition for the term ''responsible person''; (2) require each responsible person of a corporation, trust or legal entity to complete a specified form, and to submit photographs and fingerprints; and (3) modify the requirements regarding the certificate of the chief law enforcement officer (CLEO).

*Statement of Need:* The current firearms regulations permit a corporation, partnership, trust or other legal entity to submit applications to ATF to acquire firearms registered under the National Firearms Act (NFA) without a responsible person of such an entity having to meet requirements currently in place for individuals that seek to ensure that prohibited persons do not gain access to NFA firearms (i.e., undergo a background check, provide a certificate of a CLEO).

*Summary of Legal Basis:* This rulemaking is in response to a petition for rulemaking. No aspect of this rulemaking is required by statute or court order.

*Alternatives:* The Agency is soliciting public comment on how the application process can be made more efficient and effective.

*Anticipated Cost and Benefits:* Total annual costs are estimated at $14.9 million and encompass costs to legal entities associated with the application, ATF processing costs, and costs to local and State agencies in providing the CLEO certificate. There will be public safety benefits as the provisions will enable ATF to ensure that responsible persons within legal entities are not prohibited from possessing NFA firearms under Federal, State, or local law.

*Risks:* This proposed rule may prevent a prohibited person, who is a responsible person in a legal entity, from obtaining an NFA firearm and using it to commit a violent crime.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 09/09/13 | 78 FR 55014 |
| NPRM Comment Period End. | 12/09/13 | |
| Final Action | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* No.
*Small Entities Affected:* No.
*Government Levels Affected:* None.
*Agency Contact:* Brenda R. Friend, Attorney, Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, 99 New York Avenue NE., Washington, DC 20226, *Phone:* 202 648–7070.

*RIN:* 1140–AA43

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## DEPARTMENT OF LABOR

*Fall 2013 Statement of Regulatory Priorities*

For over 100 years, the Labor Department has been central to safe guarding and expanding the American Dream for American working families. The Department's Fall 2013 Regulatory Agenda supports that mission—specifically, Secretary Perez's goal to develop and implement policies that create opportunity for everyone who wants it. These include policies that provide the opportunities for:

- Workers to acquire the skills they need to succeed;
- Employers to have the skilled workforce required to compete in a global economy;
- Employees to earn a fair day's pay for a fair day's work;
- Veterans to thrive in the civilian economy;
- Persons with disabilities to contribute productively to the workforce;
- Improved health benefits and a dignified retirement; and,
- Safe and healthy work environments, fully protected by anti-discrimination laws.

This narrative describes several of the Department's *Plan/Prevent/Protect, Openness and Transparency, Risk Reduction,* and *Regulatory Review and Burden Reduction* initiatives. The Fall 2013 Regulatory Agenda utilizes this combination of approaches as one piece of the strategy to advance the Department's mission and the Secretary's goal.

*Plan/Prevent/Protect.* The regulatory actions that comprise the Department's Plan/Prevent/Protect approach are designed to ensure employers and other regulated entities are in full compliance with the law every day, not just when the Department of Labor engages an employer. First announced with the Spring 2010 Regulatory Agenda, this strategy shifts the burden of ensuring compliance from the Department—which cannot and does not want to inspect every workplace—to the regulated entity itself. Employers, unions, and others who follow the Department's Plan/Prevent/Protect strategy will assure compliance with employment laws before Labor Department enforcement personnel ever have to arrive at their doorsteps. Most important, rules published under this strategy will continue to assure that workers get the safe, healthy, diverse, family-friendly, and fair workplaces they deserve. In the Fall 2013 Regulatory Agenda, the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA) will propose regulatory actions furthering the Department's implementation of the Plan/Prevent/Protect strategy.

*Openness and Transparency.* Greater openness and transparency also continue to be central to the Department's compliance and regulatory strategies. The Fall 2013 Regulatory Plan demonstrates the Department's continued commitment to these two goals, not only as stakeholder engagement strategies, but also an important means to achieve compliance in the regulated community. The Department believes that when employers, workers, advocates, and members of the public have greater access to information concerning workplace conditions and expectations, achieving compliance is not only possible but often also becomes a cooperative exercise. Openness and transparency encourage greater levels of compliance by the regulated community, enhance awareness among workers of their rights and benefits, and provide employers with clear expectations, actionable data, and a level playing field on which to build their businesses.

*Risk Reduction.* When the Department identifies specific hazards and risks to

worker health, safety, security, or fairness, the Department will utilize its regulatory powers to limit the risk to workers. The Fall 2013 Regulatory Agenda includes risk reduction initiatives to address such specific concerns, many of which are discussed in this document.

*Regulatory Review and Burden Reduction.* On January 18, 2011, the President issued Executive Order (E.O.) 13563 entitled ''Improving Regulation and Regulatory Review.'' The E.O. aims to strike the right balance between protecting the health, welfare, safety, and the environment for all Americans—a goal at the core of the Labor Department's mission—while fostering economic growth, job creation, and competitiveness. The Department's Fall 2013 Regulatory Agenda also aims to achieve more efficient and less burdensome regulations through a retrospective review of the Labor Department regulations.

In August 2011, as part of a Government wide response to E.O. 13563, the Department published its ''Plan for Retrospective Analysis of Existing Rules.'' The plan identified several burden-reducing regulatory projects. Projects such as OSHA's Standard Improvement Project—Phase IV (SIP IV) and OSHA's Revising to Record Requirements in the Mechanical Power Presses Standard are both expected to produce savings for the covered community.

The Department is also taking action to eliminate regulations that are no longer effective or enforceable. This effort has included the removal of obsolete ETA's Job Training Partnership Act program regulations. The effort will continue with the removal of attestation requirements for facilities using nonimmigrant aliens as registered nurses in the H–1A program (authorized by the Immigration Nursing Relief Act of 1999); removal of attestation requirements for employers using F–1 students in off-campus work (authorized by the Immigration Act of 1990); and removal of remove obsolete regulations regarding labor certification process requirements for logging employment and non-H–2A agricultural employment. This agenda includes 13 retrospective review projects.

Pursuant to section 6 of E.O. 13563, the following Regulatory Identifier Numbers (RINs) are associated with the Department's Plan for Retrospective Analysis of Existing Rules. More information about completed rulemakings, which are no longer included in the plan, can be found on Reginfo.gov. The original August 2011 DOL Plan for Retrospective Analysis of Existing Rules and each subsequent update can be found at *http://www.dol.gov/regulations/.*

| Regulatory Identifier No. | Title of rulemaking | Whether it is expected to significantly reduce burdens on small businesses |
|---|---|---|
| 1218–AC34 | Bloodborne Pathogens | No. |
| 1218–AC67 | Standard Improvement Project—Phase IV (SIP IV) | Yes. |
| 1218–AC74 | Review/Lookback of OSHA Chemical Standards | To Be Determined. |
| 1218–AC80 | Revising Record Requirements in the Mechanical Power Presses Standard | No. |
| 1218–AC81 | Cranes and Derricks in Construction: Amendments | No. |
| 1219–AB72 | Criteria and Procedures for Proposed Assessment of Civil Penalties (Part 100) | To Be Determined. |
| 1250–AA05 | Sex Discrimination Guidelines | To Be Determined. |
| 1210–AB47 | Amendment of Abandoned Plan Program | Yes. |
| 1205–AB59 | Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations | To Be Determined. |
| 1205–AB62 | Implementation of Total Unemployment Rate Extended Benefits Trigger and Rounding Rule | No. |
| 1205–AB65 | Labor Certification Process for Logging Employment and Non-H–2A Agricultural Employment | No, action will not increase burden to small businesses as regulatory provisions are no longer operative. |
| 1205–AB66 | Attestations by Employers Using F–1 Students in Off-Campus Work | No, action will not increase burden to small businesses as regulatory provisions are no longer operative. |
| 1205–AB67 | Attestations by Facilities Using Nonimmigrant Aliens as Registered Nurses | No, action will not increase burden to small businesses as regulatory provisions are no longer operative. |

The Department's *Plan/Prevent/Protect, Openness and Transparency,* and *Risk Reduction* initiatives work in concert with its implementation of E.O. 13563. These regulations strengthen protections for workers while maintaining flexibility for businesses to comply. By requiring employers and other regulated entities to take full ownership of their compliance with clearly defined Department regulations; by promoting greater openness and transparency for employers and workers alike; and by encouraging regulated entities to adopt a strategy that includes planning and prevention, the Labor Department believes it can increase compliance with its regulations across all regulated entities. The increased effectiveness of this compliance strategy will enable the Department to create opportunity—both for businesses to comply in the way that is most efficient, least burdensome, and in line with their existing business practices, and for workers to labor in safe and healthy environments. A discussion of several of these initiatives follows.

Occupational Safety and Health Administration (OSHA)

OSHA's regulatory program is designed to help workers and employers

identify hazards in the workplace, prevent the occurrence of injuries and adverse health effects, and communicate with the regulated community regarding hazards and how to effectively control them. Long-recognized health hazards and emerging hazards that place American workers at risk of serious injury, illness, and death are the focus of several initiatives on OSHA's regulatory agenda. In addition to targeting specific hazards, OSHA is focusing on proposing changes to systematic processes that would modernize the culture of safety in America's workplaces. OSHA continues work on its retrospective review projects that when completed will both update outdated regulations and reduce burdens on regulated employers. OSHA's retrospective review projects include consideration of the Bloodborne Pathogens standard, updating consensus standard references in OSHA standards, phase IV of OSHA's standard improvement project (SIP IV), and reviewing Permissible Exposure Limits of various hazardous chemicals.

OSHA Plan/Prevent/Protect Initiatives

• *Infectious Diseases.* OSHA is considering the need for regulatory action to address the risk to workers exposed to infectious diseases in healthcare and other related high-risk environments. Healthcare workplaces can range from small private practices of physicians to hospitals that employ thousands of workers. In addition, healthcare is increasingly being provided in other settings such as nursing homes, free-standing surgical and outpatient centers, emergency care clinics, patients' homes, and pre-hospitalization emergency care settings. OSHA is concerned with the movement of healthcare delivery from the traditional hospital setting, with its greater infrastructure and resources to effectively implement infection control measures, into more diverse and smaller workplace settings with less infrastructure and fewer resources, but with an expanding worker population.

OSHA is interested in all routes of infectious disease transmission in healthcare settings not already covered by its bloodborne pathogens standard (e.g. contact, droplet, and airborne routes of transmission.) The agency is particularly concerned by studies that indicate that transmission of infectious diseases to both patients and healthcare workers may be occurring as a result of incomplete adherence to recognized, but voluntary, infection control measures and is considering an approach that would combine elements of the Department's Plan/Prevent/Protect strategy with established infection control practices. The agency received strong stakeholder participation in response to its May 2010 request for information and July 2011 stakeholder meetings on this topic.

• *Injury and Illness Prevention Program.* OSHA's Injury and Illness Prevention Program is the prototype for the Department's Plan/Prevent/Protect strategy. OSHA's first step in this important rulemaking was to hold four well attended stakeholder meetings across the country. The proposed rule will explore requiring employers to provide their employees with opportunities to participate in the development and implementation of an injury and illness prevention program, including a systematic process to proactively and continuously address workplace safety and health hazards. This rule will involve planning, implementing, evaluating, and improving processes and activities that promote worker safety and health hazards. OSHA has substantial evidence showing that employers who have implemented similar injury and illness prevention programs have reduced significantly injuries and illnesses in their workplaces. The new rule would build on OSHA's existing Safety and Health Program Management Guidelines and lessons learned from successful approaches and best practices that have been applied by companies participating in OSHA's Voluntary Protection Program and Safety and Health Achievement Recognition Program, and similar industry and international initiatives.

OSHA Openness and Transparency Initiatives

• *Modernizing Recordkeeping.* OSHA held informal meetings to gather information from experts and stakeholders regarding the modification of its current injury and illness data collection system that will help the agency, employers, employees, researchers, and the public prevent workplace injuries and illnesses. Under the proposed rule, OSHA will explore requiring employers to submit electronically to the Agency data required by its part 1904 regulations governing the Recording and Reporting of Occupational Injuries. OSHA learned from stakeholders that most large employers already maintain their part 1904 data electronically. As a result, electronic submission will constitute only a minimal additional burden on these employers, while providing a wealth of data to help OSHA, employers, employees, researchers, and the public prevent workplace injuries and illnesses. The proposed rule would not add to or change the recording criteria or definitions in part 1904. The proposed rule would only modify employers' obligations to transmit information from these records to OSHA.

• *Whistleblower Protection Regulations.* The ability of workers to speak out and exercise their legal rights without fear of retaliation is essential to many of the legal protections and safeguards that all Americans value. Whether the goal is the safety of our food, drugs, or workplaces, the integrity of our financial system, or the security of our transportation systems, whistleblowers have been essential to ensuring that our laws are fully and fairly executed. In the Fall 2013 Regulatory Agenda, OSHA proposes to issue procedural rules that will establish consistent and transparent procedures for the filing of whistleblower complaints under seven statutes. These procedural rules will strengthen OSHA's enforcement of its whistleblower program by providing specific timeframes and guidance for filing a complaint with OSHA, issuing a finding, avenues of appeal, and allowable remedies.

OSHA Risk Reduction Initiatives

• *Silica.* OSHA has announced a proposed rule aimed at curbing lung cancer, silicosis, chronic obstructive pulmonary disease and kidney disease in America's workers. The proposal seeks to lower worker exposure to crystalline silica, which kills hundreds of workers and sickens thousands more each year. Once the full effects of the rule are realized, OSHA estimates that the proposed rule would result in saving nearly 700 lives per year and prevent 1,600 new cases of silicosis annually. Reducing these hazardous exposures through promulgation and enforcement of a comprehensive health standard will contribute to OSHA's goal of reducing occupational fatalities and illnesses. As a part of the Secretary's strategy for securing safe and healthy work environments, MSHA will also utilize information provided by OSHA to undertake regulatory action related to silica exposure in mines.

• *Preventing Backover Injuries and Fatalities.* According to the Department's Bureau of Labor Statistics, backing accidents caused at least 75 occupational deaths in 2011. Emerging technologies that address the risks of backing operations include cameras, radar, and sonar—to help view or detect the presence of workers on foot in blind areas—and new monitoring technology, such as tag-based warning systems that

use radio frequency (RFID) and magnetic field generators on equipment to detect electronic tags worn by workers. OSHA is collecting information on this hazard and researching emerging technologies that may help reduce this risk. OSHA published an RFI on March 27, 2012 seeking information from the public; the comment period ended on July 27, 2012. The Agency has held stakeholder meetings in Washington, DC and Arlington, TX, and is also conducting site visits to employers.

• *Reinforced Concrete in Construction.* Currently, workers performing steel reinforcing suffer injuries caused by unsafe material handling, structural collapse, and impalement by protruding reinforcing steel dowels, among others. OSHA IMIS data indicates that 31 workers died while performing work on or near post-tensioning operations or reinforcing steel between 2000 and 2009. Current rules regarding reinforcing steel and post-tensioning activities may not adequately address hazards facing workers engaged in these activities. OSHA has published an RFI seeking information about the hazards associated with reinforcing operations in construction.

OSHA Regulatory Review and Burden Reduction Initiatives

• *Bloodborne Pathogens.* OSHA will undertake a review of the Bloodborne Pathogen Standard in accordance with the requirements of the Regulatory Flexibility Act, section 5 of Executive Order 12866, and E.O. 13563. The review will consider the continued need for the rule; whether the rule overlaps, duplicates, or conflicts with other Federal, State or local regulations; and the degree to which technology, economic conditions, or other factors may have changed since the rule was implemented.

• *Standard Improvement Project—Phase IV (SIP IV).* OSHA's Standards Improvement Projects (SIPs) are intended to remove or revise duplicative, unnecessary, and inconsistent safety and health standards. The Agency has published three earlier final standards to remove unnecessary provisions, thus reducing costs or paperwork burden on affected employers without diminishing employee protections. OSHA has published an RFI in the **Federal Register** asking the public for candidate ideas for improvements in its construction safety standards (77 FR 72781: December 6, 2012). Candidate ideas were presented to the Advisory Committee on Construction Safety and Health at its May and August 2013 meetings.

• *Review-Lookback of OSHA Chemical Standards.* The majority of OSHA's Permissible Exposure Limits (PELs) were adopted in 1971 under section 6(a) of the OSH Act, and only a few have been successfully updated since that time. There is widespread agreement among industry, labor, and professional occupational safety and health organizations that OSHA's PELs are outdated and need revising to reflect newer scientific data that indicate that significant occupational health risks exist at levels below OSHA's current PELs. As part of the Department's Regulatory Review and Lookback Efforts, OSHA is developing a Request for Information (RFI), seeking input from the public to help the Agency identify effective ways to address occupational exposure to chemicals.

Mine Safety and Health Administration (MSHA)

The Department believes that every worker has a right to a safe and healthy workplace. Workers should never have to sacrifice their lives for their livelihood. All workers deserve to come home to their families at the end of their shift safe and whole. MSHA's approach to reducing workplace fatalities and injuries includes promulgating and enforcing mandatory health and safety standards. MSHA's retrospective review project under E.O.13563 addresses revising the process for proposing civil penalties.

MSHA Plan/Prevent/Protect Initiatives

• *Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines.* From 1984 to 2012, there have been 33 fatalities resulting from pinning, crushing or striking accidents involving continuous mining machines. Proximity detection technology can prevent these types of accidents. Proximity detection systems can be installed on mining machinery to detect the presence of personnel or equipment within a certain distance of the machine. MSHA published a proposed rule to address the danger that miners face when working near continuous mining machines in underground coal mines. The rule would strengthen the protection for underground miners by reducing the potential for pinning, crushing, or striking hazards associated with working close to continuous mining machines.

• *Proximity Detection Systems for Mobile Machines in Underground Mines.* MSHA plans to publish a proposed rule to require underground mine operators to equip certain mobile machines, with proximity detection systems. Miners working near mobile machines face pinning, crushing, and striking hazards that have resulted, and continue to result, in accidents involving life threatening injuries and death. Proximity detection technology can prevent these types of accidents by detecting the presence of personnel or equipment within a certain distance of the machine. The proposal would strengthen protections for miners by reducing the potential for pinning, crushing, or striking accidents in underground mines.

MSHA Risk Reduction Initiatives

• *Lowering Miners' Exposure to Coal Mine Dust, Including Continuous Personal Dust Monitors.* MSHA will continue its regulatory action related to preventing Black Lung disease. Data from the National Institute for Occupational Safety and Health (NIOSH) indicate increased prevalence of coal workers pneumoconiosis (CWP) ''clusters'' in several geographical areas, particularly in the Southern Appalachian Region. MSHA published a notice of proposed rulemaking to address continued risk to coal miners from exposure to respirable coal mine dust. This regulatory action is part of MSHA's Comprehensive Black Lung Reduction Strategy for reducing miners' exposure to respirable dust. This strategy includes enhanced enforcement, education and training, and health outreach and collaboration.

• *Regulatory Actions in Response to Recommendations Resulting From the Investigation of the Upper Big Branch Explosion.* On April 5, 2010, a massive coal dust explosion occurred at the Upper Big Branch Mine. Following the explosion, MSHA conducted its investigation under the authority of the Federal Mine Safety and Health Act of 1977, for the purpose of obtaining, using, and disseminating information relating to the causes of accidents. The accident report included recommendations for regulatory actions to prevent a recurrence of this type of accident. MSHA also conducted an internal review (IR) into the Agency's actions leading to the explosion. The IR report also included recommendations for regulatory actions. In response to the recommendations, MSHA expects to address issues associated with rock dusting, ventilation, the operator's responsibility for certain mine examinations and certified persons.

• *Respirable Crystalline Silica Standard.* The Agency's regulatory actions demonstrate its commitment to protecting the most vulnerable

populations while assuring broad-based compliance. Health hazards are pervasive in both coal and metal/nonmetal mines, including surface and underground mines and large and small mines. Overexposure to crystalline silica can result in some miners developing silicosis, an irreversible but preventable lung disease, which ultimately may be fatal. In its proposed rule, MSHA plans to follow the recommendations of the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers, the NIOSH, and other groups to address the exposure limit for respirable crystalline silica. As an example of intra-departmental collaboration, MSHA intends to consider OSHA's work on the health effects of occupational exposure to silica and OSHA's risk assessment in developing the appropriate standard for the mining industry.

MSHA Regulatory Review and Burden Reduction Initiative

• *Criteria and Procedures for Proposed Assessment of Civil Penalties (Part 100).* MSHA plans to publish a proposed rule to revise the process for proposing civil penalties. The assessment of civil penalties is a key component in MSHA's strategy to enforce safety and health standards. The Congress intended that the imposition of civil penalties would induce mine operators to be proactive in their approach to mine safety and health, and take necessary action to prevent safety and health hazards before they occur. MSHA believes that the procedures for assessing civil penalties can be revised to improve the efficiency of the Agency's efforts and to facilitate the resolution of enforcement issues.

Office of Federal Contract Compliance Programs (OFCCP)

Through the work of OFCCP, DOL ensures that contractors and subcontractors doing business with the Federal Government provide equal employment opportunity and take affirmative action to create fair and diverse workplaces. OFCCP also combats discrimination based on race, color, religion, sex, national origin, disability, or status as a protected veteran by ensuring that federal contractors recruit, hire, train, promote, terminate, and compensate workers in a nondiscriminatory manner. DOL, through OFCCP, protects workers, promotes diversity and enforces civil rights laws.

OFCCP Plan/Prevent/Protect Initiative

• *Construction Contractor Affirmative Action Requirements.* OFCCP plans to publish a proposed rule that would enhance the effectiveness of the affirmative action programs of Federal and federally assisted construction contractors and subcontractors. The existing regulations provide that the Director is to issue goals and timetables for the utilization of minorities and women based on appropriate workforce, demographic or other relevant data. The existing minority goals for construction were issued in 1980 based on 1970 Census data, the most current data available at the time. The goals for the utilization of women in construction occupations were issued in 1978, and extended indefinitely in 1980, were also developed using 1970 Census data. The proposed rule would remove these outdated goals and provide contractors increased flexibility to assess their workforce and determine whether disparities in the utilization of women or the utilization of a particular racial or ethnic group in an on-site construction job group exist. The proposed rule would also provide contractors and subcontractors the tools to assess their progress and appropriately tailor their affirmative action plans. The proposed rule would strengthen affirmative action programs particularly in the areas of recruitment, training, and apprenticeships. The proposed rule would also allow contractors and subcontractors to focus on their affirmative action obligations earlier in the contracting process.

OFCCP Regulatory Review and Burden Reduction Initiative

• *Sex Discrimination Guidelines.* OFCCP proposes updating regulations setting forth contractors' obligations not to discriminate on the basis of sex under Executive Order 11246, as amended. The Sex Discrimination Guidelines, found at 41 CFR Part 60–20, have not been updated in more than 30 years. Since that time, the nature and extent of women's participation in the labor force and employer policies and practices have changed significantly. In addition, extensive changes in the law regarding sex-based employment discrimination have taken place. Title VII of the Civil Rights Act of 1964, which generally governs the law of sex-based employment discrimination, has been amended twice. OFCCP will issue a Notice of Proposed Rulemaking to create sex discrimination regulations that reflect the current state of the law in this area.

Employee Benefits Security Administration (EBSA)

The Employee Benefits Security Administration (EBSA) is responsible for administering and enforcing the fiduciary, reporting and disclosure, and health coverage provisions of title I of the Employee Retirement Income Security Act of 1974 (ERISA). This includes recent amendments and additions to ERISA enacted in the Pension Protection Act of 2006, as well as new health coverage provisions under the Patient Protection and Affordable Care Act of 2010 (the Affordable Care Act). EBSA's regulatory plan initiatives are intended to improve health benefits and retirement security for workers in every type of job at every income level. EBSA is charged with protecting approximately 141 million individuals covered by an estimated 701,000 private retirement plans, 2.3 million health plans, and similar numbers of other welfare benefit plans, which together hold $7.3 trillion in assets.

EBSA will continue to issue guidance implementing the health reform provisions of the Affordable Care Act to help provide better quality health care for America's workers and their families. EBSA's regulations reduce discrimination in health coverage, promote better access to quality coverage, and protect the ability of individuals and businesses to keep their current health coverage. Many regulations are joint rulemakings with the Departments of Health and Human Services and the Treasury.

Using regulatory changes to produce greater openness and transparency is an integral part of EBSA's contribution to a department-wide compliance strategy. These efforts will not only enhance EBSA's enforcement toolbox but will also encourage greater levels of compliance by the regulated community and improve awareness among workers of their rights and benefits. EBSA's Fall 2013 agenda expands disclosure requirements, substantially enhancing the availability of information to employee benefit plan participants and beneficiaries and employers, and strengthening the retirement security of America's workers. EBSA's retrospective review project under E.O. 13563 is the Abandoned Plan Program amendments.

EBSA Risk Reduction Initiative

• *Health Reform Implementation.* Since the passage of health care reform, EBSA has helped put the employment-based health provisions into action. Working with HHS and Treasury, EBSA

has issued regulations covering issues such as the elimination of preexisting condition exclusions for children under age 19, internal and external appeals of benefit denials, the extension of coverage for children up to age 26, and a ban on rescissions (which are retroactive terminations of health care coverage). These regulations will eventually impact up to 129 million individuals in employer-sponsored plans. EBSA will continue its work to ensure a smooth implementation of the legislation's market reforms, minimize disruption to existing plans and practices, and strengthen America's health care system.

• *Enhancing Participant Protections by Reducing Conflicts of Interest.* EBSA plans to re-propose amendments to its regulations to reduce harmful conflicts of interest by clarifying the circumstances under which a person will be considered a ''fiduciary'' when providing investment advice to retirement plans and other employee benefit plans, to participants and beneficiaries of such plans, and to owners of individual retirement accounts (IRAs). The amendments would consider current practices of investment advisers and the expectations of plan officials and participants who receive investment advice, as well as changes that have occurred in the investment marketplace and in the ways advisers are compensated since the current regulation's issuance. These compensation arrangements frequently subject advisers to harmful conflicts of interest that can compromise the quality of advice given to plan participants and IRA owners. This initiative is intended to assure retirement security for workers in all jobs regardless of income level by ensuring that financial advisers and similar persons are required to meet ERISA's standards of care and not to act on conflicts of interest when providing the investment advice relied upon by millions of plan sponsors and workers.

EBSA Openness and Transparency Initiative

In addition to its health care reform and participant protection initiatives discussed above, EBSA is pursuing a regulatory program that, as reflected in the Unified Agenda, is designed to encourage, foster, and promote openness, transparency, and communication with respect to the management and operations of pension plans, as well as participant rights and benefits under such plans. Among other things, EBSA will be issuing a final rule addressing the requirement that administrators of defined benefit pension plans annually disclose the funding status of their plan to the plan's participants and beneficiaries (RIN 1210–AB18). In addition, EBSA will be finalizing amendments to the disclosure requirements applicable to plan investment options, including Qualified Default Investment Alternatives, to better ensure that participants understand the operations and risks associated with investments in target date funds (RIN 1210–AB38).

• *Lifetime Income Options.* In 2010 EBSA published a request for information concerning steps it can take by regulation, or otherwise, to encourage the offering of lifetime annuities or similar lifetime benefit distribution options for participants and beneficiaries of defined contribution plans. EBSA also held a hearing with the Department of the Treasury and Internal Revenue Service to further explore these possibilities. This initiative is intended to assure retirement security for workers in all jobs regardless of income level by helping to ensure that participants and beneficiaries have the benefit of their plan savings throughout retirement. EBSA now has established a public record that supports further consideration or action in a number of areas including pension benefit statements, participant education, and fiduciary guidance. With regard to pension benefit statements specifically, EBSA published an advance notice of proposed rulemaking under ERISA section 105 relating to the presentation of a participant's accrued benefits; i.e., the participant's account balance, as a lifetime income stream of payments, in addition to presenting the benefits as an account balance (RIN 1210–AB20). In further support of this initiative, EBSA also is developing proposed amendments to a safe harbor regulation (29 CFR section 2550.404a–4) that will provide plan fiduciaries with more certainty that they have discharged their obligations under section 404(a)(1)(B) of ERISA in selecting an annuity plan provider and contract for benefit distributions from an individual account retirement plan (RIN: 1210–AB58).

EBSA Regulatory Review and Burden Reduction Initiative

• *Abandoned Plan Program Amendment.* In 2006, the Department published regulations that facilitate the termination and winding up of 401(k)-type retirement plans that have been abandoned by their plan sponsors. The regulation establishes a streamlined program under which plans are terminated with very limited involvement of EBSA regional offices. EBSA has six years of experience with this program and believes certain changes would improve the efficiency of the program and increase its usage. EBSA expects that the cost burden reduction that will result from this initiative will be approximately $500,000 because the prompt, efficient termination of abandoned plans will eliminate future administrative expenses charged to the plans that otherwise would diminish plan assets. Moreover, by following the specific standards and procedures set forth in the rule, the Department expects that overall plan termination costs will be reduced because of increased efficiency.

EBSA intends to revise the regulations to expand the program to include plans of businesses in liquidation proceedings to reflect recent changes in the U.S. Bankruptcy Code. The Department believes that this expansion has the potential to substantially reduce burdens on these plans and bankruptcy trustees. Plans of businesses in liquidation currently do not have the option of using the streamlined termination and winding-up procedures under the program. This is true even though bankruptcy trustees, pursuant to the Bankruptcy Code, can have a legal duty to administer the plan. Expanding the program to cover these plans will allow eligible bankruptcy trustees to use the streamlined termination process to better discharge their obligations under the law. The use of streamlined procedures will reduce the amount of time and overall cost it would take to terminate and wind up such plans. This will result in larger benefit distributions to participants and beneficiaries in such plans. The expansion also will eliminate government filings ordinarily required of terminating plans. Participation in the program will reduce the overall cost of terminating and winding-up such plans, which will result in larger benefit distributions to participants and beneficiaries in such plans. EBSA estimates that approximately 165 additional plans will benefit from the Amended Abandoned Plan Program allowing bankruptcy trustees to participate in the program. The amendment expanding the program will provide substantial benefits to plans of sponsors in Chapter 7 bankruptcy liquidation and bankruptcy trustees through the orderly termination of plans, less service provider fees, and preservation of assets for participants and beneficiaries, while imposing minimal costs.

Office of Labor-Management Standards (OLMS)

The Office of Labor-Management Standards (OLMS) administers and enforces most provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). The LMRDA promotes labor-management transparency by requiring unions, employers, labor-relations consultants, and others to file reports, which are publicly available. The LMRDA includes provisions protecting union member rights to participate in their union's governance, to run for office and fully exercise their union citizenship, as well as procedural safeguards to ensure free and fair union elections. Besides enforcing these provisions, OLMS also ensures the financial accountability of unions, their officers and employees, through enforcement and voluntary compliance efforts. Because of these activities, OLMS better ensures that workers have a more effective voice in the governance of their unions, which in turn affords them a more effective voice in their workplaces. OLMS also administers Executive Order 13496, which requires Federal contractors to notify their employees concerning their rights to organize and bargain collectively under Federal labor laws. OLMS also implements a federal transportation law by ensuring that workplace rights of mass transit employees will be protected whenever federal funds are used to acquire, improve, or operate a transit system.

OLMS Openness and Transparency

• *Persuader Agreements—Employer and Labor Relations Consultant Reporting under the LMRDA.* OLMS published a proposed regulatory initiative in June 2011, which is a transparency regulation intended to provide workers with information critical to their effective participation in the workplace. The proposed regulations would better implement the public disclosure objectives of the LMRDA in situations where an employer engages a consultant in order to persuade employees concerning their rights to organize and bargain collectively. Under LMRDA section 203, an employer must report any agreement or arrangement with a consultant to persuade employees concerning their rights to organize and collectively bargain, or to obtain certain information concerning activities of employees or a labor organization in connection with a labor dispute involving the employer. The consultant is also required to report such an agreement or arrangement with an employer. Statutory exceptions to these reporting requirements are set forth in LMRDA section 203(c), which provides, in part, that employers and consultants are not required to file a report by reason of the consultant's giving or agreeing to give ''advice'' to the employer. The Department in its proposal reconsidered the current policy concerning the scope of the ''advice'' exception. When workers have the necessary information about arrangements that have been made by their employer to persuade them whether or not to form, join, or assist a union, they are better able to make a more informed choice about representation.

Employment and Training Administration (ETA)

The Employment and Training Administration (ETA) administers and oversees programs that prepare workers for good jobs at good wages by providing high quality job training, employment, labor market information, and income maintenance services through its national network of American Job Centers. The programs within ETA promote ladders of opportunity to economic independence for individuals and families. Through several laws, ETA is charged with administering numerous employment and training programs designed to assist the American worker in developing the knowledge, skills, and abilities sought in the 21st century's economy.

ETA Regulatory Review and Burden Reduction

• *Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations.* The revision of the National Apprenticeship Act's Equal Opportunity in Apprenticeship and Training (EEO) regulations is a critical element in the Department's vision to promote and expand registered apprenticeship opportunities, and to meet the changing workforce, demographic and industry needs. The regulation will help eliminate much of the uncertainty around the current regulations; simplifying outdated procedures and requirements, while establishing clearer expectations with regard to EEO on behalf of apprenticeship sponsors. In October 2008, ETA issued a final rule updating 29 CFR part 29, the regulatory framework for registration of apprenticeship programs and apprentices, and administration of the National Apprenticeship System. The companion EEO regulations, 29 CFR part 30, have not been amended since 1978, and the proposed regulation will provide consistency with Federal EEO laws developed over the last 35 years. ETA proposes to update part 30 EEO in the Apprenticeship and Training regulations to ensure that they act in concert with the 2008 revised part 29 rule. The proposed EEO regulations also will further Secretary Perez's vision to create more opportunities for everyone by ensuring that apprenticeship program sponsors develop and fully implement nondiscrimination and affirmative action efforts that provide equal opportunity for all applicants to apprenticeship and apprentices, regardless of race, gender, national origin, color, religion, or disability.

• *Federal-State Unemployment Compensation Program; Implementing the Total Unemployment Rate As An Extended Benefits Indicator and Amending For Technical Corrections.* This rule will update regulations to conform to existing law and State practice. It will benefit State Unemployment Insurance systems by removing any potential confusion between complying with guidance and current Federal law.

• *Elimination of several obsolete program regulations from the Code of Federal Regulations.* ETA plans to pursue four regulatory projects that will eliminate regulations that are no longer effective or enforceable because their underlying program authority was superseded or no longer exists. These include the Labor Certification Process for Logging Employment and Non-H–2A Agricultural Employment (RIN 1205–AB65), Attestations by Employers Using F–1 Students in Off-Campus Work (RIN 1205–AB66), and Attestations by Facilities Using Nonimmigrant Aliens as Registered Nurses (RIN 1205–AB67).

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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 19 pending rulemakings chosen, from among the dozens of significant rulemakings listed in the Department's broader regulatory agenda, that the Department believes will merit special attention in the upcoming year. The rules included in the regulatory plan embody the Department's focus on our strategic goals.

The regulatory plan reflects the Department's primary focus on safety—a focus that extends across several modes of transportation. For example:

- The Federal Aviation Administration (FAA) will continue its efforts to implement safety management systems.
- The Federal Motor Carrier Safety Administration (FMCSA) continues its work to strengthen the requirements for Electronic On-Board Recorders and revise motor carrier safety fitness procedures.
- The National Highway Traffic Safety Administration (NHTSA) will continue its rulemaking efforts to reduce death and injury resulting from incidents involving motorcoaches.

Each of the rulemakings in the regulatory plan is described below in detail. In order to place them in context, we first review the Department's regulatory philosophy and our initiatives to educate and inform the public about transportation safety issues. We then describe the role of the Department's retrospective reviews and its regulatory process and other important regulatory initiatives of OST and of each of the Department's components. Since each transportation ''mode'' within the Department has its own area of focus, we summarize the regulatory priorities of each mode and of OST, which supervises and coordinates modal initiatives and has its own regulatory responsibilities, such as consumer protection in the aviation industry.

The Department's Regulatory Philosophy and Initiatives

The Department has adopted a regulatory philosophy that applies to all its rulemaking activities. This philosophy is articulated as follows: DOT regulations must be clear, simple, timely, fair, reasonable, and necessary. They will be issued only after an appropriate opportunity for public comment, which must provide an equal chance for all affected interests to participate, and after appropriate consultation with other governmental entities. The Department will fully consider the comments received. It will assess the risks addressed by the rules and their costs and benefits, including the cumulative effects. The Department will consider appropriate alternatives, including nonregulatory approaches. It will also make every effort to ensure that regulation does not impose unreasonable mandates.

The Department stresses the importance of conducting high-quality rulemakings in a timely manner and reducing the number of old rulemakings. To implement this, the Department has required the following actions: (1) Regular meetings of senior DOT officials to ensure effective policy leadership and timely decisions, (2) effective tracking and coordination of rulemakings, (3) regular reporting, (4) early briefings of interested officials, (5) regular training of staff, and (6) adequate allocations of resources. The Department has achieved significant success because of this effort. It allows the Department to use its resources more effectively and efficiently.

The Department's regulatory policies and procedures provide a comprehensive internal management and review process for new and existing regulations and ensure that the Secretary and other appropriate appointed officials review and concur in all significant DOT rules. DOT continually seeks to improve its regulatory process. A few examples include: The Department's development of regulatory process and related training courses for its employees; its use of an electronic, Internet-accessible docket that can also be used to submit comments electronically; a ''list serve'' that allows the public to sign up for email notification when the Department issues a rulemaking document; creation of an electronic rulemaking tracking and coordination system; the use of direct final rulemaking; the use of regulatory negotiation; a continually expanding and improved Internet page that provides important regulatory information, including ''effects'' reports and status reports (*http://www.dot.gov/regulations*); and the continued exploration and use of Internet blogs and other Web 2.0 technology to increase and enhance public participation in its rulemaking process.

In addition, the Department continues to engage in a wide variety of activities to help cement the partnerships between its agencies and its customers

that will produce good results for transportation programs and safety. The Department's agencies also have established a number of continuing partnership mechanisms in the form of rulemaking advisory committees.

*The Department's Retrospective Review of Existing Regulations*

In accordance with Executive Order (E.O.) 13563 (Improving Regulation and Regulatory Review), the Department actively engaged in a special retrospective review of our existing rules to determine whether they need to be revised or revoked. This review was in addition to those reviews in accordance with section 610 of the Regulatory Flexibility Act, E.O. 12866, and the Department's Regulatory Policies and Procedures. As part of this effort, we also reviewed our processes for determining what rules to review and ensuring that the rules are effectively reviewed. As a result of the review, we identified many rules for expedited review and changes to our retrospective review process. Pursuant to section 6 of E.O. 13563, the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in The Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. The final agency plan can be found at *http://www.dot.gov/regulations*.

| RIN | Title | Significantly reduces costs on small businesses |
|---|---|---|
| 1. 2120–AJ90 | Effective Tether System (Tether Rule) (RRR) | |
| 2. 2120–AJ94 | Enhanced Flight Vision System (EFVS) (RRR) | |
| 3. 2120–AJ97 | 14 CFR Part 16; Rules of Practice for Federally-Assisted Airport Enforcement Proceedings (RRR). | Y |
| 4. 2120–AK01 | Combined Drug and Alcohol Testing Programs for Operators Conducting Commercial Air Tours (RRR). | Y |
| 5. 2120–AK11 | Minimum Altitudes for Use of Autopilots (RRR) | |
| 6. 2120–AK28 | Part 61 and 91 Recommended Rule Changes (RRR) | |
| 7. 2120–AK32 | Acceptance Criteria for Portable Oxygen Concentrators Used Onboard Aircraft (RRR) | |
| 8. 2125–AF44 | Administration of Engineering and Design Related Service Contracts (RRR) | |
| 9. 2126–AB46 | Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (RRR) | Y |
| 10. 2126–AB47 | Electronic Signatures (E-Signatures) (RRR) | Y |
| 11. 2126–AB49 | Elimination of Redundant Maintenance Rule (RRR) | Y |
| 12. 2127–AK99 | Federal Motor Vehicle Standard No. 108; Lamps, reflective devices, and associated equipment—Color Boundaries (RRR). | Y |
| 13. 2127–AL05 | Amend FMVSS No. 210 to Incorporate the Use of a New Force Application Device (RRR) | Y |
| 14. 2127–AL24 | Rapid Tire Deflation Test in FMVSS No. 110 (RRR) | |
| 15. 2130–AC27 | Positive Train Control Systems Amendments (RRR) | Y |
| 16. 2130–AC32 | Positive Train Control Systems: De Minimis Exception, Yard Movements, En Route Failures; Miscellaneous Grade Crossing/Signal and Train Control Amendments (RRR). | Y |
| 17. 2130–AC40 | Qualification and Certification of Locomotive Engineers; Miscellaneous Revisions (RRR) | |
| 18. 2130–AC41 | Hours of Service Recordkeeping; Electronic Recordkeeping Amendments (RRR) | |
| 19. 2130–AC43 | Safety Glazing Standards; Miscellaneous Revisions (RRR) | |
| 20. 2130–AC44 | Revisions to Signal System Reporting Requirements (RRR) | |
| 21. 2132–AB02 | Major Capital Investment Projects (RRR) | |
| 22. 2132–AB03 | Environmental Impact and Related Procedures (RRR) | |
| 23. 2133–AB79 | Administrative Claims, Part 327 (RRR) | |
| 24. 2137–AE38 | Hazardous Materials: Compatibility With the Regulations of the International Atomic Energy Agency (IAEA) (RRR). | |
| 25. 2137–AE62 | Hazardous Materials: Approval and Communication Requirements for the Safe Transportation of Air Bag Inflators, Air Bag Modules, and Seat-Belt Pretensioners (RRR). | Y |
| 26. 2137–AE70 | Hazardous Materials: Revision of Requirements for Fireworks Approvals (RRR) | Y |
| 27. 2137–AE72 | Pipeline Safety: Safety of Gas Transmission Pipelines(RRR) | Y |
| 28. 2137–AE78 | Hazardous Materials: Miscellaneous Amendments (RRR) | Y |
| 29. 2137–AE79 | Hazardous Materials: Miscellaneous Amendments; Petitions for Rulemaking (RRR) | Y |
| 30. 2137–AE80 | Hazardous Materials: Miscellaneous Pressure Vessel Requirements (DOT Spec Cylinders) (RRR). | Y |
| 31. 2137–AE81 | Hazardous Materials: Reverse Logistics (RRR) | Y |
| 32. 2137–AE82 | Hazardous Materials: Incorporation of Certain Special Permits and Competent Authorities into the HMR (RRR). | Y |
| 33. 2137–AE85 | Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments (RRR). | |
| 34. 2137–AE86 | Hazardous Materials: Requirements for the Safe Transportation of Bulk Explosives (RRR) | |
| 35. 2137–AE87 | Hazardous Materials: Harmonization with International Standards (RRR) | |
| 36. 2137–AE91 | Hazardous Materials: Rail Petitions and Recommendations to Improve the Safety of Railroad Tank Car Transportation (RRR). | Y |
| 37. 2137–AE94 | Pipeline Safety: Operator Qualification, Cost Recovery and Other Pipeline Safety Proposed Changes Miscellaneous Amendments Related to Reauthorization and Petitions for Rulemaking (RRR*). | Y |

*International Regulatory Cooperation*

E.O. 13609 (Promoting International Regulatory Cooperation) stresses that ''[i]n an increasingly global economy, international regulatory cooperation, consistent with domestic law and prerogatives and U.S. trade policy, can be an important means of promoting the goals of'' E.O. 13563 to ''protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation.'' DOT has long recognized the value of international regulatory cooperation and has engaged in a variety of activities with both foreign governments and international bodies. These activities have ranged from cooperation in the development of particular standards to discussions of necessary steps for rulemakings in general, such as risk assessments and cost-benefit analyses of possible standards. Since the issuance of E.O. 13609, we have increased our efforts in this area. For example, many of DOT's Operating Administrations are active in groundbreaking government-wide Regulatory Cooperation Councils (RCC) with Canada, Mexico, and the European Union. These RCC working groups are setting a precedent in developing and testing approaches to international coordination of rulemaking to reduce barriers to international trade. We also have been exploring innovative approaches to ease the development process.

Examples of the many cooperative efforts we are engaged in include the following:

The FAA maintains ongoing efforts with foreign civil aviation authorities, including in particular the European Aviation Safety Agency and Transport Canada, to harmonize standards and practices where doing so will improve the safety of aviation and aviation-related activities. The FAA also plays an active role in the standard-setting work of the International Civil Aviation Organization (ICAO), particularly on the Air Navigation Commission and the Legal Committee. In doing so, the FAA works with other Nations to shape the standards and recommended practices adopted by ICAO. The FAA's rulemaking actions related to safety management systems are examples of the FAA's harmonization efforts.

As a signatory of the 1998 Agreement on the Harmonization of Vehicle Regulations, NHTSA is an active participant in the World Forum for Vehicle Regulations (WP.29) at the UN. Under that umbrella, NHTSA is working on the development of harmonized regulations for the safety of electric vehicles; hydrogen and fuel cell vehicles; advanced head restraints; pole side impact test procedures; pedestrian protection; the safety risks associated with quieter vehicles, such as electric and hybrid electric vehicles; and advancements in tires.

Further, NHTSA is working bilaterally with Transport Canada to facilitate our Joint Action Plans under the Motor Vehicles Working Group of the U.S.—Canada RCC. Under these plans, NHTSA is working very closely with its counterparts within Transport Canada on the development of international standards on quieter vehicles, electric vehicle safety, and hydrogen and fuel cell vehicles.

PHMSA's hazardous material group works with ICAO, the UN Subcommittee of Experts on Dangerous Goods, and the International Maritime Organization. Through participation in these international bodies, PHMSA is able to advocate on behalf of U.S. safety and commercial interests to guide the development of international standards with which U.S. businesses have to comply when shipping in international commerce. PHMSA additionally participates in the RCC with Canada and has a Memorandum of Cooperation in place to ensure that cross-border shipments are not hampered by conflicting regulations. The pipeline group at PHMSA incorporates many standards by reference into the Pipeline Safety Regulations, and the development of these standards benefit from the participation of experts from around the world.

In the areas of airline consumer protection and civil rights regulation, OST is particularly conscientious in seeking international regulatory cooperation. For example, the Department participates in the standard-setting activities of ICAO and meets and works with other governments and international airline associations on the implementation of U.S. and foreign aviation rules.

For a number of years the Department has also provided information on which of its rulemaking actions have international effects. This information, updated monthly, is available at the Department's regulatory information Web site, *http://www.dot.gov/regulations*, under the heading ''Effects Reports.'' (The reports can be found under headings for ''EU,'' ''NAFTA'' (Canada and Mexico) and ''Foreign.'') A list of our significant rulemakings that are expected to have international effects follows; the identifying RIN provided below can be used to find summary and other information about the rulemakings in the Department's Regulatory Agenda published along with this Plan:

DOT Significant Rulemakings With International Impacts

| RIN | Title |
|---|---|
| 2105–AD90 ..... | Stowage and Assistive Devices |
| 2105–AD91 ..... | Accessibility of Airports |
| 2105–AE06 ..... | E-Cigarette |
| 2120–AJ34 ..... | Super cooled Large Droplet Icing Conditions |
| 2120–AK09 ..... | Drug & Alcohol Testing for Repair Stations |
| 2126–AA34 ..... | Application by Certain Mexico-Domiciled Motor Carriers to Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border |
| 2126–AA35 ..... | Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States |
| 2126–AA70 ..... | Limitations on the Issuance of Commercial Driver Licenses with a Hazardous Materials Endorsement |
| 2127–AK43 ..... | Rearview Visibility |
| 2127–AK56 ..... | Seat Belts on Motor coaches |
| 2127–AK75 ..... | Alternative Fuel Usage Labeling & Badging |
| 2127–AK76 ..... | Tire Fuel Efficiency Part 2 |
| 2127–AK93 ..... | Quieter Vehicles Sound Alert |
| 2127–AK95 ..... | Side Impact Test Procedure for CRS |
| 2127–AL01 ..... | Novelty Helmets Enforcement |
| 2133–AB74 ..... | Cargo Preference (RRR) |

As we identify rulemakings arising out of our ongoing regulatory cooperation activities that we reasonably anticipate will lead to significant regulations, we will add them to our Web site report and subsequent Agendas and Plans.

The Department's Regulatory Process

The Department will also continue its efforts to use advances in technology to improve its rulemaking management process. For example, the Department created an effective tracking system for significant rulemakings to ensure that either rules are completed in a timely manner or delays are identified and fixed. Through this tracking system, a monthly status report is generated. To make its efforts more transparent, the Department has made this report Internet accessible at *http://www.dot.gov/regulations*, as well as through a list-serve. By doing this, the Department is providing valuable information concerning our rulemaking activity and is providing information necessary for the public to evaluate the Department's progress in meeting its commitment to completing quality rulemakings in a timely manner.

The Department continues to place great emphasis on the need to complete high-quality rulemakings by involving senior departmental officials in regular meetings to resolve issues expeditiously.

*Office of the Secretary of Transportation (OST)*

The Office of the Secretary (OST) oversees the regulatory process for the Department. OST implements the Department's regulatory policies and procedures and is responsible for ensuring the involvement of top management in regulatory decisionmaking. Through the General Counsel's office, OST is also responsible for ensuring that the Department complies with the Administrative Procedure Act, Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563, DOT's Regulatory Policies and Procedures, and other legal and policy requirements affecting rulemaking. Although OST's principal role concerns the review of the Department's significant rulemakings, this office has the lead role in the substance of such projects as those concerning aviation economic rules and rules that affect multiple elements of the Department.

OST provides guidance and training regarding compliance with regulatory requirements and process for personnel throughout the Department. OST also plays an instrumental role in the Department's efforts to improve our economic analyses; risk assessments; regulatory flexibility analyses; other related analyses; retrospective reviews of rules; and data quality, including peer reviews.

OST also leads and coordinates the Department's response to the Office of Management and Budget's (OMB) intergovernmental review of other agencies' significant rulemaking documents and to Administration and congressional proposals that concern the regulatory process. The General Counsel's office works closely with representatives of other agencies, OMB, the White House, and congressional staff to provide information on how various proposals would affect the ability of the Department to perform its safety, infrastructure, and other missions.

During fiscal year 2014, OST will continue to focus its efforts on enhancing airline passenger protections by requiring carriers to adopt various consumer service practices under the following rulemaking initiatives:

- Accessibility of Carrier Web sites and Ticket Kiosks Enhancing Airline Passenger Protections III
- Carrier-Supplied Medical Oxygen, Accessible In-Flight Entertainment Systems, Service Animals, and Accessible Lavatories on Single-Aisle Aircraft.

OST will also continue its efforts to help coordinate the activities of several operating administrations that advance various departmental efforts that support the Administration's initiatives on promoting safety, stimulating the economy and creating jobs, sustaining and building America's transportation infrastructure, and improving livability for the people and communities who use transportation systems subject to the Department's policies. It will also oversee the Department's rulemaking actions to implement the ''Moving Ahead for Progress in the 21st Century Act'' (MAP–21).

*Federal Aviation Administration (FAA)*

The Federal Aviation Administration is charged with safely and efficiently operating and maintaining the most complex aviation system in the world. It is guided by Destination 2025—a transformation of the Nation's aviation system in which air traffic will move safely, swiftly, efficiently, and seamlessly around the globe. Our vision is to develop new systems and to enhance a culture that increases the safety, reliability, efficiency, capacity, and environmental performance of our aviation system. To meet our vision will require enhanced skills, clear communication, strong leadership, effective management, innovative technology, new equipment, advanced system oversight, and global integration.

FAA activities that may lead to rulemaking in fiscal year 2014 include continuing to:

- Promote and expand safety information-sharing efforts, such as FAA-industry partnerships and data-driven safety programs that prioritize and address risks before they lead to accidents. Specifically, FAA will continue implementing Commercial Aviation Safety Team projects related to controlled flight into terrain, loss of control of an aircraft, uncontained engine failures, runway incursions, weather, pilot decisionmaking, and cabin safety. Some of these projects may result in rulemaking and guidance materials.
- Respond to recommendations from Part 23 Reorganization Aviation Rulemaking Aviation Rulemaking Committee (ARC) for improving safety and reducing certification costs for general aviation. The ARC recommendations include a broad range of policy and regulatory changes that it believes could significantly improve the safety of general aviation aircraft while simultaneously reducing certification and modification costs for these aircraft. Among the ARC's recommendations is a suggestion that compliance with part 23 requirements be performance-based, focusing on the complexity and performance of an aircraft instead of the current regulations based on weight and type of propulsion. In announcing the ARC's recommendations, the Transportation Secretary said ''Streamlining the design and certification process could provide a cost-efficient way to build simple airplanes that still incorporate the latest in safety initiatives. These changes have the potential to save money and maintain our safety standing—a win-win situation for manufacturers, pilots and the general aviation community as a whole.''
- Work cooperatively to harmonize the U.S. aviation regulations with those of other countries, without compromising rigorous safety standards, or our requirements to develop cost benefit analysis. The differences worldwide in certification standards, practice and procedures, and operating rules must be identified and minimized to reduce the regulatory burden on the international aviation system. The differences between the FAA regulations and the requirements of other nations impose a heavy burden on U.S. aircraft manufacturers and operators, some of which are small

businesses. Standardization should help the U.S. aerospace industry remain internationally competitive. The FAA continues to publish regulations based on internal analysis, public comment, and recommendations of Aviation Rulemaking Committees that are the result of cooperative rulemaking between the U.S. and other countries.

• Develop and implement Safety Management Systems (SMS) where these systems will improve safety of aviation and aviation-related activities. An SMS proactively identifies potential hazards in the operating environment, analyzes the risks of those hazards, and encourages mitigation prior to an accident or incident. In its most general form, an SMS is a set of decisionmaking tools that can be used to plan, organize, direct, and control activities in a manner that enhances safety.

FAA top regulatory priorities for 2013 through 2014 include:

- Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers (2120–AJ00) (Pub. L. 111–216, sec 209 (Aug. 1, 2010)
- Helicopter Air Ambulance and Commercial Helicopter Safety Initiatives and Miscellaneous Amendments (2120–AJ53) (Pub. L. 112–95, sec 306 (Feb. 14, 2012))
- Congestion Management for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport (2120–AJ89)
- Safety Management System for Certificate Holders Operating Under 14 CFR part 121 (2120–AJ86) (Pub. L. 111–216, sec 215 (Aug. 1, 2010)

The Crewmember and Aircraft Dispatcher Training rulemaking would:

• Reduce human error and improve performance;

• Enhance traditional training programs through the use of flight simulation training devices for flight crewmembers; and

• Include additional training in areas critical to safety.

The Air Ambulance and Commercial Helicopter rulemaking would:

• Codify current agency guidance

• Address National Transportation Safety Board recommendations;

• Provide certificate holders and pilots with tools and procedures that will aid in reducing accidents, including potential equipage requirements; and

• Amend all part 135 commercial helicopter operations regulations to include pilot training and alternate airport weather minimums.

The Congestion Management rulemaking for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport would:

- Replace the orders limiting scheduled operations at John F. Kennedy International Airport (JFK), limiting scheduled operations at Newark Liberty International Airport (EWR), and limiting scheduled and unscheduled operations at LaGuardia Airport (LGA); and
- Provide a longer-term and comprehensive approach to slot management at JFK, EWR, and LGA

The Safety Management System for Certificate Holders Operating under 14 CFR Part 121 rulemaking would:

• Require certain certificate holders to develop and implement an SMS;

• Propose a general framework from which a certificate holder can build its SMS; and

• Conform to International Civil Aviation Organization Annexes and adopt several National Transportation Safety Board recommendations.

*Federal Highway Administration (FHWA)*

The Federal Highway Administration (FHWA) carries out the Federal highway program in partnership with State and local agencies to meet the Nation's transportation needs. The FHWA's mission is to improve continually the quality and performance of our Nation's highway system and its intermodal connectors.

Consistent with this mission, the FHWA will continue:

• With ongoing regulatory initiatives in support of its surface transportation programs;

• To implement legislation in the least burdensome and restrictive way possible; and

• To pursue regulatory reform in areas where project development can be streamlined or accelerated, duplicative requirements can be consolidated, recordkeeping requirements can be reduced or simplified, and the decisionmaking authority of our State and local partners can be increased.

On July 6, 2012, President Obama signed the Moving Ahead for Progress in the 21st Century Act (MAP–21). MAP–21 authorizes the Federal surface transportation programs for highways, highway safety, and transit for the two-year period from 2012–2014. The FHWA has analyzed MAP–21 to identify congressionally directed rulemakings. These rulemakings will be the FHWA's top regulatory priorities for the coming year. Additionally, the FHWA is in the process of reviewing all FHWA regulations to ensure that they are consistent with MAP–21 and will update those regulations that are not consistent with the recently enacted legislation.

During Fiscal Year 2014, FHWA will continue its focus on improving the quality and performance of our Nation's highway systems by creating national performance management measures and standards to be used by the States to meet the national transportation goals identified in section 1203 of MAP–21 under the following rulemaking initiatives:

• National Goals and Performance Management Measures (Safety) (RIN: 2125–AF49)

• National Goals and Performance Management Measures (Bridges and Pavement) (RIN: 2125–AF53)

• National Goals and Performance Management Measures (Congestion Reduction, CMAQ, Freight, and Performance of Interstate/Non-Interstate NHS) (RIN: 2125–AF54).

*Federal Motor Carrier Safety Administration (FMCSA)*

The mission of the Federal Motor Carrier Safety Administration (FMCSA) is to reduce crashes, injuries, and fatalities involving commercial trucks and buses. A strong regulatory program is a cornerstone of FMCSA's compliance and enforcement efforts to advance this safety mission. FMCSA develops new and more effective safety regulations based on three core priorities: Raising the bar for entry, maintaining high standards, and removing high-risk behavior. In addition to Agency-directed regulations, FMCSA develops regulations mandated by Congress, through legislation such as the Moving Ahead for Progress in the 21st Century (MAP–21) and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). FMCSA regulations establish standards for motor carriers, commercial drivers, commercial motor vehicles, and State agencies receiving certain motor carrier safety grants and issuing commercial drivers' licenses.

FMCSA's regulatory plan for FY 2014 includes completion of a number of rulemakings that are high priorities for the Agency because they would have a positive impact on safety. Among the rulemakings included in the plan are: (1) Electronic Logging Devices (RIN 2126–AB20), (2) Carrier Safety Fitness Determination (RIN 2126–AB11), and (3) Commercial Driver's License Drug and Alcohol Clearinghouse (RIN 2126–AB18).

Together, these priority rules could help to substantially improve commercial motor vehicle (CMV) safety

on our Nation's highways by improving FMCSA's ability to provide safety oversight of motor carriers and commercial drivers.

In FY 2014, FMCSA plans to issue a supplemental notice of proposed rulemaking on Electronic Logging Devices (RIN 2126–AB20) to establish: (1) minimum performance and design standards for hours-of-service (HOS) electronic logging devices (ELDs); (2) requirements for the mandatory use of these devices by drivers currently required to prepare HOS records of duty status (RODS); (3) requirements concerning HOS supporting documents; and (4) measures to address concerns about harassment resulting from the mandatory use of ELDs.

In FY 2014, FMCSA will continue its work on the Compliance, Safety, Accountability (CSA) program. The CSA program improves the way FMCSA identifies and conducts carrier compliance and enforcement operations. CSA's goal is to improve large truck and bus safety by assessing a wider range of safety performance data from a larger segment of the motor carrier industry through an array of progressive compliance interventions. FMCSA anticipates that the impacts of CSA interventions and an associated rulemaking to put into place a new safety fitness determination standard will enable the Agency to prohibit ''unfit'' carriers from operating on the Nation's highways (the Carrier Safety Fitness Determination (RIN 2126–AB11)) and will contribute further to the Agency's overall goal of decreasing CMV-related fatalities and injuries.

Also in FY 2014, FMCSA plans to issue a notice of proposed rulemaking on the Commercial Driver's License Drug and Alcohol Clearinghouse (RIN 2126–AB18). The rule proposes the establishment of a clearinghouse that would require employers and service agents to report information about current and prospective employees' drug and alcohol test results. It would also require employers and certain service agents to search the Clearinghouse for current and prospective employees' positive drug and alcohol test results as a condition of permitting those employees to perform safety-sensitive functions. This would provide FMCSA and employers the necessary tools to identify drivers who are prohibited from operating a CMV based on DOT drug and alcohol program violations and ensure that such drivers receive the required evaluation and treatment before resuming safety-sensitive functions.

*National Highway Traffic Safety Administration*

The statutory responsibilities of the National Highway Traffic Safety Administration (NHTSA) relating to motor vehicles include reducing the number of, and mitigating the effects of, motor vehicle crashes and related fatalities and injuries; providing safety performance information to aid prospective purchasers of vehicles, child restraints, and tires; and improving automotive fuel efficiency. NHTSA pursues policies that encourage the development of nonregulatory approaches when feasible in meeting its statutory mandates. It issues new standards and regulations or amendments to existing standards and regulations when appropriate. It ensures that regulatory alternatives reflect a careful assessment of the problem and a comprehensive analysis of the benefits, costs, and other impacts associated with the proposed regulatory action. Finally, it considers alternatives consistent with the Administration's regulatory principles.

NHTSA continues to focus on the high-priority safety issue of heavy vehicles and their occupants in fiscal year 2014, including combination truck tractors, large buses, and motorcoaches. The agency plans to issue a notice that would propose promulgation of a new Federal motor vehicle safety standard (FMVSS) for rollover structural integrity requirements for newly manufactured motorcoaches in accordance with NHTSA's 2007 Motorcoach Safety Plan, DOT's 2009 departmental Motorcoach Safety Action Plan, and requirements of the Moving Ahead for Progress in the 21st Century (MAP–21) Act. NHTSA will also issue a notice that would propose promulgation of a new FMVSS for electronic stability control systems for motor coaches and truck tractors, and expects to promulgate a final rule that will require the installation of lap/shoulder belts on motorcoaches. Together, these rulemaking actions will address thirteen recommendations issued by the National Transportation Safety Board related to motorcoach safety.

In fiscal year 2014, NHTSA will continue working toward a final rule on rear visibility to expand the required field of view to enable the driver of a motor vehicle to detect areas behind the motor vehicle to reduce death and injury resulting from backing incidents, particularly incidents involving small children and disabled persons. This final rule is mandated by the Cameron Gulbransen Kids Transportation Safety Act of 2007. Also in 2014, NHTSA plans to continue work toward a final rule that would establish a new FMVSS to provide a means of alerting blind and other pedestrians of motor vehicle operation. This rulemaking is mandated by the Pedestrian Safety Enhancement Act of 2010 to further enhance the safety of passenger vehicles and pedestrians.

In addition to numerous programs that focus on the safe performance of motor vehicles, the Agency is engaged in a variety of programs to improve driver and occupant behavior. These programs emphasize the human aspects of motor vehicle safety and recognize the important role of the States in this common pursuit. NHTSA has identified two high-priority areas: Safety belt use and impaired driving. To address these issue areas, the Agency is focusing especially on three strategies—conducting highly visible, well-publicized enforcement; supporting prosecutors who handle impaired driving cases and expanding the use of DWI/Drug Courts, which hold offenders accountable for receiving and completing treatment for alcohol abuse and dependency; and adopting alcohol screening and brief intervention by medical and health care professionals. Other behavioral efforts encourage child safety-seat use; combat excessive speed and aggressive driving; improve motorcycle, bicycle, and pedestrian safety; and provide consumer information to the public.

*Federal Railroad Administration (FRA)*

FRA's current regulatory program reflects a number of pending proceedings to satisfy mandates resulting from the Rail Safety Improvement Act of 2008 (RSIA08), the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), and the Moving Ahead for Progress in the 21st Century Act (MAP–21), as well as actions under its general safety rulemaking authority and actions supporting the Department's High-Speed Rail Strategic Plan. RSIA08 alone has required 21 rulemaking actions, 12 of which have been completed. However, FRA continues to prioritize its rulemakings according to the greatest effect on safety while promoting economic growth, innovation, competitiveness, and job creation, as well as expressed congressional interest, and will work to complete as many rulemakings as possible prior to their statutory deadlines.

Through the Railroad Safety Advisory Committee (RSAC), FRA is working to complete many of the RSIA08 actions, including developing requirements for rail integrity, critical incident stress plans, and employee training. FRA is

also developing requirements related to the creation and implementation of railroad risk reduction and system safety programs, both of which are required by RSIA08, and an RSAC working group is developing recommendations for the fatigue management provisions related to both proceedings. FRA is also in the process of finalizing amendments to its unmandated November 2011 final rule on adjacent-track on-track safety for roadway workers and developing other RSAC-supported actions that advance high-speed passenger rail such as proposed rules on standards for alternative compliance with FRA's Passenger Equipment Safety Standards. Finally, FRA is drafting a final rule in a rulemaking proceeding to address various miscellaneous issues related to the implementation of positive train control systems. FRA expects this regulatory action to provide substantial benefits to the industry while ensuring the safe and effective implementation of the technology.

*Federal Transit Administration (FTA)*

FTA helps communities support public transportation by making grants of Federal funding for transit vehicles, construction of transit facilities, and planning and operation of transit and other transit-related purposes. FTA regulatory activity implements the laws that apply to recipients' uses of Federal funding and the terms and conditions of FTA grant awards. FTA policy regarding regulations is to:

- Ensure the safety of public transportation systems.
- Provide maximum benefit to the mobility of the Nation's citizens and the connectivity of transportation infrastructure;
- Provide maximum local discretion;
- Ensure the most productive use of limited Federal resources;
- Protect taxpayer investments in public transportation;
- Incorporate principles of sound management into the grant management process.

As the needs for public transportation have changed over the years, the Federal transit programs have grown in number and complexity, often requiring implementation through the rulemaking process. In fact, FTA is currently implementing many of its public transportation programs authorized under MAP–21 through the regulatory process.

As the needs for public transportation have changed over the years, the Federal transit programs have grown in number and complexity often requiring implementation through the rulemaking process. In fact, FTA is currently implementing many of its public transportation programs authorized under MAP–21 through the regulatory process. To that end, FTA's regulatory priorities include implementing certain requirements of the newly authorized Public Transportation Safety Program (49 U.S.C. 5329), such as the National Public Transportation Safety Plan, implementing requirements for Transit Asset Management Systems (49 U.S.C. 5326), amending the State Safety Oversight rule (49 CFR part 659), and amending the Major Capital Investments rule (49 CFR Part 611) to provide steps and evaluation criteria in the New and Small Starts process, and the new Core Capacity Program. Additionally, FTA plans to amend its joint regulations with FHWA that implement the National Environmental Policy Act (23 CFR part 771) in order to streamline the FTA environmental review process.

*Maritime Administration (MARAD)*

The Maritime Administration (MARAD) administers Federal laws and programs to improve and strengthen the maritime transportation system to meet the economic, environmental, and security needs of the Nation. To that end, MARAD's efforts are focused upon ensuring a strong American presence in the domestic and international trades and to expanding maritime opportunities for American businesses and workers.

MARAD's regulatory objectives and priorities reflect the agency's responsibility for ensuring the availability of a water transportation services for American shippers and consumers and, in times of war or national emergency, for the U.S. armed forces. Major program areas include the following: Maritime Security, Voluntary Intermodal Sealift Agreement, National Defense Reserve Fleet and the Ready Reserve Force, Cargo Preference, Maritime Guaranteed Loan Financing, United States Merchant Marine Academy, Mariner Education and Training Support, Deepwater Port Licensing, and Port and Intermodal Development. Additionally, MARAD administers the Small Shipyard Grants Program through which equipment and technical skills training are provided to America's maritime workforce, with the aim of helping businesses to compete in the global marketplace while creating well-paying jobs at home.

MARAD's primary regulatory activities in fiscal year 2014 will be to continue the update of existing regulations as part of the Department's Retrospective Regulatory Review effort, and to propose new regulations where appropriate.

*Pipeline and Hazardous Materials Safety Administration (PHMSA)*

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has responsibility for rulemaking under two programs. Through the Associate Administrator for Hazardous Materials Safety, PHMSA administers regulatory programs under Federal hazardous materials transportation law and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. Through the Associate Administrator for Pipeline Safety, PHMSA administers regulatory programs under the Federal pipeline safety laws and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2012 increased PHMSA's ability to enforce civil penalties and other part 190 Code of Federal Regulations administration enforcement processes for Federal pipeline safety regulations. PHMSA's authority to enforce the provisions of the Oil Pollution Act of 1990, which had been administered by the Department of Homeland Security, was also returned by the Act.

On July 6, 2012 President Obama signed into law the ''Moving Ahead for Progress in the 21st Century Act''. The Act reauthorizes the hazardous materials safety program and requires several regulatory actions by PHMSA. The Act places a great deal of emphasis on the procedures for issuing special permits and the incorporation of special permits into regulations. Persons who offer for transportation or transport hazardous materials in commerce must follow the hazardous materials regulations. A special permit sets forth alternative requirements, or variances, to the requirements in the HMR. Federal hazardous materials transportation law authorizes PHMSA to issue such variances in a way that achieves a safety level that is at least equal to the safety level required under Federal hazmat law or is consistent with the public interest if a required safety level does not exist. The Act requires a rulemaking within two years to set out procedures and criteria for evaluating applications for special permits and approvals. In addition, the Act requires PHMSA to conduct a review of nearly 1,200 existing special permits and issue another rulemaking within three years to incorporate special permits that have been in continuous effect for a ten-year period into the HMR.

PHMSA will continue to work toward the reduction of deaths and injuries associated with the transportation of hazardous materials by all transportation modes, including pipeline while promoting economic growth, innovation, competitiveness, and job creation. We will concentrate on the prevention of high-risk incidents identified through the findings of the National Transportation Safety Board (NTSB) and PHMSA's evaluation of transportation incident data. PHMSA will use all available Agency tools to assess data; evaluate alternative safety strategies, including regulatory strategies as necessary and appropriate; target enforcement efforts; and enhance outreach, public education, and training to promote safety outcomes.

PHMSA will continue to focus on the streamlining of its regulatory system and to reduce regulatory burdens. PHMSA will evaluate existing rules to examine whether they remain justified; should be modified to account for changing circumstances and technologies; or should be streamlined or even repealed. PHMSA will continue to be evaluating, and analyze, and be responsive to petitions for rulemaking. PHMSA will review regulations, letters of interpretation, petitions for rulemaking, special permits, enforcement actions, approvals, and international standards to identify inconsistencies, outdated provisions, and barriers to regulatory compliance.

PHMSA aims to reduce the risks related to the transportation of hazardous materials by rail. Preventing tank car incidents and minimizing the consequences when an incident does occur are not only DOT priorities, but are also shared by the National Transportation Safety Board (NTSB), industry, and the general public. To this end, PHMSA will consider possible regulatory changes to enhance the standards for DOT Specification 111 tank cars used to transport certain hazardous materials and explore additional operational requirements to enhance the safe transportation of hazardous materials by rail.

PHMSA will be considering whether changes are needed to the regulations covering hazardous liquid onshore pipelines. In particular, PHMSA will be considering if other areas should be included as High Consequence Areas (HCAs) for integrity management (IM) protections, what the repair timeframes should be for areas outside the HCAs that are assessed as part of the IM program, whether leak detection standards are necessary, valve spacing requirements are needed on new construction or existing pipelines, and if PHMSA should extend regulation to certain pipelines currently exempt from regulation. The agency would also address the public safety and environmental aspects any new requirements, as well as the cost implications and regulatory burden.

*Research and Innovative Technology Administration (RITA)*

The Research and Innovative Technology Administration (RITA) seeks to identify and facilitate solutions to the challenges and opportunities facing America's transportation system through:

- Coordination, facilitation, and review of the Department's research and development programs and activities;
- Providing multi-modal expertise in transportation and logistics research, analysis, strategic planning, systems engineering and training;
- Advancement, and research and development, of innovative technologies, including intelligent transportation systems;
- Comprehensive transportation statistics research, analysis, and reporting;
- Managing education and training in transportation and national transportation-related fields; and
- Managing the activities of the John A. Volpe National Transportation Systems Center.

Through its Bureau of Transportation Statistics, Office of Airline Information, RITA collects, compiles, analyzes, and makes accessible information on the Nation's air transportation system. RITA collects airline financial, traffic, and operating statistical data, including on-time flight performance data that highlight long tarmac times and chronically late flights. This information gives the Government consistent and comprehensive economic and market data on airline operations that are used in supporting policy initiatives and administering the Department's mandated aviation responsibilities, including negotiating international bilateral aviation agreements, awarding international route authorities, performing airline and industry status evaluations, supporting air service to small communities, setting Alaskan Bush Mail rates, and meeting international treaty obligations.

Through its Intelligent Transportation Systems Joint Program Office (ITS/JPO), RITA conducts research and demonstrations and, as appropriate, may develop new regulations, in coordination with OST and other DOT operating administrations, to enable deployment of ITS research and technology results. This office collects and disseminates benefits and costs information resulting from ITS-related research along with direct measurement of the deployment of ITS nationwide. These efforts support market assessments for emerging market sectors that would be cost-prohibitive for industry to absorb alone. Such information is widely consumed by the community of stakeholders to determine their deployment needs.

The ITS Architecture and Standards Programs develop and maintain a National ITS Architecture; develop open, non-proprietary interface standards to facilitate rapid and economical adoption of nationally interoperable ITS technologies; and cooperate to harmonize ITS standards internationally. These standards are incorporated into DOT operating administration regulatory activities when appropriate.

Through its Volpe National Transportation Systems Center, RITA provides a comprehensive range of engineering expertise, and qualitative and quantitative assessment services, focused on applying, maintaining, and increasing the technical body of knowledge to support DOT operating administration regulatory activities.

Through its Transportation Safety Institute, RITA designs, develops, conducts, and evaluates training and technical assistance programs in transportation safety and security to support DOT operating administration regulatory implementation and enforcement activities.

RITA's regulatory priorities are to assist OST and all DOT operating administrations in updating existing regulations by applying research, technology, and analytical results; to provide reliable information to transportation system decisionmakers; and to provide safety regulation implementation and enforcement training.

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## DOT—FEDERAL AVIATION ADMINISTRATION (FAA)

*Proposed Rule Stage*

### 102. +Slot Management and Transparency for Laguardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport

*Priority: Other Significant.*

*Legal Authority:* 49 U.S.C. 106(g); 49 U.S.C. 40103; 49 U.S.C. 40106; 49 U.S.C. 40109; 49 U.S.C. 40113; 49 U.S.C. 44502; 49 U.S.C. 44514; 49 U.S.C. 44701; 49 U.S.C. 44719; 49 U.S.C. 46301

*CFR Citation:* 14 CFR 93.

*Legal Deadline:* None.

*Abstract:* This rulemaking would replace the current temporary orders limiting scheduled operations at LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport with a more permanent rule to address the issues of congestion and delay at the New York area's three major commercial airports, while also promoting fair access and competition. The rulemaking would help ensure that congestion and delays are managed by limiting scheduled and unscheduled operations. The rulemaking would also establish a secondary market for U.S. and foreign air carriers to buy, sell, trade, and lease slots amongst each other at each of the three airports. This would allow carriers serving or seeking to serve the New York area airports to exchange slots as their business models and strategic goals require.

*Statement of Need:* This rulemaking would replace the current temporary orders limiting scheduled operations at LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport with a more permanent rule to address the issues of congestion and delay at the New York area's three major commercial airports, while also promoting fair access and competition. The rulemaking would help ensure that congestion and delays are managed by limiting scheduled and unscheduled operations. The rulemaking would also establish a secondary market for U.S. and foreign air carriers to buy, sell, trade, and lease slots amongst each other at each of the three airports. This would allow carriers serving or seeking to serve the New York area airports to exchange slots as their business models and strategic goals require.

*Summary of Legal Basis:* This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, sections 40101, 40103, 40105, and 41712. The Secretary of Transportation (Secretary) is the head of the DOT and has broad oversight of significant FAA decisions. See 49 U.S.C. 102 and 106. In addition, under 49 U.S.C. 41712, the Secretary has the authority to investigate and prohibit unfair and deceptive practices and unfair methods of competition in air transportation or the sale of air transportation.

The FAA has broad authority under 49 U.S.C. 40103 to regulate the use of the navigable airspace of the United States. This section authorizes the FAA to develop plans and policy for the use of navigable airspace and to assign the use the FAA deems necessary for safe and efficient utilization. It further directs the FAA to prescribe air traffic rules and regulations governing the efficient utilization of navigable airspace. Not only is the FAA required to ensure the efficient use of navigable airspace, but it must do so in a manner that does not effectively shut out potential operators at the airport and in a manner that acknowledges competitive market forces.

These authorities empower the DOT to ensure the efficient utilization of airspace by limiting the number of scheduled and unscheduled aircraft operations at JFK, EWR, and LGA, while balancing between promoting competition and recognizing historical investments in the airport and the need to provide continuity. They also authorize the DOT to investigate the transfer of slots and to limit or prohibit anticompetitive transfers.

*Alternatives:* The FAA considered two alternatives. The first alternative was to simply extend the existing orders. This alternative was rejected because the FAA wanted to increase competition by making slots available to more operators. The FAA believes these operators are likely to be small entities. The second alternative was to remove the existing orders. This alternative results in unacceptable delay costs from the increase in operations.

*Anticipated Cost and Benefits:* Total benefits and costs are estimated at $74,696,596 ($65,242,900 Present Value at 7 percent) for benefits and $53,056,768 ($46,341,836 Present Value at 7 percent) for costs. This is a preliminary estimate that is subject to change based on further review and analysis.

*Risks:* There are no risks for this rulemaking.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Additional Information:* This rulemaking is associated with an RRR action.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Molly W Smith, Federal Aviation Administration, Department of Transportation, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, *Phone:* 202 267–3344, *Email:* *molly.w.smith@faa.gov.*

*RIN:* 2120–AJ89

## DOT—FAA

*Final Rule Stage*

### 103. +Air Ambulance and Commercial Helicopter Operations; Safety Initiatives and Miscellaneous Amendments

*Priority:* Other Significant.

*Legal Authority:* 49 U.S.C. 106(g); 49 U.S.C. 1155; 49 U.S.C. 40101 to 40103; 49 U.S.C. 40120; 49 U.S.C. 41706; 49 U.S.C. 41721; 49 U.S.C. 44101; 49 U.S.C. 44106; 49 U.S.C. 44111; 49 U.S.C. 46306; 49 U.S.C. 46315; 49 U.S.C. 46316; 49 U.S.C. 46504; 49 U.S.C. 46506; 49 U.S.C. 46507; 49 U.S.C. 47122; 49 U.S.C. 47508; 49 U.S.C. 47528 to 47531; 49 U.S.C. 44701

*CFR Citation:* 14 CFR 1; 14 CFR 135; 14 CFR 91; 14 CFR 120.

*Legal Deadline:* Final, Statutory, June 1, 2012, 49 U.S.C. 44730(b), as enacted under Pub. L. 112–95, sec. 306(b) (Feb. 14, 2012).

*Abstract:* This rulemaking would change equipment and operating requirements for commercial helicopter operations, including many specifically for helicopter air ambulance operations. This rulemaking is necessary to increase crew, passenger, and patient safety. The intended effect is to implement National Transportation Safety Board, Aviation Rulemaking Committee, and internal FAA recommendations.

*Statement of Need:* Since 2002, there has been an increase in fatal helicopter air ambulance accidents. The FAA has undertaken initiatives to address common factors that contribute to helicopter air ambulance accidents including issuing notices, handbook bulletins, operations specifications, and advisory circulars (ACs). This rule would codify many of those initiatives, as well as several NTSB and Part 125/135 Aviation Rulemaking Committee recommendations. This rule would also satisfy the rulemaking requirements for helicopter air ambulance operations in Pub. L. 1112–95, section 306.

*Summary of Legal Basis:* This rulemaking is promulgated under the authority described in 49 U.S.C. 44701(a)(4), which requires the Administrator to promulgate regulations in the interest of safety for the maximum hours or periods of service of airmen and other employees of air carriers, and 49 U.S.C. 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods,

and procedures necessary for safety in air commerce and national security.

*Alternatives:* Alternative One: The alternative would exclude the HTAWS (Helicopter Terrain Awareness and Warning System) unit from this proposal. Although the ratio of annualized cost to annual revenue would decrease from a range of between 1.80 percent and 1.87 percent to a range of between 1.61 percent and 1.68 percent would also be a reduction in safety. The HTAWS is an outstanding tool for situational awareness in all aspects of flying including day, night, and instrument meteorological conditions. Therefore the FAA believes that this equipment is a significant enhancement for safety.

*Alternative Two:* The alternative would increase the requirement of certificate holders from 10 to 15 helicopters or more that are engaged in helicopter air ambulance operations to have an Operations Control Center. The FAA believes that operators with 10 or more helicopters engaged in air ambulance operations would cover 83 percent of the total population of the air ambulance fleet in the U.S. The FAA believes that operators with 15 or more helicopters would decrease the coverage of the population to 78 percent. Furthermore, complexity issues arise and considerably increase with operators of more than 10 helicopters.

All alternatives above are not considered to be acceptable by the FAA in accordance with 5 U.S.C. 603(c).

*Anticipated Cost and Benefits:* The FAA estimated the rule would cost $309 million ($242 million 7 percent present value) over 10 years. The benefits were estimated to be $1030 million ($725 million 7 percent present value) over 10 years. This is a preliminary estimate that is subject to change based on further review and analysis.

*Risks:* Helicopter air ambulance operations have several characteristics that make them unique, including that they are not limited to airport locations for picking up and dropping off patients, but may pick up a person at a road side accident scene and transport him or her directly to a hospital. Helicopter air ambulance operations are also often time-sensitive. A helicopter air ambulance flight may be crucial to getting a donor organ or critically ill or injured patient to a medical facility as efficiently as possible. Additionally, patients generally are not able to choose the helicopter air ambulance company that provides them with transportation. Despite the fact that there are unique aspects to helicopter air ambulance operations, they remain, at their core, air transportation. Accordingly the FAA has the responsibility for ensuring the safety of these operations.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 10/12/10 | 75 FR 62640 |
| NPRM Comment Period End. | 01/10/11 | |
| Final Rule | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

URL for More Information: *www.regulations.gov.*

*URL for Public Comments: www.regulations.gov.*

*Agency Contact*: Gregory French, Department of Transportation, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, *Phone:* 202–493–5474, *Fax:* 202–267–5094, *Email: gregory.french@faa.gov.*

*RIN:* 2120–AJ53

## DOT—FAA

### 104. +Safety Management Systems for Part 121 Certificate Holders (Section 610 Review)

*Priority:* Other Significant.

*Legal Authority:* 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 40119; 49 U.S.C. 41706; 49 U.S.C. 44101; 49 U.S.C. 44701; 49 U.S.C. 44702; 49 U.S.C. 44705; 49 U.S.C. 44709 to 44711; 49 U.S.C. 44713; 49 U.S.C. 44716; 49 U.S.C. 44717; 49 U.S.C. 44722; 49 U.S.C. 46105; Pub. L. 111–216, sec 215

*CFR Citation:* 14 CFR 121; 14 CFR 5.

*Legal Deadline:* NPRM, Statutory, October 29, 2010, NPRM. Final, Statutory, July 30, 2012, Final Rule.

Congress passed Public Law 111–216 that instructs FAA to conduct a rulemaking to require all part 121 air carriers to implement a Safety Management System (SMS). This Act further states that FAA shall consider at a minimum each of the following as part of the SMS rulemaking: (1) An Aviation Safety Action Program (ASAP); (2) a Flight Operations Quality Assurance Program (FOQA); (3) a Line Operations Safety Audit (LOSA); and (4) an Advance Qualifications Program.

*Abstract:* This rulemaking would require each certificate holder operating under 14 CFR part 121 to develop and implement a safety management system (SMS) to improve the safety of its aviation related activities. A safety management system is a comprehensive, process-oriented approach to managing safety throughout an organization. An SMS includes an organization-wide safety policy; formal methods for identifying hazards, controlling, and continually assessing risk and safety performance; and promotion of a safety culture. SMS stresses not only compliance with technical standards, but increased emphasis on the overall safety performance of the organization. This rulemaking is required under Public Law 111–216, sec. 215.

*Statement of Need:* This final rule requires each air carrier operating under 14 CFR part 121 to develop and implement a safety management system (SMS) to improve the safety of its aviation-related activities. SMS is a comprehensive, process-oriented approach to managing safety throughout an organization. SMS includes an organization-wide safety policy; formal methods for identifying hazards, controlling, and continually assessing risk and safety performance; and promotion of a safety culture. SMS stresses not only compliance with technical standards, but also increased emphasis on the overall safety performance of the organization.

*Summary of Legal Basis:* The Federal Aviation Administration's (FAA) authority to issue rules on aviation safety is found in Title 49 of the United States Code. This rulemaking is promulgated under the authority described in 49 U.S.C. 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

In addition, the Airline Safety and Federal Aviation Administration Extension Act of 2010 (the Act), Public Law 111–216, sec. 215 (August 1, 2010), required the FAA to conduct rulemaking to ''require all 14 CFR part 121 air carriers to implement a safety management system.'' The Act required the FAA to issue this final rule within 24 months of the passing of the Act (July 30, 2012).

*Alternatives:* To relieve the burden of this rule on small entities, the FAA considered extending the timeframe for development of SMS implementation plans. However, the FAA ultimately concluded that one year for the development and approval of implementation plans is appropriate. In making this determination, the FAA considered longer and shorter terms. However, it settled on one year based on information from the SMS Pilot Project, which showed that an average of one year was sufficient to develop and approve an implementation plan. As part of its analysis, the FAA noted that pilot project participants ultimately had

differing levels of SMS implementation. However, because all pilot project participants had initially developed (and received FAA validation on) an implementation plan that provided for full SMS implementation, the FAA was able to use this data to estimate how long it would take a certificate holder to develop such a plan and get the plan approved by the FAA.

*Anticipated Cost and Benefits:* The FAA estimates the total benefits to be $447.9 million ($263.1 million present value) and total costs to be $211.8 million ($144.9 million present value), with benefits exceeding costs.

*Risks:* While the commercial air carrier accident rate in the United States has decreased substantially over the past 10 years, the FAA has identified a recent trend involving hazards that were revealed during accident investigations. The FAA's Office of Accident Investigation and Prevention identified 128 accidents involving part 121 air carriers from fiscal year (FY) 2001 through FY 2010 for which identified causal factors could have been mitigated if air carriers had implemented an SMS to identify hazards in their operations and developed methods to control the risk. This type of approach allows air carriers to anticipate and mitigate the likely causes of potential accidents. This is a significant improvement over current ''reactive'' safety action emphasis, which focuses on discovering and mitigating the cause of an accident only after that accident has occurred. In order to bring about this change in accident mitigation, as well as the other reasons discussed throughout this document, the FAA is requiring part 121 air carriers to develop and implement an SMS.

SMS is a comprehensive, process-oriented approach to managing safety throughout an organization, and stresses not only compliance with technical standards, but increased emphasis on the overall safety performance of the organization.

The potential reduction of risks would be averted causalities, aircraft damage, and accident investigation costs by identifying safety issues and spotting trends before they result in a near-miss, incident, or accident.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 11/05/10 | 75 FR 68224 |
| NPRM Comment Period Extended. | 01/31/11 | 76 FR 5296 |
| NPRM Comment Period End. | 02/03/11 | |
| Comment Period Extended. | 03/07/11 | |
| Final Rule | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal.

*URL for More Information:* *www.regulations.gov*

*URL for Public Comments:* *www.regulations.gov*

*Agency Contact:* Scott VanBuren, Department of Transportation, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, *Phone:* 202 494–8417, *Email:* *scott.vanburen@faa.gov*.

*Related RIN:* Split from 2120–AJ15.

*RIN:* 2120–AJ86

## DOT—FEDERAL HIGHWAY ADMINISTRATION (FHWA)

*Proposed Rule Stage*

### 105. +National Goals and Performance Management Measures (MAP–21)

*Priority:* Other Significant.

*Legal Authority:* 23 U.S.C. 150

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* NPRM, Statutory, April 1, 2014, NPRM.

Section 1203 of MAP–21 requires the Secretary to promulgate a rulemaking within 18 months after the date of enactment.

*Abstract:* This rulemaking would create national performance management measures and standards to be used by the States to meet the national transportation goals identified in section 1203 of MAP–21. This rulemaking would also establish the process to be used by States to set performance targets that reflect their performance measures. The FHWA anticipates publishing up to three separate rulemakings to address the different areas covered by this section. This rulemaking, the first, will cover safety.

*Statement of Need:* The Moving Ahead for Progress in the 21st Century Act (MAP–21) transforms the Federal-aid highway program by establishing new requirements for performance management to ensure the most efficient investment of Federal transportation funds. Performance management refocuses attention on national transportation goals, increases the accountability and transparency of the Federal-aid highway program, and improves project decisionmaking through performance-based planning and programming. This rulemaking is the first of three that would propose the establishment of performance measures for State DOTs and MPOs to use to carry out Federal-aid highway programs and to assess performance in each of the 12 areas mandated by MAP–21. This rulemaking would establish performance measures to carry out the Highway Safety Improvement Program and to assess serious injuries and fatalities, both in number and expressed as a rate, on all public roads. In addition, this rulemaking would establish the process for State DOTs and MPOs to use to establish and report safety targets, and the process that FHWA will use to assess progress State DOTs have made in achieving safety targets.

*Summary of Legal Basis:* Section 1203 of MAP–21 requires the Secretary of Transportation to establish performance measures and standards through a rulemaking to assess performance in 12 areas.

*Alternatives:* N/A.

*Anticipated Cost and Benefits:* Preliminary estimates show that the total costs for a 10-year period is $66,695,260 (undiscounted), $53,873,609 (7 percent discount rate), and $60,504,205 (3 percent discount rate). The DOT performed a break-even analysis that estimates the number of fatalities and incapacitating injuries the rule would need to prevent for the benefits of the rule to justify the costs. Preliminary estimates show that the proposed rule would need to prevent approximately 7 fatalities over 10 years, or less than one avoided fatality per year nationwide, to outweigh the anticipated costs of the proposed rule. When the break-even analysis uses incapacitating injuries as the reduction metric, preliminary estimates show that the proposed rule must be responsible for reducing approximately 153 incapacitating injuries over 10 years, or approximately 15 per year, to outweigh the anticipated costs of the proposed rule. In other words, the proposed rule must result in approximately 7 fewer fatalities, which is equivalent to approximately 153 fewer incapacitating injuries, over 10 years, for the proposed rule to be cost-beneficial.

*Risks:* N/A.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* State.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Francine Shaw-Whitson, Department of Transportation, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–8028, *Email:* *francine.shaw-whitson@dot.gov.*

*RIN:* 2125–AF49

## DOT—FHWA

### 106. +National Goals and Performance Management Measures (MAP–21)

*Priority:* Other Significant.

*Legal Authority:* Sec. 1203 Pub. L. 112–141; 49 CFR 1.85

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* NPRM, Statutory, April 1, 2014, NPRM.

Section 1203 of MAP–21 requires the Secretary to promulgate a rulemaking within 18 months after the date of enactment.

*Abstract:* This rulemaking would create national performance management measures and standards to be used by the States to meet the national transportation goals identified in section 1203 of MAP–21. This rulemaking would also establish the process to be used by States to set performance targets that reflect their performance measures. The FHWA anticipates issuing up to three rulemakings in this area. This rulemaking, number two, will cover the bridges and pavement.

*Statement of Need:* The Moving Ahead for Progress in the 21st Century Act (MAP–21) transforms the Federal-aid highway program by establishing new requirements for performance management to ensure the most efficient investment of Federal transportation funds. Performance management refocuses attention on national transportation goals, increases the accountability and transparency of the Federal-aid highway program, and improves project decisionmaking through performance-based planning and programming. This rulemaking is the second of three that would propose the establishment of performance measures for State DOTs and MPOs to use to carry out Federal-aid highway programs and to assess performance in each of the 12 areas mandated by MAP–21. This rulemaking would establish performance measures for State DOTs to use to carry out the National Highway Performance Program (NHPP) and to assess: condition of pavements on the National Highways System (NHS) (excluding the Interstate System), condition of pavements on the Interstate System, and condition of bridges on the NHS. This rulemaking would also propose: the definitions that will be applicable to the new 23 CFR 490; the process to be used by State DOTs and MPOs to establish performance targets that reflect the measures proposed in this rulemaking; a methodology to be used to assess State DOTs compliance with the target achievement provision specified under 23 U.S.C. 119(e)(7); and the process to be followed by State DOTs to report on progress towards the achievement of pavement and bridge condition-related performance targets.

*Summary of Legal Basis:* Section 1203 of MAP–21 requires the Secretary of Transportation to establish performance measures and standards through a rulemaking to assess performance in 12 areas.

*Alternatives:* N/A.

*Anticipated Cost and Benefits:* Not Yet Determined.

*Risks:* N/A.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal, State.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Francine Shaw-Whitson, Department of Transportation, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–8028, *Email:* *francine.shaw-whitson@dot.gov.*

*RIN:* 2125–AF53

## DOT—FHWA

### 107. +National Goals and Performance Management Measures (MAP–21)

*Priority:* Other Significant

*Legal Authority:* Sec. 1203, Pub. L. 112–141; 49 FR 1.85

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* NPRM, Statutory, April 1, 2014, NPRM.

Section 1203 of MAP–21 requires the Secretary to promulgate a rulemaking within 18 months after the date of enactment.

*Abstract:* This rulemaking would create national performance management measures and standards to be used by the States to meet the national transportation goals identified in section 1203 of MAP–21. This rulemaking would also establish the process to be used by States to set performance targets that reflect their performance measures. The FHWA anticipates issuing up to three rulemakings in this area. This rulemaking covers Congestion Mitigation and Air Quality (CMAQ) and Freight issues.

*Statement of Need:* The Moving Ahead for Progress in the 21st Century Act (MAP–21) transforms the Federal-aid highway program by establishing new requirements for performance management to ensure the most efficient investment of Federal transportation funds. Performance management refocuses attention on national transportation goals, increases the accountability and transparency of the Federal-aid highway program, and improves project decisionmaking through performance-based planning and programming. This rulemaking is the third of three that would propose the establishment of performance measures for State DOTs and MPOs to use to carry out Federal-aid highway programs and to assess performance in each of the 12 areas mandated by MAP–21. This rulemaking would establish performance measures for State DOTs to use in the areas of Congestion Reduction, Congestion mitigation and air quality improvement program (CMAQ), Freight, and Performance of Interstate/Non-Interstate National Highway System.

*Summary of Legal Basis:* Section 1203 of MAP–21 requires the Secretary of Transportation to establish performance measures and standards through a rulemaking to assess performance in 12 areas.

*Alternatives:* N/A.

*Anticipated Cost and Benefits:* Not Yet Determined.

*Risks:* N/A.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal, State.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Francine Shaw-Whitson, Department of Transportation, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–8028, *Email:* *francine.shaw-whitson@dot.gov.*

*RIN:* 2125–AF54

## DOT—FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA)

*Proposed Rule Stage*

### 108. +Carrier Safety Fitness Determination

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Legal Authority:* Sec 4009 of TEA–21.

*CFR Citation:*, 49 CFR 385.

*Legal Deadline:* None.

*Abstract:* FMCSA proposes to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to adopt revised methodologies that would result in a safety fitness determination (SFD). The proposed methodologies would determine when a motor carrier is not fit to operate commercial motor vehicles (CMVs) in or affecting interstate commerce based on (1) the carrier's performance in relation to five of the Agency's Behavioral Analysis and Safety Improvement Categories (BASICs); (2) an investigation; or (3) a combination of on-road safety data and investigation information. The intended effect of this action is to reduce crashes caused by CMV drivers and motor carriers, resulting in death, injuries, and property damage on U.S. highways, by more effectively using FMCSA data and resources to identify unfit motor carriers and to remove them from the Nation's roadways.

*Statement of Need:* Because of the time and expense associated with the onsite compliance review, only a small fraction of carriers (approximately 12,000) receive a safety fitness determination each year. Since the current safety fitness determination process is based exclusively on the results of an onsite compliance review, the great majority of carriers subject to FMCSA jurisdiction do not receive a timely determination of their safety fitness.

The proposed methodology for determining motor carrier safety fitness should correct the deficiencies of the current process. In correcting these deficiencies, FMCSA has made a concerted effort to develop a ''transparent'' method for the Safety Fitness Determination (SFD) that would allow each motor carrier to understand fully how FMCSA established that carrier's specific SFD.

*Summary of Legal Basis:* This rule is based primarily on the authority of 49 U.S.C. 31144, which directs the Secretary of Transportation to ''determine whether an owner or operator is fit to operate a commercial motor vehicle'' and to ''maintain by regulation a procedure for determining the safety fitness of an owner or operator.'' This statute was first enacted as part of the Motor Carrier Safety Act of 1984, section 215, Public Law 98–554, 98 Stat. 2844 (Oct. 30, 1984).

The proposed rule also relies on the provisions of 49 U.S.C. 31133, which gives the Secretary ''broad administrative powers to assist in the implementation'' of the provisions of the Motor Carrier Safety Act now found in chapter 311 of title 49, U.S.C. These powers include, among others, authority to conduct inspections and investigations, compile statistics, require production of records and property, prescribe recordkeeping and reporting requirements, and to perform other acts considered appropriate. These powers are used to obtain the data used by the Safety Management System and by the proposed new methodology for safety fitness determinations.

Under 49 CFR 1.73(g), the Secretary has delegated the authority to carry out the functions in subchapters I, III, and IV of chapter 311, title 49, U.S.C., to the FMCSA Administrator. Sections 31133 and 31144 are part of subchapter III of chapter 311.

*Alternatives:* The Agency has been considering several alternatives.

*Anticipated Cost and Benefits:* The Agency is continuing to review the estimated costs and benefits of the proposed rule.

*Risks:* A risk of incorrectly identifying a compliant carrier as non-compliant—and consequently subjecting the carrier to unnecessary expenses—has been analyzed and has been found to be negligible under the process being proposed.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses, Organizations.

*Government Levels Affected:* Undetermined.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* David Miller, Regulatory Development Division, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–5370, *Email: fmcsaregs@dot.gov.*

*RIN:* 2126–AB11

## DOT—FMCSA

### 109. +Commercial Driver's License Drug and Alcohol Clearinghouse (MAP–21)

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* Undetermined.

*Legal Authority:* 49 U.S.C. 31306

*CFR Citation:* 49 CFR 382.

*Legal Deadline:* None.

*Abstract:* This rulemaking would create a central database for verified positive controlled substances and alcohol test results for commercial driver's license (CDL) holders and refusals by such drivers to submit to testing. This rulemaking would require employers of CDL holders and service agents to report positive test results and refusals to test into the Clearinghouse. Prospective employers, acting on an application for a CDL driver position with the applicant's written consent to access the Clearinghouse, would query the Clearinghouse to determine if any specific information about the driver applicant is in the Clearinghouse before allowing the applicant to be hired and to drive CMVs. This rulemaking is intended to increase highway safety by ensuring CDL holders, who have tested positive or have refused to submit to testing, have completed the U.S. DOT's return-to-duty process before driving CMVs in interstate or intrastate commerce. It is also intended to ensure that employers are meeting their drug and alcohol testing responsibilities. Additionally, provisions in this rulemaking would also be responsive to requirements of the Moving Ahead for Progress in the 21st Century (MAP–21) Act. MAP–21 requires creation of the Clearinghouse by 10/1/14.

*Statement of Need:* This rulemaking would improve the safety of the Nation's highways by ensuring that employers know when drivers test positive for drugs and/or alcohol and are not qualified to drive. It would also ensure that drivers who have tested positive and have not completed the return to duty process are not driving and ensure that all employers are meeting their drug and alcohol testing responsibilities.

*Summary of Legal Basis:* Section 32402 of the Moving Ahead for Progress in the 21st Century Act (MAP–21)) (Pub. L. 112–141, 126 stat. 405) directs the Secretary of Transportation to establish a national clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators. In addition, FMCSA has general authority to promulgate safety standards, including those governing drivers' use of drugs or alcohol while operating a

CMV. The Motor Carrier Safety Act of 1984 Public Law 98–554 (the 1984 Act) provides authority to regulate drivers, motor carriers, and vehicle equipment and requires the Secretary of Transportation to prescribe minimum safety standards for CMVs, including: (1) CMVs are maintained, equipped loaded, and operated safely; (2) the responsibilities imposed on CMV operators do not impair their ability to operate the vehicles safely; (30 the physical condition of CMV operators is adequate to enable them to operate the vehicles safely; and (40 CMV operation does not have a deleterious effect on physical condition of the operators (49 U.S.C. 31136(a)).

*Alternatives:* To be determined.

*Anticipated Cost and Benefits:* The Agency estimates $187 million in annual benefits from increased crash reduction from the rule. This is against an estimated $155 million in total annual costs for employers to complete the annual and pre-employment queries and to designate C/TPAs, for SAPs to input information from drivers undergoing the return-to-duty process, for various entities to report and notify positive tests and to register and become familiar with the rule, for drivers to consent to release of records, and for FMCSA to maintain and operate the Clearinghouse, and for drivers to go through the return-to-duty process. Total net benefits of the rule thus are $32 million annually.

*Risks:* A risk of not knowing when a driver has not completed the ''return to duty'' process and enabling job-hopping within the industry.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal, Local, State, Tribal.

*Federalism:* This action may have federalism implications as defined in EO 13132.

*Additional Information:* MAP–21 included provisions for a Drug and Alcohol Test Clearinghouse that affect this rulemaking.

*URL for More Information: www.regulations.gov.*

*URL for Public Comments: www.regulations.gov.*

*Agency Contact:* Deborah Snider, Chief, Commercial Enforcement (MC–ECC), Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–0916, *Email: deborah.snider@fmcsa.dot.gov.*

*RIN:* 2126–AB18

## DOT—FMCSA

### 110. +Electronic Logging Devices and Hours of Service Supporting Documents (MAP–21)

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* This action may affect the private sector under Pub. L. 104–4.

*Legal Authority:* 49 U.S.C. 31502; 31136(a); Pub. L 103.311; 49 U.S.C. 31137(a)

*CFR Citation:* 49 CFR 350; 49 CFR 385; 49 CFR 396; 49 CFR 395.

*Legal Deadline:* NPRM, Judicial, January 31, 2011, NPRM published.

*Abstract:* This SNPRM would establish: (1) Minimum performance and design standards for hours-of-service (HOS) electronic logging devices (ELDs); (2) requirements for the mandatory use of these devices by drivers currently required to prepare HOS records of duty status (RODS); (3) requirements concerning HOS supporting documents; and (4) measures to address concerns about harassment resulting from the mandatory use of ELDs. This rulemaking supplements the Agency's February 1, 2011, Notice of Proposed Rulemaking (NPRM) and addresses issues raised by the U.S. Court of Appeals for the Seventh Circuit in its 2011 decision vacating the Agency's April 5, 2010, final rule concerning ELDs as well as subsequent statutory developments. The proposed requirements for ELDs would improve compliance with the HOS rules.

*Statement of Need:* The Federal Motor Carrier Safety Administration (FMCSA) proposes amendments to the Federal Motor Carrier Safety Regulations (FMCSRs) to establish: (1) Minimum performance and design standards for hours-of-service (HOS) electronic logging devices (ELDs); (2) requirements for the mandatory use of these devices by drivers currently required to prepare HOS records of duty status (RODS); (3) requirements concerning HOS supporting documents; and (4) measures to address concerns about harassment resulting from the mandatory use of ELDs. This rulemaking supplements the Agency's February 1, 2011, Notice of Proposed Rulemaking (NPRM) and addresses issues raised by the U.S. Court of Appeals for the Seventh Circuit in its 2011 decision vacating the Agency's April 5, 2010, final rule concerning ELDs as well as subsequent statutory developments. The proposed requirements for ELDs would improve compliance with the HOS rules.

*Summary of Legal Basis:* Section 113 of the Hazardous Materials Transportation Authorization Act of 1994, Public Law 103–311, 108 Stat. 1673, 16776–1677, August 26, 1994, (HMTAA) requires the Secretary to prescribe regulations to improve compliance by CMV drivers and motor carriers with HOS requirements and the effectiveness and efficiency of Federal and State enforcement officers reviewing such compliance. Specifically, the Act addresses requirements for supporting documents.

Section 32301(b) of the Commercial Motor Vehicle Safety Enhancement Act, enacted as part of MAP–21 (Pub. L. 112–141, 126 Stat. 405, 786–788 (July 6, 2012)), mandated that the Secretary adopt regulations requiring that CMVs involved in interstate commerce, operated by drivers who are required to keep RODS, be equipped with ELDs.

*Alternatives:* FMCSA is considering several alternatives to the proposal, including alternate populations.

*Anticipated Cost and Benefits:* FMCSA has not yet fully assessed the costs and benefits that might be associated with this SNPRM. The 2011 NPRM estimated total costs and benefits. At a 7 percent discount, the total estimated cost over 10 years was $1,984 million, and the total estimated benefit over 10 years was $2,699 million.

*Risks:* FMCSA has not yet fully assessed the risks that might be associated with this activity.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 02/01/11 | 76 FR 5537 |
| NPRM Comment Period End. | 02/28/11 | |
| Comment Period Extended. | 03/10/11 | 76 FR 13121 |
| Extended Comment Period End. | 05/23/11 | |
| Supplemental NPRM | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Additional Information:* The Agency previously published an NPRM on this subject under RIN 2126–AA76, ''Hours of Service of Drivers; Supporting Documents'' (63 FR 19457, Apr. 20, 1998) and an SNPRM, ''Hours of Service of Drivers: Supporting Documents'' (69 FR 63997, Nov. 3, 2004). The Agency withdrew the SNPRM on October 25,

2007, 72 FR 60614. The previous proceeding can be found in docket No. FMCSA–1998–3706.

*URL for More Information: www.regulations.gov.*

*URL for Public Comments: www.regulations.gov.*

*Agency Contact:* Deborah M Freund, Senior Transportation Specialist, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 366–5370, *Email: deborah.freund@dot.gov.*

*Related RIN:* Related to 2126–AA89, Related to 2126–AA76.

*RIN:* 2126–AB20

## DOT—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA)

*Proposed Rule Stage*

### 111. +Motorcoach Rollover Structural Integrity (MAP–21)

*Priority:* Other Significant.

*Legal Authority:* 49 U.S.C. 30111; 49 U.S.C. 30115; 49 U.S.C. 30117; 49 U.S.C. 30166; 49 U.S.C. 322; delegation of authority at 49 CFR 1.95

*CFR Citation:* 49 CFR 571.

*Legal Deadline:* Final, Statutory, October 1, 2014, Publish Final Rule.

*Abstract:* This rulemaking would promulgate a new FMVSS for rollover structural integrity requirements for motorcoaches. In August 2007, NHTSA published a motorcoach safety plan identifying four specific priority items: Seat belts on motorcoaches, rollover structural integrity, emergency evacuation, and fire safety. The DOT published a comprehensive motorcoach safety action plan in November 2009 that reiterated NHTSA´s motorcoach safety priorities. This rulemaking also addresses six recommendations issued by the NTSB on motorcoach roof strength and structural integrity and is responsive to requirements of the Moving Ahead for Progress in the 21st Century (MAP–21) Act.

*Statement of Need:* Over the ten-year period between 2000 and 2009, there were 45 fatal motorcoach crashes resulting in 134 fatalities. During this period, on average, 13 fatalities have occurred annually to occupants of motorcoaches in crash and rollover events, with about 2 of these fatalities being drivers and 11 being passengers. However, while motorcoach transportation overall is safe, when serious crashes of this vehicle type do occur, they can cause a significant number of fatal or serious injuries during a single event, particularly when occupants are ejected. This action is consistent with our detailed plans for improving motorcoach passenger protection, laid out in NHTSA's Approach to Motorcoach Safety 2007 and the Department of Transportation 2009 Motorcoach Action Plan (Docket No. NHTSA–2007–28793), as well as the Agency's Vehicle Safety and Fuel Economy Rulemaking and Research Priority Plan 2011–2013 (Docket No. NHTSA–2009–0108), and is responsive to six recommendations issued by the National Transportation Safety Board. In addition, this action would fulfill a statutory provision of the Motorcoach Enhanced Safety Act of 2012 (incorporated and passed as part of the Moving Ahead for Progress in the 21st Century Action) for establishing motorcoach roof strength and crush resistance requirements, to the extent warranted under the National Traffic and Motor Vehicle Safety Act.

*Summary of Legal Basis:* Section 30111, title 49 of the U.S.C., states that the Secretary shall prescribe motor vehicle safety standards.

*Alternatives:* NHTSA is examining existing regulations as alternatives to this proposal. FMVSS No. 216 ''Roof crush resistance,'' FMVSS No. 220, ''School bus rollover protection,'' and UN ECE R.66 are among the existing regulations that the agency is considering. The agency is considering these alternatives in light of their ability to ensure occupant protection during a rollover crash as well as additional safety issues such as opening of egress portals, failure of seat and luggage rack anchorages, detachment of windows from their mounting.

*Anticipated Cost and Benefits:* The net impact ranges from a net benefit of $9.5 million to $19.4 million if seat belt usage is 15 percent. If the seat belt usage rate is 84 percent, the estimated net impact ranges from a net benefit of $4.7 million to $13.1 million.

*Risks:* The Agency believes that there are no significant risks associated with this rulemaking, and that only beneficial outcomes will occur.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*URL for More Information: www.regulations.gov.*

*URL for Public Comments: www.regulations.gov.*

*Agency Contact:* Shashi Kuppa, Chief, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Ave, SE., Washington, DC 20590, *Phone:* 202–366–3827, *Fax:* 202–493–7002, *Email: shashi.kuppa@dot.gov.*

*RIN:* 2127–AK96

## DOT—NHTSA

*Final Rule Stage*

### 112. +Require Installation of Seat Belts on Motorcoaches, FMVSS No. 208 (MAP–21)

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* This action may affect the private sector under Pub. L. 104–4.

*Legal Authority:* 49 U.S.C. 30111; 49 U.S.C. 30115; 49 U.S.C. 30117; 49 U.S.C. 30166; 49 U.S.C. 322; delegation of authority at 49 CFR 1.95

*CFR Citation:* 49 CFR 571.208; 49 CFR 571.3.

*Legal Deadline:* Final, Statutory, October 1, 2013, Final Rule.

*Abstract:* This rulemaking would require the installation of lap/shoulder belts in newly-manufactured motorcoaches. Specifically, this rulemaking would establish a new definition for motorcoaches in 49 CFR part 571.3. It would also amend Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, to require the installation of lap/shoulder belts at all driver and passenger seating positions. It would also require the installation of lap/shoulder belts at driver seating positions of large school buses in FMVSS No. 208. This rulemaking responds, in part, to recommendations made by the National Transportation Safety Board for improving bus safety and to a newly enacted statutory mandate in MAP–21 to require seat belts in certain buses.

*Statement of Need:* Over the ten-year period between 1999 and 2008, there were 54 fatal motorcoach crashes resulting in 186 fatalities. During this period, on average, 16 fatalities have occurred annually to occupants of motorcoaches in crash and rollover events, with about 2 of these fatalities being drivers and 14 being passengers. However, while motorcoach transportation overall is safe, when serious crashes of this vehicle type do occur, they can cause a significant number of fatal or serious injuries during a single event, particularly when occupants are ejected. This action is responsive to four recommendations issued by the National Transportation Safety Board.

*Summary of Legal Basis:* Section 30111, title 49 of the U.S.C., states that the Secretary shall prescribe motor vehicle safety standards.

*Alternatives:* In addition to the proposed installation of lap/shoulder belts in all passenger seating positions on motorcoaches, the Agency is also pursuing improvements to motorcoach rollover structural integrity, fire safety, electronic stability control, and emergency egress to improve occupant protection. Our detailed plans for improving motorcoach passenger protection can be found in NHTSA's Approach to Motorcoach Safety 2007 and the Department of Transportation 2009 Motorcoach Action Plan (Docket No. NHTSA–2007–28793), as well as the agency's Vehicle Safety and Fuel Economy Rulemaking and Research Priority Plan 2011–2013 (Docket No. NHTSA–2009–0108).

The Agency also alternatively evaluated proposing the installation of lap belts in all passenger seating positions on motorcoaches, and is seeking comments on the issue of retrofitting older motorcoaches with seat belts.

*Anticipated Cost and Benefits:* The anticipated total costs are expected to be $25.8 million for the 2,000 new motorcoaches produced each year, plus added fuel costs. The Agency estimates the proposal has the potential to save 1–8 fatalities and 144–794 non-fatal injuries annually assuming a range of seat belt use between 15 and 83 percent. The cost per equivalent life saved at a seven percent discount rate is estimated to range from $1.8 to $9.9 million, based on an assumed seat belt use rate between 83 percent and 15 percent, respectively.

*Risks:* The agency believes there are no substantial risks to this rulemaking, and that only beneficial outcomes will occur as the industry moves to reduce injuries of motorcoach occupants.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 08/18/10 | 75 FR 50958 |
| NPRM Comment Period End. | 10/18/10 | |
| Final Rule | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*International Impacts:* This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Shashi Kuppa, Chief, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202–366–3827, *Fax:* 202–493–7002, *Email: shashi.kuppa@dot.gov.*

*RIN:* 2127–AK56

## DOT—NHTSA

### 113. +Electronic Stability Control Systems for Heavy Vehicles (MAP–21)

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Legal Authority:* 49 U.S.C. 30111; 49 U.S.C. 30115; 49 U.S.C. 30117; 49 U.S.C. 30166; 49 U.S.C. 322; delegation of authority at 49 CFR 1.95

*CFR Citation:* 49 CFR 571.

*Legal Deadline:* Final, Statutory, October 1, 2014, Final Rule.

*Abstract:* This rulemaking would promulgate a new Federal standard that would require stability control systems on truck tractors and motorcoaches that address both rollover and loss of control crashes. Rollover and loss of control crashes involving heavy vehicles is a serious safety issue that is responsible for 304 fatalities and 2,738 injuries annually. They are also a major cause of traffic tie-ups, resulting in millions of dollars of lost productivity and excess energy consumption each year. Suppliers and truck and motorcoach manufacturers have developed stability control technology for heavy vehicles to mitigate these types of crashes. Based on the technology unit costs and affected vehicles, we estimate technology costs would be $55 to $107 million, annually. However, the costs savings from reducing travel delay and property damage would produce net benefits of $128–$372 million. This rulemaking is responsive to requirements of the Moving Ahead for Progress in the 21st Century (MAP–21) Act.

*Statement of Need:* Rollover and loss of control crashes involving combination truck tractors and large buses is a serious safety issue that is responsible for 268 fatalities and 3000 injuries annually. They are also a major cause of traffic tie-ups, resulting in millions of dollars of lost productivity and excess energy consumption each year. This action is consistent with our detailed plans for improving motorcoach passenger protection, laid out in NHTSA's Approach to Motorcoach Safety 2007 and the Department of Transportation 2009 Motorcoach Action Plan (Docket No. NHTSA–2007–28793), as well as the agency's Vehicle Safety and Fuel Economy Rulemaking and Research Priority Plan 2011–2013 (Docket No. NHTSA–2009–0108), and is responsive to three recommendations issued by the National Transportation Safety Board.

*Summary of Legal Basis:* Section 30111, title 49 of the U.S.C., states that the Secretary shall prescribe motor vehicle safety standards.

*Alternatives:* The Agency considered two regulatory alternatives. First, we considered requiring truck tractors and large buses to be equipped with roll stability control (RSC) systems. The second alternative considered was requiring trailers to be equipped with RSC systems. When compared to the proposal, these alternatives provide fewer benefits because they are less effective at preventing rollover crashes and much less effective at preventing loss-of-control crashes.

*Anticipated Cost and Benefits:* According to the NPRM, the anticipated total costs are expected to be $113.6 million for the 150,000 truck tractors and 2,200 large buses produced in 2012. The agency estimates the proposal has the potential to save 49–60 fatalities, 649–858 injuries, and 1,807–2,329 crashes annually. The net cost per equivalent life saved at a 7 percent discount rate is estimated to range from $2.0–$2.6 million, and for a 3 percent discount rate is $1.5–$2.0 million. The net benefits are $155–$222 million at a 7 percent discount rate and $228–$310 million at a 3 percent discount rate.

*Risks:* The Agency believes that there are no significant risks associated with this rulemaking, and that only beneficial outcomes will occur.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/23/12 | 77 FR 30766 |
| NPRM Comment Period End. | 08/21/12 | |
| Final Rule | 07/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* George Soodoo, Chief, Vehicle Safety Dynamics Division (NVS–122), Department of Transportation, National Highway Traffic Safety Administration, 1200 New

Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–2720, *Fax:* 202–366–4329, *Email: george.soodoo@dot.gov.*

*RIN:* 2127–AK97

## DOT—FEDERAL TRANSIT ADMINISTRATION (FTA)

*Prerule Stage*

### 114. +National and Public Transportation Safety Plans (MAP–21) and Transit Asset Management

*Priority:* Other Significant.

*Legal Authority:* 49 U.S.C. 5326 and 5329

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* This is a joint ANPRM for certain requirments of the Public Transportation Safety Program and the of the National Tranist Asset Management System.

*Safety:* This rule, mandated by MAP–21, will create and implement a National Public Transportation Safety Plan that will include: (1) Safety performance criteria for all modes of public transportation; (2) the definition of State of Good Repair established under separate rulemaking; (3) minimum safety performance standards for public transportation vehicles used in revenue operations that do not apply to vehicles regulated by another Federal agency; and (4) a public transportation safety certification training program. This rule will also establish requirements for each 5307 and 5311 recipient in developing and implementing individual agency safety plans. This rule will ultimately be broken into three separate rulemakings for the National Plan and the Agency Plans, and the training certification program.

TRANSIT ASSET MANAGEMENT: See 2132–AB07.

*Statement of Need:* The Moving Ahead for Progress in the 21st Century Act (''MAP–21,'' effective Oct. 1, 2012) placed substantial new obligations upon the Department, FTA, and its recipients. Among those changes was a new Federal public transportation safety program for the DOT, public transportation agency safety plans by local transit agencies, and the creation of transit asset management systems and plans at the national and local levels.

*Summary of Legal Basis:* Title 49 US Code, sections 5326 (Transit Asset Management) and 5329 (Safety).

*Alternatives:* N/A.

*Anticipated Cost and Benefits:* The costs and benefits of these rulemakings are unknown at this time, as the prospective shape and direction of the regulatory obligations are undetermined. FTA will estimate the costs and benefits of these rulemakings at the notice of proposed rulemaking stage.

*Risks:* Regulated parties could raise the traditional concerns about unfunded Federal mandates and lack of transparency. But many of the safety costs will be covered by or eligible for Federal grants, and by issuing an ANPRM prior to a proposed rule, FTA hopes to enlist the involvement of affected stakeholders prior to publication of the NPRM.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 10/03/13 | 78 FR 61251 |
| ANPRM Comment Period End. | 01/02/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Federal, State.

*URL for More Information: www.regulations.gov.*

*URL for Public Comments: www.regulations.gov.*

*Agency Contact:* Scott Biehl, Senior Chief Counsel, Department of Transportation, Federal Transit Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 366–0826, *Email: scott.biehl@dot.gov.*

*Related RIN:* Related to 2132–AB07.

*RIN:* 2132–AB20

## DOT—FTA

*Proposed Rule Stage*

### 115. +New and Small Start Projects (MAP–21)

*Priority:* Other Significant. Major under 5 U.S.C. 801.

*Legal Authority:* 49 U.S.C. 5309

*CFR Citation:* 49 CFR 611.

*Legal Deadline:* None.

*Abstract:* This rulemaking would establish the steps in the process for New and Small Starts projects. The final rule published in January 2013 made final most of the MAP–21 evaluation criteria, except for the congestion relief criterion. This new rulemaking would build on that work by establishing the requirements for advancing through the steps in the process and outlining the congestion relief criterion that will be used by FTA.

*Statement of Need:* The Moving Ahead for Progress in the 21st Century Act (''MAP–21,'' effective Oct. 1, 2012) made a number of changes to the project development process for New and Small Starts projects authorized by 49 U.S.C. 5309, and created a new discretionary program for Core Capacity Improvement (''CCI'') projects. This rulemaking will carry out the new CCI program and the changes to the project development process for New and Small Starts as required by MAP–21.

*Summary of Legal Basis:* 49 U.S.C. 5309(g)(6) requires the Secretary to issue regulations setting the evaluation and rating process for the New Starts, Small Starts, and Core Capacity Improvement programs and the projects that seek discretionary Federal financial assistance under those programs.

*Alternatives:* N/A.

*Anticipated Cost and Benefits:* On average, Congress appropriates approximately $2 billion per year for the discretionary programs under 49 U.S.C. 5309, and FTA oversees more than $10 billion in Section 5309 funds that have been committed to New and Small Starts projects. The costs and benefits of this rulemaking will be assessed during the development of the NPRM, but they are likely to be similar to those identified in the preamble to the final rule for the previous rulemaking on New and Small Starts, issued on January 9. 2013, at 78 FR 1992–2037.

*Risks:* This rulemaking will modify the framework whereby FTA administers the competitive, discretionary Federal grant-in-aid programs under 49 U.S.C. 5309. This rulemaking will not regulate any entities other than the State and local agencies that apply for the discretionary funds. As such, this rulemaking poses no risks for the regulated communities other than the risks inherent in pursuing Federal-aid grant funds in competition with other applicants.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* None.

*URL for More Information: www.regulations.gov.*

*URL for Public Comments: www.regulations.gov.*

*Agency Contact:* Dana Nifosi, Department of Transportation, Federal Transit Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–4000, *Email: dana.nifosi@dot.gov.*

*RIN:* 2132–AB18

## DOT—FTA

### 116. +State Safety Oversight (MAP–21)

*Priority:* Other Significant. Major under 5 U.S.C. 801.

*Legal Authority:* Pub. L. 112–141, sec 20021

*CFR Citation:* 49 CFR 659.

*Legal Deadline:* None.

*Abstract:* This rulemaking will set standards for State Safety Oversight of rail transit systems and criteria for award of FTA grant funds to help the States develop and carry out their oversight programs.

*Statement of Need:* The Moving Ahead for Progress in the 21st Century Act (''MAP–21,'' effective Oct. 1, 2012) made substantial changes to the program for State safety oversight of rail fixed guideway public transportation systems, and created a new program of Federal financial assistance to the States for the purpose of conducting their oversight of rail transit system safety. This rulemaking will flesh out the statutory changes to the program and set the process for making grants of Federal funding to the States.

*Summary of Legal Basis:* 49 U.S.C. 5329(e)(9) requires the Secretary to issue regulations to carry out the State safety oversight program for rail fixed guideway public transportation systems.

*Alternatives:* N/A.

*Anticipated Cost and Benefits:* This rulemaking is not anticipated to add significant costs or benefits to the State Safety Oversight rules that have been in place since 1995. The costs and benefits will be assessed during the development of the NPRM, but it's critical to note that State Safety Oversight of rail transit systems will no longer be an unfunded mandate; for the first time, under MAP–21, Federal funding will be available to the States to assist them in conducting their oversight, and this rulemaking will set the process for making the FTA grants to the States.

*Risks:* This rulemaking will not regulate any entities other than States that have rail fixed guideway public transportation systems and the State Safety Oversight Agencies that conduct oversight of those rail transit systems. The Federal funding for State Safety Oversight will be apportioned by formula, based on the statutory criteria set forth in 49 U.S.C. 5329(e)(6)(B)(i), thus, this rulemaking poses no risks for the regulated communities other than the risks inherent in conducting the oversight of the safety of the rail transit systems for which they are responsible.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Scott Biehl, Senior Chief Counsel, Department of Transportation, Federal Transit Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 366–0826, *Email: scott.biehl@dot.gov.*

*RIN:* 2132–AB19

## DOT—PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION (PHMSA)

*Prerule Stage*

### 117. +Hazardous Materials: Rail Petitions and Recommendations to Improve the Safety of Railroad Tank Car Transportation (RRR)

*Priority:* Other Significant.

*Legal Authority:* 49 U.S.C. 5101 *et seq.*

*CFR Citation:* 49 CFR 173; 49 CFR 174; 49 CFR 178; 49 CFR 179.

*Legal Deadline:* None.

*Abstract:* PHMSA is considering amendments that would enhance safety and revise and clarify the HMR applicable to the transportation of hazardous materials by rail. This action responds to petitions for rulemaking submitted by the regulated community and NTSB recommendations that are associated with the petitions. Specifically, these amendments would identify elements of non-conformity that do not require a movement approval from the Federal Railroad Administration (FRA); correct an unsafe condition associated with pressure relief valves (PRV) on rail cars transporting carbon dioxide, refrigerated liquid; revise outdated regulations applicable to the repair and maintenance of DOT Specification 110, DOT Specification 106, and ICC 27 tank car tanks (ton tanks); except ruptured discs from removal if the inspection itself damages, changes, or alters the intended operation of the device; and enhance the standards for DOT Specification 111 tank cars used to transport Packing Group I and II hazardous materials.

*Statement of Need:* This ANPRM is a crucial step by DOT in considering how to reduce the risks related to the transportation of hazardous materials by rail. Preventing tank car incidents and minimizing the consequences when an incident does occur are not only DOT priorities, but are also shared by the National Transportation Safety Board (NTSB), industry, and the general public. These same groups also question the survivability of general service tank cars built to the current regulatory requirements. To this end, PHMSA will consider regulatory amendments to enhance the standards for tank cars, most notably, DOT Specification 111 tank cars used to transport certain hazardous materials and explore additional operational requirements to enhance the safe transportation of hazardous materials by rail.

*Summary of Legal Basis:* The authority of 49 U.S.C. 5103(b), which authorizes the Secretary of Transportation to ''prescribe regulations for the safe transportation, including security, of hazardous materials in intrastate, interstate, and foreign commerce.''

*Alternatives:* PHMSA and FRA are committed to a comprehensive approach to addressing the risk and consequences of derailments involving hazardous materials by addressing not only survivability of rail car designs, but the operational practices of rail carriers. Obtaining information and comments in an ANPRM will provide the greatest opportunity for public participation in the development of regulatory amendments, and promote greater exchange of information and perspectives among the various stakeholders to promote future regulatory action on these issues.

*Anticipated Cost and Benefits:* Given that we are in the ANPRM stage of this action, we are still determining the best path forward. As such, the costs and benefits have not yet been fully quantified. The ANPRM requests comments on both the path forward and the economic impacts.

*Risks:* DOT conducted research on long-standing safety concerns regarding the survivability of the DOT Specification 111 tank cars designed to current HMR requirements and used for the transportation of flammable liquids. The research found that special consideration is necessary for the transportation of flammable liquids in DOT Specification 111 tank cars, especially when a train is configured as a unit train. Through the research, DOT identified and ranked several enhancements to the current specification that would increase tank car survivability. The highest ranked options are low cost and the most effective at preventing loss of containment and catastrophic failure of

a DOT Specification 111 tank car during a derailment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 09/06/13 | 78 FR 54849 |
| ANPRM Comment Period End. | 11/05/13 | |
| ANPRM Comment Period Extended. | 11/05/13 | 78 FR 66326 |
| ANPRM Extended Comment Period End. | 12/05/13 | |
| ANPRM Analyzing Comments. | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Additional Information:* HM–251; SB–Y; IC–Y; SLT–N; This ANPRM will provide the greatest opportunity for public participation in the development of regulatory amendments, and promote greater exchange of information and perspectives among the various stakeholders. This additional step will lead to more focused and well-developed proposals that reflect the views of all regulated entities. Comments received will be used in our evaluation and development of future regulatory action on these issues.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Ben Supko, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–8553, *Email:* *ben.supko@dot.gov.*

*RIN:* 2137–AE91

## DOT—PHMSA

*Proposed Rule Stage*

### 118. +Pipeline Safety: Safety of On-Shore Liquid Hazardous Pipelines

*Priority:* Other Significant. Major under 5 U.S.C. 801.

*Legal Authority:* 49 U.S.C. 60101 *et seq.*

*CFR Citation:* 49 CFR 195.

*Legal Deadline:* None.

*Abstract:* This rulemaking would address effective procedures that hazardous liquid operators can use to improve the protection of High Consequence Areas (HCA) and other vulnerable areas along their hazardous liquid onshore pipelines. PHMSA is considering whether changes are needed to the regulations covering hazardous liquid onshore pipelines, whether other areas should be included as HCAs for integrity management (IM) protections, what the repair timeframes should be for areas outside the HCAs that are assessed as part of the IM program, whether leak detection standards are necessary, valve spacing requirements are needed on new construction or existing pipelines, and PHMSA should extend regulation to certain pipelines currently exempt from regulation. The Agency would also address the public safety and environmental aspects any new requirements, as well as the cost implications and regulatory burden.

*Statement of Need:* This rulemaking would respond to the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112–90), which includes several provisions and mandates that are relevant to the 49 CFR including section 195.452 (hazardous liquid integrity management). The rule also would respond to several NTSB recommendations, a GAO recommendation, public safety community input, research and technology advancements, and reviews of recent incident and accident reports to refine and improvement of existing hazardous liquid regulations. This action would better protect the public, property, and the environment by ensuring that additional pipelines are subject to regulation, thus increasing the detection and remediation.

*Summary of Legal Basis:* Congress established the current framework for regulating the safety of hazardous liquid pipelines in the Hazardous Liquid Pipeline Safety Act (HLPSA) of 1979 (P.L. 96–129). Like its predecessor, the Natural Gas Pipeline Safety Act of 1968 (P.L. 90–481), the HLPSA provided the Secretary of Transportation (Secretary) with the authority to prescribe minimum Federal safety standards for hazardous liquid pipeline facilities. That authority, as amended in subsequent reauthorizations, is currently codified in the Pipeline Safety Laws (49 U.S.C. §§ 60101 *et seq.*).This action would respond to the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112–90), which requires that the Secretary of Transportation to study and submit to Congress reports on various topics related to hazardous liquid transportation by pipeline and to amend the current pipeline safety statutes through the rulemaking process after submission of these reports. The mandates which this rule responds to are found in Section 5(IM), Section 8 (leak detection), Section 21 (Gathering Lines), Section 29 (seismicity) and Section 14 (bio fuels).

*Alternatives:* PHMSA considered various alternatives for each of the eight proposals of this NPRM. The alternative considered for all proposals was ''no action or status quo'' in addition to other various appropriate alternatives. Other alternatives reviewed included establishing different requirements for the large and small operators; creating a ''Monitored'' category; application of the existing IM repair criteria to anomalous conditions discovered outside of HCAs, use of a tiered, risk-based approach for repairing anomalous conditions discovered outside of HCAs, require ILI assessment for all pipelines and a rigid structured data integration program. Special consideration was given to alternatives that lessened regulatory burdens and provided operator flexibility in performance of a requirement.

*Anticipated Cost and Benefits:* PHMSA cannot estimate costs or benefits precisely, but based on the information, the present value of costs and benefits over a 20-year period is approximately $56 million and $98 million, respectively at 7 percent. Thus, net benefits are approximately $46 million ($102 million–$56 million) over 20 years.

*Risks:* This rulemaking would provide increased safety for the regulated entities and reduce pipeline safety risks.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 10/18/10 | 75 FR 63774 |
| ANPRM Comment Period End. | 01/18/11 | |
| ANPRM Comment Period Extended. | 01/04/11 | 76 FR 303 |
| ANPRM Extended Comment Period End. | 02/18/11 | |
| NPRM ..... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*URL for More Information:* *www.regulations.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* John A Gale, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–0434, *Email:* *john.gale@dot.gov.*

*RIN:* 2137–AE66

## DOT—PHMSA

### 119. +Pipeline Safety: Gas Transmission (RRR)

*Priority:* Other Significant.

*Legal Authority:* 49 U.S.C. 60101 *et seq.*

*CFR Citation:* 49 CFR 192.

*Legal Deadline:* None.

*Abstract:* This rulemaking action would enhance safety, revise and clarify the pipeline safety regulations applicable to the transmission and gathering of natural gas by pipeline. This rulemaking would address the implementation of integrity management principles for gas transmission pipelines in and out of High Consequence Areas (HCAs). In addition, PHMSA would also address the repair criteria for both HCA and non-HCA areas, corrosion control requirements, MAOP exceedance reporting and expanding requirements for integrity management.

*Statement of Need:* PHMSA will be reviewing the definition of an HCA (including the concept of a potential impact radius), the repair criteria for both HCA and non-HCA areas, requiring the use of automatic and remote controlled shut off valves, valve spacing, and whether applying the integrity management program requirements to additional areas would mitigate the need for class location requirements. This rulemaking is in direct response to Congressional mandates in the 2011 Pipeline Reauthorization Act, specifically; section 4 (e) Gas IM plus 6 months), section 5(IM), 8 (leak detection), 23 (b)(2)(exceedance of MAOP); section 29 (seismicity). Congress has requested PHMSA to review the existing regulations for gas transmission by pipeline and strengthen them through more clarity and expansion of IM for gas pipelines. The goal of this rule is to improve gas transmission pipeline safety.

*Summary of Legal Basis:* This action would respond to the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112–90), which requires that the Secretary of Transportation to study and submit to Congress reports on various topics related to transmission of natural gas by pipeline and to amend the current pipeline safety statutes through the rulemaking process after submission of these reports. The mandates which this rule responds to are found in section 4 (e) (Gas IM), section 5 (IM), section 23 (b)(2)(exceedance of MAOP) and section 29 (seismicity).

*Alternatives:* Alternative analyzed included no change and extention of the compliance deadlines associated with the major cost of the requirement area; namely, development and implementation of management of change processes that apply to all gas transmission pipelines beyond that which already applies to beyond IMP- and control center-related processes.

*Anticipated Cost and Benefits:* PHMSA does not expect the proposed rule to adversely affect the economy or any sector of the economy in terms of productivity and employment, the environment, public health, safety, or State, local, or tribal government. PHMSA has also determined, as required by the Regulatory Flexibility Act, that the rule would not have a significant economic impact on a substantial number of small entities in the United States. Additionally, PHMSA determined that the rule would not impose annual expenditures on State, local, or tribal governments in excess of $152 million, and thus does not require an Unfunded Mandates Reform Act analysis. However, the rule would impose annual expenditure on private sector in excess of $152 million and is therefore economically significant.

*Risks:* This proposed rule will strengthen current pipeline regulations and lower the safety risk of all regulated entities.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 08/25/11 | 76 FR 5308 |
| ANPRM Comment Period Extended. | 11/16/11 | 76 FR 70953 |
| ANPRM Comment Period End. | 12/02/11 | |
| End of Extended Comment Period. | 01/20/12 | |
| NPRM | 07/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Additional Information:* SB–Y IC–N SLT–N.

*URL for More Information: www.regulations.gov.*

*URL for Public Comments: www.regulations.gov.*

*Agency Contact:* Cameron H Satterthwaite, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 366–8553, *Email: cameron.satterthwaite@dot.gov.*

*RIN:* 2137–AE72

BILLING CODE 4910–9X–P

## DEPARTMENT OF THE TREASURY

*Statement of Regulatory Priorities*

The primary missions of the Department of the Treasury are:

- To promote prosperous and stable American and world economies, including promoting domestic economic growth and maintaining our Nation's leadership in global economic issues, supervising national banks and thrift institutions, and helping to bring residents of distressed communities into the economic mainstream.
- To manage the Government's finances by protecting the revenue and collecting the correct amount of revenue under the Internal Revenue Code, overseeing customs revenue functions, financing the Federal Government and managing its fiscal operations, and producing our Nation's coins and currency.
- To safeguard the U.S. and international financial systems from those who would use these systems for illegal purposes or to compromise U.S. national security interests, while keeping them free and open to legitimate users.

Consistent with these missions, most regulations of the Department and its constituent bureaus are promulgated to interpret and implement the laws as enacted by the Congress and signed by the President. It is the policy of the Department to comply with applicable requirements to issue a notice of proposed rulemaking and carefully consider public comments before adopting a final rule. Also, the Department invites interested parties to submit views on rulemaking projects while a proposed rule is being developed.

To the extent permitted by law, it is the policy of the Department to adhere to the regulatory philosophy and principles set forth in Executive Orders 12866, 13563, and 13609 and to develop regulations that maximize aggregate net benefits to society while minimizing the economic and paperwork burdens imposed on persons and businesses subject to those regulations.

Community Development Financial Institutions Fund

The Community Development Financial Institutions Fund (CDFI Fund) was established by the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*). The primary purpose of the CDFI Fund is to promote economic revitalization and community development through the following programs: The Community Development Financial Institutions

(CDFI) Program, the Bank Enterprise Award (BEA) Program, the Native American CDFI Assistance (NACA) Program, and the New Markets Tax Credit (NMTC) Program. In addition, the CDFI Fund administers the Financial Education and Counseling Pilot Program (FEC), the Capital Magnet Fund (CMF), and the CDFI Bond Guarantee Program (BGP).

In fiscal year (FY) 2013, the CDFI Fund published Interim regulations implementing the CDFI Bond Guarantee Program (BGP). The BGP was established through the Small Business Jobs Act of 2010 and authorizes the Secretary of the Treasury (through the CDFI Fund) to guarantee the full amount of notes or bonds, including the principal, interest, and call premiums, issued to finance or refinance loans to certified CDFIs for eligible community or economic development purposes for a period not to exceed 30 years. The bonds or notes will support CDFI lending and investment by providing a source of long-term, patient capital to CDFIs. In accordance with Federal credit policy, the Federal Financing Bank (FFB), a body corporate and instrumentality of the United States Government under the general supervision and direction of the Secretary of the Treasury, will finance obligations that are 100 percent guaranteed by the United States, such as the bonds or notes to be issued by Qualified Issuers under the BGP.

In FY 2014, subject to funding availability, the CDFI Fund will provide awards through the following programs:

*Community Development Financial Institutions (CDFI) Program.* Through the CDFI Program, the CDFI Fund will provide technical assistance grants and financial assistance awards to financial institutions serving distressed communities.

*Native American CDFI Assistance (NACA) Program.* Through the NACA Program, the CDFI Fund will provide technical assistance grants and financial assistance awards to promote the development of CDFIs that serve Native American, Alaska Native, and Native Hawaiian communities.

*Bank Enterprise Award (BEA) Program.* Through the BEA Program, the CDFI Fund will provide financial incentives to encourage insured depository institutions to engage in eligible development activities and to make equity investments in CDFIs.

*New Markets Tax Credit (NMTC) Program.* Through the NMTC Program, the CDFI Fund will provide allocations of tax credits to qualified community development entities (CDEs). The CDEs in turn provide tax credits to private sector investors in exchange for their investment dollars; investment proceeds received by the CDEs are to be used to make loans and equity investments in low-income communities. The CDFI Fund administers the NMTC Program in coordination with the Office of Tax Policy and the Internal Revenue Service.

*CDFI Bond Guarantee Program (BGP).* Through the BGP, the CDFI Fund will select Qualified Issuers of federally guaranteed bonds, the bond proceeds will be used to make or refinance loans to certified CDFIs. The bonds must be a minimum of $100 million and may have terms of up to 30 years. The CDFI Fund is authorized to award up to $1 billion in guarantees per fiscal year through FY 2014.

Bureau of the Fiscal Service

The Bureau of the Fiscal Service (Fiscal Service) has responsibility for borrowing the money needed to operate the Federal Government and accounting for the resulting debt, regulating the primary and secondary Treasury securities markets, and ensuring that reliable systems and processes are in place for buying and transferring Treasury securities.

The Fiscal Service, on Treasury's behalf, administers regulations: (1) Governing transactions in Government securities by Government securities brokers and dealers under the Government Securities Act of 1986 (GSA), as amended; (2) Administering the Government's payments, collections and debt collection; (3) Implementing Treasury's borrowing authority, including rules governing the sale and issue of savings bonds, marketable Treasury securities, and State and local government securities; (4) Setting out the terms and conditions by which Treasury may buy back and redeem outstanding, unmatured marketable Treasury securities through debt buyback operations; (5) Governing securities held in Treasury's retail systems; (6) Governing the acceptability and valuation of collateral pledged to secure deposits of public monies and other financial interests of the Federal Government; and (7) Administering Governmentwide accounting programs.

During fiscal year 2013, the Fiscal Service will accord priority to the following regulatory projects:

*Eliminating Credit Rating References.* In compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Fiscal Service, on behalf of Treasury (Financial Markets), plans to amend the Government Securities Act regulations (17 CFR chapter IV) to eliminate references to credit ratings from Treasury's liquid capital rule.

*Notice of Proposed Rulemaking for Publishing Delinquent Debtor Information.* The Debt Collection Improvement Act of 1996, Pub. L. 104–134, 110 Stat. 1321 (DCIA) authorizes Federal agencies to publish or otherwise publicly disseminate information regarding the identity of persons owing delinquent nontax debts to the United States for the purpose of collecting the debts, provided certain criteria are met. Treasury proposes to issue a notice of proposed rulemaking seeking comments on a proposed rule that would establish the procedures Federal agencies must follow before publishing information about delinquent debtors and the standards for determining when use of this debt collection remedy is appropriate.

Financial Crimes Enforcement Network

As chief administrator of the Bank Secrecy Act (BSA), the Financial Crimes Enforcement Network (FinCEN) is responsible for developing and implementing regulations that are the core of the Department's anti-money laundering and counter-terrorism financing efforts. FinCEN's responsibilities and objectives are linked to, and flow from, that role. In fulfilling this role, FinCEN seeks to enhance U.S. national security by making the financial system increasingly resistant to abuse by money launderers, terrorists and their financial supporters, and other perpetrators of crime.

The Secretary of the Treasury, through FinCEN, is authorized by the BSA to issue regulations requiring financial institutions to file reports and keep records that are determined to have a high degree of usefulness in criminal, tax, or regulatory matters or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism. The BSA also authorizes requiring designated financial institutions to establish anti-money laundering programs and compliance procedures. To implement and realize its mission, FinCEN has established regulatory objectives and priorities to safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity. These objectives and priorities include: (1) issuing, interpreting, and enforcing compliance with regulations implementing the BSA; (2) supporting, working with, and as appropriate, overseeing compliance examination functions delegated to other Federal regulators; (3) managing the collection,

processing, storage, and dissemination of data related to the BSA; (4) maintaining a Government-wide access service to that same data and for network users with overlapping interests; (5) conducting analysis in support of policymakers, law enforcement, regulatory and intelligence agencies, and the financial sector; and (6) coordinating with and collaborating on anti-terrorism and anti-money laundering initiatives with domestic law enforcement and intelligence agencies, as well as foreign financial intelligence units.

During fiscal year 2013, FinCEN issued the following regulatory actions:

*Withdrawal of the Findings of Primary Money Laundering Concern and the Final Rules against Myanmar Mayflower Bank and Asia Wealth Bank.* On October 1, 2012, FinCEN issued a notice repealing the final rule, ''imposition of Special Measures Against Myanmar Mayflower Banks and Asia Wealth Bank'' of April 12, 2004, and withdrawing the findings of November 25, 2003 that these entities were financial institutions of primary money laundering concern pursuant to 31 U.S.C. 5318A of the Bank Secrecy Act. FinCEN's actions were the result of the revocation of their licenses by the Government of Burma and the cessation of their business activities.

*Amendments to the Definitions of Funds Transfer and Transmittal of Funds in the Bank Secrecy Act (BSA) Regulations.* On December 6, 2012, FinCEN published a Notice of Proposed Rulemaking (NPRM) jointly with the Board of Governors of the Federal Reserve System proposing amendments to the regulatory definitions of ''funds transfer'' and ''transmittal of funds'' under the regulations implementing the BSA. The proposed changes are intended to maintain the current scope to the definitions and are necessary in light of changes to the Electronic Fund Transfer Act that will result in certain currently covered transactions being excluded from BSA requirements.

*Imposition of Special Measure against Kassem Rmeiti & Co. For Exchange as a Financial Institution of Primary Money Laundering Concern.* On April 23, 2013, FinCEN issued a finding that Kassem Rmeiti & Co. For Exchange (Rmeiti Exchange) is a financial institution operating outside of the United States that is of primary money laundering concern under section 311 of the USA PATRIOT Act. On April 23, 2013, FinCEN issued an NPRM to impose the first special measure and the fifth special measure against the institution. The first special measure requires any U.S. financial institution to maintain records, file reports, or both, concerning the aggregate amount of transactions, or concerning each transaction, with respect to a financial institution operating outside of the United States found to be of primary money laundering concern. The fifth special measure prohibits or conditions the opening or maintaining of correspondent or payable-through accounts for the designated institution by U.S. financial institutions. In conjunction with the NPRM, FinCEN issued an order imposing certain recordkeeping and reporting obligations on covered financial institutions and principal money transmitters with respect to transactions involving Rmeiti Exchange.

*Imposition of Special Measure Against Halawi Exchange Co. as a Financial Institution of Primary Money Laundering Concern.* On April 23, 2013, FinCEN issued a finding that Halawi Exchange Co. (Halawi) is a financial institution operating outside of the United States that is of primary money laundering concern under section 311 of the USA PATRIOT Act. On April 23, 2013, FinCEN issued an NPRM to impose the first special measure and the fifth special measure against the institution. The first special measure requires any U.S. financial institution to maintain records, file reports, or both, concerning the aggregate amount of transactions, or concerning each transaction, with respect to a financial institution operating outside of the United States found to be of primary money laundering concern. The fifth special measure prohibits or conditions the opening or maintaining of correspondent or payable-through accounts for the designated institution by U.S. financial institutions. In conjunction with the NPRM, FinCEN issued an order imposing certain recordkeeping and reporting obligations on covered financial institutions and principal money transmitters with respect to transactions involving Halawi.

*Imposition of Special Measure Against Liberty Reserve S.A. as a Financial Institution of Primary Money Laundering Concern.* On May 28, 2013, FinCEN issued a finding that Liberty Reserve S.A. is a financial institution operating outside of the United States that is of primary money laundering concern under section 311 of the USA PATRIOT Act. On May 28, 2013, FinCEN issued an NPRM to impose the fifth special measure against the institution. The fifth special measure prohibits or conditions the opening or maintaining of correspondent or payable-through accounts for the designated institution by U.S. financial institutions.

*Administrative Rulings and Written Guidance.* FinCEN published three administrative rulings and written guidance pieces, and provided 16 responses to written inquiries/correspondence interpreting the BSA and providing clarity to regulated industries.

FinCEN's regulatory priorities for fiscal year 2014 include finalizing any initiatives mentioned above that are not finalized by fiscal year end, as well as the following in-process and potential projects:

*Amendment to the BSA Regulations—Definition of Monetary Instrument.* On October 17, 2011, FinCEN published an NPRM regarding international transport of prepaid access devices because of the potential to substitute prepaid access for cash and other monetary instruments as a means to smuggle the proceeds of illegal activity into and out of the United States.

*Anti-Money Laundering Program and Suspicious Activity Reporting (SAR) Requirements for Housing Government-Sponsored Enterprises.* On November 3, 2011, FinCEN issued an NPRM that would define certain housing government-sponsored enterprises as financial institutions for the purpose of requiring them to establish anti-money laundering programs and report suspicious activity to FinCEN pursuant to the BSA.

*Customer Due Diligence Requirements.* On February 29, 2012, FinCEN issued an advance notice of proposed rulemaking to solicit public comment on a wide range of questions pertaining to the development of a customer due diligence (CDD) regulation that would clarify, consolidate, and strengthen existing CDD obligations for financial institutions and also incorporate the collection of beneficial ownership information into the CDD framework.

*Anti-Money Laundering Program and SAR Requirements for Investment Advisers.* FinCEN has drafted an NPRM that would prescribe minimum standards for anti-money laundering programs to be established by certain investment advisers and to require such investment advisers to report suspicious activity to FinCEN. FinCEN has been working closely with the Securities and Exchange Commission on issues related to the draft NPRM.

*FBAR Requirements.* On February 24, 2011, FinCEN issued a final rule that amended the BSA implementing regulations regarding the filing of Reports of Foreign Bank and Financial Accounts (FBARs). The FBAR form is

used to report a financial interest in, or signature or other authority over, one or more financial accounts in foreign countries. FBARs are used in conjunction with SARs, CTRs, and other BSA reports to provide law enforcement and regulatory investigators with valuable information to fight fraud, money laundering, tax evasion, and other financial crimes. Since issuance of the final rule, FinCEN and the Internal Revenue Service (IRS) have received numerous requests for clarification, many of which involve employees who have signature authority over, but no financial interest in, the foreign financial accounts of their employers. FinCEN is working with the IRS to resolve these issues, which may include additional guidance and rulemaking.

*Cross Border Electronic Transmittal of Funds.* On September 27, 2010, FinCEN issued an NPRM in conjunction with the feasibility study prepared pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004 concerning the issue of obtaining information about certain cross-border funds transfers and transmittals of funds. As FinCEN has continued to work on developing the system to receive, store, and use this data, FinCEN determined that a Supplemental NPRM that updates the previously published proposed rule would provide additional information to those banks and money transmitters that will become subject to the rule.

*Comprehensive Review and Revisions to the CMIR Regulations.* FinCEN is in the preliminary stages of an initiative to address certain vulnerabilities with respect to currency flows across U.S. borders and the longstanding exemptions to the CMIR regulations.

*Amendment to the Bank Secrecy Act Regulations—Registration, Recordkeeping, and Reporting of Money Services Businesses.* FinCEN has been developing an NPRM to amend the requirements for money services businesses with respect to registering with FinCEN and with respect to the information reported during the registration process. The proposed changes are intended to enhance the quality and timeliness of FinCEN's electronic data, improve analytic capabilities, and support law enforcement needs more effectively.

*Changes to the Travel and Recordkeeping Requirements for Funds Transfers and Transmittals of Funds.* FinCEN is considering changes to require that more information be collected and maintained by financial institutions on funds transfers and transmittals of funds to address concerns regarding transmissions of wires with missing originator fields. Changes can now be considered due to the recently enhanced information capacity within transmittal systems.

*Other Requirements.* FinCEN also will continue to issue proposed and final rules pursuant to section 311 of the USA PATRIOT Act, as appropriate. Finally, FinCEN expects that it may propose various technical and other regulatory amendments in conjunction with its ongoing, comprehensive review of existing regulations to enhance regulatory efficiency, and as a result of the efforts of an interagency task force currently focusing on improvements to the U.S. regulatory framework for anti-money laundering.

Customs Revenue Functions

The Homeland Security Act of 2002 (the Act) provides that the Secretary of the Treasury retains sole legal authority over the customs revenue functions. The Act also authorizes the Secretary of the Treasury to delegate any of the retained authority over customs revenue functions to the Secretary of Homeland Security. By Treasury Department Order No. 100–16, the Secretary of the Treasury delegated to the Secretary of Homeland Security authority to prescribe regulations pertaining to the customs revenue functions subject to certain exceptions. This Order further provided that the Secretary of the Treasury retained the sole authority to approve such regulations.

During the past fiscal year, among the customs-revenue function regulations issued, was the United States–Peru Trade Promotion Agreement final rule (77 FR 64031) of October 18, 2012 that adopted interim amendments (76 FR 68067) of November 3, 2011, to the U.S. Customs and Border Protection (CBP) regulations which implemented the preferential tariff treatment and other customs-related provisions of the United States–Peru Trade Promotion Agreement Implementation Act. CBP issued the United States–Korea Free Trade Agreement final rule (78 FR 32356) of May 30, 2013 that adopted interim amendments (77 FR 15943) of March 19, 2012 to the CBP regulations, which implemented the preferential tariff treatment and other customs-related provisions of the United States-Korea Free Trade Agreement Implementation Act that took effect on March 15, 2012. In addition, CBP issued the United States-Colombia Trade Promotion Agreement final rule (78 FR 60191) on October 1, 2013, that adopted the interim amendments (77 FR 59064) of September 26, 2012 to the CBP regulations. On October 23, 2013, CBP also issued regulations (78 FR 63052), on an interim basis, on the United States-Panama Trade Promotion Agreement and CBP plans to finalize this rulemaking in fiscal year 2014.

On December 6, 2012, Treasury and CBP published a final rule (77 FR 72715) that amended the regulations to increase the $2,000 Informal entry limit on the aggregate customs value of informal entries to its statutory maximum of $2,500 in order to mitigate the effects of inflation and to meet the international commitments to Canada for the Beyond the Border Initiative. It also removed the requirement for the filing of a formal entry for certain articles formerly subject to absolute quotas under the Agreement on Textiles and Clothing.

On July 5, 2013, Treasury and CBP published a final rule (78 FR 40388) that adopted, with some changes based upon comments received, the March 2012 proposal that provides CBP will refuse admission into the customs territory of the United States to consumer products and industrial equipment found to be noncompliant with energy conservation and labeling standards pursuant to the mandate of the Energy Policy and Conservation Act of 1975 and its implementing regulations. Upon written or electronic notice from the Department of Energy or the Federal Trade Commission, CBP may conditionally release under bond to the importer such noncompliant products or equipment for purposes of reconditioning, relabeling, or other action so as to bring the subject product or equipment into compliance.

On July 8, 2013, Treasury and CBP finalized (78 FR 40627) its August 2012 proposal to promulgate regulations regarding the prohibitions and conditions that are applicable to the importation and exportation of rough diamonds pursuant to the Clean Diamond Trade Act, as implemented by the President in Executive Order 13312 dated July 29, 2003, and the Rough Diamonds Control Regulations (RDCR) issued by the Treasury's Department Office of Foreign Assets Control. In addition to restating pertinent provisions of the RDCR, the regulations clarify that any U.S. person exporting from, or importing to, the United States a shipment of rough diamonds must retain for a period of at least five years a copy of the Kimberley Process Certificate that must accompany such shipments and make the copy available for inspection when requested by CBP, and also requires formal entry for shipments of rough diamonds.

This past fiscal year, consistent with the practice of continuing to move forward with Customs Modernization

provisions of the North American Free Trade Implementation Act to improve its regulatory procedures and consistent with the goals of Executive Orders 12866 and 13563, Treasury and CBP proposed changes on February 22, 2012 (77 FR 10368) to its in-bond process which allows imported merchandise to be entered at one U.S. port of entry without appraisement or payment of duties and transported by bonded carrier to another U.S. port of entry provided all statutory and regulatory conditions are met. At the destination port, the merchandise is entered into the commerce of the United States and duties paid, or the merchandise is exported. The proposed changes, including the automation of the in-bond process, are proposed to modernize, simplify, and facilitate the in-bond process while enhancing CBP's ability to regulate and track in-bond merchandise to ensure that in-bond merchandise is properly entered or exported. CBP plans to finalize its proposed rulemaking in fiscal year 2014.

During fiscal year 2014, CBP and Treasury plan to give priority to the following regulatory matters involving the customs revenue functions:

*Members of a Family for Purposes of Filing a CBP Family Declaration.* Treasury and CBP plan to finalize a proposal to expand the definition of the term, ''members of a family residing in one household,'' to allow more U.S. returning residents traveling as a family upon their arrival in the United States to be eligible to group their duty exemptions and file a single customs declaration for articles acquired abroad.

*Trade Act of 2002's preferential trade benefit provisions.* Treasury and CBP plan to make permanent several interim regulations that implement the trade benefit provisions of the Trade Act of 2002 such as the trade benefit provisions for Caribbean Basin countries as well as for sub-Saharan Africa.

*Free Trade Agreements.* Treasury and CBP also plan to issue final regulations this fiscal year to implement the preferential trade benefit provisions of the United States-Singapore Free Trade Agreement Implementation Act and the United States-Panama Trade Promotion Agreement Implementation Act. Treasury and CBP also expect to issue interim regulations implementing the preferential trade benefit provisions of the United States-Australia Free Trade Agreement Implementation Act.

*Customs and Border Protection's Bond Program.* Treasury and CBP plan to publish a final rule amending the regulations to reflect the centralization of the continuous bond program at CBP's Revenue Division. The changes proposed would support CBP's bond program by ensuring an efficient and uniform approach to the approval, maintenance, and periodic review of continuous bonds, as well as accommodating the use of information technology and modern business practices.

*Disclosure of Information for Certain Intellectual Property Rights Enforced at the Border.* Treasury and CBP plan to finalize interim amendments to the CBP regulations which provides a pre-seizure notice procedure for disclosing information appearing on the imported merchandise and/or its retail packing suspected of bearing a counterfeit mark to an intellectual property right holder for the limited purpose of obtaining the right holder's assistance in determining whether the mark is counterfeit or not.

*Documentation Related to Goods Imported From U.S. Insular Possessions.* Treasury and CBP plan to propose an amendment to the regulations to eliminate the requirement that a customs officer at the port of export verify and sign CBP Form 3229, Certificate of Origin for U.S. Insular Possessions, and to require instead that the importer present this form, upon CBP's request, rather than submit it with each entry as the current regulations require. The changes proposed would streamline the entry process by making it more efficient as it would reduce the overall administrative burden on both the trade and CBP. If the importer does not maintain CBP Form 3229 in its possession, the importer may be subject to a recordkeeping penalty.

Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency (OCC) was created by Congress to charter national banks, to oversee a nationwide system of banking institutions, and to assure that national banks are safe and sound, competitive and profitable, and capable of serving in the best possible manner the banking needs of their customers.

The OCC seeks to assure a banking system in which national banks and Federal savings associations soundly manage their risks, maintain the ability to compete effectively with other providers of financial services, meet the needs of their communities for credit and financial services, comply with laws and regulations, and provide fair access to financial services and fair treatment of their customers.

*Significant rules issued during fiscal year 2013 include:*

*Regulatory Capital Rules—Basel III* (12 CFR parts 3, 5, 6, 165, 167). The banking agencies (OCC and Board of Governors of the Federal Reserve System (Federal Reserve) have issued a final rule that revises their risk-based and leverage capital requirements for banking organizations. (The Federal Deposit Insurance Corporation (FDIC) separately issued an interim final rule that is substantively the same as the OCC and Federal Reserve final rule.) The final rule consolidates three separate proposed rules that the banking agencies published on August 30, 2012 (77 FR 52792, 52888, 52978), into one final rule. The final rule implements a revised definition of regulatory capital, a new common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for banking organizations subject to the advanced approaches risk-based capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator. The final rule incorporates new requirements are into the banking agencies' prompt corrective action framework and establishes limits on a banking organization's capital distributions and certain discretionary bonus payments if the banking organization does not hold a specified amount of common equity tier 1 capital in addition to the amount necessary to meet its minimum risk-based capital requirements. The final rule amends the methodologies for determining risk-weighted assets for all banking organizations, and introduces disclosure requirements that would apply to top-tier banking organizations domiciled in the United States with $50 billion or more in total assets. The final rule also adopts changes required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (P.L. 111–203) to implement more stringent capital and leverage requirements and to replace regulatory references to credit ratings with new creditworthiness measures. In addition, the OCC has amended the market risk capital rule to apply to Federal savings associations. The final rule was published on October 11, 2013, 78 FR 62018.

*Leverage Ratio. (12 CFR Part 3).* The banking agencies issued a proposed rule that would strengthen the agencies' leverage ratio standards for large, interconnected U.S. banking organizations. The proposal would apply to any U.S. top-tier bank holding company (BHC) with at least $700 billion in total consolidated assets or at least $10 trillion in assets under custody (covered BHC) and any insured depository institution (IDI) subsidiary of these BHCs. In the Basel III final rule, the banking agencies established a

minimum supplementary leverage ratio of 3 percent (supplementary leverage ratio), consistent with the minimum leverage ratio adopted by the Basel Committee on Banking Supervision, for banking organizations subject to the advanced approaches risk-based capital rules. In this proposed rule, the banking agencies are proposing to establish a ''well capitalized'' threshold of 6 percent for the supplementary leverage ratio for any IDI that is a subsidiary of a covered BHC, under the agencies' prompt corrective action framework. 78 FR 51101 (August 20, 2013).

*Short-Term Investment Funds (12 CFR part 9).* The OCC issued a final rule updating the regulation of short-term investment funds (STIFs), a type of collective investment fund permissible under OCC regulations, through the addition of STIF eligibility requirements to ensure the safety of STIFs. The proposed rule was issued on April 9, 2012 (77 FR 21057) and the final rule was issued on October 9, 2012 (77 FR 61229).

*Flood Insurance (12 CFR parts 22 and 172).* The banking agencies, the Farm Credit Administration, and the National Credit Union Administration have proposed revisions to their regulations regarding loans in areas having special flood hazards to implement provisions of the Biggert-Waters Flood Insurance Reform Act of 2012. In addition, the OCC proposed to integrate its flood insurance regulations for national banks, 12 CFR part 22, and Federal savings associations, 12 CFR part 172. 78 FR 65108 (October 30, 2013).

*Lending Limits for Derivative Transactions (12 CFR parts 32, 159, and 160).* Section 610 of the Dodd-Frank Act amends the lending limits statute, 12 U.S.C. section 84, to apply it to any credit exposure to a person arising from a derivative transaction and certain other transactions between the bank and the person. 12 U.S.C. 1464(u)(1) applies this lending limit to savings associations. The OCC issued an interim final rule on June 21, 2012, which consolidated the lending limits rules applicable to national banks and savings associations, removed the separate OCC regulation governing lending limits for savings associations, and implemented section 610 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which amends the statutory definition of ''loans and extensions of credit'' to include certain credit exposures arising from derivative transactions, repurchase agreements, reverse repurchase agreements, securities lending transactions, and securities borrowing transactions. The interim final rule was finalized with revisions on June 19, 2013 and published in the **Federal Register** on June 25, 2013. 78 FR 37930.

*Appraisals for Higher-Risk Mortgages (12 CFR parts 34, 164).* The banking agencies, CFPB, FHFA, and NCUA, issued a final rule on February 13, 2012 (78 FR 10368) to amend Regulation Z and its official interpretation. The rule revised Regulation Z to implement a new TILA provision requiring appraisals for ''higher-risk mortgages'' that was added to TILA as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act. For mortgages with an annual percentage rate that exceeds market-based prime mortgage rate benchmarks by a specified percentage, the rule generally requires creditors to obtain an appraisal or appraisals meeting certain specified standards, provide applicants with a notification regarding the use of the appraisals, and give applicants a copy of the written appraisals used. The agencies issued a supplemental proposed rule on August 8, 2013 that would exempt from the requirements of the final rule (i) transactions secured by existing manufactured homes and not land; (ii) certain streamlined refinancings; and (iii) transactions of $25,000 or less. 78 FR 48548.

*Annual Stress Test (12 CFR part 46).* The OCC issued a final rule to implement 12 U.S.C. 5365(i) that requires annual stress testing to be conducted by financial companies with total consolidated assets of more than $10 billion and will establish a definition of stress test, methodologies for conducting stress tests, and reporting and disclosure requirements. The proposed rule was published on January 24, 2012 and the final rule on October 9, 2012. 77 FR 3408, 61238.

*Regulatory priorities for fiscal year 2014 include finalizing the proposals listed above as well as the following rulemakings:*

*Integration of Savings Association Supervision (12 CFR chapter I).* The OCC intends to propose amendments to integrate certain rules related to bank operations and compliance and securities-related matters of national banks and savings associations, revise some of these rules with the goal of eliminating unnecessary requirements while ensuring safety and soundness, and make other technical and conforming changes. These amendments will streamline OCC rules, reduce duplication, and create efficiencies by establishing in many areas a single set of rules for all entities supervised by the OCC. The OCC also is requesting comments on some of these rules on way to reduce regulatory burden pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).

*Appraisal Management Companies (12 CFR part 34).* The OCC in an interagency rule with the FDIC, FRB, FHFA, NCUA and CFPB, plans to issue a proposed rule that will set minimum standards for state registration and regulation of appraisal management companies. The rule will implement the minimum requirements in section 1473 of Dodd-Frank to be applied by States in the registration of appraisal management companies. The proposed rule will also implement the requirement in section 1473 of the Dodd-Frank Act for States to report to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council the information needed by the ASC to administer the national registry of appraisal management companies.

*Incentive-Based Compensation Arrangements (12 CFR part 42).* Section 956 of the Dodd-Frank Act requires the banking agencies, NCUA, SEC, and FHFA, to jointly prescribe regulations or guidance prohibiting any type of incentive-based payment arrangement, or any feature of any such arrangement, that the regulators determine encourages inappropriate risks by covered financial institutions by providing an executive officer, employee, director, or principal shareholder with excessive compensation, fees or benefits, or that could lead to material financial loss to the covered financial institution. The Act also requires such agencies to jointly prescribe regulations or guidance requiring each covered financial institution to disclose to its regulator the structure of all incentive-based compensation arrangements offered by such institution sufficient to determine whether the compensation structure provides any officer, employee, director, or principal shareholder with excessive compensation or could lead to material financial loss to the institution. The agencies issued a proposed rule on April 14, 2011. 76 FR 21170.

*Credit Risk Retention (12 CFR part 43).* The banking agencies, SEC, FHFA, and HUD proposed rules to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934 (15 U.S.C. section 78o–11), as added by section 941 of the Dodd-Frank Act. Section 15G generally requires the securitizer of asset-backed securities to retain not less than 5 percent of the credit risk of the assets collateralizing the asset-backed securities. Section 15G includes a variety of exemptions from these requirements, including an exemption

for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as ''qualified residential mortgages,'' as such term is defined by the Agencies by rule. The proposed rule was published on April 29, 2011. 76 FR 24090. A reproposal was issued on September 20, 2013. (78 FR 57928.)

*Prohibition and Restrictions on Proprietary Trading and Certain Interests In, and Relationships with, Hedge Funds and Private Equity Funds (12 CFR part 44).* The banking agencies, SEC, and CFTC issued proposed rules that implement section 619 of the Dodd-Frank Act, which contains certain prohibitions and restrictions on the ability of banking entities and nonbank financial companies supervised by the Federal Reserve Board to engage in proprietary trading and have certain investments in, or relationships with, hedge funds or private equity funds. The proposed rule was issued on November 7, 2011 (75 FR 68846).

*Margin and Capital Requirements for Covered Swap Entities (12 CFR part 45).* The banking agencies, FCA, and FHFA issued a proposed rule to establish minimum margin and capital requirements for registered swap dealers, major swap participants, security-based swap dealers, and major security-based swap participants for which one of the Agencies is the prudential regulator. This proposed rule implements sections 731 and 764 of the Dodd-Frank Act, which require the Agencies to adopt rules jointly to establish capital requirements and initial and variation margin requirements for such entities on all non-cleared swaps and non-cleared security-based swaps in order to offset the greater risk to such entities and the financial system arising from the use of swaps and security-based swaps that are not cleared. The proposed rule was published on May 11, 2011 (76 FR 27564).

*Source of Strength. (12 CFR part 47).* The banking agencies plan to issue a proposed rule to implement section 616(d) of the Dodd-Frank Act. Section 616(d) requires that bank holding companies, savings and loan holding companies and companies that directly or indirectly control an insured depository institution serve as a source of strength for the insured depository institution. The appropriate Federal banking agency for the insured depository institution may require that the company submit a report that would assess the company's ability to comply with the provisions of the statute and its compliance.

*Liquidity Coverage Ratio (12 CFR 50).* The banking agencies plan to issue a proposed rule that would implement the liquidity coverage ratio consistent with agreements reached by the Basel Committee on Banking Supervision for certain banking organizations to promote improvements in the measurement and management of asset- and funding-liquidity risk. The proposal would establish a quantitative minimum liquidity coverage ratio that builds upon the liquidity coverage methodologies traditionally used by banking organizations to assess exposures to contingent liquidity events and would complement existing supervisory guidance.

*Automated Valuation Models. (*Parts 34, 164) The OCC, FRB, FDIC, NCUA, FHFA and CFPB, in consultation with the Appraisal Subcommittee and the Appraisal Standards Board of the Appraisal Foundation, are required to promulgate regulation to implement quality control standards required for automated valuation models. Section of 1473(q) of the Dodd Frank Wall Street Reform and Consumer Protection Act requires that automated valuation models used to estimate collateral value for mortgage lending comply with quality control standards designed to: ensure a high level of confidence in the estimates produced by automated valuation models; protect against manipulation of data; seek to avoid conflicts of interest; require random sample testing and reviews and account for other factors the agencies deem appropriate. The agencies plan to issue a proposed rule to implement the requirement for quality control standards.

Terrorism Risk Insurance Program Office

The Terrorism Risk Insurance Act of 2002 (TRIA) was signed into law on November 26, 2002. The law, which was enacted as a consequence of the events of September 11, 2001, established a temporary Federal reinsurance program under which the Federal Government shares the risk of losses associated with certain types of terrorist acts with commercial property and casualty insurers. The Act, originally scheduled to expire on December 31, 2005, was extended to December 31, 2007, by the Terrorism Risk Insurance Extension Act of 2005 (TRIEA). The Act has since been extended to December 31, 2014, by the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA).

The Office of the Assistant Secretary for Financial Institutions is responsible for developing and promulgating regulations implementing TRIA, as extended and amended by TRIEA and TRIPRA. The Terrorism Risk Insurance Program Office, which is part of the Office of the Assistant Secretary for Financial Institutions, is responsible for operational implementation of TRIA. The purposes of this legislation are to address market disruptions, ensure the continued widespread availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for a transition period for the private markets to stabilize and build capacity while preserving State insurance regulation and consumer protections.

The Office of the Assistant Secretary has issued proposed rules implementing changes authorized by TRIA as revised by TRIPRA. The following regulations should be published by July 31, 2014:

*Final Netting.* This final rule would establish procedures by which, after the Secretary has determined that claims for the Federal share of insured losses arising from a particular Program Year shall be considered final, a final netting of payments to or from insurers will be accomplished.

*Affiliates.* This proposed rule would make changes to the definition of ''affiliate'' to conform to the language in the statute.

*Civil Penalty.* This proposed rule would establish procedures by which the Secretary may assess civil penalties against any insurer that the Secretary determines, on the record after an opportunity for a hearing, has violated provisions of the Act.

Treasury will continue the ongoing work of implementing TRIA and carrying out revised operations as a result of the TRIPRA-related regulation changes.

Internal Revenue Service

The Internal Revenue Service (IRS), working with the Office of Tax Policy, promulgates regulations that interpret and implement the Internal Revenue Code and related tax statutes. The purpose of these regulations is to carry out the tax policy determined by Congress in a fair, impartial, and reasonable manner, taking into account the intent of Congress, the realities of relevant transactions, the need for the Government to administer the rules and monitor compliance, and the overall integrity of the Federal tax system. The goal is to make the regulations practical and as clear and simple as possible.

During fiscal year 2014, the IRS will accord priority to the following regulatory projects:

*Tax-Related Affordable Care Act Provisions.* On March 23, 2010, the President signed the Patient Protection

and Affordable Care Act of 2010 (Pub. L. 111–148) and on March 30, 2010, the President signed the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (referred to collectively as the Affordable Care Act (ACA)). The ACA's reform of the health insurance system affects individuals, families, employers, health care providers, and health insurance providers. The ACA provides authority for Treasury and the IRS to issue regulations and other guidance to implement tax provisions in the ACA, some of which are already effective and some of which will become effective over the next several years. Since enactment of the ACA, Treasury and the IRS have issued a series of temporary, proposed, and final regulations implementing over a dozen provisions of the ACA, including the premium tax credit under section 36B, the small business health coverage tax credit under section 45R, new requirements for charitable hospitals under section 501(r), limits on tax preferences for remuneration provided by certain health insurance providers under section 162(m)(6), the employer shared responsibility provisions under section 4980H, the individual shared responsibility provisions under section 5000A, insurer and employer reporting under sections 6055 and 6056, and several revenue-raising provisions, including a fee on branded prescription drugs and a tax on indoor tanning services.

In fiscal year 2014, Treasury and the IRS will continue to provide guidance to implement tax provisions of the ACA, including:

- Final regulations on information reporting by exchanges under section 36B(f)(3);
- Final regulations on minimum value of eligible-employer-sponsored plans under section 36B;
- Final regulations on limits on tax preferences for remuneration provided by certain health insurance providers under section 162(m)(6);
- Final regulations on new requirements for charitable hospitals under section 501(r);
- Final regulations on the net investment income tax under section 1411;
- Final regulations on the additional Medicare tax under sections 3101 and 3102;
- Final regulations on the employer shared responsibility provisions under section 4980H;
- Final regulations on the health insurance providers fee under section 9010 of the ACA;
- Final regulations on insurer and employer reporting under sections 6055 and 6056.
- Additional guidance on the medical device tax under section 4191.

*Deduction and Capitalization of Costs for Tangible Property.* Section 162 of the Internal Revenue Code allows a deduction for ordinary and necessary expenses paid or incurred in carrying on a trade or business. Section 263(a) of the Code provides that no deduction is allowed for amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate, and generally such capital expenditures may be recovered only in future taxable years. Although existing regulations provide that a deductible repair expense is an expenditure that does not materially add to the value of the property or appreciably prolong its life, the standards for determining whether an amount paid for tangible property should be treated as an ordinary or capital expenditure can be difficult to discern. Treasury and the IRS believe that additional clarification is needed to reduce uncertainty and controversy in this area, and in December 2011 Treasury and the IRS issued proposed and temporary regulations. We also provided additional industry-specific guidance related to property used to generate steam or electric power. Treasury and the IRS intend to finalize the proposed and temporary regulations. We also intend to provide additional industry-specific guidance relating to property used in the transmission and distribution of natural gas, property used in a cable television system, and property used in the retail industry.

*Research Expenditures.* Section 41 of the Internal Revenue Code provides a credit against taxable income for certain expenses paid or incurred in conducting research activities. Section 174 of the Internal Revenue Code allows a taxpayer to elect to currently deduct or amortize certain research and experimental expenditures. To assist in resolving areas of controversy and uncertainty with respect to research expenses, Treasury and the IRS plan to issue guidance on both the credit and the deduction. With respect to the research credit, Treasury and the IRS plan to issue regulations with respect to the definition and credit eligibility of expenditures for internal use software, the treatment of intra-group transactions for purposes of determining the controlled group's gross receipts for purposes of the credit computation, the election of the alternative simplified credit, and the allocation of the credit among members of a controlled group. With respect to the deduction for research and experimental expenditures, Treasury and the IRS plan to issue guidance on the treatment of amounts paid or incurred in connection with the development of tangible property and guidance clarifying the procedures for the adoption and change of methods of accounting for the expenditures.

*Arbitrage Investment Restrictions on Tax-Exempt Bonds.* The arbitrage investment restrictions on tax-exempt bonds under section 148 generally limit issuers from investing bond proceeds in higher-yielding investments. Treasury and the IRS plan to issue proposed regulations to address selected current issues involving the arbitrage restrictions, including guidance on the issue price definition used in the computation of bond yield, working capital financings, grants, investment valuation, modifications, and terminations of qualified hedging transactions, and selected other issues.

*Guidance on the Definition of Political Subdivision for Tax-Exempt, Tax-Credit, and Direct-Pay Bonds.* A political subdivision may be a valid issuer of tax-exempt, tax-credit, and direct-pay bonds. Concerns have been raised recently about what is required for an entity to be a political subdivision. Treasury and the IRS plan to provide additional guidance under section 103 for determining when an entity is a political subdivision.

*Contingent Notional Principal Contract Regulations.* Notice 2001–44 (2001–2 CB 77) outlined four possible approaches for recognizing nonperiodic payments made or received on a notional principal contract (NPC) when the contract includes a nonperiodic payment that is contingent in fact or in amount. The Notice solicited further comments and information on the treatment of such payments. After considering the comments received in response to Notice 2001–44, Treasury and the IRS published proposed regulations (69 FR 8886) (the 2004 proposed regulations) that would amend section 1.446–3 and provide additional rules regarding the timing and character of income, deduction, gain, or loss with respect to such nonperiodic payments, including termination payments. On December 7, 2007, Treasury and IRS released Notice 2008–2 requesting comments and information with respect to transactions frequently referred to as prepaid forward contracts. Treasury and the IRS plan to re-propose regulations to address issues relating to the timing and character of nonperiodic contingent payments on NPCs, including

termination payments and payments on prepaid forward contracts.

*Tax Treatment of Distressed Debt.* A number of tax issues relating to the amount, character, and timing of income, expense, gain, or loss on distressed debt remain unresolved. In addition, the tax treatment of distressed debt, including distressed debt that has been modified, may affect the qualification of certain entities for tax purposes or result in additional taxes on the investors in such entities, such as regulated investment companies, real estate investment trusts (REITs), and real estate mortgage investment conduits (REMICs). During fiscal year 2013, Treasury and the IRS have addressed some of these issues through published guidance, including guidance relating to home mortgages refinanced under the Home Affordable Modification Program—Principal Reduction Alternative, final regulations to determine the issue price of a debt instrument issued in certain refinancings of publicly traded debt, and a notice relating to the conclusive presumption of bad debts. Treasury and the IRS plan to address more of these issues in published guidance.

*Corporate Spin-offs and Split-offs.* Section 355 and related provisions of the Internal Revenue Code allow for the tax-free division a corporation into two corporations under certain conditions. The IRS and Treasury Department intend to provide guidance on a variety of topics relating to these provisions. Two of these topics were the subject of previous regulatory proposals: the active trade or business requirement of section 355(b) and when a corporation is a predecessor or successor corporation under section 355(e). Other topics to be addressed are: when a corporation is a controlled corporation that can be distributed under section 355(a) given changes to the voting power of its various classes of stock in anticipation of the distribution; when stock or securities of the distributed corporation can be used to retire debt of the distributing corporation that was issued in anticipation of the distribution; and when various items of cash or property flowing between a corporation and its shareholders should be treated as being in exchange for each other.

*Disguised Sale and Allocation of Liabilities.* A contribution of property by a partner to a partnership may be recharacterized as a sale under section 707(a)(2)(B) if the partnership distributes to the contributing partner cash or other property that is, in substance, consideration for the contribution. The allocation of partnership liabilities to the partners under section 752 may impact the determination of whether a disguised sale has occurred and whether gain is otherwise recognized upon a distribution. Treasury and the IRS have determined that guidance should be issued to address certain issues that arise in the disguised sale context and other issues regarding the partners' shares of partnership liabilities. Proposed regulations are expected to be issued later this year.

*Certain Partnership Distributions Treated as Sales or Exchanges.* In 1954, Congress enacted section 751 to prevent the use of a partnership to convert potential ordinary income into capital gain. In 1956, Treasury and the IRS issued regulations implementing section 751. The current regulations, however, do not achieve the purpose of the statute in many cases. In 2006, Treasury and the IRS published Notice 2006–14 (2006–1 CB 498) to propose and solicit alternative approaches to section 751 that better achieve the purpose of the statute while providing greater simplicity. Treasury and the IRS are currently working on proposed regulations following up on Notice 2006–14. These regulations will provide guidance on determining a partner's interest in a partnership's section 751 property and how a partnership recognizes income required by section 751.

*Tax Return Preparers.* In June 2009, the IRS launched a comprehensive review of the tax return preparer program with the intent to propose a set of recommendations to ensure uniform and high ethical standards of conduct for all tax return preparers and to increase taxpayer compliance. In Publication 4832, Return Preparer Review, the IRS recommended increased oversight of the tax return preparer industry, including but not limited to, mandatory preparer tax identification number (PTIN) registration and usage, competency testing, continuing education requirements, and ethical standards for all tax return preparers. As part of a multi-step effort to increase oversight of Federal tax return preparers, Treasury and the IRS published proposed regulations on February 15, 2012 that would amend the current regulations to add categories of preparers and further clarify who may obtain a PTIN. Treasury and the IRS intend to finalize the proposed regulations in 2014.

*Circular 230 Rules Governing Written Tax Advice.* After years of experience with the covered opinion rules in Circular 230 governing written tax advice, the government and practitioners agree that rules are often burdensome and provide only minimal taxpayer protection. On September 17, 2012, Treasury and the IRS published proposed regulations that modify the standards governing written tax advice under Circular 230. The proposed regulations streamline the existing rules for written tax advice by applying one standard for all written tax advice under proposed section 10.37. The proposed regulations revise section 10.37 to state affirmatively the standards to which a practitioner must adhere when providing written advice on a Federal tax matter. Proposed section 10.37 requires, among other things, that the practitioner base all written advice on reasonable factual and legal assumptions, exercise reasonable reliance, and consider all relevant facts that the practitioner knows or should know. A practitioner must also use reasonable efforts to identify and ascertain the facts relevant to written advice on a Federal tax matter under the proposed regulations. The proposed amendments will eliminate the burdensome requirement that practitioners fully describe the relevant facts (including the factual and legal assumptions relied upon) and the application of the law to the facts in the written advice itself, and the use of Circular 230 disclaimers in documents and transmissions, including emails. The proposed regulations also make several other necessary amendments to Circular 230. Treasury and IRS intend to finalize these regulations in 2013.

*Penalties and Limitation Periods.* Congress amended several penalty provisions in the Internal Revenue Code in the past several years. Treasury and the IRS intend to publish a number of guidance projects in fiscal year 2014 addressing these new or amended penalty provisions. Specifically, Treasury and the IRS intend to publish final regulations under section 6708 regarding the penalty for failure to make available upon request a list of advisees that is required to be maintained under section 6112. The proposed regulations were published on March 8, 2013. Treasury and the IRS also intend to publish proposed regulations under sections 6662, 6662A, and 6664 to provide further guidance on the circumstances under which a taxpayer could be subject to the accuracy-related penalty on underpayments or reportable transaction understatements and the reasonable cause exception. Further, Treasury and the IRS intend to publish 1) final regulations under section 6501(c)(10) regarding the extension of the period of limitations to assess any tax with respect to a listed transaction

that was not disclosed as required under section 6011, and 2) temporary and proposed regulations under section 6707A addressing statutory changes to the method of computing the section 6707A penalty for failure to disclose reportable transactions.

*Whistleblower Regulations.* Under section 7623(b), the Secretary shall make an award to whistleblowers in cases where a whistleblower provided information regarding underpayments of tax or violations of the internal revenue laws that resulted in proceeds being collected from an administrative or judicial action. On February 22, 2012, Treasury and the IRS published final regulations (TD 9580) defining ''collected proceeds.'' Proposed regulations were published on December 18, 2012, that included guidance on the process for filing for an award, definitions of statutory terms, and guidance regarding how the amount of an award will be computed. Treasury and the IRS plan to issue final regulations in 2013.

*Information Reporting for Foreign Accounts of U.S. Persons.* In March 2010, chapter 4 (sections 1471 to 1474) was added to subtitle A of the Internal Revenue Code as part of the Hiring Incentives to Restore Employment Act (HIRE Act) (Pub. L. 111–147). Chapter 4 was enacted to address concerns with offshore tax evasion and generally requires foreign financial institutions (FFIs) to enter into an agreement (FFI Agreement) with the IRS to report information regarding certain financial accounts of U.S. persons and foreign entities with significant U.S. ownership. An FFI that does not enter into an FFI Agreement or that is not deemed to comply with the requirements of section 1471 generally will be subject to a withholding tax on the gross amount of certain payments from U.S. sources, as well as, after 2016, the gross proceeds from disposing of certain U.S. investments. To date, Treasury and the IRS have published Notice 2010–60, Notice 2011–34, Notice 2011–53, Announcement 2012–42, and proposed and final regulations under chapter 4. Notice 2013–43 was also recently published to provide revised timelines for the implementation of FATCA. This year Treasury and the IRS expect to publish certain substantive changes and corrections to the chapter 4 final regulations; a model FFI Agreement; revised Qualified Intermediary, Withholding Foreign Partnership, and Withholding Foreign Trust Agreements coordinating the requirements of these agreements with the chapter 4 requirements of entities executing these agreements; and revisions to the regulations under chapters 3 and 61 to coordinate with the requirements of the regulations under chapter 4.

*Withholding on Certain Dividend Equivalent Payments on Certain Equity Derivatives.* The HIRE Act also added section 871(l) to the Code (now section 871(m)), which designates certain substitute dividend payments in security lending and sale-repurchase transactions and dividend-referenced payments made under certain notional principal contracts as U.S.-source dividends for Federal tax purposes. In response to this legislation, on May 20, 2010, the IRS issued Notice 2010–46, addressing the requirements for determining the proper withholding in connection with substitute dividends paid in foreign-to-foreign security lending and sale-repurchase transactions. On January 23, 2012, Treasury and the IRS also issued temporary and proposed regulations addressing cases in which dividend equivalents will be found to arise in connection with notional principal contracts and other financial derivatives. Treasury and the IRS expect to issue further guidance with respect to section 871(m) in this fiscal year.

*International Tax Provisions of the Education Jobs and Medicaid Assistance Act.* On August 10, 2010, the Education Jobs and Medicaid Assistance Act of 2010 (EJMAA) (Pub. L. 111–226) was signed into law. The law includes a significant package of international tax provisions, including limitations on the availability of foreign tax credits in certain cases in which U.S. tax law and foreign tax law provide different rules for recognizing income and gain, and in cases in which income items treated as foreign source under certain tax treaties would otherwise be sourced in the United States. The legislation also limits the ability of multinationals to reduce their U.S. tax burdens by using a provision intended to prevent corporations from avoiding U.S. income tax on repatriated corporate earnings. Other new provisions under this legislation limit the ability of multinational corporations to use acquisitions of related party stock to avoid U.S. tax on what would otherwise be taxable distributions of dividends. The statute also includes a new provision intended to tighten the rules under which interest expense is allocated between U.S.- and foreign-source income within multinational groups of related corporations when a foreign corporation has significant amounts of U.S.-source income that is effectively connected with a U.S. business. Treasury and the IRS published temporary and proposed regulations addressing foreign tax credits under section 909 in 2012 and expect to issue additional guidance on EJMAA in this fiscal year.

*Transfers of Intangibles to Foreign Corporations.* Section 367(d) of the Internal Revenue Code requires, except as provided in regulations, a U.S. person who transfers intangible property to a foreign corporation in an exchange described in section 351 or 361 of the Code to treat the transfer as a sale for payments which are contingent upon the productivity, use, or disposition of such property, and to take into account amounts which reasonably reflect the amounts which would have been received annually in the form of such payments over the useful life of such property, or at the time of the disposition of the property. The amounts so taken into account must be commensurate with the income attributable to the intangible. Under existing temporary regulations issued in 1986, section 367(d) is made inapplicable to the transfer of ''foreign goodwill or going concern value,'' as defined in the regulations. The existing regulations provide general guidance regarding the application of section 367(d), although controversy regarding the application of section 367(d) to certain transfers led the Treasury and the IRS to publish Notice 2012–39 on July 13, 2012. Treasury and the IRS intend to issue additional guidance in 2014 to reduce uncertainty and controversy in this area.

*Lifetime income from retirement plans.* Treasury and the IRS continue to review certain regulations pertaining to retirement plans to determine whether any modifications could better achieve the objective of promoting retirement security by facilitating the offering of benefit distribution options in the form of annuities. As part of this initiative, proposed regulations were issued in February 2012 to facilitate the purchase of longevity annuity contracts under tax-qualified defined contribution plans, section 403(b) plans, individual retirement annuities and accounts (IRAs), and eligible governmental section 457 plans. These regulations provide the public with guidance necessary to comply with the required minimum distribution rules under the Code. Under the proposed amendments to these rules, prior to annuitization, the participant would be permitted to exclude the value of a longevity annuity contract that meets certain requirements from the account balance used to determine required minimum distributions. Thus, a participant would not need to commence distributions from the annuity contract before the

advanced age at which the annuity would begin in order to satisfy the required minimum distribution rules and, accordingly, the contract could be designed with a fixed annuity starting date at the advanced age. Purchasing longevity annuity contracts could help participants hedge the risk of drawing down their benefits too quickly and thereby outliving their retirement savings. Treasury and the IRS intend to finalize these regulations.

*Section 501(c)(4) guidance.* Treasury and the IRS plan to issue proposed regulations that provide guidance relating to measurement of an organization's primary activity and whether it is operated primarily for the promotion of social welfare, including guidance relating to political campaign intervention. Treasury and the IRS intend to issue further guidance on these issues in fiscal year 2014.

Alcohol and Tobacco Tax and Trade Bureau

The Alcohol and Tobacco Tax and Trade Bureau (TTB) issues regulations to implement and enforce the Federal laws relating to alcohol, tobacco, firearms, and ammunition excise taxes and certain non-tax laws relating to alcohol. TTB's mission and regulations are designed to:

(1) Regulate with regard to the issuance of permits and authorizations to operate in the alcohol and tobacco industries;

(2) Assure the collection of all Federal alcohol, tobacco, firearms and ammunition taxes, and obtain a high level of voluntary compliance with laws governing those industries; and

(3) Suppress commercial bribery, consumer deception, and other prohibited practices in the alcohol beverage industry.

In FY 2014, TTB plans to give priority to the following regulatory matters:

*Modernization of Title 27, Code of Federal Regulations.* TTB will continue its multi-year Regulations Modernization Project, which has resulted in the past few years in the updating of Parts 9 (American Viticultural Areas) and 19 (Distilled Spirits Plants) of Title 27, Code of Federal Regulations. In December 2012, TTB published a temporary rule and concurrent Notice of Proposed Rulemaking (NPRM) that would lessen the number of required excise tax returns and operations reports for small brewers and also provide a flat $1,000 penal sum for the brewer's bond for such brewers. TTB believes these proposals will lessen costs and increase efficiencies for those businesses. The regulatory proposals also will reduce the administrative burden on TTB. If small brewers submitted quarterly returns and operations reports, TTB could reduce the overall time it spends processing these forms.

Additionally, in FY 2013, TTB published a temporary rule and concurrent NPRM pertaining to permits for importers of tobacco products and processed tobacco that would extend the duration of new permits from three years to five years. Furthermore, TTB published an NPRM concerning denatured alcohol and products made with industrial alcohol. The proposed amendments would remove unnecessary regulatory burdens on the industrial alcohol industry as well as TTB, and would align the regulations with current industry practice. These three rules were published in June 2013.

As described in greater detail below, in FY 2014, TTB plans to continue its Regulations Modernization Project concerning its Specially Denatured and Completely Denatured Alcohol regulations, Labeling Requirement regulations, Export regulations, Nonbeverage Products regulations and Beer regulations.

*Revisions to Specially Denatured and Completely Denatured Alcohol Regulations.* TTB proposed changes to regulations for specially denatured alcohol (SDA) and completely denatured alcohol (CDA) that would result in cost savings for both TTB and regulated industry members. Under the authority of the Internal Revenue Code of 1986 (IRC), TTB regulates denatured alcohol that is unfit for beverage use, which may be removed from a regulated distilled spirits plant free of tax. SDA and CDA are widely used in the American fuel, medical, and manufacturing sectors. The industrial alcohol industry far exceeds the beverage alcohol industry in size and scope, and it is a rapidly growing industry in the United States. Some concerns have been raised that the current regulations may create significant roadblocks for industry members in getting products to the marketplace quickly and efficiently. To help alleviate these concerns, TTB plans to issue a final rule that will reclassify certain SDA formulas as CDA and issue new general-use formulas for articles made with SDA. As a result of these changes, industry members would need to seek formula approval from TTB less frequently, and, in turn, TTB could decrease the resources it dedicates to formula review. TTB estimates that these changes will result in an 80 percent reduction in the formula approval submissions currently required from industry members and will reduce total annual paperwork burden hours on affected industry members from 2,415 to 517 hours. The reduction in formula submissions will enable TTB to redirect its resources to address backlogs that exist in other areas of TTB's mission activities, such as analyses of compliance samples for industrial/fuel alcohol to protect the revenue and working with industry to test and approve new and more environmentally friendly denaturants. Other changes made by this final rule will remove unnecessary regulatory burdens and update the regulations to align them with current industry practice.

*Revisions to the Labeling Requirements (Parts 4 (Wine), 5 (Distilled Spirits), and 7 (Malt Beverages)).* The Federal Alcohol Administration Act requires that alcohol beverages introduced in interstate commerce have a label issued and approved under regulations prescribed by the Secretary of the Treasury. In accordance with the mandate of Executive Order 13563 of January 18, 2011, regarding improving regulation and regulatory review, TTB has conducted an analysis of its regulations to identify if any may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. As a result of its review, TTB has near-term plans to revise the regulations concerning the approval of labels for distilled spirits, wine, and malt beverages, to reduce the cost to TTB of reviewing and approving an ever-increasing number of applications for label approval (well over 130,000 per year). Currently, the review and approval process requires a staff of at least 13 people for the pre-approval of labels, in addition to management review. The goal of these regulatory changes, to be developed with industry input, is to accelerate the approval process, which will result in the regulated industries being able to bring products to market without undue delay.

*Selected Revisions of Export Regulations (Part 28).* TTB has identified selected sections of its export regulations (part 28) that should be amended to assist industry members in complying with the regulations. Current regulations require industry members to obtain documents and follow procedures that are outdated and not entirely consistent with current industry practices regarding exportation, and, under its regulatory authority, TTB routinely provides exceptions to these regulatory provisions. Revising these regulations will provide industry members with clear and updated

procedures for removal of alcohol for exportation without having to pay excise taxes (under the IRC, beverage alcohol may be removed for exportation without payment of tax), thus increasing their willingness and ability to export their products. Increasing American exports benefits the American economy and is consistent with Treasury and Administration priorities.

*Revision of the Part 17 Regulations, ''Drawback on Taxpaid Distilled Spirits Used in Manufacturing Nonbeverage Products,'' to Allow Self-Certification of Nonbeverage Product Formulas.* TTB is considering revisions to the part 17 regulations governing nonbeverage products made with taxpaid distilled spirits. These nonbeverage products include foods, medicines, and flavors. The revisions would nearly eliminate the need for TTB to formally approve nonbeverage product formulas by proposing to allow for self-certification of such formulas. The changes would result in significant cost savings for an important industry, which currently must obtain formula approval from TTB, and some savings for TTB, which must review and take action to approve or disapprove each formula. The specific savings to TTB is unknown at this stage of the rulemaking project.

*Revisions to the Beer Regulations (Part 25).* Under the authority of the IRC, TTB regulates activities at breweries. The regulations of Title 27 of the Code of Federal Regulations, Part 25, address the qualification of breweries, bonds and taxation, removals without payment of tax, and records and reporting. Brewery regulations were last revised in 1986 and need to be updated to reflect changes to the industry, including the increased number of small (''craft'') brewers. TTB initially intended to publish an advance notice of proposed rulemaking (ANPRM) and solicit written comments from the public before proposing changes to its regulations in part 25. After conducting discussions with industry groups and members, analyzing available data, and reviewing our existing regulations and requirements, TTB, in December 2012, proposed changes to our regulations that would reduce the tax return submission and filing and operations reporting burdens on ''small'' brewers. Such proposals would lessen the number of required excise tax returns and operations reports for small brewers and also provide a flat $1,000 penal sum for the brewer's bond for such brewers. The amendments would accelerate change in the regulations, compared to publishing an ANPRM and awaiting comments before proposing specific changes, and thus provide more immediate and significant relief from existing regulatory burdens. TTB has solicited comments from the public in this notice of proposed rulemaking (NPRM) on other changes it could make to its beer regulations contained in part 25 that could further reduce the regulatory burden on brewers and, at the same time, meet statutory requirements and regulatory objectives. Upon consideration of comments received, TTB intends to develop and propose other specific regulatory changes.

*Revisions to Distilled Spirits Plant Reporting Requirements.* In FY 2012, TTB published an NPRM proposing to revise regulations in part 19 and replace the current four report forms used by distilled spirits plants to report their operations on a monthly basis with two new report forms that would be submitted on a monthly basis. (Plants that qualify to file taxes on a quarterly basis would submit the new reports on a quarterly basis.) This project, which was included in the President's FY 2012 budget for TTB as a cost-saving item, will address numerous concerns and desires for improved reporting by the affected distilled spirits industry and result in cost savings to the industry and TTB by significantly reducing the number of monthly plant operations reports that must be completed and filed by industry members and processed by TTB. TTB preliminarily estimates that this project will result in an annual savings of approximately 23,218 paperwork burden hours (or 11.6 staff years) for industry members and 629 processing hours (or 0.3 staff years) and $12,442 per year for TTB in contractor time. In addition, TTB estimates that this project will result in additional savings in staff time (approximately 3 staff years) equaling $300,000 annually based on the more efficient and effective processing of reports and the use of report data to reconcile industry member tax accounts. Based on comments received in response to the NPRM, TTB will revise the proposed forms and publish them for additional public consideration, before issuing a final rule.

Domestic Finance—Office of the Fiscal Assistant Secretary (OFAS)

The Office of the Fiscal Assistant Secretary develops policy for and oversees the operations of the financial infrastructure of the Federal Government, including payments, collections, cash management, financing, central accounting, and delinquent debt collection.

*RESTORE Act.* On September 6, 2013, the Department of the Treasury published proposed regulations concerning the investment and use of amounts deposited in the Gulf Coast Restoration Trust Fund, which was established in the Treasury of the United States by the Resources and Ecosystem Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act). Eighty percent of the administrative and civil penalties paid under the Federal Water Pollution Control Act in connection with the Deepwater Horizon oil spill will be deposited into the Trust Fund and invested. Under terms described in the Act, amounts in the Trust Fund will be available for programs, projects, and activities that restore and protect the environment and economy of the Gulf Coast region which includes Alabama, Florida, Louisiana, Mississippi, and Texas. This regulation contains procedures required by the Act. The regulation recognizes that, under the statutory scheme, many expenditures from the Trust Fund will be grants. The financial management, auditing, and reporting requirements in Federal grant law and policy, therefore, apply to these expenditures. Overseeing compliance will be a responsibility resting primarily with the Federal and State entities which administer grants for the programs, projects, and activities funded under the Act. Treasury will carry out an important and supplemental role in overseeing the States' compliance with requirements in the Comprehensive Plan Component and the Spill Impact Component. The comment period closes on November 5, 2013.

Retrospective Review of Existing Regulations

The following regulations (identified by Regulatory Identifier Number) have been identified as candidates for retrospective review pursuant to the Department's most recent retrospective review of regulations plan issued in July 2013 pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011). Treasury's retrospective review plan can be found at: *www.treasury.gov/open.*

| RIN | Title |
|---|---|
| 1545–BF40 ..... | Definitions and Special Rules Regarding Accuracy-Related Penalties on Underpayments and Reportable Transaction Understatements and the Reasonable Cause Exception. |
| 1513–AB54 ..... | Modernization of the Alcohol Beverage Labeling and Advertising Regulations. |
| 1513–AB39 ..... | Revision of American Viticultural Area Regulations. |
| 1513–AA23 ..... | Revision of Distilled Spirits Plant Regulations. |
| 1513–AB59 ..... | Proposed Revisions to SDA and CDA Formulas Regulations. |
| 1513–AB72 ..... | Implementation of Statutory Amendments Requiring the Qualification of Manufacturers and Importers of Processed Tobacco and Other Amendments. |
| 1513–AB62 ..... | Proposed Revisions to Distilled Spirits for Fuel Use and Alcohol Fuel Plant Regulations. |
| 1513–AB35 ..... | Self-Certification of Nonbeverage Product Formulas. |
| 1513–AB94 ..... | Penal Sum Exception for Brewers Eligible To File Federal Excise Tax Returns and Payments Quarterly and Other Proposed Revisions to the Beer Regulation. |
| 1513–AB89 ..... | Revisions to Distilled Spirits Plant Operations Reports and Regulations. |
| 1515–AD67 ..... | Courtesy Notice of Liquidation. |

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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.

BILLING CODE 8320–01–P

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

*FY 2014 Regulatory Plan*

*Statement of Regulatory and Deregulatory Priorities*

The Architectural and Transportation Barriers Compliance Board (Access Board) is an independent federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792). The Access Board is responsible for developing accessibility guidelines and standards under various laws to ensure that individuals with disabilities have access to and use of buildings and facilities, transportation vehicles, information and communication technology, and medical diagnostic equipment. Other federal agencies adopt the accessibility guidelines and standards issued by the Access Board as mandatory requirements for entities under their jurisdiction.

This plan highlights three rulemaking priorities for the Access Board in FY 2014: (A) Information and Communication Technology Accessibility Standards and Guidelines; (B) Medical Diagnostic Equipment Accessibility Standards; and (C) Pedestrian Facilities in the Public Right of Way Accessibility Guidelines. The guidelines and standards would enable individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency, and would promote our national values of equity, human dignity, and fairness, the benefits of which are difficult to quantify.

The rulemakings are summarized below.

A. Information and Communication Technology Accessibility Standards and Guidelines (RIN: 3014–AA37)

The Access Board plans to issue a Notice of Proposed Rulemaking (NPRM) to update its accessibility standards for electronic and information technology covered by section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d) (Section 508), and its accessibility guidelines for telecommunication equipment and customer premises equipment covered by section 255 of the Telecommunications Act of 1996 (47 U.S.C. 255) (Section 255). Section 508 requires that when developing, procuring, maintaining, or using electronic and information technology, each federal department or agency must ensure, unless an undue burden would be imposed on the department or agency, that electronic and information technology (regardless of the type of medium) allows individuals with disabilities to have access to and use of information and data that is comparable to the access and use of the information and data by others without disabilities. Section 255 requires telecommunications manufacturers to ensure that telecommunications equipment and customer premises equipment are designed, developed, and fabricated to be accessible to and usable by individuals with disabilities when it is readily achievable to do so.

A.1 *Statement of Need:* The Access Board issued the Electronic and Information Technology Accessibility Standards in 2000 (65 FR 80500, December 21, 2000), and the Telecommunications Act Accessibility Guidelines for telecommunications equipment and customer premises equipment in 1998 (63 FR 5608, February 3, 1998). Since the standards and the guidelines were issued, technology has evolved and changed. Telecommunications products and electronic and information technology products have converged. For example, smartphones can perform many of the same functions as computers. Real time text technologies and video relay services are replacing TTY's (text telephones). The Access Board is updating the standards and guidelines together to address changes in technology and to make them consistent.

A.2 *Summary of the Legal Basis:* Section 508 and Section 255 require the Access Board to develop accessibility standards for electronic and information technology and accessibility guidelines for telecommunications equipment and customer premises equipment, and to periodically review and update the standards and guidelines to reflect technological advances and changes.

A.3 *Alternatives:* The Access Board established a Telecommunications and Electronic and Information Technology Advisory Committee to recommend changes to the existing standards and guidelines. The advisory committee was comprised a broad cross-section of stakeholders, including representatives from industry, disability groups, and government agencies from the U.S. the European Commission, Canada, Australia, and Japan. Recognizing the importance of standardization across markets worldwide, the advisory committee coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium (W3C). The Access Board published Advance Notices of Proposed Rulemaking (ANPRMs) in the **Federal Register** in 2010 and 2011 requesting public comments on draft updates to the standards and guidelines (75 FR 13457, March 22, 2010; and 76 FR 76640, December 8, 2011). The NPRM will be based on the advisory committee's report and public comments on the ANPRMs.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts, and has engaged extensive outreach efforts to standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium and to other countries, including the European Commission, Canada, Australia, and Japan.

A.4 *Anticipated Costs and Benefits:* The Access Board is working with a contractor to assess costs and benefits and prepare a preliminary regulatory impact assessment to accompany the NPRM.

B. Medical Diagnostic Equipment Accessibility Standards (RIN: 3014–AA40)

The Access Board plans to issue a final rule establishing accessibility standards for medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals. The standards will contain minimum technical criteria to ensure that medical diagnostic equipment, including examination tables, examination chairs, weight scales, mammography equipment, and other imaging equipment used by health care providers for diagnostic purposes are accessible to and usable by individuals with disabilities. The Access Board published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** in 2012, 77 FR 6916, February 9, 2012.

B.1 *Statement of Need:* A national survey of a diverse sample of individuals with a wide range of disabilities, including mobility and sensory disabilities, showed that the respondents had difficulty getting on and off on examination tables and chairs, radiology equipment and weight scales, and experienced problems with physical comfort, safety and communication. Focus group studies of individuals with disabilities also provided information on barriers that affect the accessibility and usability of various types of medical diagnostic equipment. The national survey and focus group studies are discussed in the NPRM.

B.2 *Summary of the Legal Basis:* Section 4203 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570) amended title V of the Rehabilitation Act, which establishes rights and protections for individuals with disabilities, by adding section 510 to the Rehabilitation Act (29 U.S.C. 794f) (Section 510). Section 510 requires the Access Board, in consultation with the Commissioner of the Food and Drug Administration (FDA), to develop standards that contain minimum technical criteria to ensure that medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals are accessible to and usable by individuals with disabilities.

Section 510 does not address who is required to comply with the standards. However, the Americans with Disabilities Act requires health care providers to provide individuals with disabilities full and equal access to their health care services and facilities. The U.S. Department of Justice (DOJ) is responsible for issuing regulations to implement the Americans with Disabilities Act and enforcing the law. The NPRM discusses DOJ activities related to health care providers and medical equipment.

B.3 *Alternatives:* The Access Board worked with the FDA and DOJ in developing the standards. The Access Board considered the Association for the Advancement of Medical Instrumentation's ANSI/AAMI HE 75:2009, ''Human factors engineering—Design of medical devices,'' which includes recommended practices to provide accessibility for individuals with disabilities. The Access Board also established a Medical Diagnostic Equipment Accessibility Standards Advisory Committee that included representatives from the disability community and manufacturers of medical diagnostic equipment to make recommendations on issues raised in public comments on and responses to questions in the NPRM. The final rule will be based on the public comments and recommendations of the advisory committee.

B.4 *Anticipated Costs and Benefits:* The Access Board is working with a contractor to assess costs and benefits and prepare a preliminary regulatory impact assessment to accompany the final rule. The standards would address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. The standards would facilitate independent transfers by individuals with disabilities onto and off of diagnostic equipment, and enable them to maintain their independence, confidence, and dignity, lessening the need for health care personnel to assist individuals with disabilities when transferring on and off of diagnostic equipment. The standards would improve the quality of health care for individuals with disabilities and ensure that they receive examinations, diagnostic procedures, and other health care services equal to those received by individuals without disabilities.

C. Pedestrian Facilities in the Public Right-of-Way Accessibility Guidelines (RIN: 3014–AA26)

The Access Board plans to issue a final rule establishing accessibility guidelines for the design, construction, and alteration of pedestrian facilities in the public right-of-way, including sidewalks, shared use paths, pedestrian street crossings, curb ramps and blended transitions, pedestrian overpasses and underpasses, pedestrian signals, signs, street furniture, transit stops and transit shelters, on-street parking spaces, and passenger loading zones. The Access Board published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** in 2011, 76 FR 44664, July 26, 2011.

C.1 *Statement of Need:* The Access Board has issued accessibility guidelines for the design, construction, and alteration of buildings and facilities covered by the Americans with Disabilities Act (ADA) and the Architectural Barriers Act (ABA) at 36 CFR part 1191. These guidelines were developed primarily for buildings and facilities on sites. Some of the provisions in these guidelines can be readily applied to pedestrian facilities in the public right-of-way such as curb ramps. However, other provisions need to be adapted or new provisions developed for pedestrian facilities that are built in the public right-of-way.

C.2 *Summary of the Legal Basis:* Section 502 (b) (3) of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 792 (b) (3), requires the Access Board to establish and maintain minimum guidelines for the standards issued by other agencies pursuant to the ADA and ABA. In addition, section 504 of the ADA, 42 U.S.C. 12204, required the Access Board to issue accessibility guidelines for buildings and facilities covered by that law.

C.3 *Alternatives:* The Access Board established a Public Rights-of-Way Access Advisory Committee to make recommendations for the guidelines. The advisory committee was comprised of a broad cross-section of stakeholders, including representatives for state and local government agencies responsible for constructing facilities in the public right-of-way, transportation engineers, disability groups, and bicycling and pedestrian organizations. The Access Board released a draft of the guidelines for public comment. The NPRM was based on the advisory committee report and public comments on the draft guidelines. The final rule will be based on the NPRM and public comments on the NPRM.

C.4 *Anticipated Costs and Benefits:* The Access Board identified three provisions in the NPRM that would have more than minimal impacts on state and local governments. The provisions would require detectable warning surfaces on newly constructed and altered curb ramps and blended transitions at pedestrian street crossings; accessible pedestrian signals and pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections; and pedestrian activated signals at roundabouts with multi-lane pedestrian crossings. Another provision would require a 2 percent maximum cross slope on pedestrian access routes within pedestrian street crossings with yield or stop control and would have more than minimal impacts on state and local governments that construct roadways with pedestrian crossings in hilly areas. The NPRM included questions requesting information to assess the costs and benefits of these provisions, as well as other provisions that may have cost impacts. The Access Board will prepare a regulatory impact assessment to accompany the final rule based on information provided in response to questions in the NPRM and other sources.

## ATBCB

*Proposed Rule Stage*

**120. Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards**

*Priority:* Other Significant.

*Legal Authority:* 47 U.S.C. 255(e); 29 U.S.C. 794(d)

*CFR Citation:* 36 CFR 1193; 36 CFR 1194.

*Legal Deadline:* None.

*Abstract:* This rulemaking would update in a single document the accessibility guidelines for telecommunication equipment and customer premises equipment issued in 1998 under section 255 of the Telecommunications Act of 1966, and

the accessibility standards for electronic and information technology issued in 2000 under section 508 of the Rehabilitation Act of 1973, as amended. Section 255 of the Telecommunications Act requires manufacturers of telecommunication equipment and customer premises equipment to ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable. Section 508 of the Rehabilitation Act requires Federal agencies to ensure that electronic and information technology developed, procured, maintained, or used by the agencies allows individuals with disabilities to have comparable access to and use of information and data as afforded others who are not individuals with disabilities, unless an undue burden would be imposed on the Federal agency. The Federal Communications Commission has issued regulations (47 CFR parts 6 and 7) implementing Section 255 of the Telecommunications Act that are consistent with the accessibility guidelines for telecommunication equipment and customer premises equipment. The Federal Acquisition Regulatory Council has incorporated the accessibility standards for electronic and information technology in the Federal Acquisition Regulation (48 CFR Chapter 1).

*Statement of Need:* The Access Board issued the Electronic and Information Technology Accessibility Standards in 2000 (65 FR 80500, December 21, 2000), and the Telecommunications Act Accessibility Guidelines for telecommunications equipment and customer premises equipment in 1998 (63 FR 5608, February 3, 1998). Since the standards and the guidelines were issued, technology has evolved and changed. Telecommunications products and electronic and information technology products have converged. For example, smartphones can perform many of the same functions as computers. Real time text technologies and video relay services are replacing TTY's (text telephones). The Access Board is updating the standards and guidelines together to address changes in technology and to make them consistent.

*Summary of Legal Basis:* Section 508 and Section 255 require the Access Board to develop accessibility standards for electronic and information technology and accessibility guidelines for telecommunications equipment and customer premises equipment, and to periodically review and update the standards and guidelines to reflect technological advances and changes.

*Alternatives:* The Access Board established a Telecommunications and Electronic and Information Technology Advisory Committee to recommend changes to the existing standards and guidelines. The advisory committee was comprised of a broad cross-section of stakeholders, including representatives from industry, disability groups, and government agencies from the U.S., the European Commission, Canada, Australia, and Japan. Recognizing the importance of standardization across markets worldwide, the advisory committee coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium (W3C). The Access Board published Advance Notices of Proposed Rulemaking (ANPRMs) in the **Federal Register** in 2010 and 2011 requesting public comments on draft updates to the standards and guidelines (75 FR 13457, March 22, 2010; and 76 FR 76640, December 8, 2011). The NPRM will be based on the advisory committee's report and public comments on the ANPRMs.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts, and has engaged extensive outreach efforts to standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium and to other countries, including the European Commission, Canada, Australia, and Japan.

*Anticipated Cost and Benefits:* The Access Board is working with a contractor to assess costs and benefits and prepare a preliminary regulatory impact assessment to accompany the NPRM.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Establishment of Advisory Committee. | 07/06/06 | 71 FR 38324 |
| ANPRM | 03/22/10 | 75 FR 13457 |
| ANPRM Comment Period End. | 06/21/10 | |
| ANPRM | 12/08/11 | 76 FR 76640 |
| ANPRM Comment Period End. | 03/07/12 | |
| NPRM | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Federal.

*URL for More Information:* *www.access-board.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Lisa Fairhall, Deputy General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004, *Phone:* 202 272–0046, *Fax:* 202 272–0081, *Email:* *fairhall@access-board.gov.*

*RIN:* 3014–AA37

## ATBCB

*Final Rule Stage*

### 121. Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 12204, Americans With Disabilities Act; 29 U.S.C. 792, Rehabilitation Act

*CFR Citation:* 36 CFR 1190.

*Legal Deadline:* None.

*Abstract:* This rulemaking would establish accessibility guidelines to ensure that sidewalks, pedestrian street crossings, pedestrian signals, and other facilities for pedestrian circulation and use constructed or altered in the public right-of-way by State or local governments are accessible to and usable by individuals with disabilities. The rulemaking in RIN 3014–AA41 that would establish accessibility guidelines for shared use paths that are designed for bicyclists and pedestrians and are used for transportation and recreation purposes is merged with this rulemaking. A second notice of proposed rulemaking (Second NPRM) proposed to add provisions for shared use paths to the accessibility guidelines for pedestrian facilities in the public right-of-way. The U.S. Department of Justice, U.S. Department of Transportation, and other Federal agencies are expected to adopt the accessibility guidelines for pedestrian facilities in the public right-of-way as enforceable standards in separate rulemakings for the construction and alteration of facilities covered by the Americans With Disabilities Act, section 504 of the Rehabilitation Act, and the Architectural Barriers Act.

*Statement of Need:* The Access Board has issued accessibility guidelines for the design, construction, and alteration of buildings and facilities covered by the Americans with Disabilities Act (ADA) and the Architectural Barriers Act (ABA) at 36 CFR part 1191. These guidelines were developed primarily for buildings and facilities on sites. Some of the provisions in these guidelines can be readily applied to pedestrian facilities in the public right-of-way such as curb ramps. However, other provisions need to be adapted or new provisions developed for pedestrian facilities that are built in the public right-of-way.

*Summary of Legal Basis:* Section 502 (b) (3) of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 792 (b) (3), requires the Access Board to establish and maintain minimum guidelines for the standards issued by other agencies pursuant to the ADA and ABA. In addition, section 504 of the ADA, 42 U.S.C. 12204, requires the Access Board to issue accessibility guidelines for buildings and facilities covered by the law.

*Alternatives:* The Access Board established a Public Rights-of-Way Access Advisory Committee to make recommendations for the guidelines. The advisory committee was comprised of a broad cross-section of stakeholders, including representatives for state and local government agencies responsible for constructing facilities in the public right-of-way, transportation engineers, disability groups, and bicycling and pedestrian organizations. The Access Board released a draft of the guidelines for public comment. The NPRM was based on the advisory committee report and public comments on the draft guidelines. The final rule will be based on the NPRM and public comments on the NPRM.

*Anticipated Cost and Benefits:* The Access Board identified three provisions in the NPRM that would have more than minimal impacts on state and local governments. The provisions would require detectable warning surfaces on newly constructed and altered curb ramps and blended transitions at pedestrian street crossings; accessible pedestrian signals and pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections; and pedestrian activated signals at roundabouts with multi-lane pedestrian crossings. Another provision would require a 2 percent maximum cross slope on pedestrian access routes within pedestrian street crossings with yield or stop control and would have more than minimal impacts on state and local governments that construct roadways with pedestrian crossings in hilly areas. The NPRM included questions requesting information to assess the costs and benefits of these provisions, as well as other provisions that may have cost impacts. The Access Board will prepare a regulatory impact assessment to accompany the final rule based on information provided in response to questions in the NPRM and other sources.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice of Intent to Form Advisory Committee. | 08/12/99 | 64 FR 43980 |
| Notice of Appointment of Advisory Committee Members. | 10/20/99 | 64 FR 56482 |
| Availability of Draft Guidelines. | 06/17/02 | 67 FR 41206 |
| Availability of Draft Guidelines. | 11/23/05 | 70 FR 70734 |
| NPRM | 07/26/11 | 76 FR 44664 |
| NPRM Comment Period End. | 11/23/11 | |
| Notice Reopening Comment Period. | 12/05/11 | 76 FR 75844 |
| NPRM Comment Period End. | 02/02/12 | |
| Second NPRM | 02/13/13 | 78 FR 10110 |
| Second NPRM Comment Period End. | 05/14/13 | |
| Final Action | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Governmental Jurisdictions.

*Government Levels Affected:* Local, State, Tribal.

*Federalism:* This action may have federalism implications as defined in EO 13132.

*URL for More Information:* *www.access-board.gov.*

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* James Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111, *Phone:* 202 272–0040, *TDD Phone:* 202 272–0062, *Fax:* 202 272–0081, *Email:* *raggio@access-board.gov.*

*Related RIN:* Merged with 3014–AA41.

*RIN:* 3014–AA26

## ATBCB

### 122. Accessibility Standards for Medical Diagnostic Equipment

*Priority:* Other Significant.

*Legal Authority:* 29 U.S.C. 794(f)

*CFR Citation:* 30 CFR 1197 (New).

*Legal Deadline:* Final, Statutory, March 22, 2012, 29 U.S.C. 794(f).

*Abstract:* This regulation will establish minimum technical criteria to ensure that medical equipment used for diagnostic purposes by health professionals in or in conjunction with physician's offices, clinics, emergency rooms, hospitals, and other medical settings is accessible to and usable by individuals with disabilities.

*Statement of Need:* A national survey of a diverse sample of individuals with a wide range of disabilities, including mobility and sensory disabilities, showed that the respondents had difficulty getting on and off on examination tables and chairs, radiology equipment and weight scales, and experienced problems with physical comfort, safety and communication. Focus group studies of individuals with disabilities also provided information on barriers that affect the accessibility and usability of various types of medical diagnostic equipment. The national survey and focus group studies are discussed in the NPRM.

*Summary of Legal Basis:* Section 4203 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570) amended title V of the Rehabilitation Act, which establishes rights and protections for individuals with disabilities, by adding section 510 to the Rehabilitation Act (29 U.S.C. 794f) (Section 510). Section 510 requires the Access Board, in consultation with the Commissioner of the Food and Drug Administration (FDA), to develop standards that contain minimum technical criteria to ensure that medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals are accessible to and usable by individuals with disabilities.

Section 510 does not address who is required to comply with the standards. However, the Americans with Disabilities Act requires health care providers to provide individuals with disabilities full and equal access to their health care services and facilities. The U.S. Department of Justice (DOJ) is responsible for issuing regulations to implement the Americans with Disabilities Act and enforcing the law. The NPRM discusses DOJ activities related to health care providers and medical equipment.

*Alternatives:* The Access Board worked with the FDA and DOJ in developing the standards. The Access Board considered the Association for the Advancement of Medical Instrumentation's ANSI/AAMI HE 75:2009, ''Human factors engineering-Design of medical devices,'' which includes recommended practices to provide accessibility for individuals with disabilities. The Access Board also established a Medical Diagnostic Equipment Accessibility Standards Advisory Committee that included representatives from the disability community and manufacturers of medical diagnostic equipment to make recommendations on issues raised in

public comments on and responses to questions in the NPRM. The final rule will be based on the public comments and recommendations of the advisory committee.

*Anticipated Cost and Benefits:* The Access Board is working with a contractor to assess costs and benefits and prepare a regulatory impact assessment to accompany the final rule. The standards would address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. The standards would facilitate independent transfers by individuals with disabilities onto and off of diagnostic equipment, and enable them to maintain their independence, confidence, and dignity, lessening the need for health care personnel to assist individuals with disabilities when transferring on and off of diagnostic equipment. The standards would improve the quality of health care for individuals with disabilities and ensure that they receive examinations, diagnostic procedures, and other health care services equal to those received by individuals without disabilities.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice of Public Information Meeting. | 06/22/10 | 75 FR 35439 |
| NPRM ..... | 02/09/12 | 77 FR 6916 |
| NPRM Comment Period End. | 06/08/12 | |
| Notice of Intent to Form Advisory Committee. | 03/13/12 | 77 FR 14706 |
| Notice Establishing Advisory Committee. | 07/05/12 | 77 FR 39653 |
| Final Action ..... | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*URL for More Information: www.access-board.gov.*

*URL for Public Comments: www.regulations.gov.*

*Agency Contact:* James Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111, *Phone:* 202 272–0040, *TDD Phone:* 202 272–0062, *Fax:* 202 272–0081, *Email: raggio@access-board.gov.*

*RIN:* 3014–AA40

**BILLING CODE 8150–01–P**

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

*Statement of Priorities*

Overview

For more than 40 years, the U.S. Environmental Protection Agency (EPA) has worked to protect people's health and the environment. By taking advantage of the best thinking, the newest technologies and the most cost-effective, sustainable solutions, EPA has fostered innovation and cleaned up pollution in the places where people live, work, play and learn.

With a renewed focus on the challenges ahead, science, law and transparency continue to guide EPA decisions. EPA will leverage resources with grant and incentive-based programs, sound scientific advice, technical and compliance assistance and tools that support states, tribes, cities, towns, rural communities and the private sector in their efforts to address our shared challenges, including:

- Making a visible difference in communities across the country;
- addressing climate change and improving air quality;
- taking action on toxics and chemical safety;
- protecting water: a precious, limited resource;
- launching a new era of state, tribal and local partnership; and
- working toward a sustainable future.

EPA and its federal, state, local, and community partners have made enormous progress in protecting the nation's health and environment. From reducing mercury and other toxic air pollution to doubling the fuel efficiency of our cars and trucks, the Agency is working to save lives and protect the environment. In addition, while removing a billion tons of pollution from the air, the Agency has produced hundreds of billions of dollars in benefits for the American people.

Highlights of EPA's Regulatory Plan

EPA's more than forty years of protecting human health and the environment demonstrates our nation's commitment to reducing pollution that can threaten the air we breathe, the water we use and the communities we live in. This Regulatory Plan contains information on some of our most important upcoming regulatory actions. As always, our Semiannual Regulatory Agenda contains information on a broader spectrum of EPA's upcoming regulatory actions.

Six Guiding Priorities

The EPA's success depends on supporting innovation and creativity in both what we do and how we do it. To guide the agency's efforts, the Agency has established several guiding priorities. These priorities are enumerated in the list that follows, along with recent progress and future objectives for each.

1. Making a Visible Difference in Communities Across the Country

*Enhance Agricultural Worker Protection.* Based on years of extensive stakeholder engagement and public meetings, EPA is developing a proposal to strengthen the existing agricultural worker protection regulation under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). The changes under consideration aim to improve pesticide safety training and agricultural workers' ability to protect themselves and their families from potential secondary exposure to pesticides and pesticide residues. The proposed revisions will address key environmental justice concerns for a population that may be disproportionately affected by pesticide exposure. Other changes under development are intended to bring hazard communication requirements more in line with Occupational Safety and Health Administration (OSHA) requirements, and seek to clarify current requirements to facilitate program implementation and enforcement.

*Environmental Justice in Rulemaking.* EPA will continue to focus attention on improving the environment in communities that have been adversely or disproportionately impacted by exposure to environmental hazards and pollution. EPA is supporting innovative and sustainable solutions, integrated with community development and private investments.

2. Addressing Climate Change and Improving Air Quality

The Agency will continue to deploy existing regulatory tools where appropriate and warranted. Addressing climate change calls for coordinated national and global efforts to reduce emissions and develop new technologies that can be deployed. Using the Clean Air Act, EPA will continue to develop greenhouse gas standards for both mobile and stationary sources.

*Greenhouse Gas Emission Standards for Power Plants.* In April of 2012, EPA proposed emission standards for reducing greenhouse gas emissions from new electric power plants. A

supplemental proposal was issued in September of this year. The proposed standards, if finalized, will establish achievable limits of carbon pollution per megawatt hour for all future units, moving the nation towards a cleaner and more efficient energy future. In 2014, EPA intends to propose standards of performance for greenhouse gas emissions from existing and modified power plant sources.

*Carbon Capture and Storage.* EPA proposed a rule to clarify the applicability of the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations to certain Carbon Capture and Storage (CCS) activities. The proposed rule, if finalized, will conditionally exclude $CO_2$ streams from RCRA hazardous waste requirements when injected into a Class VI Underground Injection Control (UIC) well and meeting certain other conditions. Specifically, the rule will work in conjunction with the Safe Drinking Water Act's Class VI Underground Injection Control Rule, which governs the geological sequestration of $CO_2$ streams by providing regulatory clarity for defining and managing these $CO_2$ streams, and help facilitate the deployment of CCS.

Since passage of the Clean Air Act Amendments in 1990, nationwide air quality has improved significantly for the six criteria air pollutants for which there are national ambient air quality standards, as well as many other hazardous air pollutants. Long-term exposure to air pollution can cause cancer and damage to the immune, neurological, reproductive, cardiovascular, and respiratory systems.

*Reviewing and Implementing Air Quality Standards.* Despite progress, millions of Americans still live in areas that exceed one or more of the national air pollution standards. This year's regulatory plan describes efforts to review the primary National Ambient Air Quality Standards (NAAQS) for lead.

*Tier 3 Vehicle and Fuel Standards.* In May of this year, EPA proposed vehicle emission and fuel standards to further reduce $NO_X$, PM, and other harmful air toxics. These standards will also help states to achieve air quality standards. EPA expects to publish a final rule establishing these standards in February of 2014.

*Cleaner Air From Improved Technology.* EPA continues to address hazardous air pollution under authority of the Clean Air Act Amendments of 1990. The centerpiece of this effort is the ''Maximum Achievable Control Technology'' (MACT) program, which requires that all major sources of a given type use emission controls that better reflect the current state of the art. In February of this year, EPA expects to propose a rule that will review existing MACT standards for Petroleum Refineries to reduce residual risk and assure that the standards reflect current technology.

3. Taking Action on Toxics and Chemical Safety

One of EPA's highest priorities is to make significant progress in assuring the safety of chemicals. Using sound science- as a compass, EPA protects individuals, families, and the environment from potential risks of pesticides and other chemicals. In its implementation of these programs, EPA uses several different statutory authorities, including the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Federal Food, Drug and Cosmetic Act (FFDCA), the Toxic Substances Control Act (TSCA) and the Pollution Prevention Act (PPA), as well as collaborative and voluntary activities. In FY 2014, the Agency will continue to satisfy its overall directives under these authorities, and highlights the following actions in this Regulatory Plan:

*EPA's Existing Chemicals Management Program Under TSCA.* As part of EPA's ongoing efforts to ensure the safety of chemicals, EPA plans to take a range of identified regulatory actions for certain chemicals and assess other chemicals to determine if risk reduction action is needed to address potential concerns.

*Addressing Formaldehyde Used in Composite Wood Products.* As directed by the Formaldehyde Standards for Composite Wood Products Act of 2010, EPA is developing final regulations to address formaldehyde emissions from hardwood plywood, particleboard and medium-density fiberboard that is sold, supplied, offered for sale, or manufactured in the United States.

*Improving Chemical Facility Safety and Security.* In addition to the actions noted in this Regulatory Plan, the Executive Order 13650 on Improving Chemical Facility Safety and Security directs federal agencies to work with stakeholders to improve chemical safety and security through agency programs, private sector initiatives, federal guidance, standards, and regulations. During the course of implementing this executive order, EPA, along with the Department of Homeland Security, including the National Protection and Programs Directorate, the Transportation Security Agency, and the United States Coast Guard; the Occupational Safety and Health Administration; the United States Department of Justice, Bureau of Alcohol, Tobacco, and Firearms; the United States Department of Agriculture; and the United States Department of Transportation, will assess whether its regulations should be modified or new regulations developed to improve upon chemical safety and security. EPA will initiate rulemaking if the assessment warrants it.

4. Protecting Water: A Precious, Limited Resource

Despite considerable progress, America's waters remain imperiled. Water quality protection programs face complex challenges, from nutrient loadings and stormwater runoff to invasive species and drinking water contaminants. These challenges demand both traditional and innovative strategies.

*Stormwater.* Urban stormwater is a leading source of impairment and a fast growing water quality concern. Over 60% of regulated municipal separate storm sewer systems (MS4s) discharge to impaired waters. Stormwater from newly developed areas is one of the nation's largest growing sources of water pollution. Approximately 800,000 acres are developed every year and projected to grow to over 1.0 million acres by 2040. Development increases the amount of impervious cover in the landscape and even small increases in impervious cover lead to big impacts in receiving waters. As more land is developed and new impervious surfaces are created, the volume, velocity, and pollutants contained in storm water increases.

EPA is considering a range of regulatory and non-regulatory options to reduce the pollutant loads delivered by storm water discharges to receiving waters and improve water quality and aquatic ecosystem integrity, and to protect water quality from certain currently unregulated storm water discharges. EPA plans to work closely with state and local governments in this effort and will consider innovative approaches to address these issues.

*Improving Water Quality.* The Environmental Protection Agency (EPA) plans to address challenging water quality issues in several rulemakings during fiscal year 2014.

*Cooling Water Intake Structures.* EPA plans to finalize standards for cooling water intakes for electric power plants and for manufacturers who use large amounts of cooling water. The goal of the final rule will be to protect aquatic organisms from being killed or injured through impingement or entrainment.

*Steam Electric Power Plants.* EPA will establish national technology-based

regulations, called effluent guidelines, to reduce discharges of pollutants from industries to waters of the U.S. and publicly owned treatment works. These requirements are incorporated into National Pollutant Discharge Elimination System discharge permits issued by EPA and states. The steam electric effluent guidelines apply to steam electric power plants using nuclear or fossil fuels, such as coal, oil and natural gas. Power plant discharges can have major impacts on water quality, including reduced organism abundance and species diversity, contamination of drinking water sources, and other health effects. Pollutants of concern include metals (e.g., mercury, arsenic and selenium), nutrients, and total dissolved solids.

*Definition of ''Waters of the United States'' Under the Clean Water Act.* After U.S. Supreme Court decisions in SWANCC and Rapanos, the scope of ''waters of the US'' protected under Clean Water Act (CWA) programs has been an issue of considerable debate and uncertainty. The Act does not distinguish among programs as to what constitutes ''waters of the United States.'' As a result, these decisions affect the geographic scope of all CWA programs. SWANCC and Rapanos did not invalidate the current regulatory definition of ''waters of the United States.'' However, the decisions established important considerations for how those regulations should be interpreted. Experience implementing the regulations following the two court cases has identified several areas that could benefit from additional clarification through rulemaking.

5. Launching a New Era of State, Tribal and Local Partnership

EPA's success depends more than ever on working with increasingly capable and environmentally conscious partners. States have demonstrated leadership on managing environmental challenges and EPA wants to build on and complement their work. EPA supports state and tribal capacity to ensure that programs are consistently delivered nationwide. This provides EPA and its intergovernmental partners with an opportunity to further strengthen their working relationship and, thereby, more effectively pursue their shared goal of protecting the nation's environmental and public health. The history and future of environmental protection will be built on this type of collaboration.

*New Native American Affairs Council.* By Executive Order, President Obama established the White House Council on Native American Affairs in 2013. The policy behind the formation of this council is to recognize the government–to-government relationship, as well as the unique legal and political relationship that exists between the federal government and tribes. Greater EPA engagement and consultation is critical to policies that advance tribal self-determination and prosperity.

6. Working Toward a Sustainable Future

*Allowing the Use of Electronic Manifests.* The e-Manifest Final rule will codify certain provisions of the ''Hazardous Waste Electronic Manifest Establishment Act,'' which direct EPA to adopt a regulation by October 5, 2013 that authorizes the use of electronic manifests to track hazardous waste shipments nationwide. The Act also instructs EPA to develop a user-fee funded e-Manifest system by October 2015. Pursuant to the Act, EPA will soon issue a regulation that will allow hazardous waste handlers to use electronic manifest documents to track hazardous waste from the time the waste leaves the generator facility where it was produced, until it reaches the off-site waste management facility that will store, treat, or dispose of the hazardous waste. EPA will issue a subsequent rulemaking that will establish the schedule of user fees for the system and announce the date on which the system will be implemented and available to users.

Once the e-Manifest regulation is adopted and the national e-Manifest system becomes available, hazardous waste handlers will be able to complete, sign, transmit, and store electronic manifests through the national IT system, or they can elect to continue tracking the hazardous waste under the paper manifest system. Further, waste handlers that currently submit manifests to the states will no longer be required to do so, as EPA will collect both the remaining paper manifest copies and electronic manifests in the national system, and will disseminate the manifest data to those states that want it. The adoption of e-Manifest will eliminate the current impediments to automation in the current manifest regulations, such as the requirements to physically carry paper forms with hazardous waste shipments; sign manifest copies ''by-hand;'' manually file copies; and mail copies to waste handlers and authorized states. EPA will clarify which electronic signature methods may be used when executing electronic manifests in the first generation of the national e-Manifest system, as well as to specify how issues of public access to manifest information will be addressed when manifest data are submitted and processed electronically.

The priorities described above will guide EPA's work in the years ahead. They are built around the challenges and opportunities inherent in our mission to protect health and the environment for all Americans. This mission is carried out by respecting EPA's core values of science, transparency and the rule of law. Within these parameters, EPA carefully considers the impacts its regulatory actions will have on society.

Retrospective Review of Existing Regulations

Just as today's economy is vastly different from that of 40 years before, EPA's regulatory program is evolving to recognize the progress that has already been made in environmental protection and to incorporate new technologies and approaches that allow us to accomplish our mission more efficiently and effectively.

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Agency's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan.* However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. EPA's final agency plan can be found at: *http://www.epa.gov/regdarrt/retrospective/*.

| Regulatory Identifier No. (RIN) | Rulemaking title |
|---|---|
| 2060–AQ86 | Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards. |
| 2060–AO60 | New Source Performance Standards (NSPS) Review under CAA–111(b)(1)(B). |
| 2060–AP06 | New Source Performance Standards for Grain Elevators—Amendments. |

| Regulatory Identifier No. (RIN) | Rulemaking title |
|---|---|
| 2070–AJ75 | Electronic Reporting under the Toxic Substances Control Act (TSCA). |
| 2040–AF15 | National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions. |
| 2040–AF16 | Water Quality Standards Regulatory Clarifications. |
| 2040–AF25 | National Pollutant Discharge Elimination System (NPDES) Application and Program Updates Rule. |
| 2040–AF29 | National Primary Drinking Water Regulations: Group Regulation of Carcinogenic Volatile Organic Compound (VOCs). |
| 2050–AG39 | Management Standards for Hazardous Waste Pharmaceuticals. |
| 2050–AG72 | Hazardous Waste Requirements for Retail Products; Clarifying and Making the Program More Effective. |
| 2050–AG20 | Hazardous Waste Manifest Revisions—Standards and Procedures for Electronic Manifests. |

Burden Reduction

As described above, EPA continues to review its existing regulations in an effort to achieve its mission in the most efficient means possible. To this end, the Agency is committed to identifying areas in its regulatory program where significant savings or quantifiable reductions in paperwork burdens might be achieved, as outlined in Executive Order 13610, while protecting public health and our environment.

*Rules Expected to Affect Small Entities*—By better coordinating small business activities, EPA aims to improve its technical assistance and outreach efforts, minimize burdens to small businesses in its regulations, and simplify small businesses' participation in its voluntary programs. Actions that may affect small entities can be tracked on EPA's Regulatory Development and Retrospective Review Tracker (*http://www.epa.gov/regdarrt/*) at any time. This Plan includes a number of rules that may be of particular interest to small entities:

| Regulatory Identifier No. (RIN) | Rulemaking title |
|---|---|
| 2060–AQ86 | Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards. |
| 2060–AQ91 | Standard of Performance for Greenhouse Gas Emissions from Modified Sources: Electric Utility Generating Units. |
| 2070–AJ92 | Formaldehyde Emission Standards for Composite Wood Products. |

International Regulatory Cooperation Activities

EPA has considered international regulatory cooperation activities as described in Executive Order 13609 and has identified two international activities that are anticipated to lead to significant regulations in the following year:

| Regulatory Identifier No. (RIN) | Rulemaking title |
|---|---|
| 2070–AJ44 | Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products. |
| 2070–AJ92 | Formaldehyde Emission Standards for Composite Wood Products. |

## EPA

*Proposed Rule Stage*

### 123. Review of the National Ambient Air Quality Standards for Lead

*Priority:* Other Significant. Major status under 5 U.S.C. 801 is undetermined.

*Legal Authority:* 42 U.S.C. 7408; 42 U.S.C. 7409

*CFR Citation:* 40 CFR 50.

*Legal Deadline:* None.

*Abstract:* Under the Clean Air Act Amendments of 1977, EPA is required to review and if appropriate, revise the air quality criteria for the primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) every 5 years. On November 12, 2008, EPA published a final rule to revise the primary and secondary NAAQS for lead to provide increased protection for public health and welfare. EPA has now initiated the next review. This new review includes the preparation of an Integrated Review Plan, an Integrated Science Assessment, and, if warranted, a Risk/Exposure Assessment, and also a Policy Assessment Document by EPA, with opportunities for review by EPA's Clean Air Scientific Advisory Committee and the public. These documents inform the Administrator's proposed decision as to whether to retain or revise the standards. This decision will be published in the **Federal Register** with opportunity provided for public comment. The Administrator's final decisions will take into consideration these documents and public comment on the proposed decision.

*Statement of Need:* Under the Clean Air Act Amendments of 1977, EPA is required to review and if appropriate revise the air quality criteria for the primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) every 5 years. In the last lead NAAQS review, EPA published a final rule on November 12, 2008, to revise the primary and secondary NAAQS for lead to provide increased protection for public health and welfare.

*Summary of Legal Basis:* Under the Clean Air Act Amendments of 1977, EPA is required to review and if appropriate revise the air quality criteria for the primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) every 5 years.

*Alternatives:* The main alternative for the Administrator's decision on the review of the national ambient air

quality standards for lead is whether to retain or revise the existing standards.

*Anticipated Cost and Benefits:* The Clean Air Act makes clear that the economic and technical feasibility of attaining standards are not to be considered in setting or revising the NAAQS, although such factors may be considered in the development of State plans to implement the standards. Accordingly, when the Agency proposes revisions to the standards, the Agency prepares cost and benefit information in order to provide States information that may be useful in considering different implementation strategies for meeting proposed or final standards. In those instances, cost and benefit information is generally included in the regulatory analysis accompanying the final rule.

*Risks:* As part of the review, EPA prepares an Integrated Review Plan, an Integrated Science Assessment, and, if warranted, a Risk/Exposure Assessment, and also a Policy Assessment Document, with opportunities for review by EPA's Clean Air Scientific Advisory Committee and the public. These documents inform the Administrator's proposed decision as to whether to retain or revise the standards. The proposed decision will be published in the **Federal Register** with opportunity provided for public comment. The Administrator's final decisions will take into consideration these documents and public comment on the proposed decision.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 07/00/14 | |
| Final Rule ..... | To Be Determined | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Undetermined.

*Additional Information:* Docket #: EPA–HQ–OAR–2010–0108.

*URL for More Information: http://www.epa.gov/ttn/naaqs/standards/pb/s_pb_index.html*

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*RIN:* 2060–AQ44

## EPA

### 124. Petroleum Refinery Sector Risk and Technology Review and NSPS

*Priority:* Other Significant. Major under 5 U.S.C. 801.

*Legal Authority:* Clean Air Act Sec 111 and 112

*CFR Citation:* 40 CFR 60; 40 CFR 63.

*Legal Deadline:* None.

*Abstract:* This action pertains to the Petroleum Refining industry and specifically to petroleum refinery sources that are subject to maximum achievable control technology (MACT) standards in 40 CFR part 63, subparts CC (Refinery MACT 1) and UUU (Refinery MACT 2) and new source performance standards (NSPS) in 40 CFR part 60, subpart Ja. This action is the Petroleum Refining Sector Rulemaking which will address our obligation to perform Risk and Technology Reviews (RTR) for Petroleum Refinery MACT 1 and 2 source categories and will address issues related to the reconsideration of Petroleum Refinery New Source Performance Standard (NSPS) subpart Ja. Petroleum refineries are facilities engaged in refining and producing products made from crude oil or unfinished petroleum derivatives. Emission sources include petroleum refinery-specific process units unique to the industry, such as fluid catalytic cracking units (FCCU) and catalytic reforming units (CRU), as well as units and processes commonly found at other types of manufacturing facilities (including petroleum refineries), such as storage vessels and wastewater treatment plants. Refinery MACT 1 regulates hazardous air pollutant (HAP) emissions from common processes such as miscellaneous process vents (e.g., delayed coking vents), storage vessels, wastewater, equipment leaks, loading racks, marine tank vessel loading, and heat exchange systems at petroleum refineries. Refinery MACT 2 regulates HAP from those processes that are unique to the industry including sulfur recovery units (SRU) and from catalyst regeneration in FCCU and CRU.

*Statement of Need:* The Clean Air Act (CAA) requires that existing air toxics standards undergo periodic review. In this action, EPA will conduct such a review for the Petroleum Refineries MACT standard, as well as addressing issues that have arisen regarding the Petroleum Refineries New Source Performance Standard.

*Summary of Legal Basis:* The periodic air-toxics-standard reviews are required by CAA section 112. New Source Performance Standards are issued under CAA section 111.

*Alternatives:* Not yet determined.

*Anticipated Cost and Benefits:* EPA is currently assessing the costs and benefits associated with this action.

*Risks:* EPA is currently assessing risks for this action.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/00/14 | |
| Final Rule ..... | 01/00/15 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Additional Information:* Docket #: EPA–HQ–OAR–2010–0682.

*Sectors Affected:* 324110 Petroleum Refineries.

*URL for More Information: http://www.epa.gov/ttn/atw/petrefine/petrefpg.html.*

*Agency Contact:* Brenda Shine, Environmental Protection Agency, Air and Radiation, E143–01, Research Triangle Park, NC 27711, *Phone:* 919 541–3608, *Fax:* 919 541–0246, *Email: shine.brenda@epamail.epa.gov.*

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*RIN:* 2060–AQ75

## EPA

### 125. Standards of Performance for Greenhouse Gas Emissions From New Stationary Sources: Electric Utility Generating Units

*Priority:* Other Significant.

*Legal Authority:* CAA 111

*CFR Citation:* 40 CFR 60.

*Legal Deadline:* None.

*Abstract:* This action will establish the first new source performance standards for greenhouse gas emissions. This rule will establish CO2 emission standards for certain new fossil fuel-fired electric generating units.

*Statement of Need:* EGU GHG NSPS is the first action item in President Obama's Climate Action Plan (CAP). The CAP called for EPA to issue a proposal by September 20, 2013, to regulate carbon emissions from fossil fuel-fired power plants.

*Summary of Legal Basis:* CO2 is a regulated pollutant and, thus, is subject to regulation under section 111 of the Clean Air Act as Amended in 1990.

*Alternatives:* None.

*Anticipated Cost and Benefits:* No costs and no quantified benefits.

*Risks:* The risk addressed is the current and future threat of climate change to public health and welfare, as demonstrated in the 2009 Endangerment and Cause or Contribute Findings for Greenhouse Gases Under section 202(a) of the Clean Air Act. The EPA made this determination based primarily upon the recent, major assessments by the U.S. Global Change Research Program (USGCRP), the National Research Council (NRC) of the National Academies, and the Intergovernmental Panel on Climate Change (IPCC).

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/13/12 | 77 FR 22392 |
| Second NPRM .... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Additional Information:* Docket #: EPA–HQ–OAR–2011–0660.

*Sectors Affected:* 221 Utilities.

*URL for Public Comments: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2011-0660-0001.*

*Agency Contact:* Christian Fellner, Environmental Protection Agency, Air and Radiation, D243–01, Research Triangle Park, NC 27711, *Phone:* 919 541–4003, *Fax:* 919 541–5450, *Email: fellner.christian@epa.gov.*

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*RIN:* 2060–AQ91

## EPA

### 126. Standards of Performance for Greenhouse Gas Emissions From Existing Sources: Electric Utility Generating Units

*Priority:* Other Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* Undetermined.

*Legal Authority:* CAA 111

*CFR Citation:* 40 CFR 60.

*Legal Deadline:* None.

*Abstract:* On June 25, 2013, President Obama issued a presidential memorandum directing the Environmental Protection Agency (EPA) to work expeditiously to complete greenhouse standards for the power sector. The agency is using its authority under section 111(d) of the Clean Air Act to issue emission guidelines, to address greenhouse gases (GHG) from existing power plants. The presidential memorandum specifically directs EPA to build on state leadership, provide flexibility and take advantage of a wide range of energy sources and technologies towards building a cleaner power sector. The presidential memorandum directs EPA to issue proposed GHG standards, regulations or guidelines, as appropriate, for existing power plants by no later than June 1, 2014, and issue final standards, regulations or guidelines, as appropriate, by no later than June 1, 2015. In addition, the presidential memorandum directs EPA to include in the guidelines addressing existing power plants a requirement that states submit to EPA the implementation plans required under section 111(d) of the Clean Air Act and its implementing regulations by no later than June 30, 2016.

*Statement of Need:* On December 7, 2009, the EPA found that current and projected concentrations of greenhouse gases (GHG) in the atmosphere threaten the public health and welfare of current and future generations. Electric generating units (EGUs) are the single biggest stationary source of greenhouse gases and account for well over a third of all greenhouse gas emissions in the United States. Recognizing that greenhouse gases pose a threat to the public health and welfare and that EGUs are one of the largest sources of GHG emissions, the EPA has begun taking regulatory steps to ensure reductions of GHG emissions from EGUs. The regulatory path that the EPA has embarked upon commits the agency to regulating emissions from, not just new EGUs, but also existing EGUs.

*Summary of Legal Basis:* EPA will use the Clean Air Act authority under section 111 (d) to set GHG guidelines for states to set GHG standards for existing EGU sources. The Clean Air Act (CAA) gives the Agency broad authority to set standards for emissions of ''air pollutants.'' GHGs have been determined by the U.S. Supreme Court to be ''air pollutants'' that are subject to regulation under the CAA. Because of this and the fact that GHGs are not currently regulated under either National Ambient Air Quality Standards or under the National Emission Standards for Hazardous Air Pollutants, EPA has the authority to address them under the NSPS program.

*Alternatives:* Not yet determined.

*Anticipated Cost and Benefits:* At this time we do not have any estimates regarding the benefits and costs of this action, but we do expect it to be a significant regulatory action with annual effects on the economy exceeding $100 million.

*Risks:* Not yet determined.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 06/00/14 | |
| Final Rule ..... | 06/00/15 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* State, Tribal.

*Federalism:* This action may have federalism implications as defined in EO 13132.

*Energy Effects:* Statement of Energy Effects planned as required by Executive Order 13211.

*Additional Information:* Docket #: EPA–HQ–OAR–2013–0602. Split from RIN 2060–AQ91.

*Agency Contact:* Sharon Nizich, Environmental Protection Agency, Air and Radiation, D243, Research Triangle Park, NC 27711, *Phone:* 919 541–2825, *Fax:* 919 541–5450, *Email: nizich.sharon@epamail.epa.gov.*

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*Related RIN:* Split from 2060–AQ91.

*RIN:* 2060–AR33

## EPA

### 127. • Standards of Performance for Greenhouse Gas Emissions From Modified Sources: Electric Utility Generating Units

*Priority:* Other Significant. Major status under 5 U.S.C. 801 is undetermined.

*Unfunded Mandates:* Undetermined.

*Legal Authority:* CAA 111

*CFR Citation:* 40 CFR 60.

*Legal Deadline:* None.

*Abstract:* This action will amend the electric generating units (EGU) New Source Performance Standards for modified sources for greenhouse gas (GHG) under Clean Air Act section 111(b).

*Statement of Need:* On December 7, 2009, the EPA found that current and projected concentrations of greenhouse gases (GHG) in the atmosphere threaten the public health and welfare of current and future generations. Electric generating units (EGUs) are the single biggest stationary source of greenhouse gases and account for well over a third of all greenhouse gas emissions in the United States. Recognizing that greenhouse gases pose a threat to the public health and welfare and that EGUs are one of the largest sources of GHG

emissions, the EPA has begun taking regulatory steps to ensure reductions of GHG emissions from EGUs. The regulatory path that the EPA has embarked upon commits the agency to regulating emissions from, not just new EGUs, but also existing EGUs (including those that are modified).

*Summary of Legal Basis:* EPA will use the Clean Air Act authority under section 111 (b) to set GHG standards for modified EGU sources. The Clean Air Act (CAA) gives the Agency broad authority to set standards for emissions of ''air pollutants.'' GHGs have been determined by the U.S. Supreme Court to be ''air pollutants'' that are subject to regulation under the CAA. Because of this and the fact that GHGs are not currently regulated under either National Ambient Air Quality Standards or under the National Emission Standards for Hazardous Air Pollutants, EPA has the authority to address them under the New Source Performance Standards (NSPS) program.

*Alternatives:* Not yet determined.

*Anticipated Cost and Benefits:* At this time we do not have any estimates regarding the benefits and costs of this action, but we do expect it to be a significant regulatory action with annual effects on the economy exceeding $100 million.

*Risks:* Not yet determined.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 06/00/14 | |
| Final Rule ..... | 06/00/15 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Federal, State, Tribal.

*Energy Effects:* Statement of Energy Effects planned as required by Executive Order 13211.

*Additional Information:* Docket #: EPA–HQ–OAR–2013–0603. Split from RIN 2060–AQ91.

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*Related RIN:* Related to 2060–AQ91, Related to 2060–AR33.

*RIN:* 2060–AR88

## EPA

### 128. Pesticides; Agricultural Worker Protection Standard Revisions

*Priority:* Other Significant.
*Legal Authority:* 7 U.S.C. 136w
*CFR Citation:* 40 CFR 170.
*Legal Deadline:* None.
*Abstract:* EPA is developing a proposal under the Federal Insecticide, Fungicide and Rodenticide Act to revise the federal regulations that direct agricultural worker protection (40 CFR 170). The changes under consideration are intended to improve agricultural workers' ability to protect themselves from potential exposure to pesticides and pesticide residues and to protect their families from potential secondary exposures to pesticides and pesticide residues. EPA is also considering adjustments to improve and clarify current requirements to facilitate compliance; to align the WPS' hazard communication requirements with Occupational Safety and Health Administration (OSHA) requirements; and to improve pesticide safety training, with improved worker safety the intended outcome. This proposal is in response to EPA discussions with key stakeholders beginning in 1996. Since then, EPA has held numerous public meetings throughout the country during which the public submitted written and verbal comments on issues and concerns with the existing requirements.

*Statement of Need:* The agricultural workforce may be exposed to pesticides and pesticide residues that have the potential to pose long- and short-term health risks. In addition, families may potentially be exposed through secondary exposure to pesticide residues. These direct and indirect exposures have the potential to pose long- and short-term health risks. Implementing the Worker Protection Standards (WPS) is a key part of EPA's strategy for reducing occupational exposures to agricultural pesticides. The WPS is designed to protect employees on farms, forests, nurseries, and greenhouses from occupational exposures to agricultural pesticides; and offers protections to approximately 2.5 million agricultural workers (people involved in the production of agricultural plants) and pesticide handlers (people who mix, load, or apply pesticides) that work at over 600,000 agricultural establishments.

Although EPA has taken a number of steps to ensure effective national implementation of and compliance with the WPS regulation, the need to consider potential changes to the WPS arose from EPA discussions with key stakeholders beginning in 1996. Since that time, EPA has held several public meetings throughout the country during which written and verbal comments identified issues and concerns with the existing requirements.

*Summary of Legal Basis:* EPA establishes standards for protecting agricultural workers from potential exposure to pesticides and pesticide residues under the authority of sections 2 through 35 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136–136y, and particularly section 25(a), 7 U.S.C. 136w(a).

*Alternatives:* In implementing the existing WPS, EPA has addressed identified deficiencies in the existing regulation through non-regulatory means whenever possible. For example, the Agency has developed improved training materials that are sector-specific and in multiple languages; improved capacity for outreach; a train-the-trainer program; health care practitioner (HCP) curricula to train HCPs on pesticide exposure identification and treatment; and a bilingual manual for HCPs to use in identifying pesticide poisonings. The Agency also provides financial support for pesticide safety training.

Changes under consideration for the WPS regulation are necessary improvements but will not replace these non-regulatory measures. In fact, EPA intends to consider continued support for and potential additions to these and other potential non-regulatory measures that may contribute to improving protections and compliance.

*Anticipated Cost and Benefits:* EPA is currently evaluating the incremental costs and benefits of the changes under consideration and will present the EPA estimates in the proposed rule.

In general, EPA anticipates that the potential incremental benefits will likely accrue to workers and handlers through improved health outcomes, and that the potential incremental costs will involve revised requirements for agricultural employers.

*Risks:* Agricultural workers and pesticide handlers are at risk from pesticide exposure through their work activities, and may put their families at risk of secondary exposures. These exposures can pose significant long- and short-term health risks that are difficult to quantify in terms of a specific level of risk because workers and handlers are potentially exposed to a wide range of pesticides with varying toxicities and risks.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal, Local, State, Tribal.

*Additional Information:* Docket #: EPA–HQ–OPP–2005–0561. *http://epa.gov/sbrefa/worker-protection-standards.html.*

*Sectors Affected:* 111 Crop Production; 541690 Other Scientific and Technical Consulting Services; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 541712 Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology); 8133 Social Advocacy Organizations; 115 Support Activities for Agriculture and Forestry.

*URL for More Information: http://www.epa.gov/pesticides/health/worker.htm.*

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*RIN:* 2070–AJ22

## EPA

### 129. Definition of ''Waters of the United States'' Under the Clean Water Act

*Priority:* Other Significant.

*Unfunded Mandates:* Undetermined.

*Legal Authority:* 33 U.S.C. 1251

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* After U.S. Supreme Court decisions in SWANCC and Rapanos, the scope of ''waters of the US'' protected under all CWA programs has been an issue of considerable debate and uncertainty. The Act has a single definition for ''waters of the United States.'' As a result, these decisions affect the geographic scope of all CWA programs. SWANCC and Rapanos did not invalidate the current regulatory definition of ''waters of the United States.'' However, the decisions established important considerations for how those regulations should be interpreted, and experience implementing the regulations has identified several areas that could benefit from additional clarification through rulemaking. U.S. EPA and the U.S. Army Corps of Engineers are developing a proposed rule for determining whether a water is protected by the Clean Water Act. This rule would make clear which waterbodies are protected under the Clean Water Act.

*Statement of Need:* After U.S. Supreme Court decisions in SWANCC and Rapanos, the scope of ''waters of the US'' protected under all CWA programs has been an issue of considerable debate and uncertainty. The Act has a single definition for ''waters of the United States.'' As a result, these decisions affect the geographic scope of all CWA programs. SWANCC and Rapanos did not invalidate the current regulatory definition of ''waters of the United States.'' However, the decisions established important considerations for how those regulations should be interpreted, and experience implementing the regulations has identified several areas that could benefit from additional clarification through rulemaking. EPA and the U.S. Army Corps of Engineers are developing a proposed rule for determining whether a water is protected by the Clean Water Act. This rule would clarify which water bodies are protected under the Clean Water Act.

*Summary of Legal Basis:* To be determined.

*Alternatives:* To be determined.

*Anticipated Cost and Benefits:* To be determined.

*Risks:* To be determined.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

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*RIN:* 2040–AF30

## EPA

*Final Rule Stage*

### 130. Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* This action may affect the private sector under Pub. L. 104–4.

*Legal Authority:* Clean Air Act Sec 202(a); Clean Air Act Sec 202(k); Clean Air Act Sec 211(c)

*CFR Citation:* 40 CFR 80; 40 CFR 86; 40 CFR 85; 40 CFR 600; 40 CFR 1036; 40 CFR 1037; 40 CFR 1065; 40 CFR 1066.

*Legal Deadline:* None.

*Abstract:* This action would establish more stringent vehicle emissions standards and reduce the sulfur content of gasoline as part of a systems approach to addressing the impacts of motor vehicles and fuels on air quality and public health. The rule would result in significant reductions in pollutants such as ozone, particulate matter, and air toxics across the country and help state and local agencies in their efforts to attain and maintain health-based National Ambient Air Quality Standards (NAAQS). These proposed vehicle standards are intended to harmonize with California's Low Emission Vehicle program, thus creating a federal vehicle emissions program that would allow automakers to sell the same vehicles in all 50 states. The vehicle standards would also coordinate with the light-duty vehicle greenhouse gas standards for model years 2017–2025, creating a nationwide alignment of vehicle programs for criteria pollutant and greenhouse gases.

*Statement of Need:* States are working to attain National Ambient Air Quality Standards for ozone, PM and $NO_X$. Light-duty vehicles are responsible for a significant portion of the precursors to these pollutants and are large contributors to ambient air toxic pollution. In many nonattainment areas, by 2014, cars and light trucks are projected to contribute 30 to 45 percent of total nitrogen oxides ($NO_X$) emissions, 20 to 25 percent of total volatile organic compound (VOC) emissions, and 5 to 10 percent of total direct particulate matter ($PM_{2.5}$) emissions. Importantly, without future controls, by 2020 mobile sources are expected to be as much as 50 percent of the inventories of these pollutants for some individual urban areas. EPA has estimated that light-duty vehicles will contribute about half of the 2030 mobile source inventory of air toxics emissions

from all mobile sources. The most recent National-Scale Air Toxics Assessment showed that, in 2005, mobile sources were responsible for over 50 percent of the cancer risk and noncancer hazard.

*Summary of Legal Basis:* The Clean Air Act section 202(a) provides EPA with general authority to prescribe vehicle standards, subject to any specific limitations elsewhere in the Act. In addition, section 202(k) provides EPA with authority to issue and revise regulations applicable to evaporative emissions of hydrocarbons from all gasoline-fueled motor vehicles. EPA is also using its authority under section 211(c) of the Clean Air Act to address gasoline sulfur controls.

*Alternatives:* The rulemaking proposal discussed regulatory alternatives that were considered in addition to the Agency's primary proposal.

*Anticipated Cost and Benefits:* EPA estimates that the proposed program would cost about a penny per gallon of gasoline, and about $130 per vehicle. The annual cost of the overall program in 2030 would be approximately $3.4 billion; however, EPA estimates that in 2030 the annual monetized health benefits of the proposed Tier 3 standards would be between $8 and $23 billion.

*Risks:* Approximately 158 million people currently live in counties designated nonattainment for one or more of the NAAQS, and this figure does not include the people living in areas with a risk of exceeding the NAAQS in the future. These people experience unhealthy levels of air pollution, which are linked with respiratory and cardiovascular problems and other adverse health impacts that lead to increased medication use, hospital admissions, emergency department visits, and premature mortality. The reductions in ambient ozone and $PM_{2.5}$ that would result from the proposed Tier 3 standards would provide significant health benefits. In addition, more than 50 million people live, work, or go to school in close proximity to high-traffic roadways, and the average American spends more than one hour traveling along roads each day. Exposure to traffic-related pollutants has been linked with adverse health impacts such as respiratory problems (particularly in asthmatic children) and cardiovascular problems. The Tier 3 standards would reduce criteria pollutant and air toxic emissions from cars and light trucks, which continue to be a significant contributor to air pollution directly near roads.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/21/13 | 78 FR 29815 |
| NPRM Comment Period Extended. | 05/29/13 | 78 FR 32223 |
| Final Rule | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Additional Information:* Docket #: EPA–HQ–OAR–2011–0135.

*Sectors Affected:* 11 Agriculture, Forestry, Fishing and Hunting; 811198 All Other Automotive Repair and Maintenance; 325199 All Other Basic Organic Chemical Manufacturing; 336111 Automobile Manufacturing; 811112 Automotive Exhaust System Repair; 336311 Carburetor, Piston, Piston Ring, and Valve Manufacturing; 325193 Ethyl Alcohol Manufacturing; 493130 Farm Product Warehousing and Storage; 336312 Gasoline Engine and Engine Parts Manufacturing; 811111 General Automotive Repair; 336120 Heavy Duty Truck Manufacturing; 336112 Light Truck and Utility Vehicle Manufacturing; 336211 Motor Vehicle Body Manufacturing; 335312 Motor and Generator Manufacturing; 211112 Natural Gas Liquid Extraction; 424690 Other Chemical and Allied Products Merchant Wholesalers; 333618 Other Engine Equipment Manufacturing; 325110 Petrochemical Manufacturing; 424710 Petroleum Bulk Stations and Terminals; 324110 Petroleum Refineries; 486910 Pipeline Transportation of Refined Petroleum Products.

*URL for More Information: http://www.epa.gov/otaq/tier3.htm.*

*URL for Public Comments:http://www.regulations.gov/#!docketDetail;D=EPA-HQ-OAR-2011-0135.*

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*RIN:* 2060–AQ86

## EPA

### 131. Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirement

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 7409; 42 U.S.C. 7410; 42 U.S.C. 7511 to 7511f; 42 U.S.C. 7601(a)(1)

*CFR Citation:* 40 CFR 50; 40 CFR 51; 40 CFR 70; 40 CFR 71.

*Legal Deadline:* None.

*Abstract:* This final rule will address a range of implementation requirements for the 2008 National Ambient Air Quality Standards (NAAQS) for ozone, including requirements pertaining to attainment demonstrations, reasonable further progress, reasonably available control technology, reasonably available control measures, nonattainment new source review, emission inventories, and the timing of State Implementation Plan submissions and compliance. Other issues also addressed in this final rule are the revocation of the 1997 ozone NAAQS for purposes other than transportation conformity; anti-backsliding requirements that would apply when the 1997 NAAQS are revoked; and routes to terminate the section 185 fee program.

*Statement of Need:* This rule is needed to establish requirements for what states must include in their state implementation plans (SIPs) to bring nonattainment areas into compliance with the 2008 ozone NAAQS. There is no court-ordered deadline for this final rule. However, the CAA requires the nonattainment area plans addressed by this rule to be developed and submitted by states within 2 to 3 years after the July 20, 2012 date of nonattainment designations.

*Summary of Legal Basis:* CAA Section 110.

*Alternatives:* The proposed rule included several alternatives for meeting implementation requirements, including but not limited to options for SIP submittal dates, NOx substitution for VOC in RFP SIPs, alternative baseline years for RFP and alternatives for addressing anti-backsliding requirements once the 1997 ozone NAAQS has been revoked. Additionally the EPA is solicited comments on a number of topics, including alternative approaches to achieving RFP, RACT flexibility and alternate revocation dates for the 1997 ozone NAAQS.

*Anticipated Cost and Benefits:* The annual burden for this information collection averaged over the first 3 years is estimated to be a total of 120,000 labor hours per year at an annual labor cost of $2.4 million (present value) over the 3-year period or approximately $91,000 per State for the 26 State respondents, including the District of Columbia. The average annual reporting burden is 690 hours per response, with approximately 2 responses per State for 58 State respondents. There are no

capital or operating and maintenance costs associated with the proposed rule requirements. Burden is defined at 5 CFR 1320.3(b).

*Risks:* Ozone concentrations that exceed the National Ambient Air Quality Standards (NAAQS) to can cause adverse public health and welfare effects, as discussed in the March 27, 2008 Final Rule for NAAQS for Ozone (73 FR 16436).

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 06/06/13 | 78 FR 34177 |
| NPRM Comment Period Extended. | 07/24/13 | 78 FR 44485 |
| Final Rule ..... | 05/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal, Local, State, Tribal.

*Additional Information:* Docket #: EPA–HQ–OAR–2010–0885.

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*RIN:* 2060–AR34

## EPA

### 132. Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products

*Priority:* Other Significant.

*Legal Authority:* 15 U.S.C. 2697; TSCA section 601

*CFR Citation:* 40 CFR 770.

*Legal Deadline:* Final, Statutory, January 1, 2013, Deadline for promulgation of regulations, per 15 U.S.C. 2697(d).

*Abstract:* On July 7, 2010, the Formaldehyde Standards for Composite Wood Products Act was enacted as Title VI of Toxic Substances Control Act (TSCA), 15 U.S.C. 2697, to establish specific formaldehyde emission limits for hardwood plywood, particleboard, and medium-density fiberboard, which are identical to the California emission limits for these products. On June 10, 2013, EPA issued a proposed rule under TSCA Title VI to establish a framework for a TSCA Title VI Third-Party Certification Program whereby third-party certifiers (TPCs) are accredited by accreditation bodies (ABs) so that they may certify composite wood product panel producers under TSCA Title VI. The proposed rule identifies the roles and responsibilities of the groups involved in the TPC process (EPA, ABs, and TPCs), as well as the criteria for participation in the program. This proposal contains general requirements for TPCs, such as conducting and verifying formaldehyde emission tests, inspecting and auditing panel producers, and ensuring that panel producers' quality assurance and quality control procedures comply with the regulations set forth in the proposed rule. A separate Regulatory Agenda entry (RIN 2070–AJ92) covers the other proposed regulation to implement the statutory formaldehyde emission standards for hardwood plywood, medium-density fiberboard, and particleboard sold, supplied, offered for sale, or manufactured (including imported) in the United States.

*Statement of Need:* Formaldehyde is a colorless, flammable gas at room temperature that has a strong odor. It is found in resins used in the manufacture of composite wood products (i.e., hardwood plywood, particleboard and medium-density fiberboard). It is also found in household products such as glues, permanent press fabrics, carpets, antiseptics, medicines, cosmetics, dishwashing liquids, fabric softeners, shoe care agents, lacquers, plastics and paper product coatings. It is a by-product of combustion and certain other natural processes. Examples of sources of formaldehyde gas inside homes include cigarette smoke, unvented, fuel-burning appliances (gas stoves, kerosene space heaters), and composite wood products made using formaldehyde-based resins.

*Summary of Legal Basis:* The Formaldehyde Standards for Composite Wood Products Act, which created Title VI of the Toxic Substances Control Act (TSCA), established formaldehyde emission standards for composite wood products (hardwood plywood, medium-density fiberboard (MDF), and particleboard) sold, supplied, offered for sale or manufactured in the United States. Under TSCA Title VI, manufacturers of composite wood products must comply with specific formaldehyde emission standards, and their compliance must be verified by a third-party certifier (TPC). TSCA Title VI requires EPA to promulgate implementing regulations by January 1, 2013.

*Alternatives:* TSCA Title VI establishes national formaldehyde emission limits for hardwood plywood, particleboard, and medium-density fiberboard and EPA has not been given the authority to change the limits. However, EPA will evaluate various implementation alternatives during the course of this rulemaking.

*Anticipated Cost and Benefits:* EPA prepared an analysis of the potential impacts associated with the proposed rulemaking. This analysis is summarized in greater detail in Unit VI.A. of the preamble for the proposed rule, and is briefly summarized here.

*Costs:* EPA estimates the annualized costs of this proposed rule to be approximately $34,000 per year using either a 3% discount rate or a 7% discount rate.

*Small Entity Impacts:* This rule would impact an estimated 9 small entities, of which 8 are expected to have impacts of less than 1% of revenues or expenses, and 1 is expected to have impacts between 1% and 3%.

Effects on State, Local, and Tribal Governments: Government entities are not expected to be subject to the rule's requirements, which apply to third-party certifiers and accreditation bodies. The rule does not have a significant intergovernmental mandate, significant or unique effect on small governments, or have Federalism implications.

*Risks:* Formaldehyde is both an irritant and a known human carcinogen. Depending on concentration, formaldehyde can cause eye, nose, and throat irritation, even when exposure is of relatively short duration. In the indoor environment, sensory reactions and various symptoms as a result of mucous membrane irritation are some potential effects from exposure. There is also evidence that formaldehyde may be associated with changes in pulmonary function and respiratory related effects. In addition, formaldehyde is a by-product of human metabolism; therefore, endogenous levels are present in the body.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 12/03/08 | 73 FR 73620 |
| Second ANPRM .. | 01/30/09 | 74 FR 5632 |
| NPRM ..... | 06/10/13 | 78 FR 34795 |
| NPRM Comment Period End With Extension. | 09/25/13 | 78 FR 44090 |
| Final Rule ..... | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*International Impacts:* This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

*Additional Information:* Docket #: ANPRM stage: EPA–HQ–OPPT–2008–0627; NPRM stage: EPA–HQ–OPPT–2011–0380.

*Sectors Affected:* 541611 Administrative Management and General Management Consulting Services; 541990 All Other Professional, Scientific, and Technical Services; 561990 All Other Support Services; 813910 Business Associations; 541330 Engineering Services; 813920 Professional Organizations; 321219 Reconstituted Wood Product Manufacturing; 541380 Testing Laboratories; 3212 Veneer, Plywood, and Engineered Wood Product Manufacturing.

*URL for More Information: http://www.epa.gov/opptintr/chemtest/formaldehyde/index.html.*

*URL for Public Comments: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPPT-2011-0380-0001.*

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*RIN:* 2070–AJ44

## EPA

### 133. Formaldehyde Emissions Standards for Composite Wood Products

*Priority:* Other Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* This action may affect the private sector under Pub. L. 104–4.

*Legal Authority:* 15 U.S.C. 2697; TSCA section 601

*CFR Citation:* 40 CFR 770.

*Legal Deadline:* Final, Statutory, January 1, 2013, Statutory Deadline.

*Abstract:* On July 7, 2010, the Formaldehyde Standards for Composite Wood Products Act was enacted as Title VI of Toxic Substances Control Act (TSCA), 15 U.S.C. 2697, and requires that EPA promulgate implementing regulations to establish specific formaldehyde emission limits for hardwood plywood, particleboard, and medium-density fiberboard, which limits are identical to the California emission limits for these products. On June 10, 2013, EPA proposed regulations to implement emissions standards established by TSCA Title VI for composite wood products sold, supplied, offered for sale, or manufactured in the United States. Pursuant to TSCA section 3(7), the definition of ''manufacture'' includes import. As required by Title VI, these regulations apply to hardwood plywood, medium-density fiberboard, and particleboard. TSCA Title VI also directs EPA to promulgate supplementary provisions to ensure compliance with the emissions standards, including provisions related to labeling; chain of custody requirements; sell-through provisions; ULEF resins; no-added formaldehyde-based resins; finished goods; third-party testing and certification; auditing and reporting of third-party certifiers; recordkeeping; enforcement; laminated products; and exceptions from the requirements of regulations promulgated pursuant to this subsection for products and components containing de minimis amounts of composite wood products. A separate Regulatory Agenda entry (RIN 2070–AJ44) addresses requirements for accrediting bodies and third-party certifiers.

*Statement of Need:* Formaldehyde is a colorless, flammable gas at room temperature that has a strong odor. It is found in resins used in the manufacture of composite wood products (i.e., hardwood plywood, particleboard and medium-density fiberboard). It is also found in household products such as glues, permanent press fabrics, carpets, antiseptics, medicines, cosmetics, dishwashing liquids, fabric softeners, shoe care agents, lacquers, plastics and paper product coatings. It is a by-product of combustion and certain other natural processes. Examples of sources of formaldehyde gas inside homes include cigarette smoke, unvented, fuel-burning appliances (gas stoves, kerosene space heaters), and composite wood products made using formaldehyde-based resins.

*Summary of Legal Basis:* The Formaldehyde Standards for Composite Wood Products Act, which created Title VI of the Toxic Substances Control Act (TSCA), established formaldehyde emission standards for composite wood products (hardwood plywood, medium-density fiberboard (MDF), and particleboard) sold, supplied, offered for sale or manufactured in the United States. Under TSCA Title VI, manufacturers of composite wood products must comply with specific formaldehyde emission standards, and their compliance must be verified by a third-party certifier (TPC).

In addition, Congress directed EPA to consider a number of elements for inclusion in implementing the regulations. These elements include: labeling, chain of custody requirements, sell-through provisions, ultra low-emitting formaldehyde resins, no added formaldehyde-based resins, finished goods, third-party testing and certification, auditing and reporting of TPCs, recordkeeping, enforcement, laminated products, and exceptions from the requirements of regulations promulgated for products and components containing de minimis amounts of composite wood products.

TSCA Title VI requires EPA to promulgate implementing regulations by January 1, 2013.

*Alternatives:* TSCA Title VI establishes national formaldehyde emission limits for hardwood plywood, particleboard, and medium-density fiberboard and EPA has not been given the authority to change the limits. However, the notice of proposed rulemaking addresses the alternatives considered by EPA for the implementation of the statutory emission limits for various provisions of the rule. Most of these alternatives would have applied to both small and large entities but, given the number of small entities in the affected industries, some of these alternatives could affect many small entities. EPA made a concerted effort to keep the costs and burdens associated with this rule as low as possible while still ensuring compliance with the TSCA Title VI emissions standards. In developing the proposed rule, EPA considered the statutory requirements and the benefits from protection of human health and the environment, as well as the compliance costs imposed by the rule, both in general and on small entities. EPA took a number of steps to reduce the economic impacts of the rule where doing so was consistent with the statutory mandate.

*Anticipated Cost and Benefits:* EPA prepared an analysis of the potential impacts associated with the proposed rulemaking. This analysis is summarized in greater detail in Unit V.A. of the preamble for the proposed rule, and is briefly summarized here.

*Benefits:* This proposed rule will reduce exposures to formaldehyde, resulting in benefits from avoided adverse health effects. For the subset of health effects where the results were quantified, the estimated annualized benefits (due to avoided incidence of eye irritation and nasopharyngeal

cancer) are $20 million to $48 million per year using a 3% discount rate, and $9 million to $23 million per year using a 7% discount rate. There are additional unquantified benefits due to other avoided health effects.

*Costs:* The monetized costs of this proposed rule are estimated at $72 million to $81 million per year using a 3% discount rate, and $80 million to $89 million per year using a 7% discount rate.

*Small Entity Impacts:* This proposed rule is estimated to impact nearly 879,000 small businesses: Over 851,000 have costs impacts less than 1% of revenues, over 23,000 firms have impacts between 1% and 3%, and over 4,000 firms have impacts greater than 3% of revenues. Most firms with impacts over 1% have annualized costs of less than $250 per year.

Effects on State, Local, and Tribal Governments: Government entities are not expected to be subject to the proposed requirements, which apply to entities that manufacture, fabricate, distribute, or sell composite wood products. The proposed rule does not have a significant intergovernmental mandate, significant or unique effect on small governments, or have Federalism implications.

*Environmental Justice and Protection of Children:* This proposed rule is expected to increase the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population or children.

*Risks:* Formaldehyde is both an irritant and a known human carcinogen. Depending on concentration, formaldehyde can cause eye, nose, and throat irritation, even when exposure is of relatively short duration. In the indoor environment, sensory reactions and various symptoms as a result of mucous membrane irritation are some potential effects from exposure. There is also evidence that formaldehyde may be associated with changes in pulmonary function and respiratory related effects. In addition, formaldehyde is a by-product of human metabolism; therefore, endogenous levels are present in the body.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 06/10/13 | 78 FR 34820 |
| NPRM Comment Period End With Extension. | 10/09/13 | 78 FR 44089 |
| Final Rule ..... | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*International Impacts:* This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

*Additional Information:* Docket #: EPA–HQ–OPPT–2012–0018. Split from RIN 2070–AJ44.

*Sectors Affected:* 325199 All Other Basic Organic Chemical Manufacturing; 423110 Automobile and Other Motor Vehicle Merchant Wholesalers; 337212 Custom Architectural Woodwork and Millwork Manufacturing; 321213 Engineered Wood Member (except Truss) Manufacturing; 423210 Furniture Merchant Wholesalers; 442110 Furniture Stores; 444130 Hardware Stores; 321211 Hardwood Veneer and Plywood Manufacturing; 444110 Home Centers; 337127 Institutional Furniture Manufacturing; 423310 Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers; 453930 Manufactured (Mobile) Home Dealers; 321991 Manufactured Home (Mobile Home) Manufacturing; 336213 Motor Home Manufacturing; 337122 Nonupholstered Wood Household Furniture Manufacturing; 444190 Other Building Material Dealers; 423390 Other Construction Material Merchant Wholesalers; 325211 Plastics Material and Resin Manufacturing; 321992 Prefabricated Wood Building Manufacturing; 321219 Reconstituted Wood Product Manufacturing; 441210 Recreational Vehicle Dealers; 337215 Showcase, Partition, Shelving, and Locker Manufacturing; 321212 Softwood Veneer and Plywood Manufacturing; 336214 Travel Trailer and Camper Manufacturing; 337121 Upholstered Household Furniture Manufacturing; 337110 Wood Kitchen Cabinet and Countertop Manufacturing; 337211 Wood Office Furniture Manufacturing; 337129 Wood Television, Radio, and Sewing Machine Cabinet Manufacturing

*URL for More Information: http://www.epa.gov/opptintr/chemtest/formaldehyde/index.html.*

*URL for Public Comments: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPPT-2012-0018-0001.*

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*RIN:* 2070–AJ92

## EPA

### 134. Hazardous Waste Manifest Revisions—Standards and Procedures for Electronic Manifests

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 6922; 42 U.S.C. 6923; 42 U.S.C. 6924; 42 U.S.C. 6926; Pub. L. 105–277

*CFR Citation:* 40 CFR 260; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 271.

*Legal Deadline:* Final, Statutory, October 5, 2013, The Hazardous Waste Electronic Manifest Establishment Act of 2012 requires the EPA to authorize the use of e-manifests by October 5, 2013.

*Abstract:* The ''Hazardous Waste Electronic Manifest Establishment Act,'' signed into law by the President on October 5, 2012, established the authority for an electronic manifest program, including the development of a system collection of user fees and the establishment of an advisory group. The Act requires that the EPA issue regulations by October 5, 2013 that authorize the use of electronic manifests in lieu of the current manifest form (i.e., EPA Form 8700–22 and 8700–22A). There are between 4.6 to 5.6 million manifests processed each year, including manifests for State-defined hazardous wastes. Pursuant to the Act, this action is aimed at finalizing the development of EPA's Resource Conservation and Recovery Act (RCRA) regulatory standards and procedures that will govern the initiation, signing, transmittal, and retention of hazardous waste manifests using electronic documents and systems. EPA proposed electronic manifest standards in May 2001 as part of a more general manifest revision action that also addressed standardizing the paper manifest form's data elements and procedures (EPA Form 8700–22). The May 2001 electronic manifest proposed rule was a standards-based decentralized approach under which EPA would establish and maintain the standards that would guide the development of electronic manifest systems by private sector entities that chose to participate in the system. Since the proposal, the Agency has (1) continued its engagement with affected industry, States, and the general public to solicit input on the development of a nationwide e-manifest system, and (2) published an e-manifest approach in an

April 18, 2006, Notice of Data Availability. EPA envisions that an e-manifest system will facilitate the electronic transmittal of manifests throughout the hazardous waste shipping process, including enabling better transparency by sharing data with the public at appropriate stages. This rule does not address the collection of fees, which will be dealt with in a subsequent rulemaking.

*Statement of Need:* Federal and State laws for the current paper-based manifest system require hazardous waste handlers (i.e., generators, transporter, and treatment, storage, and disposal facilities) to track hazardous waste shipments from cradle-to-grave using the uniform hazardous waste manifest form (EPA Form 8700–22). Currently, hazardous waste handlers prepare between 4.6 to 5.6 million manifests annually. The current paper-based manifest system is inefficient and waste handlers incur substantial costs to comply with the current requirements to complete, carry, sign, file, and mail paper manifest copies. EPA has been exploring ways to reduce burden for hazardous waste handlers by transitioning from a paper-based reporting system to an electronic reporting system. This is consistent with EO 13563's directive to reduce regulatory burden. This action also codifies new statutory provisions contained in the ''Hazardous Waste Electronic Manifest Establishment Act,'' which directs EPA to issue a regulation that authorizes use of electronic manifests for tracking hazardous wastes.''

*Summary of Legal Basis:* The President signed the ''Hazardous Waste Electronic Manifest Establishment Act'' into law on October 5, 2012. The Act amended RCRA to direct the EPA Administrator to establish a hazardous waste electronic manifest system. Section 2(g)(1)(A) of the Act directs EPA to promulgate final regulations, after consultation with the Secretary of Transportation, authorizing the use of electronic manifests within one year of enactment (i.e., by October 5, 2013). Section 2(b) directs the Agency to establish an e-Manifest system that may be used by any user within three years from the date of enactment of the Act (i.e., by October 5, 2015). This action simply codifies several of the provisions of the e-Manifest Act and authorizes the use of the electronic manifests that will be available when the information technology (IT) system is developed and operational.

*Alternatives:* EPA has explored various electronic manifest approaches for tracking hazardous wastes. In May 2001, EPA proposed a standards-based decentralized approach under which EPA would establish and maintain the standards that would guide the development of electronic manifest systems by private sector entities that chose to participate in the system. In May 2004, EPA held a two-day public meeting to solicit input and preferences from stakeholders and other interested persons on the development and implementation of the e-Manifest. Based on comments to the 2001 proposed rule and input received from stakeholders at the public meeting, EPA published a follow-up notice in April 2006, which announced and requested comment on EPA's preferred approach for electronically completing and transmitting manifests through a national, centralized web-based IT system.

*Anticipated Cost and Benefits:* This action does not establish a system for the collection of electronic manifests, nor does it compel industry or State stakeholders now using the paper manifest system to change their behavior and thus incur costs or benefits. This action simply establishes the legal and policy framework for the national e-Manifest system and by itself will not result in any tangible costs, benefits, or other impacts to the regulated community or the Government at this time. The e-Manifest option will only become available when EPA develops and implements this new electronic system and establishes a program of fees to be imposed upon users of the e-manifest system. A subsequent rulemaking will establish the schedule of user fees for the system and announce the date on which the e-Manifest will be implemented and available to users. While this action does not quantify the economic benefits for an e-Manifest system, EPA expects that the non-economic benefits will be significant as the system will provide (1) much improved data quality from the manifest creation and editing aids that will be available in an electronic system; (2) greater inspection and oversight efficiencies for regulators who can access manifests more readily with electronic search aids; (3) greater transparency for and empowerment of communities with more accurate information about completed waste shipments and management trends; and (4) the efficiencies of consolidating duplicative Federal and State waste data reporting requirements with one-stop reporting.

*Risks:* This action does not address any particular risks in EPA's jurisdiction as it does not change existing requirements for manifesting hazardous waste shipments. It merely authorizes the use of electronic manifests at such time as the system to receive them is built and operational.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/22/01 | 66 FR 28240 |
| Notice | 04/01/04 | 69 FR 17145 |
| Notice | 04/18/06 | 71 FR 19842 |
| Notice | 02/26/08 | 73 FR 10204 |
| Final Rule | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal, Local, State, Tribal.

*Additional Information:* Docket #: EPA–HQ–RCRA–2001–0032.

*Sectors Affected:* 325 Chemical Manufacturing; 2211 Electric Power Generation, Transmission and Distribution; 332 Fabricated Metal Product Manufacturing; 2122 Metal Ore Mining; 2111 Oil and Gas Extraction; 326 Plastics and Rubber Products Manufacturing; 331 Primary Metal Manufacturing; 323 Printing and Related Support Activities; 3221 Pulp, Paper, and Paperboard Mills; 482 Rail Transportation; 484 Truck Transportation; 5621 Waste Collection; 5622 Waste Treatment and Disposal; 483 Water Transportation.

*URL for More Information: www.epa.gov/epaoswer/hazwaste/gener/manifest/.*

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*RIN:* 2050–AG20

## EPA

### 135. Criteria and Standards for Cooling Water Intake Structures

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* This action may affect the private sector under Pub. L. 104–4.

*Legal Authority:* CWA 101; CWA 301; CWA 304; CWA 308; CWA 316; CWA 401; CWA 402; CWA 501; CWA 510

*CFR Citation:* 40 CFR 122; 40 CFR 125.

*Legal Deadline:* NPRM, Judicial, March 28, 2011, NPRM: 3/28/2011—

Settlement Agreement—As per 14 day extension granted 3/10 (or 4 days if no CR). Riverkeeper v. EPA, 06–12987, SDNY (signed 11/22/2010).

Final, Judicial, January 14, 2014, Settlement Agreement.

*Abstract:* Section 316(b) of the Clean Water Act (CWA) requires EPA to ensure that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available (BTA) for minimizing adverse environmental impacts. Under a consent decree with environmental organizations, EPA divided the 316(b) rulemaking into three phases. All new facilities except offshore oil and gas exploration facilities were addressed in Phase I in December 2001. In July, 2004, EPA promulgated Phase II which covered large existing electric generating plants. In July 2007, EPA suspended the Phase II rule following the Second Circuit decision. Several parties petitioned the U.S. Supreme Court to review that decision, and the Supreme Court granted the petitions, limited to the issue of whether the Clean Water Act authorized EPA to consider the relationship of costs and benefits in establishing 316(b) standards. On April 1, 2009, the Supreme Court reversed and remanded the case to the Second Circuit. The Second Circuit subsequently granted a request from EPA that the case be returned to the Agency for further consideration. In June 2006, EPA promulgated the Phase III regulation, covering existing electric generating plants using less than 50 MGD of cooling water, new offshore oil and gas facilities, and all existing manufacturing facilities. Petitions to review this rule were filed in the U.S. Court of Appeals for the Fifth Circuit. In July 2010, the U.S. Court of Appeals for the Fifth Circuit issued a decision upholding EPA's rule for new offshore oil and gas extraction facilities. The court also granted the request of EPA and environmental petitioners to remand the existing facility portion of the rule to the Agency. EPA entered a settlement agreement with the plaintiffs in two lawsuits related to Section 316(b) rulemakings. Under the settlement agreement EPA agreed to sign a notice of a proposed rulemaking implementing section 316(b) of the CWA at existing facilities no later than March 28, 2011 and to sign a notice taking final action on the proposed rule no later than November 4, 2013 as discussed below. Plaintiffs agreed to seek dismissal of both their suits, subject to a request to reopen one of the lawsuits in the event EPA failed to meet the deadlines. EPA's proposed regulation includes uniform controls at all existing facilities to prevent fish from being trapped against screens (impingement), site-specific controls for existing facilities other than new units to prevent fish from being drawn through cooling systems (entrainment), and uniform controls equivalent to closed cycle cooling for new units at existing facilities (entrainment). Other regulatory options analyzed included similar uniform impingement controls, and progressively more stringent requirements for entrainment controls. Another option considered would imposed the uniform impingement controls only for facilities withdrawing 50 or more MGD of cooling water, with site-specific impingement controls for facilities withdrawing less than 50 MGD. EPA issued two Notices of Data Availability in June 2012 that described measures to provide additional flexibility that EPA is considering as part of the impingement mortality standard and that described the preliminary results of surveys of households' willingness to pay for incremental reductions in fish mortality. In light of the Supreme Court 2009 decision and its recognition that EPA has broad discretion in its 316(b) regulations, EPA initiated consultation with the Fish and Wildlife Service and the National Marine Fisheries Service under Section 7 of the Endangered Species Act. EPA and the Services began informal consultation in 2012, but concluded in 2013 that formal consultation was necessary. In order to accommodate the regulatory 135-day time frame for formal consultation, plaintiffs agreed to a modification to the settlement agreement, extending final rule deadline to November 4, 2013.

*Statement of Need:* Cooling water is withdrawn for the purpose of dissipating waste heat from industrial processes. Over half of all water withdrawn in the United States each year is for cooling purposes. The withdrawal of cooling water removes and kills hundreds of billions of aquatic organisms from waters of the United States each year, including plankton, fish, crustaceans, shellfish, sea turtles, and marine mammals. In addition to direct loss of organisms, a number of indirect, ecosystem-level effects may also occur, and environmental degradation can result from the cumulative impacts. The long life of the capital equipment in industries withdrawing cooling water implies that these adverse environmental impacts could continue for decades. Private decision making at facilities that use cooling water may not take society's preferences for fish protection into account. The beneficiaries of fish protection at cooling water intakes include fisherman, and citizens interested in well-functioning and healthy aquatic ecosystems. In addition, deregulation in the electric industry has made it more difficult for merchant power producers to both remain competitive and pass along to consumers costs associated with fish protection, putting them at a disadvantage to rate-regulated electric utilities that are vertically integrated.

*Summary of Legal Basis:* The Clean Water Act requires EPA to establish best technology available standards to minimize adverse environmental impacts from cooling water intake structures. On February 16, 2004, EPA took final action on regulations governing cooling water intake structures at certain existing power producing facilities under section 316(b) of the Clean Water Act (Phase II rule). 69 FR 41576 (July 9, 2004). These regulations were challenged, and the Second Circuit remanded several provisions of the Phase II rule on various grounds. Riverkeeper, Inc. v. EPA, 475F.3d83, (2d Cir., 2007). EPA suspended most of the rule in response to the remand. 72 FR 37107 (July 9, 2007). The remand of Phase III does not change permitting requirements for these facilities. Until the new rule is issued, permit directors continue to issue permits on a case-by-case, Best Professional Judgment basis for existing facilities.

*Alternatives:* This analysis will cover various sizes and types of potentially regulated facilities and control technologies. EPA is considering whether to regulate on a national basis, by subcategory, by broad water body category, or some other basis.

*Anticipated Cost and Benefits:* The technologies under consideration in this rulemaking are similar to the technologies considered for the original Phase II and Phase III rules, and costs have been updated to 2009. The annual social costs associated with EPA's proposed regulation are $384 million, plus an additional $15 million in costs associated with the new units provision. The annual social costs of the other options ranged from $327 million to $4.63 billion. EPA monetized only a portion of the expected annual benefits of the rule, amounting to $18 million. The monetized benefits for the other options ranged from $17 million to $126 million. EPA also conducted a stated preference survey to provide a more comprehensive estimate of the monetized benefits and expects to have

the Science Advisory Board review this study.

*Risks:* Cooling water intake structures may pose significant risks for aquatic ecosystems.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 04/20/11 | 76 FR 22174 |
| NPRM Comment Period Extended. | 07/20/11 | 76 FR 43230 |
| Notice | 06/11/12 | 77 FR 34315 |
| Notice | 06/12/12 | 77 FR 34927 |
| Final Rule | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal, Local, State.

*Additional Information:* Docket #: EPA–HQ–OW–2008–0667.

*Sectors Affected:* 336412 Aircraft Engine and Engine Parts Manufacturing; 332999 All Other Miscellaneous Fabricated Metal Product Manufacturing; 321999 All Other Miscellaneous Wood Product Manufacturing; 324199 All Other Petroleum and Coal Products Manufacturing; 326299 All Other Rubber Product Manufacturing; 331521 Aluminum Die-Casting Foundries; 331524 Aluminum Foundries (except Die-Casting); 331315 Aluminum Sheet, Plate, and Foil Manufacturing; 311313 Beet Sugar Manufacturing; 313210 Broadwoven Fabric Mills; 311312 Cane Sugar Refining; 327310 Cement Manufacturing; 611310 Colleges, Universities, and Professional Schools; 333120 Construction Machinery Manufacturing; 333922 Conveyor and Conveying Equipment Manufacturing; 331525 Copper Foundries (except Die-Casting); 339914 Costume Jewelry and Novelty Manufacturing; 211111 Crude Petroleum and Natural Gas Extraction; 321912 Cut Stock, Resawing Lumber, and Planing; 332211 Cutlery and Flatware (except Precious) Manufacturing; 312140 Distilleries; 221121 Electric Bulk Power Transmission and Control; 221122 Electric Power Distribution; 331112 Electrometallurgical Ferroalloy Product Manufacturing; 313320 Fabric Coating Mills; 333111 Farm Machinery and Equipment Manufacturing; 311225 Fats and Oils Refining and Blending; 221112 Fossil Fuel Electric Power Generation; 332212 Hand and Edge Tool Manufacturing; 332510 Hardware Manufacturing; 221111 Hydroelectric Power Generation; 212210 Iron Ore Mining; 331111 Iron and Steel Mills; 221210 Natural Gas Distribution; 211112 Natural Gas Liquid Extraction; 221113 Nuclear Electric Power Generation; 332323 Ornamental and Architectural Metal Work Manufacturing; 221119 Other Electric Power Generation; 332618 Other Fabricated Wire Product Manufacturing; 332439 Other Metal Container Manufacturing; 332919 Other Metal Valve and Pipe Fitting Manufacturing; 321918 Other Millwork (including Flooring); 312229 Other Tobacco Product Manufacturing; 333923 Overhead Traveling Crane, Hoist, and Monorail System Manufacturing; 322130 Paperboard Mills; 324110 Petroleum Refineries; 325992 Photographic Film, Paper, Plate, and Chemical Manufacturing; 333315 Photographic and Photocopying Equipment Manufacturing; 212391 Potash, Soda, and Borate Mineral Mining; 332117 Powder Metallurgy Part Manufacturing; 331312 Primary Aluminum Production; 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum); 333911 Pump and Pumping Equipment Manufacturing; 336510 Railroad Rolling Stock Manufacturing; 321219 Reconstituted Wood Product Manufacturing; 326192 Resilient Floor Covering Manufacturing; 331221 Rolled Steel Shape Manufacturing; 322291 Sanitary Paper Product Manufacturing; 321113 Sawmills; 331492 Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum); 337215 Showcase, Partition, Shelving, and Locker Manufacturing; 321212 Softwood Veneer and Plywood Manufacturing; 311222 Soybean Processing; 221330 Steam and Air-Conditioning Supply; 331222 Steel Wire Drawing; 111991 Sugar Beet Farming; 111930 Sugarcane Farming; 311311 Sugarcane Mills; 326211 Tire Manufacturing (except Retreading); 312210 Tobacco Stemming and Redrying; 311221 Wet Corn Milling.

*URL for More Information: http://water.epa.gov/lawsregs/lawsguidance/cwa/316b/index.cfm.*

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*RIN:* 2040–AE95

## EPA

### 136. Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category

*Priority:* Economically Significant. Major under 5 U.S.C. 801.

*Unfunded Mandates:* Undetermined.

*Legal Authority:* 33 U.S.C. 1311; 33 U.S.C. 1314; 33 U.S.C. 1316; 33 U.S.C. 1317; 33 U.S.C. 1318; 33 U.S.C. 1342; 33 U.S.C. 1361

*CFR Citation:* 40 CFR 423 (revision).

*Legal Deadline:* NPRM, Judicial, April 19, 2013, Consent Decree.

Final, Judicial, May 22, 2014, 5/22/2014—Consent Decree deadline for Final Action—Defenders of Wildlife v. Jackson, 10–1915, D.D.C.

*Abstract:* EPA establishes national technology-based regulations, called effluent limitations guidelines and standards, to reduce discharges of pollutants from industries to waters of the U.S. These requirements are incorporated into National Pollutant Discharge Elimination System (NPDES) discharge permits issued by EPA and States and through the national petreatment program. The steam electric effluent limitations guidelines and standards apply to steam electric power plants using nuclear or fossil fuels, such as coal, oil and natural gas. There are about 1,200 nuclear- and fossil-fueled steam electric power plants nationwide; approximately 500 of these power plants are coal-fired. In a study completed in 2009, EPA found that the current regulations, which were last updated in 1982, do not adequately address the pollutants being discharged and have not kept pace with changes that have occurred in the electric power industry over the last three decades. The rulemaking may address discharges associated with coal ash waste and flue gas desulfurization (FGD) air pollution controls, as well as other power plant waste streams. Power plant discharges can have major impacts on water quality, including reduced organism abundance and species diversity, contamination of drinking water sources, and other effects. Pollutants of concern include metals (e.g., mercury, arsenic and selenium), nutrients, and total dissolved solids. The proposed rule was published in the **Federal Register** on June 17, 2013 (''Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category,'' 78 **Federal Register** 110 (7 June 2013), pp. 34432–pp. 34543).

*Statement of Need:* Steam electric power plants contribute over half of all toxic pollutants discharged to surface

waters by all industrial categories currently regulated in the United States under the Clean Water Act. For example, steam electric plants annually discharge:

- 64,400 lb. of lead
- 2,820 lb. of mercury
- 79,200 lb. of arsenic
- 225,000 lb. of selenium
- 1,970,000 lb. of aluminum
- 4,990,000 lb. of zinc
- 30,000,000 lb. of nitrogen
- 682,000 lb. of phosphorus
- 14,500,000 lb. of manganese
- 158,000 lb. of vanadium; and
- 27 other pollutants.

Discharges of these toxic pollutants are linked to cancer, neurological damage, and ecological damage. Many of these toxic pollutants, once in the environment, remain there for years. These pollutant discharges contribute to:

- Over 160 water bodies not meeting State quality standards
- 185 waters for which there are fish consumption advisories; and
- degradation of 399 water bodies across the country that are drinking water supplies.

The revised steam electric rule would strengthen the existing controls on discharges from these plants. It would set the first Federal limits on the levels of toxic metals in wastewater that can be discharged from power plants, based on technology improvements in the industry over the last three decades.

*Summary of Legal Basis:*, Section 301(b)(2) of the Clean Water Act requires EPA to promulgate effluent limitations for categories of point sources, using technology-based standards that govern the sources' discharge of certain pollutants. 33 U.S.C. Section 1311(b). Section 304(b) of the Act directs EPA to develop effluent limitations guidelines (ELGs) that identify certain technologies and control measures available to achieve effluent reductions for each point source category, specifying factors to be taken into account in identifying those technologies and control measures. 33 U.S.C. Section 1314(b). Since the 1970s, EPA has formulated effluent limitations and ELGs in tandem through a single administrative process. Am. Frozen Food Inst. v. Train, 539 F.2d 107 (D.C. Cir. 1976). The CWA also requires EPA to perform an annual review of existing ELGs and to revise them, if appropriate. 33 U.S.C. Section 1314(b); see also 33 U.S.C. Section 1314(m)(1)(A). EPA originally established effluent limitations and guidelines for the steam electric generating industry in 1974 and last updated them in 1982. 47 Fed. Reg. 52,290 (Nov. 19, 1982). As described above, EPA determined the existing regulations do not adequately address the pollutants being discharged and that revisions are appropriate.

*Alternatives:*, Due to the widespread discharge of pollutants in steam electric discharges, EPA has not identified alternatives to regulation.

*Anticipated Cost and Benefits:*, EPA recently proposed revisions to the steam electric rule and identified a range of preferred regulatory options. EPA's estimates of the annual social costs of the steam electric rule range from $185 million to $954 million with associated annual pollutant discharge reductions of 470 million to 2.62 billion pounds and water use reductions of 50 billion to 103 billion gallons. EPA's estimate of the monetized benefits, which only includes a portion of the benefits, range from $139 million to $483 million.

*Risks:* Effluent limitations guidelines and standards are technology based discharge requirements. As such, EPA has not assessed risk associated with this action. However, as detailed in the Statement of Need, toxic pollutant discharges from steam electric plants are linked to cancer, neurological damage, and ecological damage.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 06/07/13 | 78 FR 34431 |
| NPRM Comment Period Extended. | 07/12/13 | 78 FR 41907 |
| Final Rule | 05/00/14 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Federalism:* This action may have federalism implications as defined in EO 13132.

*Additional Information:* Docket #: EPA–HQ–OW–2009–0819.

*Sectors Affected:* 22111 Electric Power Generation; 221112 Fossil Fuel Electric Power Generation; 221113 Nuclear Electric Power Generation.

*URL for More Information: http://water.epa.gov/scitech/wastetech/guide/steam_index.cfm.*

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*RIN:* 2040–AF14

BILLING CODE 6560–50–P

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

*Statement of Regulatory and Deregulatory Priorities*

The mission of the Equal Employment Opportunity Commission (EEOC, Commission, or Agency) is to ensure equality of opportunity in employment by vigorously enforcing and educating the public about the following Federal statutes: Title VII of the Civil Rights Act of 1964, as amended (prohibits employment discrimination on the basis of race, color, sex (including pregnancy), religion, or national origin); the Equal Pay Act of 1963, as amended (makes it illegal to pay unequal wages to men and women performing substantially equal work under similar working conditions at the same establishment); the Age Discrimination in Employment Act of 1967, as amended (prohibits employment discrimination based on age of 40 or older); titles I and V of the Americans with Disabilities Act, as amended, and sections 501 and 505 of the Rehabilitation Act, as amended (prohibit employment discrimination based on disability); title II of the Genetic Information Nondiscrimination Act (prohibits employment discrimination based on genetic information and limits acquisition and disclosure of genetic information); and section 304 of the Government Employee Rights Act of 1991 (protects certain previously exempt State & local government employees from employment discrimination on the basis of race, color, religion, sex, national origin, age, or disability).

The first three items in this Regulatory Plan are the three items currently under review pursuant to the EEOC's Plan for Retrospective Analysis of Existing Rules in compliance with Executive Order 13563: (1) ''Revisions to Procedures for Complaints or Charges of Employment Discrimination Based on Disability Subject to the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973,'' (2) ''revisions to Procedures for Complaints/Charges of Employment Discrimination Based on Disability Filed Against Employers Holding Government Contracts or Subcontracts,'' and (3) ''revisions to Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance.'' These are the joint regulations that EEOC has with the Department of Justice and the Department of Labor (DOL) (29 CFR parts 1640, 1641 and 1691) which provide for coordinated charge/complaint handling procedures. The

EEOC plans to propose to amend and revise these regulations so that, where appropriate, they conform to each other and to EEOC's recently revised Memorandum of Understanding with DOL's Office of Federal Contract Compliance Programs. The resulting revisions are expected to make the Agency's regulatory program more effective and will not impose any regulatory costs on employers or complainants/charging parties. They instead will provide a net benefit to stakeholders and the Agencies by creating consistency between these coordination regulations.

The fourth item in this Regulatory Plan is entitled ''Revisions to the Federal Sector's Affirmative Employment Obligations of Individuals with Disabilities Under Section 501, as amended.'' This revision pertains to the Federal Government's affirmative employment obligations pursuant to section 501 of the Rehabilitation Act, as reflected in 29 CFR part 1614. The EEOC plans to develop a notice of proposed rulemaking to seek comment on revisions to the current rule at 29 CFR 1614.203 which would reflect a more detailed explanation of how Federal agencies and departments should give full consideration to the hiring, placement, and advancement of qualified individuals with disabilities. Any revisions would be informed by Management Directive 715, and may include goals consistent with Executive Order 13548. Furthermore, any revisions would result in costs only to the Federal Government; would contribute to increasing the employment of individuals with disabilities; and would not affect risks to public health, safety, or the environment.

Consistent with section 4(c) of Executive Order 12866, this statement was reviewed and approved by the Chair of the Agency. The statement has not been reviewed or approved by the other members of the Commission.

*Retrospective Review of Existing Regulations*

Pursuant to section 6 of Executive Order 13563, ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the EEOC's final retrospective review of regulations plan. Some of the entries on this list may be completed actions, which do not appear in The Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov (*http://reginfo.gov/*) in the Completed Actions section. These rulemakings can also be found on Regulations.gov (*http://regulations.gov*). The EEOC's final Plan for Retrospective Analysis of Existing Rules can be found at: *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm.*

| RIN | Title | Effect on small business |
|---|---|---|
| 3046–AA91 | REVISIONS TO PROCEDURES FOR COMPLAINTS OR CHARGES OF EMPLOYMENT DISCRIMINATION BASED ON DISABILITY SUBJECT TO THE AMERICANS WITH DISABILITIES ACT AND SECTION 504 OF THE REHABILITATION ACT OF 1973. | This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient. |
| 3046–AA92 | REVISIONS TO PROCEDURES FOR COMPLAINTS/CHARGES OF EMPLOYMENT DISCRIMINATION BASED ON DISABILITY FILED AGAINST EMPLOYERS HOLDING GOVERNMENT CONTRACTS OR SUBCONTRACTS. | This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient. |
| 3046–AA93 | REVISIONS TO PROCEDURES FOR COMPLAINTS OF EMPLOYMENT DISCRIMINATION FILED AGAINST RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE. | This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient. |

## EEOC

*Proposed Rule Stage*

### 137. Revisions to Procedures for Complaints or Charges of Employment Discrimination Based on Disability Subject to the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973

*Priority:* Other Significant.

*Legal Authority:* 5 U.S.C. 301; 29 U.S.C. 794(d); 42 U.S.C. 12117(b); EO 12067

*CFR Citation:* 29 CFR 1640.

*Legal Deadline:* None.

*Abstract:* The EEOC has a joint regulation with the Department of Justice (DOJ) to explain how Federal agencies that provide financial assistance should process disability-based employment discrimination complaints/charges against entities subject to both title I of the Americans with Disabilities Act, as amended (ADA) (prohibiting disability-based employment discrimination by employers with 15 or more employees), and section 504 of the Rehabilitation Act (Section 504) (prohibiting disability-based discrimination in programs or activities receiving Federal financial assistance).[1]

This proposed rule would amend this joint regulation to revise the definitions of certain terms and clarify the procedures for referring these complaints/charges between agencies with responsibility for enforcing title I of the ADA and section 504. In drafting this regulation, EEOC will explore ways to make it more consistent with two other coordination regulations (29 CFR part 1641 and 29 CFR part 1691), as well as with the recently revised Memorandum of Understanding (MOU) between the EEOC and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). This MOU addresses the investigation and processing of complaints or charges alleging employment discrimination that may fall within the jurisdiction of title VII of the Civil Rights Act of 1964, as amended, and/or Executive Order 11246.

*Statement of Need:* This regulation was identified as needing revision during a retrospective analysis of existing rules that took place in 2011 under Executive Order 13563. It is identified in EEOC's Final Plan for Retrospective Analysis of Existing Rules available at: *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm.*

[1] The proposed rule would also incorporate provisions established by the DOJ's rule on title II of the ADA (which prohibits discrimination on the basis of disability in all programs and activities of State and local government entities) for coordinating the processing of discrimination complaints that: (1) fall within the jurisdiction of title II and title I (but are not covered by section 504); and (2) fall within the jurisdiction of title II, but not title I (whether or not they are covered by section 504). See 28 CFR 35.171(b)(2) and (3). The revisions described above would not impact the portions of the regulation addressing title II.

*Alternatives:* The EEOC will consider all alternatives offered by the public commenters.

*Anticipated Cost and Benefits:* These procedures govern the agencies' internal handling of complaints/charges of employment discrimination and do not impose any regulatory costs on employers or complainants/charging parties. The revised procedures, however, will provide a net benefit to stakeholders and the agencies by creating consistency between this coordination regulation and others.

*Risks:* The proposed changes do not affect risks to public health, safety, or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal, Local, State.

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*Related RIN:* Related to 3046–AA92, Related to 3046–AA93.

*RIN:* 3046–AA91

## EEOC

### 138. Revisions to Procedures for Complaints/Charges of Employment Discrimination Based on Disability Filed Against Employers Holding Government Contracts or Subcontracts

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 12117(b); EO 12067

*CFR Citation:* 29 CFR 1641.

*Legal Deadline:* None.

*Abstract:* The EEOC has a joint regulation with the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) to coordinate the processing of disability-based employment discrimination complaints/charges filed against employers holding Government contracts or subcontracts, where the complaints/charges appear to state a claim under both section 503 of the Rehabilitation Act (Section 503) (requiring affirmative action and prohibiting disability-based employment discrimination by Federal Government contractors and subcontractors), and title I of the ADA (prohibiting disability-based employment discrimination by employers with 15 or more employees).

This proposed rule would amend this joint regulation to revise the definition of certain terms and clarify the procedures for referring these complaints/charges between the agencies with responsibility for enforcing section 503 and title I of the ADA. In drafting this regulation, EEOC will explore ways to make it more consistent with two other coordination regulations (29 CFR part 1640 and 29 CFR part 1691), as well as with the recently revised Memorandum of Understanding between EEOC and OFCCP. This MOU addresses the investigation and processing of complaints or charges alleging employment discrimination that may fall within the jurisdiction of title VII of the Civil Rights Act of 1964, as amended and/or Executive Order 11246.

*Statement of Need:* This regulation was identified as needing revision during a retrospective analysis of existing rules that took place in 2011 under Executive Order 13563. It is identified in EEOC's Final Plan for Retrospective Analysis of Existing Rules available at: *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm.*

*Alternatives:* The EEOC will consider all alternatives offered by the public commenters.

*Anticipated Cost and Benefits:* These procedures govern the agencies' internal handling of complaints/charges of employment discrimination and do not impose any regulatory costs on employers or complainants/charging parties. The revised procedures, however, will provide a net benefit to stakeholders and the agencies by creating consistency between this coordination regulation and others.

*Risks:* The proposed changes do not affect risks to public health, safety, or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal, Local, State.

*Agency Contact:* Corbett L. Anderson, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202 663–4579, *Fax:* 202 663–4679, *Email: corbett.anderson@eeoc.gov.*

Kerry Leibig, Senior Attorney Advisor, Office of the Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202 663–4516, *Fax:* 202 663–4679, *Email: kerry.leibig@eeoc.gov.*

*Related RIN:* Related to 3046–AA91, Related to 3046–AA93.

*RIN:* 3046–AA92

## EEOC

### 139. Revisions to Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance

*Priority:* Other Significant.

*Legal Authority:* EO 12250; EO 12067

*CFR Citation:* 29 CFR 1691.

*Legal Deadline:* None.

*Abstract:* The EEOC has a joint regulation with the Department of Justice (DOJ) to explain how Federal agencies that grant financial assistance or revenue sharing funds should process complaints of employment discrimination subject to various EEO statutes if the complaints allege discrimination that is also prohibited by title VII of the Civil Rights Act of 1964, as amended (Title VII), or the Equal Pay Act of 1963 (EPA).[1] This proposed rule would amend this joint regulation to revise the definitions of certain terms and clarify the procedures for handling these complaints. In drafting this regulation, EEOC will explore ways to make it more consistent with two other coordination regulations (29 CFR part 1640 and 29 CFR part 1641), as well as with the recently revised Memorandum of Understanding between EEOC and the Department of Labor's Office Federal Contract Compliance Programs. This MOU addresses the investigation and processing of complaints or charges alleging employment discrimination that may fall within the jurisdiction of title VII and/or Executive Order 11246.

*Statement of Need:* This regulation was identified as needing revision during a retrospective analysis of

[1] The relevant EEO statutes are: Title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, the State and Local Fiscal Assistance Act of 1972, as amended (the revenue sharing act), and provisions similar to title VI and title IX in Federal grant statutes to the extent they prohibit discrimination on the basis of race, color, religion, sex, or national origin.

existing rules that took place in 2011 under Executive Order 13563. It is identified in EEOC's Final Plan for Retrospective Analysis of Existing Regulations available at: *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm.*

*Alternatives:* The EEOC will consider all alternatives offered by the public commenters.

*Anticipated Cost and Benefits:* These procedures govern the agencies' internal handling of complaints of employment discrimination and do not impose any regulatory costs on employers or complainants. The revised procedures, however, will provide a net benefit to stakeholders and the agencies by creating consistency between this coordination regulation and others.

*Risks:* The proposed changes do not affect risks to public health, safety, or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal, Local, State.

*Agency Contact:* Corbett L. Anderson, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202 663–4579, *Fax:* 202 663–4679, *Email: corbett.anderson@eeoc.gov.*

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*Related RIN:* Related to 3046–AA91, Related to 3046–AA92.

*RIN:* 3046–AA93

## EEOC

### 140. Revisions to the Federal Sector's Affirmative Employment Obligations Regarding Individuals With Disabilities Under Section 501 of the Rehabilitation Act Of 1973, as Amended

*Priority:* Other Significant.

*Legal Authority:* 29 U.S.C. 791(b)

*CFR Citation:* 29 CFR 1614.203(a).

*Legal Deadline:* None.

*Abstract:* Section 501 of the Rehabilitation Act, as amended (Section 501), prohibits discrimination against individuals with disabilities in the Federal Government. The EEOC's regulations implementing section 501, as set forth in 29 CFR part 1614, require Federal agencies and departments to be ''model employers'' of individuals with disabilities.[1]

This proposed rule would revise the regulations regarding the Federal Government's affirmative employment obligations in 29 CFR part 1614 to include a more detailed explanation of how Federal agencies and departments should ''give full consideration to the hiring, placement and advancement of qualified individuals with disabilities.'' [2] The revisions would be informed by the discussion in Management Directive 715 of the tools Federal agencies should use to establish goals for the employment and advancement of individuals with disabilities. The revisions may also include goals consistent with Executive Order 13548 to increase the employment of individuals with disabilities, with a particular focus on the employment of individuals with targeted disabilities.

*Statement of Need:* Pursuant to section 501 of the Rehabilitation Act, the Commission is authorized to issue such regulations as it deems necessary to carry out its responsibilities under this Act. Executive Order 13548 called for increased efforts by Federal agencies and departments to recruit, hire, retain, and return individuals with disabilities to the Federal workforce.

*Alternatives:* The EEOC will consider all alternatives offered by public commenters.

*Anticipated Cost and Benefits:* Any costs that might result would only be borne by the Federal Government. The revisions would contribute to increased employment of individuals with disabilities.

*Risks:* The proposed changes do not affect risks to public health, safety, or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal.

*Agency Contact:* Christopher Kuczynski, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202 663–4665, *TDD Phone:* 202 663–7026, *Fax:* 202 663–4679, *Email: christopher.kuczynski@eeoc.gov.*

*Related RIN:* Related to 3046–AA73.

*RIN:* 3046–AA94

BILLING CODE–P

[1] 29 CFR 1614.203(a).

[2] Id.

## GENERAL SERVICES ADMINISTRATION (GSA)—REGULATORY PLAN—OCTOBER 2013

### I. Mission and Overview

GSA oversees the business of the Federal Government. GSA's acquisition solutions supplies Federal purchasers with cost-effective, high-quality products and services from commercial vendors. GSA provides workplaces for Federal employees and oversees the preservation of historic Federal properties. GSA helps keep the Nation safe by providing tools, equipment, and non-tactical vehicles to the U.S. military, and providing State and local governments with law enforcement equipment, firefighting and rescue equipment, and disaster recovery products and services.

GSA serves the public by delivering services directly to its Federal customers through the Federal Acquisition Service (FAS), the Public Buildings Service (PBS), and the Office of Government-wide Policy (OGP). GSA has a continuing commitment to its Federal customers and the U.S. taxpayers by providing those services in the most cost-effective manner possible.

*Federal Acquisition Service (FAS)*

FAS is the lead organization for procurement of products and services (other than real property) for the Federal Government. The FAS organization leverages the buying power of the Government by consolidating Federal agencies' requirements for common goods and services. FAS provides a range of high-quality and flexible acquisition services that increase overall Government effectiveness and efficiency. FAS business operations are organized into four business portfolios based on the product or service provided to customer agencies: Integrated Technology Services (ITS); Assisted Acquisition Services (AAS); General Supplies and Services (GSS); and Travel, Motor Vehicles, and Card Services (TMVCS). The FAS portfolio structure enables GSA and FAS to provide best value services, products, and solutions to its customers by aligning resources around key functions.

*Public Buildings Service (PBS)*

PBS is the largest public real estate organization in the United States, providing facilities and workspace

solutions to more than 60 Federal agencies. PBS aims to provide a superior workplace for the Federal worker and superior value for the U.S. taxpayer. Balancing these two objectives is PBS' greatest management challenge. PBS' activities fall into two broad areas. The first is space acquisition through both leases and construction. PBS translates general needs into specific requirements, marshals the necessary resources, and delivers the space necessary to meet the respective missions of its Federal clients. The second area is management of space. This involves making decisions on maintenance, servicing tenants, and ultimately, deciding when and how to dispose of a property at the end of its useful life.

*Office of Government-Wide Policy (OGP)*

OGP sets Government-wide policy in the areas of personal and real property, travel and transportation, information technology, regulatory information, and use of Federal advisory committees. OGP also helps direct how all Federal supplies and services are acquired as well as GSA's own acquisition programs. OGP's regulatory function fully incorporates the provisions of the President's priorities and objectives under Executive Order 12866 and 13563 with policies covering acquisition, travel, and property and management practices to promote efficient Government operations. OGP's strategic direction is to ensure that Government-wide policies encourage agencies to develop and utilize the best, most cost effective management practices for the conduct of their specific programs. To reach the goal of improving Government-wide management of property, technology, and administrative services, OGP builds and maintains a policy framework by (1) incorporating the requirements of Federal laws, Executive orders, and other regulatory material into policies and guidelines; (2) facilitating Government-wide reform to provide Federal managers with business-like incentives and tools and flexibility to prudently manage their assets; (3) identifying, evaluating, and promoting best practices to improve efficiency of management processes; and (4) performing ongoing analysis of existing rules that may be obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive.

OGP's policy regulations are described in the following subsections:

*Office of Asset and Transportation Management (Federal Travel Regulation)*

Federal Travel Regulation (FTR) enumerates the travel and relocation policy for all title 5 executive agency employees. The Code of Federal Regulations (CFR) is available at *www.gpoaccess.gov/cfr*. Each version is updated as official changes are published in the **Federal Register** (FR). FR publications and complete versions of the FTR are available at *www.gsa.gov/ftr*.

The FTR is the regulation contained in 41 Code of Federal Regulations (CFR), chapters 300 through 304, that implements statutory requirements and executive branch policies for travel by Federal civilian employees and others authorized to travel at Government expense.

The Administrator of General Services promulgates the FTR to: (a) Interpret statutory and other policy requirements in a manner that balances the need to ensure that official travel is conducted in a responsible manner with the need to minimize administrative costs and (b) communicate the resulting policies in a clear manner to Federal agencies and employees.

*Office of Asset and Transportation Management (Federal Management Regulation)*

Federal Management Regulation (FMR) establishes policy for aircraft, transportation, personal property, real property, and mail management. The FMR is the successor regulation to the Federal Property Management Regulation (FPMR), and it contains updated regulatory policies originally found in the FPMR. However, it does not contain FPMR material that describes how to do business with the GSA.

*Office of Acquisition Policy (General Services Administration Acquisition Manual (GSAM) and the General Services Administration Acquisition Regulation (GSAR))*

GSA's internal rules and practices on how it buys goods and services from its business partners are covered by the General Services Administration Acquisition Manual (GSAM) and the General Services Administration Acquisition Regulation (GSAR). The GSAM is closely related to the Federal Acquisition Regulation (FAR) as it supplements areas of the FAR where GSA has additional and unique regulatory requirements. Office of Acquisition Policy writes and revises the GSAM and the GSAR. The size and scope of the FAR are substantially larger than the GSAR. The GSAM, which incorporates the GSAR, as well as internal agency acquisition policy, rules that require publication fall into two major categories:

- Those that affect GSA's business partners (*e.g.,* prospective offerors and contractors).
- Those that apply to acquisition of leasehold interests in real property. The FAR does not apply to leasing actions. GSA establishes regulations for lease of real property under the authority of 40 U.S.C. 490 note.

*GSA Acquisition Regulation (GSAR):* The GSAR establishes agency acquisition rules and guidance, which contains agency acquisition policies and practices, contract clauses, solicitation provisions, and forms that control the relationship between GSA and contractors and prospective contractors.

**II. Statement of Regulatory and Deregulatory Priorities**

*FTR Regulatory Priorities*

In fiscal year 2014, GSA plans to amend the FTR by:

- Revising chapter 301, Temporary Duty Travel, ensuring accountability and transparency. This revision will ensure agencies' travel for missions is efficient and effective, reduces costs, promotes sustainability, and incorporates industry best practices at the lowest logical travel cost.
- Revising chapter 302, Relocation Allowances for miscellaneous items to address current Government relocation needs which the last major rewrite (FTR Amendment 2011–01) did not update. This will include revising the Relocation Income Tax (RIT) Allowance; amending coverage on family relocation; and amending the calculations regarding the commuted rate for employee-managed household goods shipments

*FMR Regulatory Priorities*

In fiscal year 2014, GSA plans to amend the FMR by:

- Revising rules regarding management of Government aircraft;
- Revising rules regarding management of Federal real property;
- Revising rules regarding management of Federal personal property.

*GSAR Regulatory Priorities*

GSA updates the GSAR to maintain consistency with the FAR and to implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships.

*Regulations of Concern to Small Businesses*

GSAR rules are relevant to small businesses who do or wish to do business with the Federal Government. Approximately 18,000 businesses, most of whom are small, have GSA schedule contracts. GSA assists its small businesses by providing assistance through its Office of Small Business Utilization. In addition, GSA extensively utilizes its regional resources, within FAS and PBS, to provide grassroots outreach to small business concerns, through hosting such outreach events, or participating in a vast array of other similar presentations hosted by others.

Changes to the GSAR that would be of interest to small businesses include:

• GSAR Cases 2012–G501 (Electronic Contracting Initiative), 2012–G502 (Enterprise Acquisition Solution), and 2012–G503 (Industrial Funding Fee and Sales Reporting). All of these affect GSAR Part 538 on the Schedules Program, and will assist small businesses by streamlining procedures and supporting electronic contracting.

GSAR Case 2008–09, Construction and Architect-Engineer Contracts. This case will delete outdated material and update GSAR Part 536, simplifying guidance for small construction and A/E firms.

*Regulations Which Promote Open Government and Disclosure*

There are currently no regulations which promote open Government and disclosure.

*Regulations Required by Statute or Court Order*

GSA published FTR Case 2011–308; Payment of Expenses Connected with the Death of Certain Employees in FY 2013. GSA amended the FTR to establish policy for the transportation of the immediate family, household goods, personal effects, and one privately owned vehicle of a covered employee whose death occurred as a result of personal injury sustained while in the performance of the employee's duty as defined by the agency.

GSA plans to publish a FTR Amendment in updating Chapter 303: Payment of Expenses Connected With Death of Certain Employees in FY13. The final rule will incorporate language based on Public Law 110–181, the National Defense Authorization Act (NDAA) for Fiscal Year 2008, section 1103 and codified at 5 U.S.C. 5742, to allow agencies to provide for relocation of dependents and household effects of an employee whose death occurred while performing official duties outside the continental United States (OCONUS) or for an employee whose death occurred while subject to a mandatory mobility agreement OCONUS and was supporting an overseas contingency operation or overseas emergency as declared by the President. This final rule allows the agency to relocate the dependents and household goods to the covered employee's former actual residence or such other place as is determined by the head of the agency concerned. Also, the final rule amends and updates the FTR regarding the authority to relocate dependents and household goods of an employee on a service agreement or mandatory mobility agreement who dies at or while in transit to or from an official station OCONUS, amends to allow transportation of the remains to the place of interment and shipment of a POV from the TDY location or from an official station OCONUS when the agency previously determined that use of POV was in the best interest of the Government, amends the household goods temporary storage timeframe in subpart H, and allows the agency to authorize additional storage not to exceed a total of 150 days, which is the same as what's allotted to an employee with relocation entitlements. Finally, this final rule reorganizes FTR part 303–70 to make it easier to understand.

**III. Retrospective Review of Existing Regulations**

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (July, 2013), the GSA retrospective review and analysis final and updated regulations plan can be found at *www.gsa.gov/improvingregulations*. The FAR retrospective review and analysis final and updated regulations plan can be found at *www.acquisition.gov*.

| Regulation Identifier No. | Title |
|---|---|
| | Proposed Rule Stage |
| 3090–AJ29 ..... | Federal Management Regulation (FMR); FMR Case 2012–102–3; Government Domain Registration and Management. |
| 3090–AJ30 ..... | Federal Management Regulation (FMR); FMR Case 2012–102–4, Disposal and Reporting of Federal Electronic Assets (FEA). |
| 3090–AJ32 ..... | General Services Administration Acquisition Regulation (GSAR); GSAR Case 2012–G502, Enterprise Acquisition Solution. |
| | Final Rule Stage |
| 3090–AI76 ..... | General Services Administration Acquisition Regulation (GSAR); GSAR Case 2008–G506, Rewrite of GSAR Part 515, Contracting by Negotiation. |
| 3090–AI79 ..... | Federal Management Regulation (FMR); FMR Case 2008–102–4, Mail Management, Financial Requirements for All Agencies. |
| 3090–AI81 ..... | General Services Administration Acquisition Regulation (GSAR); GSAR Case 2008–G509, Rewrite GSAR 536, Construction and Architect-Engineer Contracts. |
| 3090–AI95 ..... | Federal Travel Regulation (FTR); FTR Case 2009–307, Temporary Duty (TDY) Travel Allowances (Taxes); Relocation Allowances (Taxes). |
| 3090–AJ04 ..... | Federal Management Regulation (FMR); FMR Case 2010–102–3, Sale of Personal Property. |
| 3090–AJ21 ..... | Federal Travel Regulation (FTR); FTR Case 2011–308; Payment of Expenses Connected With the Death of Certain Employees. |
| 3090–AJ23 ..... | Federal Travel Regulation (FTR); FTR Case 2011–310; Telework Travel Expenses Test Programs. |
| 3090–AJ26 ..... | Federal Management Regulation (FMR); FMR Case 2012–102–2; Donation of Surplus Personal Property. |
| 3090–AJ27 ..... | Federal Travel Regulation (FTR); FTR Case 2012–301; Removal of Conference Lodging Allowance Provisions. |
| 3090–AJ31 ..... | General Services Administration Acquisition Regulation (GSAR); GSAR Case 2012–G503; Industrial Funding Fee (IFF) and Sales Reporting. |

| Regulation Identifier No. | Title |
|---|---|
| 3090–AJ34 ..... | Federal Management Regulation (FMR); FMR Case 2012–102–5, Restrictions on International Transportation of Freight and Household Goods. |
| 3090–AJ35 ..... | Federal Management Regulation (FMR); FMR Case 2013–102–1; Obligating Authority. |
| 3090–AJ36 ..... | General Services Administration Acquisition Regulation (GSAR); GSAR Case 2012–G501, Electronic Contracting Initiative. |
| | Completed Actions |
| 3090–AJ22 ..... | Federal Travel Regulation (FTR); FTR Case 2011–309, Lodging Reimbursement. |
| 3090–AJ11 ..... | Federal Travel Regulation (FTR); FTR Case 2011–301; Per Diem, Miscellaneous Amendments. |
| 3090–AJ06 ..... | Federal Travel Regulation (FTR); FTR Case 2010–303; Terms and Definitions for ''Dependent'', ''Domestic Partner'', ''Domestic Partnership'', and ''Immediate Family.'' |
| 3090–AJ21 ..... | Federal Travel Regulation (FTR); FTR Case 2011–308; Payment of Expenses Connected With the Death of Certain Employees. |

Dated: August 29, 2013.

**Laura Auletta,**

*Acting Senior Procurement Executive.*

**BILLING CODE 6820–34–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

*Statement of Regulatory Priorities*

For this statement of priorities, NASA has no recent legislative and programmatic activities that affect its regulations. There are no rulemakings that are expected to have high net benefits. All of the Agency's rulemaking promotes open government as the public is given an opportunity to review and comment on these rulemakings prior to promulgation.

NASA is streamlining three of its regulations dealing with 1) delegation of authority of certain civil rights functions to Department of Health, Education, and Welfare, 2) protection of human subjects, and 3) care and use of animals in the conduct of NASA activities because these regulations contain regulatory text that is redundant to governing statutes and other regulations. The Agency has no rulemakings that reduce unjustified burdens with no particular concern to small businesses, and there are no significant international impacts.

NASA continues to implement programs according to its 2011 Strategic Plan, released in February 2011. NASA's mission is to ''Drive advances in science, technology, aeronautics, and space exploration to enhance knowledge, education, innovation, economic vitality, and stewardship of the Earth.'' The FY 2014 Strategic Plan, scheduled for publication February 2014, guides NASA's program activities through a framework of the following three strategic goals:

- Strategic Goal 1: Expand the frontiers of knowledge, capability, and opportunity in space.
- Strategic Goal 2: Advance understanding of Earth and develop technologies to improve the quality of life on our home planet.
- Strategic Goal 3: Serve the American public and accomplish our mission by effectively managing our people, technical capabilities, and infrastructure.

In the decades since Congress enacted the National Aeronautics and Space Act of 1958, NASA has challenged its scientific and engineering capabilities in pursuing its mission, generating tremendous results and benefits for humankind. NASA will continue to push scientific and technical boundaries in pursuing of these goals.

The Federal Acquisition Regulation (FAR), 48 CFR chapter 1, contains procurement regulations that apply to NASA and other Federal agencies. NASA implements and supplements FAR requirements through the NASA FAR Supplement (NFS), 48 CFR chapter 18. NASA is in the process of reviewing and updating the entire NFS with a projected completion date of December 2014. Concurrently, we will continue to make routine changes to the NFS to implement NASA initiatives and Federal procurement policy.

*Retrospective Review of Existing Regulations*

Pursuant to section 6 of Executive Order 13579 ''Regulation and Independent Regulatory Agencies'' (Jul. 11, 2011), NASA regulations associated with its retrospective review and analysis are described in the Agency's final retrospective plan of existing regulations. Nine of these regulations were completed and are described below. NASA's final plan and updates can be found at *http://www.nasa.gov/open*, under the Compliance Documents Section.

*Inventions and Contributions [14 CFR 1240]*—NASA amended its regulations to clarify and update the procedures for board recommended awards, and the procedures and requirements for recommended special initial awards, including patent application awards, software release awards, and Tech Brief awards, and to update citations and the information on the systems used for reporting inventions and issuing award payments. [77 FR 27365]

*Information Security Protection [14 CFR 1203]*—NASA amended its regulations to make nonsubstantive changes to align with and implement the provisions of Executive Order (E.O.) 13526, Classified National Security Information, and appropriately to correspond with NASA's internal requirements, NPR 1600.2, Classified National Security Information, that establishes the Agency's requirements for the proper implementation and management of a uniform system for classifying, accounting, safeguarding, and declassifying national security information generated by or in the possession of NASA. [78 FR 5116]

*Claims for Patent and Copyright Infringement [14 CFR 1245]*—NASA finalized its regulations relating to requirements for the filing of claims against NASA where a potential claimant believes NASA is infringing privately owned rights in patented inventions or copyrighted works. The requirements for filing an administrative claim are important since the filing of a claim carries with it certain rights relating to the applicable statute of limitations for filing suit against the Government. The regulations set forth guidelines as to what NASA considers necessary to file a claim for patent or copyright infringement, and they also provide for written notification to the claimant upon completion of an investigation by NASA. [77 FR 14686]

*Procedures for Implementing the National Environmental Policy Act [14*

*CFR 1216]*—NASA is amended its regulations governing compliance with the National Environmental Policy Act of 1969 (NEPA) and the Council on Environmental Quality's (CEQ) Code of Federal Regulations (CFR) (40 CFR parts 1500–1508). This rule replaces procedures contained in NASA's current regulations. The revised regulations are intended to improve NASA's efficiency in implementing NEPA requirements by reducing costs and preparation time while maintaining quality. In addition, NASA's experience in applying the NASA NEPA regulations since they were issued in 1988 suggested the need for NASA to make changes in its NEPA regulations. [77 FR 3102]

*Tracking and Data Relay Satellite System [14 CFR 1215]*—NASA amended its regulations to make nonsubstantive changes to the policy governing the Tracking and Data Relay Satellite System (TDRSS) services provided to non-U.S. Government users and the reimbursement for rendering such services. TDRSS, also known as the Space Network, provides command, tracking, data, voice, and video services to the International Space Station, NASA's space and Earth science missions, and other Federal agencies, including the Department of Defense and the National Science Foundation. For a fee, commercial users can also have access to TDRSS for tracking and data acquisition purposes. Over the last 25 years, TDRSS has delivered pictures, television, scientific, and voice data to the scientific community and the general public, including data from more than 100 Space Shuttle and International Space Station missions and the Hubble Space Telescope. A principal advantage of TDRSS is providing communications services, which previously have been provided by multiple worldwide ground stations, with much higher data rates and lower latency to the user missions. [77 FR 6949]

*Removal of Obsolete Regulation: Use of Centennial of Flight Commission Name [14 CFR 1204.506]*—NASA amended its regulations to make nonsubstantive changes to remove a regulation that is obsolete and no longer used. [77 FR 60619]

*Non Procurement Rule, Suspension and Debarment [2 CFR 1880]*—NASA has adopted as final, with no change, a proposed rule to extend coverage of non-procurement suspension and debarment to all tiers of procurement and non-procurement actions under all grants and cooperative agreements. [78 FR 13211]

*Boards and Committees [14 CFR 1209]*—NASA amended its regulations to make nonsubstantive changes to correct and remove citations referenced in NASA's Contract Adjustment Board rule. [78 FR 20422]

*Research Misconduct [14 CFR 1275]*—NASA amended its regulations to make nonsubstantive changes to the policy governing the handling of allegations of research misconduct and updates to reflect organizational changes that have occurred in the Agency. [77 FR 44439]

*Updating of Existing Privacy Act—NASA Regulations [14 CFR 1212]*—NASA amended its regulations to make nonsubstantive changes to its rules governing implementation of the Privacy Act by updating statute citations, position titles, terminology, and adjusting appellate responsibility for records for records held by the NASA Office of the Inspective General. [77 FR 60620]

*NASA Security and Protective Service Enforcement [14 CFR 1203a, 1203b, 1204]*—NASA amended its regulations to make nonsubstantive changes to its regulations to clarify the procedures for establishing controlled/secure areas and to revise the definitions for these areas and the process for granting access to these areas, as well as denying or revoking access to such areas. Arrest powers and authority of NASA security force personnel are also updated and clarified to include the carrying of weapons and the use of such weapons should a circumstance require it. [78 FR 5122]

Abstracts for other regulations that will be amended or repealed between October 2013 and October 2014 are reported in the fall 2013 edition of Unified Agenda of Federal Regulatory and Deregulation actions.

**BILLING CODE 7510–13–P**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

*Statement of Regulatory Priorities*

Overview

The National Archives and Records Administration (NARA) primarily issues regulations directed to other Federal agencies and to the public. These regulations include records management, information services, access to and use of NARA holdings, and grant programs. For example, records management regulations directed to Federal agencies concern the proper management and disposition of Federal records. Through the Information Security Oversight Office (ISOO), NARA also issues Governmentwide regulations concerning information security classification and declassification programs. NARA regulations directed to the public address access to and use of our historically valuable holdings, including archives, donated historical materials, Nixon Presidential materials, and Presidential records. NARA also issues regulations relating to the National Historical Publications and Records Commission (NHPRC) grant programs.

NARA has four regulatory priorities for fiscal year 2014, which are included in The Regulatory Plan. The first are NARA's revisions to the Federal records management regulations found at 36 CFR chapter XII, subchapter B. The National Archives and Records Administration proposes to revise the Federal records management regulations found at 36 CFR chapter XII, subchapter B. The proposed changes include changes resulting from the 2011 Presidential Memorandum on Managing Government Records and the 2012 Managing Government Records Directive (M–12–18). The proposed rules will affect Federal agencies' records management programs relating to proper records creation and maintenance, adequate documentation, use of paper-based-only recordkeeping, electronic recordkeeping requirements, use of the Electronic Records Archive (ERA) for records transfer, and records disposition. The proposed revisions have begun with changes to provisions at 36 CFR parts 1222, 1223, 1224, 1229, 1235, 1236, and 1239. Additional proposed revisions to the subchapter will be published this fiscal year as well.

The second priority is NARA's revision of its Freedom of Information Act (FOIA) regulations, clarifying the applicability of the FOIA to categories of records in NARA's accessioned holdings as well as operational records, and updating the regulations to incorporate Office of Government Services and make other changes pursuant to the Open FOIA Act of 2009, the Open Government Act of 2007, and the Electronic Freedom of Information Act Amendments of 1996 (EFOIA). The revisions also explain NARA's responsibility in answering FOIA requests, the procedures for requesting a FOIA, and the response a requester can expect for a submitted FOIA. The revisions cover 36 CFR part 1250 and the Notice of Proposed Rulemaking has been published.

NARA's third regulatory priority is the Office of the Federal Register's (OFR) Incorporation by Reference (IBR) action. On February 13, 2012, the OFR

received a petition to amend regulations governing the approval of agency requests to incorporate material by reference into the Code of Federal Regulations. The OFR proposes that agencies seeking the Director's approval of their IBR requests add more information regarding IBR's materials to the preambles of their rulemaking documents.

And the fourth priority is a new regulation on Controlled Unclassified Information (CUI). The Information Security Oversight Office (ISOO), a component of NARA, is proposing this rule pursuant to Executive Order 13556. The Order establishes an open and uniform program for managing information requiring safeguarding or dissemination controls. This rule sets forth guidance to agencies on safeguarding, disseminating, marking, and decontrolling CUI, self-inspection and oversight requirements, and other facets of the program.

BILLING CODE 7515–01–P

## Fall 2013 OPM Statement of Regulatory Priorities

Administrative Law Judges

OPM issued an interim rule in 2008 suspending the requirement set forth in 5 CFR 930.204(b) that requires incumbent administrative law judges (ALJs) to ''possess a professional license to practice law and be authorized to practice law.'' In 2010, OPM issued a proposed rule on the topic of the ALJ licensure requirements for incumbents and will consider comments on the proposed rule and comments on the interim rule when issuing a final rule on the topic.

*Administrative Wage Garnishment*

OPM is issuing this proposed regulation to implement the administrative wage garnishment (AWG) provisions of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (DCIA). The regulation will allow OPM to garnish the disposable pay of an individual to collect delinquent non-tax debts owed to the United States without first obtaining a court order. The proposed regulation sets forth procedures for use by OPM in collecting debts owed to the Federal Government. The Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 and the DCIA, requires agencies to issue regulations on their debt collection procedures. The proposed regulation includes procedures for collection of debts through AWG.

*Benefits for Family Members of Military Members*

The U.S. Office of Personnel Management (OPM) proposes to implement amendments to the Family and Medical Leave Act (FMLA). These regulations implement section 585(b) of the National Defense Authorization Act for Fiscal Year 2008 (NDAA) (Pub. L. 110–181, January 28, 2008) and section 565(b)(1) of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84, October 28, 2009). The statutory changes amended the FMLA provisions in 5 U.S.C. 6381 to 6383 (applicable to Federal employees) to provide that a Federal employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember (either a current or former servicemember) with a serious injury or illness incurred or aggravated in the line of duty on active duty is entitled to a total of 26 administrative workweeks of leave during a single 12-month period to care for the covered servicemember.

Under 5 U.S.C. 6387, OPM is required, to the extent appropriate, to be consistent with Department of Labor (DOL) regulations. DOL issued its final regulations on February 6, 2013 (78 FR 8833), which means that OPM can now issue its proposed FMLA regulations implementing the FY 2008 and FY 2010 NDAA amendments to the FMLA leave to care for a covered servicemember entitlement.

*General Schedule Locality Pay Areas—2013 Metropolitan Statistical Areas as the Basis for Locality Pay Areas*

The Office of Management and Budget delineated new Core-Based Statistical Areas in February 2013. The Federal Salary Council and the Pay Agent will review the new area definitions to determine if they are suitable for use as locality pay areas for the General Schedule locality pay system. If approved by the Pay Agent, the U.S. Office of Personnel Management (OPM) will issue a proposed rule to use the new Core-Based Statistical Areas as the basis for locality pay areas.

*Managing Senior Executive Performance*

OPM proposes to revise the regulations addressing the performance management of Senior Executives to provide for a Governmentwide appraisal system built around the Executive Core Qualifications and agency mission results.

*Selective Service*

OPM will issue the final regulation with a change in its procedures for determining whether an individual's failure to register with the Selective Service System was knowing and willful. Individuals will be given an opportunity to fully explain their failure to register, and the determination will be made on a more complete record. OPM is also delegating authority to Federal agencies to make initial determinations as to whether an individual failure to register with Selective Service was knowing and willful. The delegation will facilitate better quality in decision-making and efficient decisions. The Office of General Counsel has committed to issuing clear guidance on ''knowing and willful'' prior to implementation of the final regulation.

*Solicitation of Federal Civilian and Uniformed Service Personnel for Contributions to Private Voluntary Organizations*

OPM plans to issue final Combined Federal Campaign (CFC) regulations in order to strengthen the integrity, streamline the operation, and increase the effectiveness of the program to ensure its continued success.

BILLING CODE 6325–44–P

## PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory and Deregulatory Priorities

The Pension Benefit Guaranty Corporation (PBGC) protects the pensions of more than 40 million people in more than 25,000 private-sector defined benefit plans. PBGC receives no tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusteed by PBGC, and recoveries from the companies formerly responsible for the trusteed plans.

To carry out these functions, PBGC issues regulations on such matters as termination, payment of premiums, reporting and disclosure, and assessment and collection of employer liability. The Corporation is committed to issuing simple, understandable, flexible, and timely regulations to help affected parties.

PBGC has changed its regulatory approach so that its regulations do not inadvertently discourage the maintenance of existing defined benefit plans or the establishment of new plans. In the past, businesses and plans have commented that PBGC's regulations

impose burdens where the actual risk to plans and PBGC is minimal. Thus, in developing new regulations and reviewing existing regulations, the focus, to the extent possible, is to avoid placing burdens on plans, employers, and participants, and to ease and simplify employer compliance. PBGC particularly strives to meet the needs of small businesses that sponsor defined benefit plans.

PBGC develops its regulations in accordance with the principles set forth in Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), and PBGC's Plan for Regulatory Review (Regulatory Review Plan), which can be found at *www.pbgc.gov/documents/plan-for-regulatory-review.pdf.* This Statement of Regulatory and Deregulatory Priorities reflects PBGC's ongoing implementation of its Regulatory Review Plan. Progress reports on the plan can be found at *http://www.pbgc.gov/res/laws-and-regulations/reducing-regulatory-burden.html.*

*PBGC Insurance Programs*

PBGC administers two insurance programs for privately defined benefit plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA): A single-employer plan termination insurance program and a multiemployer plan insolvency insurance program.

- *Single-Employer Program.* Under the single-employer program, when a plan terminates with insufficient assets to cover all plan benefits (distress and involuntary terminations), PBGC pays plan benefits that are guaranteed under title IV. PBGC also pays nonguaranteed plan benefits to the extent funded by plan assets or recoveries from employers.
- *Multiemployer Program.* The smaller multiemployer program covers more than 1,450 collectively bargained plans involving more than one unrelated employer. PBGC provides financial assistance (in the form of a loan) to the plan if the plan is unable to pay benefits at the guaranteed level. Guaranteed benefits are less than single-employer guaranteed benefits.

At the end of fiscal year 2012, PBGC had a $34 billion deficit in its insurance programs. Current PBGC premiums are insufficient.

*Regulatory Objectives and Priorities*

PBGC's regulatory objectives and priorities are developed in the context of the Corporation's statutory purposes:

- To encourage voluntary private pension plans.
- To provide for the timely and uninterrupted payment of pension benefits.
- To keep premiums at the lowest possible levels.

Pensions and the statutory framework in which they are maintained and terminate are complex. Despite this complexity, PBGC is committed to issuing simple, understandable, flexible, and timely regulations and other guidance that do not impose undue burdens that could impede maintenance or establishment of defined benefit plans.

Through its regulations and other guidance, PBGC strives to minimize burdens on plans, plan sponsors, and plan participants; simplify filing; provide relief for small businesses and plans; and assist plans in complying with applicable requirements. To enhance policy-making through collaboration, PBGC also plans to expand opportunities for public participation in rulemaking (see *Open Government and Public Participation* below).

PBGC's current regulatory objectives and priorities are to simplify its regulations and reduce burden, particularly in the areas of premiums and reporting, enhance retirement security, and complete implementation of the Pension Protection Act of 2006 (PPA 2006).

*Rethinking Existing Regulations*

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. The proposals are described below.

| Title | RIN | Effect on small business |
|---|---|---|
| Reportable Events; Pension Protection Act of 2006 | 1212–AB06 | Expected to reduce burden on small business. |
| Liability for Termination of Single-Employer Plans; Treatment of Substantial Cessation of Operations; ERISA section 4062(e). | 1212–AB20 | Expected to reduce burden on small business. |
| Premium Rates; Payment of Premiums; Reducing Regulatory Burden | 1212–AB26 | Expected to reduce burden on small business. |
| Termination of Multiemployer Plans; Duties of Plan Sponsor Following Mass Withdrawal; Mergers and Transfers Between Multiemployer Plans. | 1212–AB25 | Expected to reduce burden on small business. |
| Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets | 1212–AA55 | Undetermined. |

*Reportable events.* PPA 2006 affected certain provisions in PBGC's reportable events regulation (part 4043), which requires employers to notify PBGC of certain plan or corporate events. In November 2009, PBGC published a proposed rule to conform the regulation to the PPA 2006 changes and make other changes.[1] In response to Executive Order 13563 and comments on the non-PPA 2006 provisions of the proposed rule, in April 2013 PBGC published a new proposal that would exempt more than 90 percent of plans and sponsors from many reporting requirements. The new proposal takes advantage of other existing reporting requirements and methods to avoid burdening companies and plans and expands waivers and redefines events to reduce reporting. The new proposal implements stakeholder suggestions that different reporting requirements should apply in circumstances where the risk to PBGC is low or compliance is especially burdensome. PBGC is considering public comments on the new proposal.

*ERISA section 4062(e).* The statutory provision requires reporting of, and liability for, certain substantial cessations of operations by employers that maintain single-employer plans. In August 2010, PBGC issued a proposed rule to provide guidance on the applicability and enforcement of section 4062(e).[2] In light of comments, PBGC is reconsidering its 2010 proposed rule. At the same time, PBGC implemented working criteria for cases involving financially strong companies. Historically, this requirement has been enforced regardless of the financial health of the plan sponsor. The business community argued that this imposed an

[1] 74 FR 61248 (Nov. 23, 2009), *www.pbgc.gov/Documents/E9-28056.pdf.*

[2] 75 FR 48283 (Aug. 10, 2010), *www.pbgc.gov/Documents/2010-19627.pdf.*

onerous burden on many companies where there was little or no threat to the retirement security of their employees or the agency. After careful review, PBGC agreed and in November 2012 announced a 4062(e) enforcement pilot program under which it does not enforce in the case of small plans or financially strong sponsors (90 percent of plans are small or have financially strong sponsors).

*Premiums.* Based on PBGC's regulatory review and in response to public comments, in July 2013 PBGC published a proposed rule to make its premium rules more effective and less burdensome. The proposal would simplify due dates, coordinate the due date for terminating plans with the termination process, make conforming and clarifying changes to the variable-rate premium rules, provide for relief from penalties, and make other changes. Large plans would no longer have to pay flat-rate premiums early; small plans would get more time to value benefits. The proposal would also amend PBGC's regulations in accordance with the Moving Ahead for Progress in the 21st Century Act. The proposal has been favorably received by the pension community.

*Changes to selected multiemployer plan regulations.* PBGC has reviewed selected aspects of its regulations on multiemployer plans:

- Termination of Multiemployer Plans (29 CFR part 4041A). When a multiemployer plan terminates, the plan must perform an annual valuation of the plan's assets and benefits. PBGC has reviewed the regulation to determine whether annual valuation requirements may be reduced for certain plans.
- Duties of plan sponsor following mass withdrawal (29 CFR part 4281). Terminated multiemployer plans that determine that they will be insolvent for a plan year must file a series of notices and updates to notices. These notice requirements can be detrimental to plan participants because they may use up assets that would be available to pay plan benefits.
- Mergers and transfers between multiemployer plans (29 CFR part 4231). Multiemployer plans must file certain information with PBGC. Multiemployer plan mergers do not pose any increase in the risk of loss to PBGC or to plan participants. These filing requirements increase administrative costs to PBGC and plans and create an unnecessary burden in completing the merger.

PBGC is developing a proposed rule that would make changes to address these concerns.

*PPA 2006 Implementation*

*Cash balance plans.* PPA 2006 changed the rules for determining benefits in cash balance plans and other statutory hybrid plans. In October 2011, PBGC published a proposed rule implementing the changes in both PBGC-trusteed plans and in plans that close out in the private sector. This rule is on hold until Treasury issues final regulations.

*Missing participants.* Currently, PBGC's Missing Participants Program applies only to terminating single-employer defined benefit plans insured by PBGC. PPA 2006 expanded the program to cover single-employer plans sponsored by professional service employers with fewer than 25 employees, multiemployer defined benefit plans, and 401(k) and other defined contribution plans. In June 2013, PBGC issued a Request for Information soliciting information from the public to assist it in making decisions about implementing a new program to deal with benefits of missing participants in terminating individual account plans. PBGC is interested in stakeholders' views on topics such as the extent of the demand for such a program, the demand for a database of missing participants, the availability of private-sector missing participant services, potential program costs and fees, electronic filing, and the contours of diligent search requirements. PBGC received useful comments from various sectors of the pension community.

*Shutdown benefits.* Under PPA 2006, the phase-in period for the guarantee of a benefit payable solely by reason of an ''unpredictable contingent event,'' such as a plant shutdown, starts no earlier than the date of the shutdown or other unpredictable contingent event. PBGC published a proposed rule implementing this statutory change in March 2011 [3] and received one comment.

*Other Regulations*

*DC to DB plan rollovers.* PBGC is developing a proposed rule to address title IV treatment of rollovers from defined contribution plans to defined benefit plans, including asset allocation and guarantee limits. This rule is part of PBGC's efforts to enhance retirement security by promoting lifetime income options and follows related Department of Treasury guidance.[4]

*ERISA section 4010.* In response to comments, PBGC is reviewing its regulation on Annual Financial and Actuarial Information Reporting (part 4010) and the related e-filing application to consider ways of reducing reporting burden, without forgoing receipt of critical information. As stated in our 4010 report to Congress,[5] legislative changes to section 4010 may be appropriate.

*Small Businesses*

PBGC takes into account the special needs and concerns of small businesses in making policy. A large percentage of the plans insured by PBGC are small or maintained by small employers. PBGC has issued or is considering several proposed rules that will focus on small businesses:

*Small plan premium due date.* Under the current regulation, the premium due date for plans with fewer than 100 participants is four months after year-end (April 30 for calendar year plans). PBGC has heard that some small plans with year-end valuation dates have difficulty meeting the filing deadline because such plans traditionally do not complete their actuarial valuation for funding purposes until after the premium due date. The premium proposed rule discussed above under *Retrospective Review of Existing Regulations* addresses this issue.

*Reportable events.* The reportable events proposed rule discussed above under *Retrospective Review of Existing Regulations* waives many reporting requirements for plans with fewer than 100 participants.

*Missing participants.* See *Missing participants* under *PPA 2006 Implementation* above. Expansion of the program will benefit small businesses closing out terminating plans.

*Open Government and Increased Public Participation*

PBGC is doing more to encourage public participation in the regulatory process. For example, PBGC's current efforts to reduce regulatory burden are in substantial part a response to public comments. Regulatory projects discussed above, such as reportable events, ERISA section 4062(e), and ERISA section 4010, highlight PBGC's customer-focused efforts to reduce regulatory burden.

PBGC's Regulatory Review Plan sets forth ways to expand opportunities for public participation in the regulatory

[3] 76 FR 13304 (Mar. 11, 2011), *www.pbgc.gov/Documents/2011-5696.pdf.*

[4] On February 21, 2012, the Internal Revenue Service of the Department of Treasury issued Rev. Rul. 2012–4, which clarified the qualification requirements under section 401(a) of the Internal Revenue Code for use of rollover amounts to purchase an additional annuity under a defined benefit plan.

[5] *http://www.pbgc.gov/documents/PBGC-4010-report-harkin.pdf.*

process. For example, in June 2013, PBGC held its first ever regulatory hearing on the reportable events proposed rule, so that the agency would have a better understanding of the needs and concerns of plan administrators and plan sponsors. PBGC's Request for Information on missing participants in individual account plans is another example of PBGC's efforts to solicit public participation in the regulatory process.

PBGC plans to provide additional means for public involvement, including on-line town hall meetings, social media, and continuing opportunity for public comment on PBGC's Web site.

PBGC also invites comments on the Regulatory Review Plan on an on-going basis as we engage in the review process. Comments should be sent to *regs.comments@pbgc.gov.*

PBGC will continue to look for ways to further improve its regulations.

**BILLING CODE 7709–01–P**

## U.S. SMALL BUSINESS ADMINISTRATION (SBA)

*Statement of Regulatory Priorities*

Overview

The mission of the U.S. Small Business Administration (SBA) is to maintain and strengthen the Nation's economy by enabling the establishment and viability of small businesses and by assisting in economic recovery of communities after disasters. In carrying out this mission, SBA strives to improve the economic environment for small businesses, including those in areas that have significantly higher unemployment and lower income levels than the Nation's averages and those in traditionally underserved markets. The Agency serves as a guarantor of small business loans, and also provides management and technical assistance to existing or potential small business owners through various grants, cooperative agreements or contracts. This access to capital and other assistance provide a crucial foundation for those starting a new business, or growing an existing business and ultimately creating new jobs. SBA also provides direct financial assistance to homeowners, renters, and small business owners to help communities to rebuild in the aftermath of a disaster.

Reducing Burden on Small Businesses

SBA's regulatory policy reflects a commitment to developing regulations that reduce or eliminate the burden on the public, especially the Agency's core constituents—small businesses. SBA's regulatory process generally includes an assessment of the costs and benefits of the regulations as required by Executive Order 12866, ''Regulatory Planning and Review''; Executive Order 13563, ''Improving Regulation and Regulatory Review''; and the Regulatory Flexibility Act. SBA's program offices are particularly invested in finding ways to reduce the burden imposed by the Agency's core activities in its loan, innovation, and procurement programs.

Openness and Transparency

SBA promotes transparency, collaboration, and public participation in its rulemaking process. To that end, SBA routinely solicits comments on its regulations, even those that are not subject to the public notice and comment requirement under the Administrative Procedure Act. Where appropriate, SBA also conducts hearings, webinars, and other public events as part of its regulatory process.

Regulatory Framework

SBA FY 2011 to FY 2016 strategic plan serves as the foundation for the regulations that the Agency will develop during the next 12 months. This strategic plan proposes three primary strategic goals: (1) Growing businesses and creating jobs; (2) building an SBA that meets the needs of today's and tomorrow's small businesses; and (3) serving as the voice for small business. In order to achieve these goals SBA will, among other objectives, focus on:

- Expanding access to capital through SBA's extensive lending network;
- Ensuring Federal contracting goals are met or exceeded by collaborating across the Federal Government to expand opportunities for small businesses and strengthen the integrity of the Federal contracting data and certification process;
- Promoting awareness among Federal agencies, of the impact of regulatory enforcement and compliance efforts on small businesses and the importance of reducing burdens on such businesses;
- Strengthening SBA's relevance to high growth entrepreneurs and small businesses to more effectively drive innovation and job creation; and
- Mitigating risk and improving program oversight.

The regulations reported in SBA's semi-annual regulatory agenda and plan are intended to facilitate achievement of these goals and objectives. Over the next twelve months, SBA's highest regulatory priorities will include: (1) Implementing policy and procedural changes to the SBIR and STTR programs through the Policy Directives that provide guidance to the other SBIR/STTR Federal agencies; (2) implementing the Mentor-Protégé Programs, which were authorized by the Small Business Jobs Act, for participants in the HUBZone, Women Owned Small Business (WOSB) Contracting, and Service-Disabled Veteran-Owned Small Business (SDVOSB) Programs and expanded to all small business concerns by the National Defense Authorization Act for FY 2013; and (3) finalizing amendments to regulations for the 504 and 7(a) loan programs.

(1) Small Business Innovation and Research (SBIR) Program (RIN: 3245–AG84)

As a result of amendments to the program by the National Defense Reauthorization Act of 2012, one of SBA's priorities is issuance of a revised policy directive that simplifies and standardizes the proposal, selection, contracting, compliance, and audit procedures for the SBIR program to the extent practicable while allowing the SBIR agencies flexibility in the operation of their individual SBIR Programs. Wherever possible, SBA is reducing the paperwork and regulatory compliance burden on the small businesses that apply to and participate in the SBIR program while still meeting the statutory reporting and data collection requirements. For example, SBA created a program data management system for collecting and storing information that will be utilized by all SBIR agencies, thus eliminating the need for SBIR applicants to submit the same data to multiple agencies.

(2) Small Business Technology Transfer (STTR) Program (RIN: 3245–AF45)

Many elements of the STTR program are designed and intended to be identical to those of the SBIR program. SBA is therefore issuing an updated STTR Policy Directive to maintain the appropriate consistency with the SBIR program, as described in the preceding paragraphs.

The revised SBIR and STTR Policy Directives are designed to reduce confusion for both small businesses and the Federal agencies that make awards under the program, reducing the regulatory cost burden, potentially increasing the number of SBIR and STTR solicitations, and leading to savings of administrative costs as a result of fewer informational inquiries and disputes.

(3) Small Business Mentor-Protégé Programs (RIN: 3245–AG24)

SBA currently has a mentor-protégé program for the 8(a) Business Development Program that is intended to enhance the capabilities of the protégé and to improve its ability to successfully compete for Federal contracts. The Small Business Jobs Act authorized SBA to use this model to establish similar mentor-protégé programs for the Service Disabled Veteran Owned, HUBZone and Women-Owned Small Business Programs. The National Defense Authorization Act for FY 2013 further authorized SBA to extend the availability of mentor-protégé programs to all small business concerns. During the next 12 months, one of SBA's priorities will be to issue regulations establishing these newly authorized mentor-protégé programs. The various types of assistance that a mentor will be expected to provide to a protégé include technical and/or management assistance; financial assistance in the form of equity investment and/or loans; subcontracts and/or assistance in performing prime contracts with the Government in the form of joint venture arrangements.

(4) 504 and 7(a) Regulatory Enhancements (RIN: 3245–AG04)

SBA also plans to finalize revised regulations to reinvigorate the Section 504 and Section 7(a) loan programs, which are both vital tools for creating and preserving American jobs. SBA proposes to strip away regulatory restrictions that detract from the 504 Loan Program's core job creation mission as well as the 7(a) Loan Program's positive job creation impact on the American economy. The revised rule will enhance job creation through increasing eligibility for loans under SBA's business loan programs, including its Microloan Program, and by modifying certain program participant requirements applicable to the 504 Loan Program. The major amendments that SBA is proposing include expanding eligibility for these programs by redefining the permitted affiliations for borrowers when determining the applicant's size, but balancing the expansion by requiring an affidavit as to ownership; eliminating the personal resources test; and changing the 9-month rule for the 504 Loan Program, and CDC operational and organizational requirements.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), SBA developed a plan for the retrospective review of its regulations. Since that date SBA has issued several updates to this plan to reflect the Agency's ongoing efforts in carrying out this executive order. The final Agency plan and review updates can be found at *http://www.sba.gov/aboutsba/sba_performance/open_government/retrospective_review_of_regulations.*

## SBA

*Proposed Rule Stage*

### 141. Small Business Mentor-Protege Programs

*Priority:* Other Significant.

*Legal Authority:* Pub. L. 111–240; sec 1347;15 U.S.C. 657r

*CFR Citation:* 3 CFR 124; 13 CFR 125; 13 CFR 126; 13 CFR 127.

*Legal Deadline:* None.

*Abstract:* SBA currently has a mentor-protege program for the 8(a) Business Development Program that is intended to enhance the capabilities of the protege and to improve its ability to successfully compete for Federal contracts. The Small Business Jobs Act authorized SBA to use this model to establish similar mentor-protege programs for the Service Disabled Veteran-Owned, HUBZone, and Women-Owned Small Federal Contract Business Programs and the National Defense Authorization Act for Fiscal Year 2013 authorized this for all small businesses. This authority is consistent with recommendations issued by an interagency task force created by President Obama on Federal Contracting Opportunities for Small Businesses. During the next 12 months, SBA will make it a priority to issue regulations establishing the three newly authorized mentor-protege programs and set out the standards for participating as a mentor or protege in each. As is the case with the current mentor-protege program, the various forms of assistance that a mentor will be expected to provide to a protege include technical and/or management assistance; financial assistance in the form of equity investment and/or loans; subcontracts; and/or assistance in performing prime contracts with the Government in the form of joint venture arrangements.

*Statement of Need:* The Small Business Jobs Act determined that the SBA-administered mentor-protégé program currently available to 8(a) BD participants is a valuable tool for all small business concerns and authorized SBA to establish mentor protégé programs for the HUBZone SBC, Service Disabled Veteran-Owned SBCs, and Women-Owned Small Business programs. This authority is consistent with recommendations issued by an interagency task force created by President Obama on Federal Contracting Opportunities for Small Businesses. Among other things, the task force recommended that mentor-protégé programs should be promoted through a new Government-wide framework to give small businesses the opportunity to develop under the wing of experienced large businesses in an expanded Federal procurement arena.

*Summary of Legal Basis:* The Small Business Jobs Act of 2010, Public Law No 111–240, section 1347(b)(3), authorizes SBA to establish mentor-protégé programs for HUBZone SBC, Service Disabled Veteran-Owned SBCs, and Women-Owned Small Business programs SBCs. The National Defense Authorization Act for FY 2013; Public Law 112–239, section 1641, authorizes SBA to establish programs for all SBCs.

*Alternatives:* At this point, SBA believes that the best option for implementing the authority is to create a regulatory scheme that is similar to the existing mentor-protégé program.

*Anticipated Cost and Benefits:* SBA has not yet quantified the costs associated with this rule. However, program participants, particularly the protégés, would be able to leverage the mentoring opportunities as a form of business development assistance that could enhance their capabilities to successfully compete for contracts in and out of the Federal contracting arena. This assistance may include technical and/or management assistance; financial assistance in the form of equity investments and/or loans; subcontracts; and/or assistance in performing prime contracts with the Government in the form of joint venture arrangements.

*Risks:* None identified.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Agency Contact:* Dean R. Koppel, Assistant Director, Office of Policy and Research, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7322, *Fax:* 202 481–1540, *Email: dean.koppel@sba.gov.*

*RIN:* 3245–AG24

## SBA

*Final Rule Stage*

### 142. Small Business Technology Transfer (Sttr) Policy Directive

*Priority:* Other Significant.

*Legal Authority:* 15 U.S.C. 638(p); Pub. L. 112–81, sec 5001, *et seq.*

*CFR Citation:* None.

*Legal Deadline:* Final, Statutory, June 30, 2012, Section 5151 of the SBIR/STTR Reauthorization Act of 2011 (Reauthorization Act) requires SBA to issue amendments to conform the SBIR Policy Directive to the Reuathorization Act amendments.

Statutory requirement that proposed rule be published within 180 days of enactment.

*Abstract:* The amendments to the Small Business Technology Transfer (STTR) Policy Directive cover, in general: extension of the program through 2017; increase in percentage of extramural research and development budget reserved for program; annual adjustment of award guidelines for inflation; authority for SBIR awardees to receive STTR awards and vice versa; prevention of duplicate awards; requirements for agencies to allow business concerns owned by multiple venture capital operating companies, hedge funds or private equity firms to participate in the program; authority for small businesses to contract with Federal laboratory and restrictions on advanced payment to laboratories; technical assistance amendments; commercialization readiness and commercialization readiness pilot for civilian agencies; additional annual report and data collection requirements; and funding for administration and oversight of programs.

*Statement of Need:* Updating the STTR Program Policy Directive is required by recent legislation (The SBIR/STTR Reauthorization Act of 2011—Pub. L. 112–81, sec. 5001, *et seq.*), which made many changes to the STTR program.

*Summary of Legal Basis:* The SBIR/STTR Reauthorization Act of 2011 (Pub. L. 112–81, sec. 5001, *et seq.*).

*Alternatives:* There are no alternatives. Updating the STTR Program Policy Directive is a statutory mandate outlined in the Reauthorization legislation.

*Anticipated Cost and Benefits:* Updating the STTR Program Policy Directive is essential to the implementation of the SBIR/STTR Reauthorization legislation. There have been a number of changes to the framework of the STTR program and the updated Policy Directive will provide guidance and uniformity to agencies overseeing STTR research activities, as well as to small businesses/research institutions looking to meet agency research needs.

There will be costs involved in implementing the SBIR/STTR Reauthorization through the Policy Directive. First, since there are numerous new or expanded responsibilities on both agency personnel and small businesses, there will be additional costs associated with the program. SBA is of the opinion that the additional costs are not burdensome and that the amendments to the program through the SBIR/STTR Reauthorization legislation will help generate expanded economic benefits to both agencies and small businesses/research institutions.

*Risks:* Not applicable.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice | 08/06/12 | 77 FR 46855 |
| Notice Effective | 08/06/12 | 77 FR 46855 |
| Comment Period End. | 10/05/12 | |
| Final Action | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal.

*Additional Information:* Included in SBA's Retrospective Review under Executive Orders 13563 and 13610.

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Edsel M. Brown Jr., Assistant Director, Office of Innovation, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–6450, *Email:* *edsel.brown@sba.gov.*

*Related RIN:* Related to 3245–AF84, Related to 3245–AG46.

*RIN:* 3245–AF45

## SBA

### 143. Small Business Innovation Research (SBIR) Program Policy Directive

*Priority:* Other Significant.

Legal Authority: 15 U.S.C. 638(j); Pub. L. 112–81, sec 5001, *et seq.*

*CFR Citation:* None.

*Legal Deadline:* Final, Statutory, June 30, 2012, Section 5151 of the SBIR/STTR Reauthorization Act of 2011 (Reauthorization Act) requires SBA issue amendments to conform the SBIR Policy Directive to the Reauthorization Act amendments.

Statutory requirement that proposed rule be published within 180 days of enactment.

*Abstract:* The amendments to the Small Business Innovation Research Policy Directive cover, in general: extension of the program through 2017; increase in percentage of extramural research and development budget reserved for program; annual adjustment of award guidelines for inflation; authority for SBIR awardees to receive STTR awards and vice versa; prevention of duplicate awards; requirements for agencies to allow business concerns owned by multiple venture capital operating companies, hedge funds or private equity firms to participate in the program; authority for small businesses to contract with Federal laboratory and restrictions on advanced payment to laboratories; technical assistance amendments; commercialization readiness and commercialization readiness pilot for civilian agencies; additional annual report and data collection requirements; and funding for administration and oversight of programs.

*Statement of Need:* Updating the SBIR Program Policy Directive is required by recent legislation (The SBIR/STTR Reauthorization Act of 2011—Pub. L. 112–81, sec. 5001, *et seq.*), which made many changes to the SBIR program.

*Summary of Legal Basis:* The SBIR/STTR Reauthorization Act of 2011 (Pub. L. 112–81, sec. 5001, *et seq.*).

*Alternatives:* There are no alternatives. Updating the SBIR Program Policy Directive is a statutory mandate outlined in the Reauthorization legislation.

*Anticipated Cost and Benefits:* Updating the SBIR Program Policy Directive is essential to the implementation of the SBIR/STTR Reauthorization legislation. There have been a number of changes to the framework of the SBIR program and the updated Policy Directive will provide guidance and uniformity to agencies overseeing SBIR research activities, as well as to small businesses looking to meet agency research needs.

There will be costs involved in implementing the SBIR/STTR Reauthorization through the Policy Directive. First of all since there are numerous new or expanded responsibilities on both agency personnel and small businesses (e.g. reporting), there will be additional costs associated with the program. SBA is of the opinion that the additional costs are not burdensome and that the amendments to the program through the SBIR/STTR Reauthorization legislation will help generate expanded economic benefits to both agencies and small businesses.

*Risks:* Not applicable.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice | 08/06/12 | 77 FR 46806 |
| Notice Effective | 08/06/12 | 77 FR 46806 |
| Comment Period End. | 10/05/12 | |
| Final Action | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal.

*Additional Information:* Included in SBA's Retrospective Review under Executive Orders 13563 and 13610.

*Agency Contact:* Edsel M. Brown Jr., Assistant Director, Office of Innovation, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–6450, *Email: edsel.brown@sba.gov.*

*Related RIN:* Related to 3245–AF45, Related to 3245–AG46.

*RIN:* 3245–AF84

## SBA

### 144. 504 and 7(a) Loan Programs Updates

*Priority:* Other Significant.

*Legal Authority:* 15 U.S.C. 695 *et seq.,* 15 U.S.C. 636

*CFR Citation:* 13 CFR 120.

*Legal Deadline:* None.

*Abstract:* The 7(a) Loan Program and 504 Loan Program are SBA's two primary business loan programs authorized under the Small Business Act and the Small Business Investment Act of 1958, respectively. The 7(a) Loan Program's main purpose is to help eligible small businesses obtain credit when they cannot obtain ''credit elsewhere.'' This program is also an important engine for job creation. On the other hand, the core mission of the 504 Loan Program is to provide long-term fixed asset financing to small businesses to facilitate the creation of jobs and local economic development. The purpose of this proposed rulemaking is to reinvigorate these programs as vital tools for creating and preserving American jobs. SBA proposes to strip away regulatory restrictions that detract from the 504 Loan Program's core job creation mission as well as the 7(a) Loan Program's positive job creation impact on the American economy. The proposed changes would enhance job creation through increasing eligibility for loans under SBA's business loan programs, including its Microloan Program, and by modifying certain program participant requirements applicable to these two programs. The major changes that SBA is proposing include changes relating to affiliation principles, the personal resources test, the 9-month rule for the 504 Loan Program, and CDC operational and organizational requirements.

*Statement of Need:* The U.S. Small Business Administration (''SBA'') has determined that changing conditions in the American economy and persistent high levels of unemployment compel the agency to seek ways to improve access to its two flagship business lending programs: The 504 Loan Program and the 7(a) Loan Program. The purpose of this proposed rulemaking is to reinvigorate and improve delivery of these programs to create and preserve American jobs.

*Summary of Legal Basis:* The 504 Loan Program and 7(a) Loan Program are SBA's two primary business loan programs authorized under the Small Business Investment Act of 1958 and the Small Business Act, respectively. Under these Acts, SBA's Administrator has the authority and responsibility for establishing guidelines for optimum delivery of these two Programs.

*Alternatives:* With respect to the proposed changes to CDC Board of Director requirements, the Agency considered allowing CDC directors to operate with virtually no oversight or standards, relying on state non-profit corporation laws and state oversight to ensure proper Board performance. This idea was rejected after SBA's review of state oversight of non-profit directors and the applicable state law requirements indicated that they would not provide the parameters and oversight necessary for a Federal loan program that puts billions of taxpayer dollars at risk each year. Another ''alternative'' would be to eliminate even more regulatory burdens and the Agency enthusiastically encourages public comment and suggestions on how that can be done responsibly protecting the integrity of the programs and the taxpayer investment without increased waste, fraud and/or abuse.

*Anticipated Cost and Benefits:* The benefits of the proposed rule will include program enhancements to increase small business and lender participation in the program, and cost reduction of the 504 and 7(a) loan program to the Federal Government, participant lenders, and to the small business borrower.

The goal of the proposed rule is to reinvigorate the business loan programs by eliminating unnecessary compliance burdens and loan eligibility restrictions. SBA estimates that the proposed rule will streamline the 504 and 7(a) loan applications resulting in an estimated 10 percent cost reduction to small business borrowers to participate in the 504 and 7(a) loan programs. Based on estimates using FY 12 loan approvals as a base, the annual savings to borrowers for both programs combined is estimated at $700,000–$750,000 annually. SBA also estimates that the proposed rule changes will reduce agency loan review burden hours by 5 percent. Based on estimates using FY 12 loan approvals as a base, this burden reduction in loan review time combined for both the 504 and 7(a) loan programs is estimated at between $80,000 to $100,000 annually.

*Risks:* SBA does not anticipate increased risk to the 504 and 7(a) loan programs due to this proposed rule. SBA is confident that the rules will improve portfolio integrity and reach a more robust borrower that will reduce portfolio risk to SBA.

SBA also proposes more stringent corporate governance standards and higher insurance requirements for Certified Development Companies (CDC) to reduce risk to the SBA and the CDC. These corporate governance proposed rules place more emphasis on board oversight and responsibility on CDC boards and increase insurance requirements on CDC boards as well as requiring errors and omissions insurance.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 02/25/13 | 78 FR 12633 |
| NPRM Comment Period End. | 04/26/13 | |
| Final Rule | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Additional Information:* Included in SBA's Retrospective Review under Executive Orders 13563 and 13610.

*Agency Contact:* John P. Kelley, Senior Advisor to the Associate Administrator, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–0067, *Fax:* 202 292–3844, *Email: patrick.kelley@sba.gov.*

*RIN:* 3245–AG04

BILLING CODE 8025–01–P

## SOCIAL SECURITY ADMINISTRATION (SSA)

*Statement of Regulatory Priorities*

We administer the Retirement, Survivors, and Disability Insurance

programs under title II of the Social Security Act (Act), the Supplemental Security Income (SSI) program under title XVI of the Act, and the Special Veterans Benefits program under title VIII of the Act. As directed by Congress, we also assist in administering portions of the Medicare program under title XVIII of the Act. Our regulations codify the requirements for eligibility and entitlement to benefits and our procedures for administering these programs. Generally, our regulations do not impose burdens on the private sector or on State or local governments, except for the States' disability determination services. We fully fund the disability determination services in advance or by way of reimbursement for necessary costs in making disability determinations.

The seven entries in our regulatory plan (plan) represent issues of major importance to the Agency. We describe the individual initiatives more fully in the attached plan.

*Improving the Disability Process*

Since the continued improvement of the disability program is of vital concern to us, we have initiatives in the plan addressing disability-related issues. They include:

Three proposed rules update the medical listings used to determine disability—evaluating neurological impairments, malignant neoplastic diseases and human immunodeficiency virus infection for evaluating limitations in the immune system disorders. The revisions reflect our adjudicative experience and advances in medical knowledge, diagnosis, and treatment.

Another proposed rule will require our claimants to inform us or to submit all evidence known to them that relates to their disability claim.

*Enhance Public Service*

We will revise our rules to finalize the 12-month time limit for the withdrawal of an old-age benefits application. The final rules will permit only one withdrawal per lifetime.

We will revise our rules to protect the integrity of our programs and address public concerns regarding the removal of an administrative judge's name from the Notice of hearing and other prehearing notices.

We will finalize the rule modifying our regulations regarding Medicare Part B income-related monthly adjustment amounts in order to conform to changes made to the Social Security Act by the Affordable Care Act.

*Retrospective Review of Existing Regulations*

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in our final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan.* However, you can find more information about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. You can also find these rulemakings on Regulations.gov. The agency final plans are located at: *http://www.socialsecurity.gov/open/regsreview/EO-13563-Final-Plan.html.*

| RIN | Title | Expected to significantly reduce burdens on small businesses |
|---|---|---|
| 0960–AF35 | Revised Medical Criteria for Evaluating Neurological Impairments | No. |
| 0960–AF58 | Revised Medical Criteria for Evaluating Respiratory System Disorders | No. |
| 0960–AF69 | Revised Medical Criteria for Evaluating Mental Disorders | No. |
| 0960–AF88 | Revised Medical Criteria for Evaluating Hematological Disorders | No. |
| 0960–AG21 | New Medical Criteria for Evaluating Language and Speech Disorders | No. |
| 0960–AG28 | Revised Medical Criteria for Evaluating Growth Impairments | No. |
| 0960–AG38 | Revised Medical Criteria for Evaluating Musculoskeletal Disorders | No. |
| 0960–AG65 | Revised Medical Criteria for Evaluating Digestive Disorders | No. |
| 0960–AG71 | Revised Medical Criteria for Evaluating Immune (HIV) System Disorders | No. |
| 0960–AG74 | Revised Medical Criteria for Evaluating Cardiovascular Disorders | No. |
| 0960–AG91 | Revised Medical Criteria for Evaluating Skin Disorders | No. |
| 0960–AH03 | Revised Medical Criteria for Evaluating Genitourinary Disorders | No. |
| 0960–AH04 | Revised Medical Criteria for Evaluating Congenital Disorders That Affect Multiple Body Systems | No. |
| 0960–AH28 | Revised Medical Criteria for Evaluating Visual Disorders | No. |
| 0960–AH43 | Revised Medical Criteria for Evaluating Cancer (Malignant Neoplastic Diseases) | No. |
| 0960–AH54 | Revised Medical Criteria for Evaluating Hearing Loss and Disturbances of Labyrinthine-Vestibular Function. | No. |

## SSA

*Proposed Rule Stage*

### 145. Revised Medical Criteria for Evaluating Neurological Impairments (806P)

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

*CFR Citation:* 20 CFR 404.1500, app 1.

*Legal Deadline:* None.

*Abstract:* Sections 11.00 and 111.00, Neurological Impairments, of appendix 1 to subpart P of part 404 of our regulations describe neurological impairments that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

*Statement of Need:* These proposed regulations are necessary to update the listings for evaluating neurological impairments to reflect advances in medical knowledge, treatment, and methods of evaluating these impairments. The changes would ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

*Summary of Legal Basis:* Administrative—not required by statute or court order.

*Alternatives:* We considered not revising the listings and continuing to use our current criteria. However, we believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating these types of impairments.

*Anticipated Cost and Benefits:* Estimated Savings—low.

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 04/13/05 | 70 FR 19356 |
| ANPRM Comment Period End. | 06/13/05 | |
| NPRM | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Additional Information:* Includes Retrospective Review under E.O. 13563.

*URL for Public Comments: www.regulations.gov.*

*Agency Contact:* Cheryl A. Williams, Director, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020.

Shawnette Ashburne, Social Insurance Specialist, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 966–5788.

William P. Gibson, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations and Reports Clearance, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 966–9039, *Email: william.gibson@ssa.gov.*

*RIN:* 0960–AF35

## SSA

### 146. Revised Medical Criteria for Evaluating Immune (HIV) System Disorders (3466P)

*Priority:* Other Significant.

*Unfunded Mandates:* Undetermined.

*Legal Authority:* 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

*CFR Citation:* 20 CFR 404.1500, app 1.

*Legal Deadline:* None.

*Abstract:* Sections 14.00 and 114.00, Immune System, of appendix 1 to subpart P of part 404 of our regulations describe immune system disorders that we consider severe enough to prevent an individual from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

*Statement of Need:* This proposed regulation is necessary in order to update the HIV evaluation listings to reflect advances in medical knowledge, treatment, and evaluation methods. It ensures that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that individuals who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

*Summary of Legal Basis:* Administrative—not required by statute or court order.

*Alternatives:* Undetermined at this time.

*Anticipated Cost and Benefits:* Cost/Savings estimate—negligible.

*Risks:* Undetermined at this time.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 03/18/08 | 73 FR 14409 |
| ANPRM Comment Period End. | 05/19/08 | |
| NPRM | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* Undetermined.

*Additional Information:* Includes Retrospective Review under E.O. 13563.

*URL for Public Comments: www.regulations.gov.*

*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.

Paul J. Scott, Social Insurance Specialist, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 966–1192.

Helen Droddy, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations and Reports Clearance, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1483, *Email: helen.droddy@ssa.gov.*

*RIN:* 0960–AG71

## SSA

### 147. Revised Medical Criteria for Evaluating Cancer (Malignant Neoplastic Diseases) (3757P)

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

*CFR Citation:* 20 CFR 404.1500, app 1.

*Legal Deadline:* None.

*Abstract:* We propose to revise the criteria in parts A and B of the Listing of Impairments (listings) that we use to evaluate cases involving cancer (malignant neoplastic diseases) in adults and children under titles II and XVI of the Social Security Act (Act). These proposed revisions would reflect our adjudicative experience, advances in medical knowledge, and recommendations from medical experts we consulted.

*Statement of Need:* These proposed regulations are necessary to update the listings for evaluating cancer to reflect advances in medical knowledge, treatment, and methods of evaluating cancer. The changes would ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

*Summary of Legal Basis:* Administrative—not required by statute or court order.

*Alternatives:* We considered not revising the listings and continuing to use our current criteria. However, we believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating these types of impairments.

*Anticipated Cost and Benefits:* Cost estimate negligible.

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.
*Government Levels Affected:* None.
*URL for Public Comments:* *www.regulations.gov.*
*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.
Mark Kuhn, Social Insurance Specialist, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 966–6109.
Helen Droddy, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations and Reports Clearance, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1483, *Email: helen.droddy@ssa.gov.*
*RIN:* 0960–AH43

## SSA

### 148. Submission of Evidence in Disability Claims (3802P)

*Priority:* Other Significant.
*Legal Authority:* 42 U.S.C. 405(a); 42 U.S.C. 405(d); 42 U.S.C. 423(d)(5); 42 U.S.C. 1383c(a)(3)(H); 42 U.S.C. 1383(d)(1)
*CFR Citation:* 20 CFR 404.900; 20 CFR 404.935; 20 CFR 404.1512; 20 CFR 404.1740; 20 CFR 405.1; 20 CFR 405.331; 20 CFR 416.912; 20 CFR 416.1400; 20 CFR 416.1435; 20 CFR 416.1540.
*Legal Deadline:* None.
*Abstract:* We propose to require claimants to inform us about or submit all evidence known to them that relates to their disability claim, subject generally to two exceptions for privileged communications and work product. This requirement would include the duty to submit all relevant evidence obtained from any source in its entirety, unless subject to an exception. We also propose to require a representative to help the claimant obtain the information or evidence that the claimant must submit under our regulations.
*Statement of Need:* These proposed rules would protect the integrity of the programs by clarifying a claimant's duty to submit all relevant evidence and enabling us to have a more complete case record on which to make more accurate disability determinations or decisions.
*Summary of Legal Basis:* Administrative—not required by statute or court order.
*Alternatives:* Based on our program experience, there are no alternatives at this time. The proposed rules are based on recommendations by the Administrative Conference of the United States.
*Anticipated Cost and Benefits:* Undetermined.
*Risks:* None.
*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.
*Small Entities Affected:* No.
*Government Levels Affected:* None.
*URL for Public Comments:* *www.regulations.gov.*
*Agency Contact:* Janet Truhe, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 966–7203.
*RIN:* 0960–AH53

## SSA

*Final Rule Stage*

### 149. Amendments to Regulations Regarding Withdrawals of Applications and Voluntary Suspension of Benefits (3573F)

*Priority:* Other Significant.
*Legal Authority:* 42 U.S.C. 402; 42 U.S.C. 402(i); 42 U.S.C. 402(j); 42 U.S.C. 402(o); 42 U.S.C. 402(p); 42 U.S.C. 402(r); 42 U.S.C. 403(a); 42 U.S.C. 403(b); 42 U.S.C. 405(a); 42 U.S.C. 416; 42 U.S.C. 416(i)(2); 42 U.S.C. 423; 42 U.S.C. 423(b); 42 U.S.C. 425; 42 U.S.C. 428(a) to 428(e); 42 U.S.C. 902(a)(5)
*CFR Citation:* 20 CFR 404.313; 20 CFR 404.640.
*Legal Deadline:* None.
*Abstract:* We modified our regulations to establish a 12-month time limit for the withdrawal of an old age benefits application. We will also permit only one withdrawal per lifetime. These changes limit the voluntary suspension of benefits only to those benefits disbursed in future months.
*Statement of Need:* We are under a clear congressional mandate to protect the Trust Funds. It was crucial that we changed our current policies that have the effect of allowing beneficiaries to withdraw applications or suspend benefits and use benefits from the Trust Funds as something akin to an interest-free loan.
*Summary of Legal Basis:* Discretionary.
*Alternatives:* Based on our current evidence there are no alternatives at this time.
*Anticipated Cost and Benefits:* The administrative effect of this final rule is negligible.
*Risks:* None.
*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 12/08/10 | 75 FR 76256 |
| Interim Final Rule Effective. | 12/08/10 | |
| Interim Final Rule Comment Period End. | 02/07/11 | |
| Final Action ..... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* No.
*Small Entities Affected:* No.
*Government Levels Affected:* Undetermined.
*Agency Contact:* Deidre Bemister, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, Baltimore, MD 21235–6401 *Phone:* 410 966–6223.
Helen Droddy, Social Insurance Specialist, Regulations Writer, Social Security Administration. Office of Regulations and Reports Clearance, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1483, *Email: helen.droddy@ssa.gov.*
*RIN:* 0960–AH07

## SSA

### 150. Changes to Scheduling and Appearing at Hearings (3728F)

*Priority:* Other Significant.
*Legal Authority:* 42 U.S.C. 401(j); 42 U.S.C. 404(f); 42 U.S.C. 405(a) to 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 405(j); 42 U.S.C. 405(s); 42 U.S.C. 405 (note); 42 U.S.C. 421; 42 U.S.C. 423(a) to 423(b); 42 U.S.C. 423(d) to 423(h); 42 U.S.C. 423(i); 42 U.S.C. 423(s); 42 U.S.C. 425; 42 U.S.C. 902(a)(5); 42 U.S.C. 902 (note); 42 U.S.C. 1381; 42 U.S.C. 1381a; 42 U.S.C. 1383; 42 U.S.C. 1383b
*CFR Citation:* 20 CFR 404.929; 20 CFR 404.936; 20 CFR 404.938; 20 CFR 405.315; 20 CFR 405.316; 20 CFR 405.317; 20 CFR 405.350; 20 CFR 416.1429; 20 CFR 416.1436; 20 CFR 416.1438.
*Legal Deadline:* None.
*Abstract:* We propose to revise our rules to protect the integrity of our programs and to address public concerns regarding the removal of an administrative law judge's name from the Notice of Hearing and other prehearing notices. To accomplish both objectives, these proposed rules state

that we will provide an individual with notice that his or her hearing may be held by video teleconferencing and that he or she has an opportunity to object to appearing by video teleconferencing within 30 days of the notice. We have also made changes that allow us to determine that claimant will appear via video teleconferencing if a claimant changes residences while his or her request for hearing is pending. We anticipate these changes will increase the integrity of our programs with minimal impact on the public and result in more efficient administration of our program.

*Statement of Need:* These final rules will protect the integrity of our programs and address public concerns regarding the removal of an administrative law judge's name from the Notice of hearing and other prehearing notices.

*Summary of Legal Basis:* Administrative not required by statute or court order.

*Alternatives:* We believe that based on our current evidence there are no alternatives at this time.

*Anticipated Cost and Benefits:* Viewed in the context of the current business process, this regulation will not result in a change in the numbers of appeals or their distribution by type of hearing. The regulation, if it becomes final, should have no effect on program costs for OASDI or SSI in this current business context.

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 06/27/13 | 78 FR 38610 |
| NPRM Comment Period End. | 08/26/13 | |
| Final Action | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*URL for Public Comments:* *www.regulations.gov.*

*Agency Contact:* Brian J. Rudick, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations and Reports Clearance, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–7102.

*RIN:* 0960–AH37

## SSA

### 151. Conforming Changes to Regulations Regarding Income-Related Monthly Adjustment Amounts to Medicare Part B Premiums (3734I)

*Priority:* Other Significant.

*Legal Authority:* 42 U.S.C. 902(a)(5); 42 U.S.C. 1395r(i)

*CFR Citation:* 20 CFR 404.900; 20 CFR 418.1001; 20 CFR 418.1101; 20 CFR 418.1105; 20 CFR 418.1115; 20 CFR 418.1120; 20 CFR 418.1125; 20 CFR 418.1130; 20 CFR 418.1230; 20 CFR 418.1350.

*Legal Deadline:* None.

*Abstract:* We are modifying our regulations to the Medicare Part B income-related monthly adjustment amount (IRMAA) in order to conform to changes made to the Social Security Act (Act) by the Affordable Care Act. These rules remove the requirement that beneficiaries consent to the release of IRS information outside of SSA for appeals past the reconsideration level and freeze the income threshold and ranges from 2011 through 2019. We are also removing provisions that phased in the income-related monthly adjustment amount between 2007 and 2009. The regulation also updates an outdated provision to reflect the transfer of authority for hearing appeals under title XVIII of the Act from SSA to the Department of Health and Human Services, as prescribed by the Medicare Prescription Drug, and Modernization Act of 2003.

*Statement of Need:* We are modifying our regulations regarding Medicare Part B income-related monthly adjustment amounts in order to conform to changes made to the Social Security Act by the Affordable Care Act.

*Summary of Legal Basis:* We are modifying our regulations regarding Medicare Part B income-related monthly amounts in order to conform to changes made to the Social Security Act by the Affordable Care Act.

*Alternatives:* None.

*Anticipated Cost and Benefits:* None.

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 09/18/13 | 78 FR 57257 |
| Interim Final Rule Comment Period End. | 11/18/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal.

*URL for Public Comments:* *www.regulations.gov.*

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## FEDERAL ACQUISITION REGULATION (FAR)—REGULATORY PLAN—OCTOBER 2013

### I. Mission and Overview

The Federal Acquisition Regulation (FAR) was established to codify uniform policies for acquisition of supplies and services by executive agencies. It is issued and maintained jointly, pursuant to the Office of Federal Procurement Policy (OFPP) Reauthorization Act, under the statutory authorities granted to the Secretary of Defense, Administrator of General Services, and the Administrator, National Aeronautics and Space Administration. Statutory authorities to issue and revise the FAR have been delegated to the procurement executives in DoD, GSA, and NASA.

This plan pertains to regulatory changes that will be included in the FAR. The FAR serves as the authoritative source for Federal agency procurements, directly affecting the purchase and sale of over $500 billion worth of supplies and services each year. The updating and maintaining of the FAR is achieved through extensive involvement with the Federal Acquisition Regulatory Council (FAR Council). The FAR Council, chaired by the OFPP, is comprised of senior representation from DoD, GSA and NASA. The FAR Council assists in the direction, development, and coordination of Government-wide procurement regulations, which is accomplished, in part, by interagency FAR teams and agency analysts. FAR changes are accompanied by an established process for review and analysis of public comment. Members of the public may submit comments on individual proposed and interim final rulemakings at *www.regulations.gov* during the comment period that follows publication in the **Federal Register**.

### II. Statement of Regulatory and Deregulatory Priorities

*Federal Acquisition Regulation Priorities*

Specific FAR cases that the FAR Council established and plans to address in Fiscal Year 2013 and 2014 include:

*Regulations of Concern to Small Businesses*

Set-Asides for Small Business—Provide authority to set-aside part or parts of multiple-award contracts, and task and delivery orders under multiple-award contracts. (FAR Case 2011–024)

Accelerated Payment to Small Business Subcontractors- Implement the temporary policy provided by Office of Management and Budget (OMB) Policy Memorandum M–12–16, dated July 11, 2012, to provide for the accelerated payments to small business subcontractors. (FAR Case 2012–031)

Contracting with Women-owned Small Business Concerns—Implements section 1697 of the NDAA for FY 2013 to remove the statutory limitation on the dollar amount of a contract for which women-owned small businesses can compete. (FAR Case 2013–010)

*Regulations Which Promote Fiscal Responsibility*

Notification of Pass-Through Contracts—Implements section 802 of the NDAA for FY 2013. Section 802 requires review and justification by the contracting officer in any case in which an offeror for a contract or a task or delivery order informs the agency pursuant to that the offeror intends to award subcontracts for more than 70 percent of the total cost of work to be performed under the contract, task order, or delivery order. (FAR Case 2013–012)

Applicability of the Senior Executive Compensation Benchmark—Implements of section 803 of the National Defense Authorization Act for Fiscal Year 2012 (Pub L 112–81), which extends the limitation on allowability of compensation for certain contractor personnel from senior executives to all DoD, NASA and Coast Guard contractor employees. (FAR Case 2012–025)

Expansion of Applicability of the Senior Executive Benchmark—Implements Section 803 of the National Defense Authorization Act for Fiscal Year 2012 (Pub L 112–81), which extends the limitation on allowability of compensation for certain contractor personnel from senior executives to all DoD, NASA and Coast Guard contractor employees. (FAR Case 2012–017)

Terms of Service—Responds to recent DOJ Office of Legal Counsel (OLC) opinion regarding open-ended indemnification Terms of Service (TOS) Agreements and the Anti-Deficiency Act. Clarifies the unenforceability against the Government of such open-ended indemnification TOS agreements. (FAR Case 2013–005)

*Regulations Which Promote Ethics and Integrity*

Allowability of legal cost of Whistleblower—Implements sections 827(g) and 828(d) of the NDAA for FY 2013 (Pub. L. 112–239). The rule amends the FAR to address legal costs incurred by a contractor in connection with a proceeding commenced by a contractor employee submitting a complaint under the applicable whistleblower statute. (FAR Case 2013–017)

Pilot program for Enhancement of Contractor Whistleblower Protections—Implements section 828 of the NDAA for FY 2013. Section 828 enhances the whistleblower protections of contractor and subcontractor employees by establishing a 4-year ''pilot program'' to strengthen whistleblower protections for civilian agencies' (i.e., title 41 agencies) contractors and subcontractors. The whistleblower provisions exempt employees in the intelligence community and do not cover the disclosure of classified information. (FAR Case 2013–015)

Trafficking in Persons—Implements Executive Order 13627, and title XVII of the NDAA for FY 2013, to strengthen protections against trafficking in persons in Federal contracts. (FAR Case 2013–001)

Organizational Conflicts of Interests—Implements section 841 of the NDAA for FY 2009 (Pub. L. 110–147). Section 841 requires consideration of how to address the current needs of the acquisition community with regard to Organizational Conflicts of Interest. Separately addresses the issues regarding unequal access to information. (FAR Case 2011–011)

Personal Conflicts of Interest—Implements section 829 of the NDAA for FY 2013 (Pub. L. 112–239). The rule extends the guidance on personal conflicts of interest for contractor employees performing acquisitions functions closely associated with inherently governmental functions guidance to contractor personnel performing certain other functions or contract types. (FAR Case 2013–022)

Basic Safeguarding of Contractor Information Systems—Addresses safeguarding of unclassified information that does not meet the standard for National Security classification under Executive Order 12958, as amended. It addresses unclassified information that is pertinent to the national interests of the United States or originated by entities outside the U.S. Federal Government, and under law or policy requires protection from disclosure, special handling safeguards, and prescribed limits on exchange or dissemination. (FAR Case 2011–020)

Information on Corporate Contractor Performance and Integrity Implements section 852 of the NDAA for FY 2013 (Pub. L. 112–239)—Section 852 requires that FAPIIS include, to the extent practicable, information on any parent, subsidiary, or successor entities to the corporation. (FAR Case 2013–020)

Expanded Reporting of Nonconforming Supplies—Expands Government and contractor requirements for reporting of nonconforming supplies. Partial implementation of section 818 of the NDAA for FY 2012. (FAR Case 2013–002)

Contractor Access to Protected Information—Addresses contractor access to protected information, i.e., information provided by the Government (other than public information), generated for the Government, or provided by a third party and marked by the provider to indicate that protection is required. (FAR 2012–029)

*Regulations Which Promote Accountability and Transparency*

Service Contracts Reporting Requirements—Implements section 743 of Division C of FY 2010 Consolidated Appropriations Act (P.L. 111–117), which requires agencies to develop inventories of their service contracts, including number and work location of contractor employees. (FAR Case 2010–010)

Commercial and Government Entity (CAGE) Code—The rule requires the use of CAGE codes for awards valued greater than the micro-purchase threshold, and identification of the immediate corporate/organization parent and highest level corporate/organization parent during contractor registration for Federal contracts. The goal is to provide for standardization across the Federal government, and to facilitate data collection. (FAR Case 2012–014)

Uniform Procurement Identification—The rule proposes the use of a unique identifier for contracting offices and a standard unique Procurement Instrument Identification Number for transactions. The goal is to provide for standardization across the Federal government and to facilitate data tracking and collection. (FAR Case 2012–023)

Line Item Numbering—Considers the use of a standardized uniform line item numbering structure in Federal procurement. (FAR Case 2013–014)

Higher-Level Contract Quality Requirements—Revises acquisition

planning and quality assurance requirements to ensure the performance of higher level quality assurance for critical items. (FAR 2012–032)

*Regulations Which Promote Environmental and Sustainable Acquisition*

(FAR Case 2013–006) This final rule published in the **Federal Register** on August 1, 2013 78 FR 46794 but reporting for FY 13 and onward will be in the governmentwide biobased reporting tool at *www.sam.gov*.

EPEAT Items—Identifies imaging equipment and televisions as new items to be included under the EPEAT standard in FAR part 23 (FAR Case 2013–016).

Sustainable Acquisition—Implements Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance (10/5/2009), and Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management (1/24/2007), requiring agencies to leverage acquisitions to foster markers for sustainable technologies, products, and services. (FAR Case 2010–001)

**III. Retrospective Review of Existing Regulations**

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (January 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Agencies final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in The Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. The final agency plans can be found at: *www.gsa.gov/improvingregulations.*

*FAR Rules*

- 9000–AM37, FAR Case 2012–031, Accelerated Payment to Small Business Subcontractors—Implement the temporary policy provided by Office of Management and Budget (OMB) Policy Memorandum M–12–16, dated July 11, 2012, to provide for the accelerated payments to small business subcontractors.
- 9000–AM09, FAR Case 2012–009, Documenting Contractor Performance—Provides government-wide standardized past performance evaluation factors and performance rating categories and require that past performance information be entered into the Contractor Performance Assessment Reporting System (CPARS).
- 9000–AM40, FAR Case 2012–028, Contractor Comment Period—Past Performance Evaluations—Reduce the time a contractor has to rebut a performance assessment before the assessment is made available to other agencies in the Past Performance Information Retrieval System.
- 9000–AM12, FAR Case 2011–024, Set-Asides for Small Business—Provides authority to set-aside part or parts of multiple-award contracts, and task and delivery orders under multiple-award contracts.
- 9000–AM59, FAR Case 2013–010, Contracting with Women-owned Small Business Concerns—Implements section 1697 of the NDAA for FY 2013 to remove the statutory limitation on the dollar amount of a contract for which women-owned small businesses can compete.
- 9000–AL82, FAR Case 2011–001, Organizational Conflicts of Interest and Unequal Access to Information—Provides revised regulatory coverage on organizational conflicts of interest (OCI) and additional coverage regarding unequal access to information to help the Government in identifying and addressing circumstances in which a Government contractor may be unable to render impartial assistance or advice to the Government.
- 9000–AM42, FAR Case 2012–029, Contractor Access to Protected Information—Establishes the minimum processes and requirements for the selection, accountability, training, equipping, and conduct of personnel performing private security functions outside the United States.
- 9000–AM55, FAR Case 2013–001; Ending Trafficking in Persons—Strengthen protections against human trafficking in persons in federal contracting.

**BILLING CODE 6820–EP–P**

**Fall 2013 Statement of Regulatory Priorities**

*CFPB Purposes and Functions*

The Bureau of Consumer Financial Protection (CFPB) was established as an independent bureau of the Federal Reserve System by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376) (Dodd-Frank Act). Pursuant to the Dodd-Frank Act, the CFPB has rulemaking, supervisory, enforcement, and other authorities relating to consumer financial products and services. Among these are the consumer financial protection authorities that transferred to the CPFB from seven Federal agencies on the designated transfer date, July 21, 2011. These authorities include the ability to issue regulations under more than a dozen Federal consumer financial laws.

As provided in section 1021 of the Dodd-Frank Act, the purpose of the CFPB is to implement and enforce Federal consumer financial laws consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that such markets are fair, transparent, and competitive. The CFPB is authorized to exercise its authorities for the purpose of ensuring that:

(1) Consumers are provided with timely and understandable information to make responsible decisions about transactions involving consumer financial products and services;

(2) Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;

(3) Outdated, unnecessary, or unduly burdensome regulations concerning consumer financial products and services are regularly identified and addressed in order to reduce unwarranted regulatory burdens;

(4) Federal consumer financial law is enforced consistently, without regard to status as a depository institution, in order to promote fair competition; and

(5) Markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

*CFPB Regulatory Priorities*

The CFPB's regulatory priorities for the period from [November 1], 2013, to [October 31], 2014, include continuing work to implement Dodd-Frank Act mortgage protections, a series of rulemakings to address critical issues in other markets for consumer financial products and services, and following up on earlier efforts to streamline and modernize regulations that the Bureau has inherited from other Federal agencies.

Implementing Dodd-Frank Act Mortgage Protections

As reflected in the CFPB's semiannual regulatory agenda, a principal focus of the CFPB is the Bureau's continuing efforts to implement critical consumer protections under the Dodd-Frank Act to guard against mortgage market practices that contributed to the nation's most significant financial crisis in several decades.

To that end, a major effort of the Bureau is the expected imminent issuance by the Bureau of its final rule combining several disclosures that consumers receive in connection with applying for and closing on a mortgage loan under the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA). The project to integrate and streamline the disclosures is mandated under the Dodd-Frank Act both to increase consumer understanding of mortgage transactions and to facilitate compliance by industry. The integrated forms are the cornerstone of the Bureau's broader ''Know Before You Owe'' initiative and will be supplemented by consumer education programs and regulatory implementation support programs going forward.

In addition, the Bureau's regulatory priorities include continuing rulemaking activities to implement a number of mortgage-related requirements under title XIV of the Dodd-Frank Act that are designed to strengthen consumer protections involving the origination and servicing of mortgages. The Bureau issued several implementing regulations in January 2013, most of which will take effect in January 2014. The mortgage rules issued by the Bureau included rules on determining a consumer's ability to repay a mortgage loan, and on ''qualified mortgages''; and rules on mortgage servicing; loan originator compensation; escrow requirements for higher-priced mortgages; appraisal requirements under the Equal Credit Opportunity Act; an interagency rule on appraisals for higher-risk mortgage loans; and a rule implementing changes to requirements for high-cost mortgages.

Since the issuance of its January 2013 final rules, the Bureau has issued several clarifications and revisions to address interpretive issues and facilitate compliance with the new requirements. The Bureau also plans to engage in a further rulemaking after the January 2014 effective date, to consider certain additional refinements to the final rules. For example, the Bureau plans to further examine certain provisions of the Dodd-Frank Act that create exceptions to new requirements for small creditors that operate predominantly in ''rural or underserved areas.'' The Bureau plans to engage in additional research and analysis concerning the definition of ''rural or underserved'' in order to address potential concerns regarding access to credit. The Bureau has also agreed to consider issuing additional guidance to facilitate the development of automated underwriting systems for originating qualified mortgages.

The Bureau is also participating in a series of interagency rulemakings to implement various Dodd-Frank Act amendments to TILA and the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) relating to mortgage appraisals. These include supplementing an earlier interagency TILA final rule issued in January 2013 relating to requirements for higher-risk mortgages and implementing certain other Dodd-Frank Act amendments to FIRREA concerning regulation of appraisal management companies and automated valuation models.

Another major rulemaking priority for the Bureau is the implementation of the Dodd-Frank Act amendments to the Home Mortgage Disclosure Act (HMDA) that require supplementation of existing data reporting requirements regarding housing-related loans and applications for such loans. The Bureau has already begun work in preparation for this effort. In addition to obtaining data that is critical to the purposes of HMDA, including providing the public and public officials with information to enable them to determine whether financial institutions are meeting the needs of their communities, assist public officials in the distribution of public sector investments, and identify potential fair lending issues, the Bureau views this rulemaking as a potential opportunity to fulfill its mission under the Dodd-Frank Act to reduce unwarranted regulatory burden. In coming months, the Bureau expects to conduct extensive outreach to stakeholders, including convening a panel under the Small Business Regulatory Enforcement Fairness Act in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy to consult with small lenders who may be affected by the rulemaking.

Bureau Regulatory Efforts in Other Consumer Financial Markets

In addition to the implementation of the Dodd-Frank Act mortgage related amendments, the Bureau is also working on a number of rulemakings to address important consumer protection issues in other markets for consumer financial products and services. Much of this effort will be based on previous work of the Bureau such as Requests for Information, Advance Notices of Proposed Rulemaking (ANPRMs), and previously issued Bureau studies and reports. For instance, the Bureau issued an ANPRM on debt collection. Debt collection is the focus of more consumer complaints to the Federal Government than any other industry. *See* Consumer Financial Protection Bureau, Fair Debt Collection Practices Act: CFPB Annual Report (March 20, 2013), at 14. The Bureau has also been engaged in extensive research and analysis concerning payday loans, deposit advance products, and bank overdraft programs, building on Bureau white papers issued in April and June 2013. The Bureau is considering whether rules governing these products may be warranted to address disclosures or industry practices.

Bureau work is also continuing on a number of earlier initiatives concerning consumer payment services. Following on an earlier ANPRM concerning general purpose reloadable prepaid cards, for example, the Bureau is now engaged in consumer testing of potential disclosures as well as other research and analysis. The Bureau expects to issue a Notice of Proposed Rulemaking concerning prepaid cards in mid-2014. In addition, the Bureau expects early next year to begin work on a further rulemaking concerning consumer remittance transfers to foreign countries. The rulemaking will address whether to extend a provision under the Dodd-Frank Act that allows insured depository institutions to estimate certain information for purposes of consumer disclosures. The provision will sunset in July 2015, unless the Bureau exercises authority to extend it for up to five years.

The Bureau is continuing rulemaking activities that will further establish the Bureau's nonbank supervisory authority by defining larger participants of certain markets for consumer financial products and services. Larger participants of such markets, as the Bureau defines by rule, are subject to the Bureau's supervisory authority.

Bureau Regulatory Streamlining Efforts

Another priority for the Bureau is continuing work on an earlier initiative to consider opportunities to modernize and streamline regulations that it inherited from other agencies pursuant to a transfer of rulemaking authority under the Dodd-Frank Act. In addition to completing work on the TILA–RESPA disclosure project to consolidate and streamline Federal mortgage forms, the Bureau is planning as part of the HMDA rulemaking described above to explore opportunities to reduce unwarranted regulatory burden concerning reporting of mortgage application and origination activity. The Bureau is also expecting to issue a Notice of Proposed Rulemaking in 2014 to explore whether to modify certain requirements under the Gramm-Leach-Bliley Act's implementing Regulation P to which financial

institutions provide annual notices regarding their data sharing practices. The Notice will follow up on comments that the Bureau has previously received suggesting that eliminating the requirement to provide such notices in certain situations—for instance perhaps where financial institutions do not share information with third parties or have not changed their practices since provision of the last annual notice—would significantly reduce compliance burden for industry and unwanted paperwork for consumers.

Additional Analysis, Planning, and Prioritization

The Bureau is continuing to assess timelines for the issuance of additional Dodd-Frank Act related rulemakings and rulemakings inherited by the CFPB from other agencies as part of the transfer of authorities under the Dodd-Frank Act. The Bureau is also continuing to conduct outreach and research to assess issues in various other markets for consumer financial products and services. For example, as directed by Congress, the Bureau is conducting a study on the use of agreements providing for arbitration of consumer disputes in connection with the offering or providing of consumer financial products or services. Upon completion of this study, the Bureau will evaluate possible policy responses, including possible rulemaking actions consistent with the findings of the study. The Bureau will similarly evaluate policy responses to other ongoing research and outreach, taking into account the critical need for and effectiveness of various policy tools. The Bureau will update its regulatory agenda in spring 2014 to reflect the results of further analysis, planning, and prioritization.

**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 when other, less restrictive, efforts are inadequate to address an unreasonable risk of injury, or where required by statute;
- obtains repair, replacement, or refund of the purchase price for defective products that present a substantial product hazard;
- develops information and education campaigns about the safety of consumer products;
- participates in the development or revision of voluntary product safety standards; and
- follows congressional mandates to enact specific regulations.

Unless directed otherwise by congressional mandate, when deciding which of these approaches to take in any specific case, the Commission gathers and analyzes the best available data about the nature and extent of the risk presented by the product. The Commission's rules require the Commission to consider, among other factors, the following criteria when deciding the level of priority for any particular project:

- Frequency and severity of injury;
- causality of injury;
- chronic illness and future injuries;
- costs and benefits of Commission action;
- unforeseen nature of the risk;
- vulnerability of the population at risk; and
- probability of exposure to the hazard.

*Significant Regulatory Actions:* Currently, the Commission is considering one rule that would constitute a ''significant regulatory action'' under the definition of that term in Executive Order 12866:

1. Flammability Standard for Upholstered Furniture

Under section 4 of the Flammable Fabrics Act (FFA), the Commission may issue a flammability standard or other regulation for a product of interior furnishing if the Commission determines that such a standard is needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury or significant property damage. The Commission's regulatory proceeding could result in several actions, one of which could be the development of a mandatory standard requiring that upholstered furniture meet mandatory labeling requirements, resist ignition, or meet other performance criteria under test conditions specified in the standard.

**BILLING CODE 6335–01–P**

## FEDERAL TRADE COMMISSION (FTC)

*Statement of Regulatory and Deregulatory Priorities*

### I. Regulatory and Deregulatory Priorities

*Background*

The Federal Trade Commission (''FTC'' or ''Commission'') is an independent agency charged by its enabling statute, the Federal Trade Commission Act, with protecting American consumers from ''unfair methods of competition'' and ''unfair or deceptive acts or practices'' in the marketplace. The Commission strives to ensure that consumers benefit from a vigorously competitive marketplace. The Commission's work is rooted in a belief that competition, based on truthful and non-misleading information about products and services, provides consumers the best choice of products and services at the lowest prices.

The Commission pursues its goal of promoting competition in the marketplace through two different, but complementary, approaches. Unfair or deceptive acts or practices injure both consumers and honest competitors alike and undermine competitive markets. Through its consumer protection activities, the Commission seeks to ensure that consumers receive accurate, truthful, and non-misleading information in the marketplace. At the same time, for consumers to have a choice of products and services at competitive prices and quality, the marketplace must be free from anticompetitive business practices. Thus, the second part of the Commission's basic mission—antitrust enforcement—is to prohibit anticompetitive mergers or other anticompetitive business practices without unduly interfering with the legitimate activities of businesses. These two complementary missions make the Commission unique insofar as it is the Nation's only Federal agency to be given this combination of statutory authority to protect consumers.

The Commission is, first and foremost, a law enforcement agency. It pursues its mandate primarily through case-by-case enforcement of the Federal Trade Commission Act and other statutes. In addition, the Commission is also charged with the responsibility of issuing and enforcing regulations under a number of statutes. Pursuant to the FTC Act, the Commission currently has in place 16 trade regulation rules. Other examples include the regulations enforced pursuant to credit and

financial statutes [1] and to energy laws.[2] The Commission also has adopted a number of voluntary industry guides. Most of the regulations and guides pertain to consumer protection matters and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions.

*Commission Initiatives*

The Commission protects consumers through a variety of tools, including both regulatory and non-regulatory approaches. It has encouraged industry self-regulation, developed a corporate leniency policy for certain rule violations, and established compliance partnerships where appropriate.

As detailed below, protecting consumer privacy, containing the rising costs of health care and prescription drugs, fostering competition and innovation in cutting-edge, high-tech industries, challenging deceptive advertising and marketing, and safeguarding the interests of potentially vulnerable consumers, such as children and the financially distressed, continue to be at the forefront of the Commission's consumer protection and competition programs. By subject area, the FTC discusses some of the major workshops, reports,[3] and initiatives it has pursued since the 2012 Regulatory Plan was published.

*(a) Protecting Consumer Privacy.* As the nation's top cop on the consumer privacy beat, the FTC's goals are to protect consumer privacy in an evolving market for consumer information, make sure companies keep their privacy promises to consumers, and ensure that consumers have confidence to take advantage of the benefits that a dynamic and ever-changing marketplace offer. The FTC achieves those goals through law enforcement, consumer education, and policy initiatives. For example, recent law enforcement activities include a settlement with Cbr, Inc., which resolved charges that its data security failures compromised credit card and other sensitive consumer health information.[4] Settlements with DesignerWare, LLC, and seven rent-to-own companies resolved charges that they monitored the personal activity of people who rented computers and allegedly tricked them into revealing personal information, without their knowledge or consent.[5]

The Commission hosted several workshops seeking to protect consumer privacy; including Mobile Security—Potential Threats and Solutions (June 4, 2013) and The Big Picture: Comprehensive Online Data Collection (December 6, 2012). The Mobile Security forum explored potential challenges that may arise as consumer use of mobile technology continues to grow. For example, there were a range of views of the impact of malware on the current mobile security environment. The U.S. market is taking steps to try to secure the mobile environment, but it is important to stay vigilant.

On December 6, 2012, the FTC also hosted a workshop exploring the practices and privacy implications of comprehensive data collection about consumers' online activities. Entities such as Internet Service Providers (ISPs), operating systems, browsers, social media, and mobile carriers have the capability to collect data about computer users across the Internet, beyond direct interactions between consumers and these entities. The comprehensive data collection workshop follows up on the FTC's March 2012 report, *Protecting Consumer Privacy in an Era of Rapid Change,*[6] which called on companies handling consumer data to implement recommendations for protecting consumers' privacy, including privacy by design, providing simplified privacy choices to consumers, and greater transparency to consumers about data collection and use.

(b) *Protecting Children.* Children increasingly use the Internet for entertainment, information and schoolwork. The Children's Online Privacy Protection Act (COPPA) and the FTC's COPPA Rule protect children's privacy when they are online by putting their parents in charge of who gets to collect personal information about their preteen kids. The FTC enforces COPPA by ensuring that parents have the tools they need to protect their children's privacy. The Commission amended its COPPA Rule to broaden and clarify the Rule's notice and consent requirements in light of fast-paced technological changes since the rule was issued. See *Final Actions* below for more information about this completed rulemaking.

On December 12, 2012, the Commission issued a new staff report, ''Mobile Apps for Kids: Disclosures Still Not Making the Grade,'' examining the privacy disclosures and practices of apps offered for children in the Google Play and Apple App stores.[7] The report details the results of the FTC's second survey of kids' mobile apps. Since FTC staff's first survey of kids' mobile apps in 2011, staff found little progress toward giving parents the information they need to determine what data is being collected from their children, how it is being shared, or who will have access to it. The report also finds that many of the apps surveyed included interactive features, such as connecting to social media, and sent information from the mobile device to ad networks, analytics companies, or other third parties, without disclosing these practices to parents. See item *(g) Food Marketing to Children* for more activities directed at the protection of children.

(c) *Protecting Seniors.* On May 7, 2013, the FTC hosted a workshop on *Senior Identity Theft: A Problem in This Day and Age* that brought together experts from government, private industry, and public interest groups to discuss the unique challenges facing victims of senior identity theft. The forum included panels on different types of senior identity theft—tax and government benefits, medical, and long-term care—and explored the best consumer education and outreach techniques for reaching seniors.

On February 20–21, 2013, FTC representatives and the Florida Attorney General's Office held a town hall event in Boca Raton, Florida to address the rising incidence of identity theft-related tax fraud in South Florida. State and federal law enforcement partners and consumer advocacy groups, including the U.S. Attorney's Office, Internal Revenue Service, U.S. Postal Inspection Service, Seniors vs. Fraud, and AARP, also participated in the program to discuss the problem and address ways to combat identity theft tax fraud. In addition, on the same dates, the Federal Trade Commission also joined a program on ID Theft and Tax Fraud in

[1] For example, the Fair Credit Reporting Act (15 U.S.C. sections 1681 to 1681(u), as amended) and the Gramm-Leach-Bliley Act (Pub. L.106–102, 113 Stat. 1338, codified in relevant part at 15 U.S.C. sections 6801 to 6809 and sections 6821 to 6827, as amended).

[2] For example, the Energy Policy Act of 1992 (106 Stat. 2776, codified in scattered sections of the U.S. Code, particularly 42 U.S.C. section 6201 et seq. and the Energy Independence and Security Act of 2007 (EISA)).

[3] The FTC also prepares a number of annual and periodic reports on the statutes it administers. These are not discussed in this plan.

[4] See press release ''Cord Blood Bank Settles FTC Charges that it Failed to Protect Consumers' Sensitive Personal Information'' dated January 28, 2013, at *http://ftc.gov/opa/2013/01/cbr.shtm.*

[5] See press release ''FTC Halts Computer Spying'' dated September 25, 2012, at *http://www.ftc.gov/opa/2012/09/designerware.shtm.*

[6] See March 2012 privacy report at *http://ftc.gov/os/2012/03/120326privacyreport.pdf.*

[7] See December 2012 report at *http://www.ftc.gov/os/2012/12/121210mobilekidsappreport.pdf.*

Pembroke Pines and Sunny Isles, Florida.

(d) *Protecting Financially Distressed Consumers.* Even as the economy recovers, some consumers continue to face financial challenges. The FTC takes effective actions to ensure that consumers are protected from deceptive and unfair credit practices and get the information they need to make informed financial choices. For example, the FTC has continued its efforts to ensure that consumers get the information they need to understand the terms of their mortgages. After reviewing hundreds of mortgage ads, the FTC alerted real estate agents, home builders, and lead generators through warning letters [8] that their mortgage ads may be deceptive and that they needed to review them to ensure compliance with ''truth in advertising'' laws.

The Commission has also continued its efforts to curb deceptive and unfair practices in debt collection. In addition to bringing law enforcement actions against debt collectors that violated the Fair Debt Collection Practices Act and the Federal Trade Commission Act, the FTC issued a report on its Debt Buyer Study and co-hosted a roundtable on debt collection issues with the Consumer Financial Protection Bureau (''CFPB''). The study is the first empirical examination of companies in the business of buying consumer debts and trying to collect on them.[9] In recent years, debt buyers have become a significant part of the debt collection system. The study evaluated the types of information debt buyers received from creditors both at and after the time of purchase, as well as the contracts governing the relationship between debt buyers and creditors. The report, titled *The Structure and Practices of the Debt Buying Industry,* found that while debt buying plays an important role in consumer credit, it also raises significant consumer protection concerns. For example, consumers each year disputed an estimated one million or more debts that debt buyers attempted to collect, but debt buyers verified only about half of the disputed debts. The report also found that (1) creditors imposed limitations on the ability of debt buyers to obtain information and documents about accounts after sale, and (2) most contracts between creditors and debt buyers stated that the creditors generally disclaimed all warranties and representations that the information they provided to buyers about debts was accurate.

The joint FTC–CFPB roundtable held in June 2013 examined the flow of consumer data throughout the debt collection process. The event brought together consumer advocates, credit issuers, collection industry members, state and federal regulators, and academics to exchange information on a range of issues, including: the amount of documentation and other information currently available to different types of collectors and at different points in the debt collection process; the information needed to verify and substantiate debts; the costs and benefits of providing consumers with additional disclosures about their debts and debt-related rights; and information issues relating to pleading and judgment in debt collection litigation.

(e) *Promoting Competition in Health Care.* The FTC continues to work to restrict anticompetitive settlements featuring payments by branded drug firms to a generic competitor to keep generic drugs off the market (so called, ''pay for delay'' agreements). It's a practice where the pharmaceutical industry wins, but consumers lose. The brand company protects its drug franchise and the generic competitor makes more money from the sweetheart deal than if it had entered the market and competed. The Commission will pursue federal court challenges to invalidate individual agreements when anticompetitive. On June 17, 2013, the U.S. Supreme Court held that pay-for-delay agreements between brand and generic drug companies are subject to antitrust scrutiny by holding that lower courts should apply an antitrust ''rule of reason'' analysis when evaluating such agreements. *FTC* v. *Actavis, Inc.,* 570 U.S. 756 (2013). The Court stopped short of declaring reverse-payment arrangements presumptively illegal.

(f) *Fostering Innovation & Competition.* For more than two decades, the Commission has examined difficult issues at the intersection of antitrust and intellectual property law—issues related to innovation, standard-setting, and patents. The Commission's work in this area is grounded in the recognition that intellectual property and competition laws share the fundamental goals of promoting innovation and consumer welfare. The Commission has authored several seminal reports on competition and patent law, and conducted workshops to learn more about emerging practices and trends.

For instance, the FTC and DOJ held a joint workshop in December 2012 to explore the impact of patent assertion entity (PAE) activities [10] and encouraged efforts of the Patent Trade Office to provide the public with more complete information regarding patent ownership.[11] The FTC and DOJ also received public comments in conjunction with the workshop. While workshop panelists and commenters identified potential harms and efficiencies of PAE activity, they noted a lack of empirical data in this area, and recommended that FTC use its authority under Section 6(b) of the Federal Trade Commission Act. Responding to these requests, and recognizing its own role in competition policy and advocacy, the Commission announced on September 27, 2013, that it is seeking public comments on a proposal to gather information from approximately 25 companies that are in the business of buying and asserting patents. The FTC intends to use this information to examine how PAEs do business and develop a better understanding of how they impact innovation and competition. After considering the public comments, the FTC will submit a request to the Office of Management and Budget (OMB) in compliance with Paperwork Reduction Act, seeking clearance of the FTC's proposal to issue compulsory process orders seeking information from the PAEs.

(g) *Food Marketing to Children.* On December 21, 2012, the FTC also issued a follow-up study of food and beverage industry marketing expenditures and activities directed to children and teens to gauge progress since the launch of self-regulatory efforts to promote healthier food choices to kids. The study found that industry self-regulation resulted in modest nutritional improvements from 2006 to 2009 within specific food categories heavily marketed to kids.[12] The study also

[8] See press release ''FTC Warns Mortgage Advertisers that Their Ads May Violate Federal Law'' dated November 19, 2012, at *http://www.ftc.gov/opa/2012/11/mortgageadvertise.shtm.*

[9] See press release ''The First of Its Kind, FTC Study Shines a Light on the Debt Buying Industry, Finds Consumers Would Benefit from Use of Better Data in Debt Collection'' dated January 30, 2013, at *http://www.ftc.gov/opa/2013/01/debtbuyer.shtm.*

[10] See press release ''Federal Trade Commission, Department of Justice to Hold Workshop on Patent Assertion Entity Activities'' dated November 19, 2012, at *http://www.ftc.gov/opa/2012/11/paeworkshop.shtm.*

[11] See Comments of the Antitrust Division of the United States Department of Justice And the United States Federal Trade Commission, February 1, 2013, Before the United States Department of Commerce Patent and Trademark Office, In the Matter of Notice of Roundtable on Proposed Requirements for Recordation of Real-Party-in-Interest Information Throughout Application Pendency and Patent Term, Docket No. PTO–P–2012–0047, at *http://www.ftc.gov/os/2013/02/130201pto-rpi-comment.pdf.*

[12] See press release ''FTC Releases Follow-Up Study Detailing Promotional Activities,

Continued

found that overall spending on marketing to youth was down 19.5 percent from 2006, while spending on marketing in new media (such as online, mobile, and viral marketing) increased by 50 percent.

(h) *Alcohol Advertising.* On February 1, 2012, the Office of Management and Budget (OMB) gave the Commission approval, under the Paperwork Reduction Act, to issue compulsory process orders to up to 14 alcohol companies. On April 16, 2012, the Commission issued the orders, seeking information on company brands, sales, and marketing expenses; compliance with advertising placement codes; and use of social media and other digital marketing.[13] The Commission staff estimates that the study will be completed, and a report issued, in fall 2013. The Commission also continues to promote the ''We Don't Serve Teens'' consumer education program, supporting the legal drinking age.[14]

(i) *Gasoline Prices.* Given the impact of energy prices on consumer budgets, the energy sector continues to be a major focus of FTC law enforcement and study. In November 2009, the FTC's Petroleum Market Manipulation Rule became final.[15] Our staff continues to examine all communications from the public about potential violations of this Rule, which prohibits manipulation in wholesale markets for crude oil, gasoline, and petroleum distillates. Other activities complement these efforts, including merger enforcement and an agreement with the Commodity Futures Trading Commission to share investigative information.

(j) *Fraud Surveys.* The FTC's Bureau of Economics (BE) continues to conduct fraud surveys and related research on consumer susceptibility to fraud. For example, the Commission conducted an exploratory experimental study in a university economics laboratory to see whether we could identify characteristics of consumers who might be more likely to fall victim to fraud. The results of that study are still being analyzed. The most recent consumer fraud survey was conducted between late November 2011 and early February 2012, and a report describing the findings was released in April 2013. Currently, BE is seeking OMB approval to conduct a second exploratory study on consumer susceptibility to fraudulent and deceptive marketing practices. The results of these efforts may aid the FTC to better target its enforcement actions and consumer education initiatives, and improve future fraud surveys.

(k) *Protecting Consumers from Cross-Border Harm.* The FTC continues to protect American consumers from fraud by making greater use of the tools provided by the U.S. SAFE WEB Act. Recognizing the continuing challenge of cross-border fraud and the FTC's ongoing efforts to combat it, Congress recently reauthorized the US SAFE WEB Act. The Act, which enables the agency both to share information with foreign law enforcement agencies and to obtain information on their behalf, is vital to strengthening the culture of mutual assistance that enables law enforcers to achieve greater results working together than they could alone. One example of this cooperation is the six cases the FTC filed this year against mostly foreign-based operators of a massive tech support scam.[16] The FTC used its US SAFE WEB Act tools to work with law enforcers in Australia, Canada and the U.K., among other countries who provided invaluable assistance to the FTC. Australia and Canada also brought administrative actions for violations of their Do Not Call laws.

The FTC strives to promote sound approaches to common problems by building relationships with sister agencies around the world. The FTC and DOJ entered into a Memorandum of Understanding with the Indian competition authorities, providing for increased cooperation and mechanisms to further strengthen relations among the agencies. The FTC's network of formal and informal arrangements enables it to cooperate in merger and conduct cases such as Vivendi/EMI[17] and Google.[18]

The FTC continues to lead efforts to promote convergence toward sound and effective antitrust enforcement internationally. The FTC co-leads the International Competition Network's Agency Effectiveness Working Group and its Investigative Process Project, which has focused on transparency in competition investigations. The FTC also leads the Curriculum Project, which produced new video training modules on the analysis of competitive effects, leniency programs, merger analysis, and predatory pricing.

(l) *Self-Regulatory and Compliance Initiatives with Industry.* The Commission continues to engage industry in compliance partnerships in the funeral and franchise industries. Specifically, the Commission's Funeral Rule Offender Program, conducted in partnership with the National Funeral Directors Association, is designed to educate funeral home operators found in violation of the requirements of the Funeral Rule, 16 CFR 453, so that they can meet the rule's disclosure requirements. More than 425 funeral homes have participated in the program since its inception in 1996. In addition, the Commission established the Franchise Rule Alternative Law Enforcement Program in partnership with the International Franchise Association (IFA), a nonprofit organization that represents both franchisors and franchisees. This program is designed to assist franchisors found to have a minor or technical violation of the Franchise Rule, 16 CFR 436, in complying with the rule. Violations involving fraud or other section 5 violations are not candidates for referral to the program. The IFA teaches the franchisor how to comply with the rule and monitors its business for a period of years. Where appropriate, the program offers franchisees the opportunity to mediate claims arising from the law violations. Since December 1998, 21 companies have agreed to participate in the program.

### *Rulemakings and Studies Required by Statute*

Congress has enacted laws requiring the Commission to undertake rulemakings and studies. This section discusses required rules and studies. The final actions section below describes actions taken on the required rulemakings and studies since the 2012 Regulatory Plan was published.

*FACTA Rules.* The Commission has issued all of the rules required by FACTA (Fair and Accurate Credit Transactions Act). These rules are codified in several parts of 16 CFR 602 *et seq.,* amending or supplementing

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Expenditures, and Nutritional Profiles of Food Marketed to Children and Adolescents'' dated December 21, 2012, at *http://www.ftc.gov/opa/2012/12/foodmarketing.shtm.*

[13] A copy of the order, a list of the target companies, and the press release are available online at *http://www.ftc.gov/opa/2012/04/alcoholstudy.shtm.*

[14] More information can be found at *http://www.dontserveteens.gov/.*

[15] 16 C.F.R. Part 317; See press release: ''New FTC Rule Prohibits Petroleum Market Manipulation'' (Aug. 6, 2009), available at *http://www.ftc.gov/opa/2009/08/mmr.shtm;* ''FTC Issues Compliance Guide for Its Petroleum Market Manipulation Regulations,'' News Release (Nov. 13, 2009), available at *http://www.ftc.gov/opa/2009/11/mmr.shtm.*

[16] See press release ''FTC Halts Massive Tech Support Scams'' dated October 3, 2012, at *http://ftc.gov/opa/2012/10/pecon.shtm.*

[17] See press release ''FTC Closes Its Investigation Into Vivendi, S.A.'s Proposed Acquisition of EMI Recorded Music'' dated September 21, 2012, at *http://www.ftc.gov/opa/2012/09/emi.shtm.*

[18] See press release ''Google Agrees to Change Its Business Practices to Resolve FTC Competition Concerns In the Markets for Devices Like Smart Phones, Games and Tablets, and in Online Search'' dated January 1, 2013, at *http://www.ftc.gov/opa/2013/01/google.shtm.*

regulations relating to the Fair Credit Reporting Act. See *Final Actions* below for information about the recent revision of the Identity Theft Rule, 16 CFR 681.

*FACTA Studies.* On March 27, 2009, the Commission issued compulsory information requests to the nine largest private providers of homeowner insurance in the nation. The purpose was to help the FTC collect data for its study on the effects of credit-based scores in the homeowner insurance market, a study mandated by section 215 of the FACTA. During the summer of 2009, these nine insurers submitted responses to the Commission's requests. FTC staff has reviewed the large policy-level data files included in these submissions and has identified a sample set of data to be used for the study. The insurance companies then worked with their vendor to ensure the security of delivering the data set to the FTC's own and separate vendor. That data has now been sent to the FTC's vendor; upon completion of its work, some of the data will be sent to the FTC and some will be sent to the Social Security Administration to obtain additional information before returning the data to the FTC. Staff expects to prepare and submit the report to Congress in late Spring 2014. This study is not affected by the Consumer Financial Protection Act.

Section 319 of FACTA requires the FTC to study the accuracy and completeness of information in consumers' credit reports and to consider methods for improving the accuracy and completeness of such information. Section 319 of the Act also requires the Commission to issue a series of biennial reports to Congress over a period of 11 years. The Commission's December 2012 report to Congress on credit reporting accuracy focused on identifying potential errors that could have a material effect on a person's credit standing. Any participant who identified a potentially material error on their report was encouraged to dispute the erroneous information. The study found that 26 percent of consumers reported a potential material error on one or more of their three reports and filed a dispute with at least one credit reporting agency (CRA) and half of these consumers experienced a change in their credit score. For five percent of consumers, the error on their credit report could lead to them paying more for products such as auto loans and insurance. Congress instructed the FTC to complete this study by December 2014, when a final report is due.

*Fur Rules.* The Fur Products Labeling Act (Fur Act) requires covered furs and fur products to be labeled, invoiced, and advertised to show: (1) the name(s) of the animal that produced the fur(s); (2) where such is the case, that the fur is used fur or contains used fur; (3) where such is the case, that the fur is bleached, dyed, or otherwise artificially colored; and (4) the name of the country of origin of any imported furs used in the fur product. The implementing Fur Act rules (Fur Rules) are set forth at 16 CFR 301. In December 2010, Congress passed the Truth in Fur Labeling Act (the TFLA), which amends the Fur Act, by: (1) eliminating the Commission's discretion to exempt fur products of ''relatively small quantity or value'' from disclosure requirements; and (2) providing that the Fur Act will not apply to certain fur products ''obtained . . . through trapping or hunting'' and sold in ''face to face transaction[s].'' Public Law No. 111–113. The TFLA also directs the Commission to review and allow comment on the Fur Products Name Guide, 16 CFR 301.0 (Name Guide).

On September 17, 2012, the Commission published a proposed amendment to the Fur Rules to update its Fur Products Name Guide, provide more labeling flexibility, incorporate recently enacted TFLA provisions, and eliminate unnecessary requirements. The comment period closed on November 16, 2012. *See* 77 FR 57043. On June 19, 2013, the Commission issued a supplemental NPRM seeking public comment on proposed changes to the guaranty provisions of the Fur Rules. *See* 78 FR 36693. These changes would align the Fur Rules with proposed changes to the guaranty provisions of the Rules under the Textile Fiber Products Identification Act. The comment period closed on July 23, 2013. Staff anticipates sending a recommendation to the Commission by the end of 2013.

*Retrospective Review of Existing Regulations*

In 1992, the Commission implemented a program to review its rules and guides regularly. The Commission's review program is patterned after provisions in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Under the Commission's program, rules are reviewed on a 10-year schedule. For many rules, this has resulted in more frequent reviews than is generally required by section 610 of the Regulatory Flexibility Act. This program is also broader than the review contemplated under the Regulatory Flexibility Act, in that it provides the Commission with an ongoing systematic approach for seeking information about the costs and benefits of its rules and guides and whether there are changes that could minimize any adverse economic effects, not just a ''significant economic impact upon a substantial number of small entities.'' 5 U.S.C. 610.

As part of its continuing 10-year review plan, the Commission examines the effect of rules and guides on small businesses and on the marketplace in general. These reviews may lead to the revision or rescission of rules and guides to ensure that the Commission's consumer protection and competition goals are achieved efficiently and at the least cost to business. In a number of instances, the Commission has determined that existing rules and guides were no longer necessary nor in the public interest. Most of the matters currently under review pertain to consumer protection and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions. Pursuant to this program, the Commission has rescinded 37 rules and guides promulgated under the FTC's general authority and updated dozens of others since the early 1990s.

In light of Executive Orders 13563 and 13579, the FTC continues to take a fresh look at its longstanding regulatory review process. The Commission is taking a number of steps to ease burdens on business and promote transparency in its regulatory review program:

- The Commission recently issued a revised 10-year review schedule (see next paragraph below) and is accelerating the review of a number of rules and guides in response to recent changes in technology and the marketplace. The Commission is currently reviewing 22 of the 65 rules and guides within its jurisdiction.
- The Commission continues to request and review public comments on the effectiveness of its regulatory review program and suggestions for its improvement.
- The FTC maintains a Web page at *http://www.ftc.gov/regreview* that serves as a one-stop shop for the public to obtain information and provide comments on individual rules and guides under review as well as the Commission's regulatory review program generally.

In addition, the Commission's 10-year periodic review schedule includes initiating reviews for the following rules and guides (78 FR 30798, May 23, 2013) during 2013 and 2014:

(1) Telemarketing Sales Rule, 16 CFR 310,

(2) Regulations Under Section 4 of the Fair Packaging and Labeling Act, 16 CFR 500,

(3) Exemptions From Requirements and Prohibitions under Part 500, 16 CFR 501,

(4) Regulations Under Section 5(c) of the Fair Packaging and Labeling Act, 16 CFR Part 502,

(5) Statements of General Policy or Interpretation [under the Fair Packaging and Labeling Act], 16 CFR 503.

(6) Rules and Regulations under the Hobby Protection Act, 16 CFR 304,

(7) Standards for Safeguarding Customer Information, 16 CFR 314, and

(8) Preservation of Consumers' Claims and Defenses [Holder in Due Course Rule], 16 CFR 433.

Furthermore, consistent with the goal of reducing unnecessary burdens under section 6 of Executive Order 13563, the Commission amended:

- The Energy Labeling Rule, 16 CFR 305, to streamline Department of Energy and FTC reporting requirements for Regional Efficiency Standards; and
- The Alternative Fuel Rule, 16 CFR 309, by harmonizing FTC and Environmental Protection Agency fuel economy labeling requirements for alternative fuel vehicles.

In particular, the Alternative Fuel Rule amendments are estimated to save industry approximately 35,000 hours in compliance time [19] by consolidating the labels required on alternative fuel vehicles (AFVs) with those required by the U.S. Environmental Protection Agency (EPA), and eliminating the need for two different labels. Please see the relevant sections under *Final Actions* below for further information on both rulemakings.

*Ongoing Rule and Guide Reviews*

The Commission is continuing review of a number of rules and guides, which are discussed below.

(a) Rules

*Premerger Notification Rules and Report Form, 16 CFR 801–803.* On August 20, 2012, the Commission, in conjunction with the DOJ's Antitrust Division, announced it was seeking public comments on proposed changes to the premerger notification rules that could require companies in the pharmaceutical industry to report proposed acquisitions of exclusive patent rights to the FTC and the DOJ for antitrust review. 77 FR 50057 (Aug. 20, 2012). The proposed rulemaking clarifies when a transfer of exclusive rights to a patent in the pharmaceutical industry results in a potentially reportable asset acquisition under the Hart Scott Rodino (HSR) Act. The comment period expired on October 25, 2012, with three comments received. Staff estimates the final rule will be issued by the fourth quarter of 2013.[20]

*Negative Option Rule, 16 CFR 425.* The Negative Option Rule governs the operation of prenotification subscription plans. Under these plans, sellers ship merchandise automatically to their subscribers and bill them for the merchandise within a prescribed time. The rule protects consumers by requiring the disclosure of the terms of membership clearly and conspicuously and establishes procedures for administering the subscription plans. An ANPRM was published on May 14, 2009, 74 FR 22720, and the comment period closed on July 27, 2009. On August 7, 2009, the Commission reopened and extended the comment period until October 13, 2009. 74 FR 40121. Staff reviewed the comments and anticipates Commission action by the end of 2013.

*Telemarketing Sales Rule (TSR), 16 CFR 308. TSR/Caller ID*—The Commission issued an advance notice of proposed rulemaking on December 15, 2010, requesting public comment on provisions of the Telemarketing Sales Rule concerning caller identification services and disclosure of the identity of the seller or telemarketer responsible for telemarketing calls. *See* 75 FR 78179. The comment period closed on January 28, 2011. Staff anticipates further Commission action by the end of 2013.

*TSR/Anti-Fraud Provisions*—Commission staff are considering proposed ''Anti-Fraud'' amendments to the TSR concerning, among other things, the misuse of novel payment methods by telemarketers and sellers. On May 21, 2013, the Commission issued a Notice of Proposed Rulemaking (NPRM), which was published in the **Federal Register** on July 9, 2013. *See* 78 FR 41200. After a short extension, the comment period closed on August 8, 2013. Commission staff is reviewing the comments submitted in response to the NPRM, and anticipates making a recommendation to the Commission in early 2014.

*Mail or Telephone Order Merchandise Rule.* The Mail Order Rule, 16 CFR 435, requires that, when sellers advertise merchandise, they must have a reasonable basis for stating or implying that they can ship within a certain time. On September 30, 2011, the Commission published a NPRM proposing to: clarify that the Rule covers all orders placed over the Internet; revise the Rule to allow sellers to provide refunds and refund notices by any means at least as fast and reliable as first class mail; clarify sellers' obligations when buyers use payment systems not enumerated in the Rule; and require that refunds be made within seven working days for purchases made using third-party credit cards. *See* 76 FR 60765. The comment period closed on December 14, 2011. On April 29, 2013, the Commission announced the availability of the Staff Report on the Rule and solicited comment for a period of 75 days. The comment period closed on July 15, 2013. Staff anticipates sending a recommendation to the Commission by the fall of 2013.

*Care Labeling Rule, 16 CFR 423.* Promulgated in 1971, the Rule on Care Labeling of Textile Apparel and Certain Piece Goods as Amended (the Care Labeling Rule) makes it an unfair or deceptive act or practice for manufacturers and importers of textile wearing apparel and certain piece goods to sell these items without attaching care labels stating ''what regular care is needed for the ordinary use of the product.'' The Rule also requires that the manufacturer or importer possess, prior to sale, a reasonable basis for the care instructions, and allows the use of approved care symbols in lieu of words to disclose care instructions. After reviewing the comments from a periodic rule review (76 FR. 41148; July 13, 2011), the Commission concluded on September 20, 2012, that the Rule continued to benefit consumers and would be retained, and sought comments on potential updates to the Rule, including changes that would: Allow garment manufacturers and marketers to include instructions for professional wetcleaning on labels; permit the use of ASTM Standard D5489–07, ''Standard Guide for Care Symbols for Care Instructions on Textile Products,'' or ISO 3758:2005(E), ''Textiles—Care labeling code using symbols,'' in lieu of terms; clarify what can constitute a reasonable basis for care instructions; and update the definition of ''dryclean.'' *See* 77 FR 58338. On July 24, 2003, the Commission announced that it will host a public roundtable on October 1, 2013, to analyze proposed changes to the Rule. *See* 78 FR 45901. Staff anticipates further Commission action by April 2014.

*Textile Labeling Rules, 16 CFR 303.* The Textile Fiber Products Identification Act (Textile Act) requires wearing apparel and other covered household textile articles to be marked with (1) the generic names and percentages by weight of the constituent fibers present in the textile fiber product; (2) the name under which the manufacturer or another responsible

[19] See 78 FR 23832, 23834.

[20] *See Final Actions* for information about a separate final rule proceeding for HSR Rules.

USA company does business, or in lieu thereof, the registered identification number (RN) of such a company; and (3) the name of the country where the textile product was processed or manufactured. The implementing rules are set forth at 16 CFR 303 (Rules and Regulations Under the Textile Fiber Identification Act or Textile Labeling Rules).

On November 7, 2011, as part of its systematic review of all current Commission regulations and guides, the Commission requested comments on the Rule. *See* 76 FR 68690. The comment period closed on January 4, 2012. The Commission issued an NPRM on May 20, 2013, proposing changes designed to clarify and update the Rules, and make them more flexible, giving businesses more compliance options without imposing significant new obligations. *See* 78 FR 29263. The FTC also sought comment on the costs and benefits of the proposed changes. The comment period closed on July 8, 2013. Staff is reviewing comments and anticipates further Commission action by early 2014.

*Used Car Rule, 16 CFR 455.* The Used Motor Vehicle Trade Regulation Rule (''Used Car Rule''), 16 CFR 455, sets out the general duties of a used vehicle dealer; requires that a completed Buyers Guide be posted at all times on the side window of each used car a dealer offers for sale; and mandates disclosure of whether the vehicle is covered by a dealer warranty and, if so, the type and duration of the warranty coverage, or whether the vehicle is being sold ''as is-no warranty.'' The Commission published a notice seeking public comments on the effectiveness and impact of the rule. *See* 73 FR 42285 (July 21, 2008). The comment period, as extended and then reopened, ended on June 15, 2009. In response to comments, the Commission published a Notice of Proposed Rulemaking on December 17, 2012 (*See* 77 FR 74746) and a final rule revising the Spanish translation of the window form on December 12, 2012. *See* 77 FR 73912. The extended comment period on the NPRM ended on March 13, 2012. Staff anticipates the next Commission action by the end of 2013.

*Wool Rules, 16 CFR 300.* The Wool Products Labeling Act of 1939 (Wool Act) requires covered wool products to be marked with (1) the generic names and percentages by weight of the constituent fibers present in the wool product; (2) the name under which the manufacturer or another responsible USA company does business, or in lieu thereof, the registered identification number (RN) of such a company; and (3) the name of the country where the wool product was processed or manufactured. The implementing rules and regulations are set forth at 16 CFR 300 (Rules and Regulations Under The Wool Products Labeling Act of 1939 or Wool Rules). On January 30, 2012, as part of its systematic review of all current Commission regulations and guides, the Commission requested comments on the Rule. *See* 77 FR 4498. On September 16, 2013, the Commission announced it was issuing an NPRM proposing changes designed to clarify and update the Rules, to make them more flexible, and to align them with the Commission's proposed amendments to the Textile Rules. See 78 FR 57808. The proposed changes include incorporating the Wool Act's new definitions for cashmere and very fine wools, clarifying descriptions of products containing virgin or new wool, and revising the Rules to allow certain hang-tags disclosing fiber trademarks and performance even if they do not disclose the product's full fiber content. The comment period closes on November 25, 2013.

*Consumer Warranty Rules, 16 CFR 701–703.* The Rule Governing the Disclosure of Written Consumer Product Warranty Terms and Conditions (Rule 701) establishes requirements for warrantors for disclosing the terms and conditions of written warranties on consumer products actually costing the consumer more than $15.00. The Rule Governing the Pre-Sale Availability of Written Warranty Terms, 16 CFR part 702 (Rule 702) requires sellers and warrantors to make the terms of a written warranty available to the consumer prior to sale. The Rule Governing Informal Dispute Settlement Procedures (IDSM) (Rule 703) establishes minimum requirements for those informal dispute settlement mechanisms that are incorporated by the warrantor into its consumer product warranty. By incorporating the IDSM into the warranty, the warrantor requires the consumer to use the IDSM before pursuing any legal remedies in court. On August 23, 2011, as part of its ongoing systematic review of all FTC rules and guides, the Commission requested comments on, among other things, the economic impact and benefits of these Rules, Guides, and Interpretations [21]; possible conflict between the Rules, Guides, and Interpretations and state, local, or other federal laws or regulations; and the effect on the Rules, Guides, and Interpretations of any technological, economic, or other industry changes. *See* 76 FR 52596. The comment period closed on October 24, 2011. Staff anticipates sending a recommendation to the Commission by December 2013.

*Cooling-Off Rule.* The Cooling-Off Rule requires that a consumer be given a 3-day right to cancel certain sales greater than $25.00 that occur at a place other than a seller's place of business. The rule also requires a seller to notify buyers orally of the right to cancel, to provide buyers with a dated receipt or copy of the contract containing the name and address of the seller and notice of cancellation rights, and to provide buyers with forms which buyers may use to cancel the contract. As part of its systematic regulatory review process, and following public comment, the Commission announced that it was retaining the Cooling Off Rule and proposed increasing its $25 exclusionary limit to $130 to account for inflation. 78 FR 3855 (Jan. 17, 2013). The comment period closed on March 4, 2013. Staff reviewed the comments and the Commission is currently reviewing their recommendation.

*Unavailability Rule.* The Unavailability Rule, 16 CFR 424, states that it is a violation of section 5 of the FTC Act for retail stores of food, groceries, or other merchandise to advertise products for sale at a stated price if those stores do not have the advertised products in stock and readily available to customers during the effective period of the advertisement, unless the advertisement clearly discloses that supplies of the advertised products are limited or are available only at some outlets. This Rule is intended to benefit consumers by ensuring that advertised items are available, that advertising-induced purchasing trips are not fruitless, and that store prices accurately reflect the prices appearing in the ads. On August 12, 2011, the Commission announced an ANPRM and a request for comment on the Rule as part of its systematic periodic review of current rules. The comment period closed on October 19, 2011. Staff has reviewed the comments and expects to submit a recommendation to the Commission by the end of 2013.

(b) Guides

*Vocational Schools Guides, 16 CFR 254.* The Commission sought public comments on its Private Vocational and Distance Education Schools Guides, commonly known as the Vocational Schools Guides. 74 FR 37973 (July 30, 2009). Issued in 1972 and most recently

[21] The **Federal Register** Notice also announced the review of the related Guides for the Advertising of Warranties and Guarantees, 16 CFR 239, and the Interpretations of Magnuson-Moss Warranty Act, 16 CFR 700.

amended in 1998 to add a provision addressing misrepresentations related to post-graduation employment, the guides advise businesses offering vocational training courses—either on the school's premises or through distance education, such as correspondence courses or the Internet—how to avoid unfair and deceptive practices in the advertising, marketing, or sale of their courses. The comment period closed on October 16, 2009. Staff has reviewed the comments and the Commission is currently reviewing their recommendation.

*Jewelry Guides, 16 CFR 23.* The Commission sought public comments on its Guides for the Jewelry, Precious Metals, and Pewter Industries, commonly known as the Jewelry Guides. 77 FR 39202 (July 2, 2012). Since completing its last review of the Jewelry Guides in 1996, the Commission revised sections of the Guides and addressed other issues raised in petitions from jewelry trade associations. The Guides explain to businesses how to avoid making deceptive claims about precious metal, pewter, diamond, gemstone, and pearl products, and when they should make disclosures to avoid unfair or deceptive trade practices. The comment period initially set to close on August 27, 2012, was subsequently extended until September 28, 2012. Staff also conducted a public roundtable to examine possible modifications to the Guides in June 2013. Staff is currently reviewing the record, including comments and the roundtable transcript.

*Used Auto Parts Guides, 16 CFR 20.* The Commission sought public comments on its Guides for the Rebuilt, Reconditioned, and Other Used Automobile Parts Industry, commonly known as the Used Auto Parts Guides, which are designed to prevent the unfair or deceptive marketing of used motor vehicle parts and assemblies, such as engines and transmissions, containing used parts. 77 FR 29922 (May 21, 2012).

The Guides prohibit misrepresentations that a part is new or about the condition, extent of previous use, reconstruction, or repair of a part. Previously used parts must be clearly and conspicuously identified as such in advertising and packaging, and, if the part appears new, on the part itself. The comment period closed on August 3, 2012. Staff is evaluating comments and meeting with commenters, and anticipates making a recommendation to the Commission by late 2013.

*Fred Meyer Guides, 16 CFR 240.* As part of the periodic review process, 77 FR 71741 (Dec. 4, 2012) (comment period ended Jan. 29, 2013), staff received public comments relating to whether there is a continuing need for or a need to amend its Guides for Advertising Allowances and Other Merchandising Payments and Services, commonly known as the Fred Meyer Guides. Staff is considering revisions to the Guides in light of the public comments and anticipates that revised Guides will be published during 2013. The Guides assist businesses in complying with sections 2(d) and 2(e) of the Robinson-Patman Act, which proscribe certain discriminations in the provision of promotional allowances and services to customers. Broadly put, the Guides provide that unlawful discrimination may be avoided by providing promotional allowances and services to customers on ''proportionally equal terms.''

*Final Actions*

Since the publication of the 2012 Regulatory Plan, the Commission has issued the following final rules or taken other actions to terminate rulemaking proceedings.

*Children's Online Privacy Protection Rule (COPPA Rule), 16 CFR 312.* On January 17, 2013, the Commission amended the COPPA Rule to clarify the scope of the Rule and strengthen its protections for children's personal information, in light of changes in online technology since the Rule went into effect in April 2000. 78 FR 3972. The final amended Rule included modifications to the definitions of operator, personal information, and Web site or online service directed to children. The amended Rule also updated the requirements set forth in the notice, parental consent, confidentiality and security, and safe harbor provisions, and adds a new provision addressing data retention and deletion. The amendments were effective on July 1, 2013.

*Premerger Notification Rules and Report Form, 16 CFR 801–803.* On February 1, 2013, the Commission proposed amendments to the HSR rules regarding the withdrawal of HSR filings. *See* 78 FR 10574. The comment period expired on April 15, 2013. The final rule was issued on June 25, 2013, and effective on August 9, 2013. *See* 78 FR 41293.[22]

*Energy Labeling Rule, 16 CFR 305.* Regional Efficiency Standards—As required by the Energy Independence and Security Act of 2007, the Commission issued a final rule adding regional information to the familiar yellow EnergyGuide label on residential furnaces, heat pumps and central air conditioners. The additional information on the new labels, including a map, will help consumers and businesses install equipment appropriate for their location under new Department of Energy (DOE) regional efficiency standards. 78 FR 8362 (Feb. 6, 2013).

Comparability Ranges—On July 23, 2013, the Commission issued new EnergyGuide labels for refrigerators and clothes washers, and updated comparative energy consumption information on labels for other appliances, to help consumers compare products in light of new Department of Energy (DOE) tests for measuring energy costs. See 78 FR 43974 (final rule); 78 FR 1779 (NPRM). The amendments are effective on November 15, 2013.

Periodic Rule Review—As part of its ongoing regulatory review of the Rule, the Commission amended the Rule by streamlining data reporting requirements for manufacturers, clarifying testing requirements and enforcement provisions, improving online energy label disclosures, and making several minor technical changes and corrections. 78 FR 2200 (Jan. 10, 2013). The Commission continues to consider other issues related to this regulatory review and may seek comment on additional proposals in the future.

*Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles Rule (''Alternative Fuel Rule''), 16 CFR 309.* The Alternative Fuel Rule, which became effective on November 20, 1995, and was last reviewed in 2004, requires disclosure of appropriate cost and benefit information to enable consumers to make reasonable purchasing choices and comparisons between non-liquid alternative fuels, as well as alternative-fueled vehicles. After a periodic review of the Rule, the Commission issued a final rule amendment on April 23, 2013, which (1) consolidated the FTC's alternative fueled vehicle (''AFV'') labels with new fuel economy labels required by the Environmental Protection Agency and the National Highway Traffic Safety Administration; and (2) eliminated the requirement for a separate AFV label for used vehicles. *See* 78 FR 23832. The amendments became effective on May 31, 2013.

*Identity Theft Rules, 16 CFR 681.* On December 18, 2010, Congress enacted the Red Flag Program Clarification Act of 2010, Public Law No. 111–319, which limited the scope of entities required to comply with the Red Flag Rule. The amendment provided that a creditor is covered only if, in the ordinary course

[22] *See Ongoing Rule and Guide Reviews* for information about a separate ongoing rulemaking proceeding for HSR Rules.

of business, it regularly: obtains or uses consumer reports in connection with a credit transaction; furnishes information to consumer reporting agencies in connection with a credit transaction; or advances funds to or on behalf of a person, in certain cases. The Commission published an Interim Final Rule to implement this legislation on December 6, 2012, which became effective on February 11, 2013. *See* 77 FR 72712.

*Guides for the Use of Environmental Marketing Claims (Green Guides), 16 CFR 260.* On October 11, 2012, the Commission issued revised ''Green Guides'' that are designed to help marketers ensure that the claims they make about the environmental attributes of their products are truthful and non-deceptive. *See* 77 FR 62122. The revisions to the Green Guides reflected a wide range of public input, including hundreds of consumer and industry comments on previously proposed revisions. They include updates to the existing Guides, as well as new sections on the use of carbon offsets, ''green'' certifications and seals, and renewable energy and renewable materials claims.

*Summary*

In both content and process, the FTC's ongoing and proposed regulatory actions are consistent with the President's priorities. The actions under consideration inform and protect consumers, while minimizing the regulatory burdens on businesses. The Commission will continue working toward these goals. The Commission's 10-year review program is patterned after provisions in the Regulatory Flexibility Act and complies with the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission's 10-year program also is consistent with section 5(a) of Executive Order 12866, which directs executive branch agencies to develop a plan to reevaluate periodically all of their significant existing regulations. 58 FR 51735 (Sept. 30, 1993). In addition, the final rules issued by the Commission continue to be consistent with the President's Statement of Regulatory Philosophy and Principles, Executive Order 12866, section 1(a), which directs agencies to promulgate only such regulations as are, *inter alia,* required by law or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public.

The Commission continues to identify and weigh the costs and benefits of proposed actions and possible alternative actions, and to receive the broadest practicable array of comment from affected consumers, businesses, and the public at large. In sum, the Commission's regulatory actions are aimed at efficiently and fairly promoting the ability of ''private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people.'' Executive Order 12866, section 1.

**II. Regulatory and Deregulatory Actions**

The Commission has no proposed rules that would be a ''significant regulatory action'' under the definition in Executive Order 12866.[23] The Commission has no proposed rules that would have significant international impacts under the definition in Executive Order 13609. Also, there are no international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations under Executive Order 13609.

**BILLING CODE 6750–01–P**

## NATIONAL INDIAN GAMING COMMISSION (NIGC)

*Statement of Regulatory Priorities*

In 1988, Congress adopted the Indian Gaming Regulatory Act (IGRA) (Pub. L. 100–497, 102 Stat. 2475) with a primary purpose of providing ''a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.'' IGRA established the National Indian Gaming Commission (NIGC or the Commission) to protect such gaming, amongst other things, as a means of generating tribal revenue.

At its core, Indian gaming is a function of sovereignty exercised by tribal governments. In addition, the Federal Government maintains a government-to-government relationship with the tribes—a responsibility of the NIGC. Thus, while the Agency is committed to strong regulation of Indian gaming, the Commission is equally committed to strengthening government-to-government relations by engaging in meaningful consultation with tribes to fulfill IGRA's intent. The NIGC's vision is to adhere to principles of good government, including transparency to promote agency accountability and fiscal responsibility, to operate consistently to ensure fairness and clarity in the administration of IGRA, and to respect the responsibilities of each sovereign in order to fully promote tribal economic development, self-sufficiency, and strong tribal governments. The NIGC is fully committed to working with tribes to ensure the integrity of the industry by exercising its regulatory responsibilities through technical assistance, compliance, and enforcement activities.

Retrospective Review of Existing Regulations

As an independent regulatory agency, the NIGC has been performing a retrospective review of its existing regulations well before Executive Order 13579 was issued on July 11, 2011. The NIGC, however, recognizes the importance of E.O. 13579 and its regulatory review is being conducted in the spirit of E.O. 13579, to identify those regulations that may be outmoded, ineffective, insufficient, or excessively burdensome and to modify, streamline, expand, or repeal them in accordance with input from the public. In addition, as required by Executive Order 13175, the Commission has been conducting government-to-government consultations with tribes regarding each regulation's relevancy, consistency in application, and limitations or barriers to implementation, based on the tribes' experiences. The consultation process is also intended to result in the identification of areas for improvement and needed amendments, if any, new regulations, and the possible repeal of outdated regulations.

The following Regulatory Identifier Numbers (RINs) have been identified as associated with the review:

[23] Section 3(f) of Executive Order 12866 defines a regulatory action to be ''significant'' if it is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

| RIN | Title |
|---|---|
| 3141–AA32 | Amendment of Definitions. |
| 3141–AA55 | Minimum Internal Control Standards. |
| 3141–AA56 | Class II Minimum Internal Control Standards and Class II Minimum Technical Standards. |
| 3141–AA58 | Amendment of Approval of Management Contracts. |
| 3141–AA59 | Self-Regulation of Class II Gaming. |

More specifically, the NIGC recently issued final rules in the following areas: (i) Minimum internal control standards (MICS) and minimum technical standards for gaming equipment used in the play of Class II games, in order to respond to changing technologies in the industry and to ensure that the MICS and technical standards remain relevant and appropriate in parts 543 and 547 and (ii) requirements for obtaining a self-regulation certification for Class II gaming.

Finally, the NIGC is currently considering promulgating new regulations in the following areas: (i) Amendments to its regulatory definitions to conform to the newly promulgated rules; (ii) the removal, revision, or suspension of the existing minimum internal control standards (MICS) in part 542; and (iii) updates or revisions to its management contract regulations to address the current state of the industry. The NIGC anticipates that the ongoing consultations with regulated tribes will continue to play an important role in the development of the NIGC's rulemaking efforts.

**BILLING CODE 7565–01–P**

## U.S. NUCLEAR REGULATORY COMMISSION'S FISCAL YEAR 2013 REGULATORY PLAN

*A. Statement of Regulatory Priorities*

Under the authority of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, the U.S. Nuclear Regulatory Commission (NRC) regulates the possession and use of source, byproduct, and special nuclear material. The NRC's regulatory mission is to license and regulate the Nation's civilian use of byproduct, source, and special nuclear materials, to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment. The NRC regulates the operation of nuclear power plants and fuel-cycle plants; the safeguarding of nuclear materials from theft and sabotage; the safe transport, storage, and disposal of radioactive materials and wastes; the decommissioning and safe release for other uses of licensed facilities that are no longer in operation; and the medical, industrial, and research applications of nuclear material. In addition, the NRC licenses the import and export of radioactive materials.

As part of its regulatory process, the NRC routinely conducts comprehensive regulatory analyses that examine the costs and benefits of contemplated regulations. The NRC has developed internal procedures and programs to ensure that it imposes only necessary requirements on its licensees and to review existing regulations to determine whether the requirements imposed are still necessary.

The NRC's Regulatory Plan contains a statement of the major rules that the Commission expects to publish in the current fiscal year (FY) and a description of the other significant rulemakings that the Commission expects to work on during the current FY, the coming FY, and beyond.

*B.1. Major Rules (FY 2013)*

The NRC will have published two major rules (Regulation Identifier Numbers (RIN) 3150–AJ19 and 3150–AI12) by the end of FY 2013.

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2013 (RIN 3150–AJ19)

Through this rule, the NRC will amend the licensing, inspection, and annual fees charged to its applicants and licensees in order to continue fulfilling the NRC's statutory requirement to recover approximately 90 percent of its budget authority in FY 2013. This recovery does not include amounts appropriated for waste incidental to reprocessing, and for generic homeland security activities (non-fee items). Each year, the NRC receives 10 percent of its budget authority from the general fund controlled by the U.S. Treasury to pay for the cost of agency activities that do not provide a direct benefit to NRC licensees. Such activities include international assistance and Agreement State activities (as defined under Section 274 of the Atomic Energy Act of 1954, as amended). The comment period for the proposed rule ended on April 8, 2013.

Physical Protection of Byproduct Material (RIN 3150–AI12)

Through this rule, the NRC will amend the Commission's regulations to codify security requirements for the use of Category 1 and Category 2 quantities of radioactive material. The objective of this action is to ensure that effective security measures are in place to prevent the use of radioactive materials for malevolent purposes. The rule also addresses background investigations and access controls, enhanced security, and enhanced transportation security, for Category 1 and Category 2 quantities of radioactive material. This rulemaking subsumes RIN 3150–AI56, ''Requirements for Fingerprinting and Criminal History Record Checks for Unescorted Access to Radioactive Material and Other Property ([Part 37 of Title 10 of the *Code of Federal Regulations* (10 CFR)]).'' Most of these requirements were previously imposed by the NRC and Agreement States between 2003 and 2005 using orders and other regulatory mechanisms. The effective date for the final rule is May 20, 2013.

*B.2. Major Rules (FY 2014)*

The NRC anticipates publishing one major rule in FY 2014.

- Revision of Fee Schedules and Fee Recovery for FY 2014—The NRC will update its requirement to recover approximately 90 percent of its budget authority in FY 2014.

*C.1. Other Significant Rulemakings (FY 2013)*

The NRC anticipates completing two other significant rulemakings in FY 2013.

- Revisions to Environmental Review for Renewal of Nuclear Power Plant Operating Licenses (RIN 3150–AI42)—The rule amends the Commission's regulations that provide the environmental protection requirements for renewing nuclear power plant operating licenses. This final rule will redefine the number and scope of the environmental impact issues that must be addressed by the NRC and applicants during license renewal environmental reviews. This rule incorporates lessons learned and knowledge gained from license renewal environmental reviews

conducted by the NRC since 1996. This rule is in the final rule stage.

• Domestic Licensing of Source Material—Amendments and Integrated Safety Analysis (RIN 3150–AI50)—The final rule would amend the Commission's regulations by adding additional requirements for source material licensees that possess significant quantities of uranium hexafluoride. The rule would require these licensees to conduct integrated safety analyses. This rule is in the final rule stage.

*C.2. Other Significant Rulemakings (FY 2014)*

The NRC's other significant rulemakings for FY 2014 and beyond are listed below. Some of these regulatory priorities are a result of recommendations from the Near-Term Task Force established by the NRC in 2011 to examine regulatory requirements, programs, processes, and implementation based on information from the Fukushima Dai-ichi site in Japan, following the March 11, 2011, earthquake and tsunami (*see* ''Recommendations for Enhancing Reactor Safety in the 21st Century: The Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident,'' dated July 12, 2011 (NRC's Agencywide Documents Access and Management System Accession No. ML111861807).

• Station Blackout Mitigation Strategies (RIN 3150–AJ08)—(addresses Fukushima Dai-ichi Near-Term Task Force Recommendations 4 and 7). A request for comment containing specific questions on the draft regulatory basis and draft rule concepts was published in the **Federal Register** on April 10, 2013 (78 FR 21275) to solicit stakeholder feedback. The NRC's draft regulatory basis supports the potential amendment of its regulations for nuclear power plant licensees and their station blackout (SBO) mitigation strategies.

• Performance-Based Emergency Core Cooling System Acceptance Criteria (RIN 3150–AH42)—The proposed rule would replace prescriptive requirements with performance-based requirements, incorporate recent research findings, and expand applicability to all fuel designs and cladding materials. Further, the proposed rule would allow licensees to use an alternative risk-informed approach to evaluate the effects of debris on long-term cooling.

• Strengthening and Integrating Onsite Emergency Response Capabilities (RIN 3150–AJ11)—(addresses Fukushima Dai-ichi Near-Term Task Force Recommendation 8). The draft regulatory basis for this rulemaking was published in the **Federal Register** on January 8, 2013 (78 FR 1154). The NRC solicited stakeholder feedback on why the NRC finds rulemaking necessary to remedy shortcomings in its regulations governing the integration and enhancement of requirements for onsite emergency response capabilities.

• Medical Use of Byproduct Material (Formerly titled: Preceptor Attestation Requirements) (RIN 3150–AI63)—The proposed rule would amend medical use regulations related to medical event definitions for permanent implant brachytherapy; training and experience requirements for authorized users, medical physicists, Radiation Safety Officers, and nuclear pharmacists; and requirements for the testing and reporting of failed molybdenum technetium and rubidium generators; make changes that would allow Associate Radiation Safety Officers to be named on a medical license, and make other clarifications. This rulemaking would also consider a request filed in a petition for rulemaking (PRM), PRM–35–20, to ''grandfather'' certain board-certified individuals, and per Commission direction in the Staff Requirements Memorandum dated August 13, 2012, to SECY–12–0053, subsume a proposed rule previously published under RIN 3150–AI26, ''Medical Use of Byproduct Material-Amendments/Medical Event Definition'' [NRC–2008–0071].

• 10 CFR Part 26 Drug and Alcohol Testing (RIN 3150–AJ15)—This proposed rule would amend the drug testing requirements of 10 CFR Part 26, ''Fitness-for-Duty Programs,'' to incorporate lessons learned from implementing the 2008 Part 26 final rule, enhance the identification of new testing subversion methods, and require the evaluation and testing of semi-synthetic opiates, synthetic drugs and urine, and use of chemicals or multiple prescriptions that could result in a person being unfit for duty.

• Enhanced Weapons, Firearms Background Checks, and Security Event Notifications (RIN 3150–AI49)—The proposed rule would implement the NRC's authority under the new Section 161a of the Atomic Energy Act of 1954, as amended, and revise existing regulations governing security event notifications.

• Site-Specific Analysis (Disposal of Unique Waste Streams) (RIN 3150–AI92)—The proposed rule would amend the Commission's regulations to require both currently operating and future low-level radioactive waste disposal facilities to enhance safe disposal of low-level radioactive waste by conducting a performance assessment and an intruder assessment to demonstrate compliance with performance objectives in 10 CFR Part 61, ''Licensing Requirements for Land Disposal of Radioactive Waste.''

• 10 CFR Part 26 Drug Testing—U.S. Department of Health and Human Services (HHS) Guidelines (RIN 3150–AI67)—The proposed rule would amend the Commission's regulations to selectively align drug testing requirements in 10 CFR Part 26 with Federal drug testing guidelines issued by HHS.

• Two Certificate of Compliance Rulemakings (RIN 3150–AJ10; RIN 3150–AJ12)—These rulemakings would allow a power reactor licensee to store spent fuel in approved cask designs under a general license.

Waste Confidence Rule Update (RIN 3150–AJ20)—The proposed rule would update 10 CFR 51.23, ''Temporary Storage of Spent Fuel after Cessation of Reactor Operation—Generic Determination of No Significant Environmental Impact,'' and the Commission's Waste Confidence Decision.

[FR Doc. 2013–29627 Filed 1–6–14; 8:45 am]

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# FEDERAL REGISTER

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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–III**

**36 CFR Ch. II**

**48 CFR Ch. 4**

## Semiannual Regulatory Agenda, Fall 2013

**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 (E.O.) 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 E.O. 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: September 5, 2013.

**Michael Poe,**

*Chief, Legislative and Regulatory Staff.*

### AGRICULTURAL MARKETING SERVICE—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 152 | National Organic Program, Origin of Livestock, NOP–11–0009 **(Reg Plan Seq No. 1)** | 0581–AD08 |
| 153 | National Organic Program, Organic Pet Food Standards | 0581–AD20 |
| 154 | National Organic Program; Sunset Review (2012) for Sodium Nitrate | 0581–AD22 |
| 155 | National Organic Program, Organic Apiculture Practice Standard, NOP–12–0063 | 0581–AD31 |

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

### AGRICULTURAL MARKETING SERVICE—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 156 | National Organic Program: Sunset Review for Nutrient Vitamins and Minerals | 0581–AD17 |

### FARM SERVICE AGENCY—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 157 | Farm Loan Programs, Clarification and Improvement | 0560–AI14 |

### ANIMAL AND PLANT HEALTH INSPECTION SERVICE—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 158 | Scrapie in Sheep and Goats | 0579–AC92 |
| 159 | Plant Pest Regulations; Update of General Provisions | 0579–AC98 |
| 160 | Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts. | 0579–AD10 |
| 161 | Importation of Beef From a Region in Brazil | 0579–AD41 |
| 162 | Brucellosis and Bovine Tuberculosis; Update of General Provisions **(Reg Plan Seq No. 5)** | 0579–AD65 |
| 163 | Establishing a Performance Standard for Authorizing the Importation and Interstate Movement of Fruits and Vegetables **(Reg Plan Seq No. 6)**. | 0579–AD71 |

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. |
|---|---|---|
| 164 | Introduction of Organisms and Products Altered or Produced Through Genetic Engineering | 0579–AC31 |
| 165 | Bovine Spongiform Encephalopathy; Importation of Bovines and Bovine Products | 0579–AC68 |
| 166 | Importation of Live Dogs | 0579–AD23 |
| 167 | Importation of Wood Packaging Material From Canada | 0579–AD28 |
| 168 | Treatment of Firewood and Spruce Logs Imported From Canada | 0579–AD60 |

### ANIMAL AND PLANT HEALTH INSPECTION SERVICE—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 169 | Handling of Animals; Contingency Plans | 0579–AC69 |

### ANIMAL AND PLANT HEALTH INSPECTION SERVICE—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 170 | Citrus Canker, Citrus Greening, and Asian Citrus Psyllid; Interstate Movement of Regulated Nursery Stock. | 0579–AD29 |
| 171 | Domestic Regulation of Firewood | 0579–AD49 |

### RURAL HOUSING SERVICE—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 172 | Guaranteed Single-Family Housing | 0575–AC18 |

### FOOD AND NUTRITION SERVICE—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 173 | Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act of 2010 **(Reg Plan Seq No. 11)**. | 0584–AE18 |

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. |
|---|---|---|
| 174 | 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. |
|---|---|---|
| 175 | Performance Standards for the Production of Processed Meat and Poultry Products | 0583–AC46 |

### FOOD SAFETY AND INSPECTION SERVICE—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 176 | Mandatory Inspection of Catfish and Catfish Products | 0583–AD36 |

FOREST SERVICE—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 177 | Management of Surface Activities Associated With Outstanding Mineral Rights on National Forest System Lands. | 0596–AD03 |
| 178 | National Forest System Invasive Species Management Handbook | 0596–AD05 |
| 179 | Ski Area—D Clauses: Resource and Improvement Protection, Water Facilities and Water Rights | 0596–AD14 |

FOREST SERVICE—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 180 | Land Management Planning Rule Policy **(Reg Plan Seq No. 21)** | 0596–AD06 |

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## DEPARTMENT OF AGRICULTURE (USDA)

*Agricultural Marketing Service (AMS)*

Proposed Rule Stage

### 152. National Organic Program, Origin of Livestock, NOP–11–0009

*Regulatory Plan:* This entry is Seq. No. 1 in part II of this issue of the **Federal Register**.

*RIN:* 0581–AD08

### 153. 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 approved a final recommendation for organic pet food standards incorporating the provisions drafted by the pet food task force.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 09/00/14 | |
| Final Action | 09/00/15 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Melissa R Bailey, Director, Standards Division, Department of Agriculture, Agricultural Marketing Service, 14th & Independence Avenue SW., Room 2646–South Building, Washington, DC 20250, *Phone:* 202 720–3252, *Fax:* 202 205–7808, *Email: melissa.bailey@usda.gov*.

*RIN:* 0581–AD20

### 154. 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 | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Melissa R Bailey, Director, Standards Division, Department of Agriculture, Agricultural Marketing Service, 14th & Independence Avenue SW., Room 2646–South Building, Washington, DC 20250, *Phone:* 202 720–3252, *Fax:* 202 205–7808, *Email: melissa.bailey@usda.gov*.

*RIN:* 0581–AD22

### 155. • National Organic Program, Organic Apiculture Practice Standard, NOP–12–0063

*Legal Authority:* 7 U.S.C. 6501

*Abstract:* This action proposes to amend the USDA organic regulations to reflect an October 2010 recommendation submitted to the Secretary by the National Organic Standards Board (NOSB) concerning the production of organic apicultural (i.e. beekeeping) products. Instead of continuing to allow certifying agents to certify apiculture to the organic livestock standards, this action would establish certification standards specifically for organic bees and bee products. The scope of this action includes provisions for: transition to organic apiculture production, replacement bees, hive construction forage areas, supplemental feeding health care, pest control practices and an organic apiculture system plan. This action would also add a new scope of certification and accreditation to the USDA organic regulations. This action does not regulate the use of bees for pollination of organic crops.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 09/00/14 | |
| Final Action | 09/00/15 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Melissa R Bailey, Director, Standards Division, Department of Agriculture, Agricultural Marketing Service, 14th & Independence Avenue SW., Room 2646–South Building, Washington, DC 20250, *Phone:* 202 720–3252, *Fax:* 202 205–7808, *Email: melissa.bailey@usda.gov*.

*RIN:* 0581–AD31

## DEPARTMENT OF AGRICULTURE (USDA)

*Agricultural Marketing Service (AMS)*

Final Rule Stage

### 156. National Organic Program: Sunset Review for Nutrient Vitamins and Minerals

*Legal Authority:* 7 U.S.C. 6501

*Abstract:* The Agricultural Marketing Service (AMS) intends to amend the listing for nutrient vitamins and minerals on the U.S. Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List) to clarify what synthetic substances are allowed as vitamins and minerals in products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s)).'' In September 2012, AMS published an interim rule (77 FR 59287) to renew the exemption (use) for nutrient vitamins and minerals which was otherwise due to expire, or sunset, on October 21, 2012. The interim rule followed a proposed rule in which AMS suggested amending the listing to allow only vitamins and minerals which are essential for food and required for infant formula. Under the proposed action, synthetic substances that are not specifically referenced by the exemption would be prohibited from use in organic products unless there is an explicit National List exemption for such use. AMS is evaluating the comments on the interim rule and considering the impact of 13 National Organic Standards Board (NOSB) recommendations for affected synthetic nutrients that were petitioned for addition to the National List.

*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 |
| Interim Final Rule Comment Period End. | 10/21/12 | |
| Final Action | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Melissa R Bailey, Director, Standards Division, Department of Agriculture, Agricultural Marketing Service, 14th & Independence Avenue SW., Room 2646–South Building, Washington, DC 20250, *Phone:* 202 720–3252, *Fax:* 202 205–7808, *Email: melissa.bailey@usda.gov*.

*RIN:* 0581–AD17

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE (USDA)

*Farm Service Agency (FSA)*

Final Rule Stage

### 157. 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 (FLPs) 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 | 11/00/13 | |

*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

BILLING CODE 3410–05–P

## DEPARTMENT OF AGRICULTURE (USDA)

*Animal and Plant Health Inspection Service (APHIS)*

Proposed Rule Stage

### 158. 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 | 02/00/14 | |
| NPRM Comment Period End. | 04/00/14 | |

*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

### 159. Plant Pest Regulations; Update of General Provisions

*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

*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.

*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 ..... | 02/00/14 | |
| NPRM Comment Period End. | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*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

**160. 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 ..... | 05/00/14 | |
| NPRM Comment Period End. | 07/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Peter Merrill, Assistant Director, 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:* 301 851–3300.

*RIN:* 0579–AD10

**161. 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 ..... | 01/00/14 | |
| NPRM Comment Period End. | 03/00/14 | |

*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

**162. Brucellosis and Bovine Tuberculosis; Update of General Provisions**

*Regulatory Plan:* This entry is Seq. No. 5 in part II of this issue of the **Federal Register**.

*RIN:* 0579–AD65

**163. Establishing a Performance Standard for Authorizing the Importation and Interstate Movement of Fruits and Vegetables**

*Regulatory Plan:* This entry is Seq. No. 6 in part II of this issue of the **Federal Register**.

*RIN:* 0579–AD71

## DEPARTMENT OF AGRICULTURE (USDA)

*Animal and Plant Health Inspection Service (APHIS)*

Final Rule Stage

**164. 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 amend the regulations regarding the importation, interstate movement, and environmental release of certain genetically engineered organisms. 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 ..... | 06/00/14 | |

*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

**165. 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 Reopened End. | 06/14/12 | |
| Final Rule | 12/04/13 | 78 FR 72979 |
| Final Rule Effective. | 03/04/14 | |

*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

**166. Importation of Live Dogs**

*Legal Authority:* 7 U.S.C. 2148

*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.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 09/01/11 | 76 FR 54392 |
| NPRM Comment Period End. | 10/31/11 | |
| Final Rule | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*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:* 301 851–3740.

*RIN:* 0579–AD23

**167. 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 | 04/00/14 | |

*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

**168. 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 on an immediate basis 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 | 03/00/14 | |
| Interim Final Rule Comment Period End. | 05/00/14 | |

*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)*

Long-Term Actions

**169. Handling of Animals; Contingency Plans**

*Legal Authority:* 7 U.S.C. 2131 to 2159

*Abstract:* This rulemaking amends 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. We are taking this action because we believe all licensees and registrants should develop a contingency plan for all animals regulated under the Animal Welfare Act in an effort to better prepare for potential disasters. 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 | |

| Action | Date | FR Cite |
|---|---|---|
| NPRM Comment Period Extended. | 12/19/08 | 73 FR 77554 |
| NPRM Comment Period Extended End. | 02/20/09 | |
| Final Rule Effective. | 01/30/13 | |
| Final Rule—Stay of Regulations. | 07/31/13 | 78 FR 46255 |
| Final Rule Effective—Stay of Regulations. | 07/31/13 | |
| Next Action Undetermined. | ..... | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jeanie Lin,*Phone:* 919 855–7100.

*RIN:* 0579–AC69

## DEPARTMENT OF AGRICULTURE (USDA)

*Animal and Plant Health Inspection Service (APHIS)*

Completed Actions

### 170. 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 made 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.

*Completed:*

| Reason | Date | FR Cite |
|---|---|---|
| Final Rule ..... | 10/24/13 | 78 FR 63369 |
| Final Rule Effective. | 11/25/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Lynn Evans-Goldner,*Phone:* 301 851–2286.

*RIN:* 0579–AD29

### 171. Domestic Regulation of Firewood

*Legal Authority:* 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786

*Abstract:* This rulemaking would require that commercial firewood destined to be moved interstate be affixed with a label on which the county and State, or counties and States, in which the wood from which the firewood was produced was harvested, the site at which the firewood was produced, what phytosanitary treatment, if any, the firewood has received, and contact information for reporting detections of suspected plant pests are prominently and legibly displayed. We would also require firewood producers, distributors, and retailers to retain records regarding the manufacturing, purchase, and sale of the firewood. Although the movement of commercial firewood in interstate commerce can be a pathway for numerous plant pests, this movement is currently largely unregulated. This action would aid in preventing the further dissemination of plant pests within the United States through the interstate movement of firewood.

*Completed:*

| Reason | Date | FR Cite |
|---|---|---|
| Withdrawn ..... | 08/27/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Paul Chaloux,*Phone:* 301 851–2064.

*RIN:* 0579–AD49

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE (USDA)

*Rural Housing Service (RHS)*

Final Rule Stage

### 172. 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). 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 | |
| Interim Final Rule | 12/00/13 | |

*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

### 173. Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act of 2010

*Regulatory Plan:* This entry is Seq. No. 11 in part II of this issue of the **Federal Register**.

*RIN:* 0584–AE18

## DEPARTMENT OF AGRICULTURE (USDA)

*Food and Nutrition Service (FNS)*

Final Rule Stage

### 174. 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 | 04/27/12 | 77 FR 25024 |
| Interim Final Rule Effective. | 07/01/12 | |
| Interim Final Rule Comment Period End. | 07/26/12 | |
| Final Rule ..... | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* James F Herbert, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 305–2572, *Email: james.herbert@fns.usda.gov,* Lynnette M Williams, Chief, Planning and Regulatory Affairs Branch, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605–4782, *Email: lynnette.williams@fns.usda.gov.*

*RIN:* 0584–AE15

**BILLING CODE 3410–30–P**

## DEPARTMENT OF AGRICULTURE (USDA)

*Food Safety and Inspection Service (FSIS)*

Proposed Rule Stage

### 175. 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. | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Rachel Edelstein, Assistant Administrator, Office of Policy and Program Development, Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW., 350–E JLW Building, Washington, DC 20250–3700, *Phone:* 202 205–0495, *Fax:* 202 720–2025, *Email: rachel.edelstein@fsis.usda.gov.*

*RIN:* 0583–AC46

## DEPARTMENT OF AGRICULTURE (USDA)

*Food Safety and Inspection Service (FSIS)*

Long-Term Actions

### 176. 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.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/24/11 | 76 FR 10434 |
| NPRM Comment Period End. | 06/24/11 | |
| Final Rule ..... | 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–DM–P**

## DEPARTMENT OF AGRICULTURE (USDA)

*Forest Service (FS)*

Proposed Rule Stage

### 177. Management of Surface Activities Associated With Outstanding Mineral Rights on National Forest System Lands

*Legal Authority:* Not Yet Determined

*Abstract:* Close to 11,000,000 acres (approximately 6 percent) of National Forest System lands overlie severed (split) mineral estates owned by a party other than the Federal Government. Over 75 percent of these lands are in the Eastern Region (Forest Service Regions 8 and 9). There are two kinds of severed mineral estates, generally known as ''private rights'': Reserved and outstanding. Reserved mineral rights are those retained by a grantor in a deed conveying land to the United States. Outstanding mineral rights are those owned by a party other than the surface owner at the time the surface was conveyed to the United States. Because these are non-Federal mineral interests, the USDI Bureau of Land Management has no authority for or role in managing development activities associated with such interests. States have the authority and responsibility for regulating development of the private mineral estate.

Various Secretary's Rules and Regulations (years of 1911, 1937, 1938, 1939, 1947, 1950, and 1963) and Forest Service regulations at 36 CFR 251.15 provide direction for the use of NFS lands for mineral development activities associated with the exercise of reserved mineral rights. These existing rules for reserved minerals development activities also include requirements for protection of NFS resources.

Currently there are no formal regulations governing the use of NFS lands for activities associated with the exercise of outstanding mineral rights underlying those lands. The Energy Policy Act of 1992, section 2508, directed the Secretary of Agriculture to: apply specified terms and conditions to surface-disturbing activities related to development of oil and gas on certain lands with outstanding mineral rights on the Allegheny National Forest, and promulgate regulations implementing that section.

The Forest Service initiated rulemaking for the use of NFS lands for development activities associated with both reserved and outstanding minerals rights with an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 29, 2008. Comments from the public in response to the ANPRM conveyed a high level of concern about the broad scope of the rule, along with a high level of concern about effects of a broad rule on small businesses and local economies.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 12/29/08 | 73 FR 79424 |
| ANPRM Comment Period End. | 02/27/09 | |
| NPRM | 08/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* LaRenda C King, Assistant Director, Directives and Regulations, Department of Agriculture, Forest Service, ATTN: ORMS, D&R Branch, 1400 Independence Avenue SW., Washington, DC 20250–0003, *Phone:* 202 205–6560, *Email: larendacking@fs.fed.us.*

*RIN:* 0596–AD03

**178. National Forest System Invasive Species Management Handbook**

*Legal Authority:* 16 U.S.C. 473 *et seq.;* 16 U.S.C. 528 *et seq.;* 16 U.S.C. 1600 *et seq.*

*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). The specific requirements, standards, criteria, rules, and guidelines for Forest Service staff to effectively manage invasive species on NFS lands will be provided in a handbook which will tier to FSM 2900. The proposed handbook will be issued through the Directives system.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/00/14 | |

*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 SW., Washington, DC 20250–0003, *Phone:* 202 205–6560, *Email: larendacking@fs.fed.us.*

*RIN:* 0596–AD05

**179. • Ski Area—D Clauses: Resource and Improvement Protection, Water Facilities and Water Rights**

*Legal Authority:* Not Yet Determined

*Abstract:* On November 8, 2011, the Forest Service issued an interim directive (FSH 2709.11–2011–3) including a revised clause to address the ownership of water rights developed on National Forest System (NFS) lands for use by ski area permit holders. On March 6, 2012, a second interim directive (FSH 2709.11–2012–1) for the revised ski area water rights clause was issued, superseding the 2011 version. The National Ski Areas Association filed a lawsuit in the United States District Court for the District of Colorado on March 12, 2012, opposing use of the revised clause. On December 19, 2012, the court ruled that the Forest Service had erred in not providing an opportunity for notice and comment on the interim directive and that the agency needed to conduct a Regulatory Flexibility Act analysis of the impact of the directive on small business entities that hold ski area permits. The court vacated the interim directive and enjoined enforcement of the 2011 and 2012 clauses in permits containing them.

The Forest Service intends to publish the proposed ski area water rights clause in the **Federal Register** for public notice and comment. To identify interests and views from a diverse group of stakeholders regarding a revised water rights clause for ski areas, the Forest Service held four stakeholder meetings in April 2013. The input from the stakeholder sessions will be considered in the development of a proposed water rights clause for ski areas.

The proposed directive would address the development of water facilities on NFS lands; the ownership of preexisting and future water rights; mechanisms to ensure sufficient water remains for ski areas on NFS lands; and measures necessary to protect NFS lands and resources.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Proposed Rule | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* LaRenda C King, Assistant Director, Directives and Regulations, Department of Agriculture, Forest Service, ATTN: ORMS, D&R Branch, 1400 Independence Avenue SW., Washington, DC 20250–0003, *Phone:* 202 205–6560, *Email: larendacking@fs.fed.us.*

*RIN:* 0596–AD14

## DEPARTMENT OF AGRICULTURE (USDA)

*Forest Service (FS)*

Final Rule Stage

**180. Land Management Planning Rule Policy**

*Regulatory Plan:* This entry is Seq. No. 21 in part II of this issue of the **Federal Register**.

*RIN:* 0596–AD06

[FR Doc. 2013–29628 Filed 1–6–14; 8:45 am]

**BILLING CODE 3410–11–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 2013 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 2013 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 2013 regulatory agenda includes regulatory activities that are expected to be conducted during the period October 1, 2013, through September 30, 2014.

**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 2013 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 August 7, 2013, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the fall 2013 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 2013 regulatory agenda follows.

**Cameron F. Kerry,**

*General Counsel.*

## INTERNATIONAL TRADE ADMINISTRATION—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 181 | Modification of Regulation Regarding the Extension of Time Limits | 0625–AA94 |

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 182 | Fishery Management Plan for Regulating Offshore Marine Aquaculture in the Gulf of Mexico | 0648–AS65 |
| 183 | Marine Mammal Protection Act Stranding Regulation Revisions | 0648–AW22 |
| 184 | Addendum IV to the Weakfish Interstate Management Plan—Bycatch Trip Limit | 0648–AY41 |
| 185 | Implement the 2010 Shark Conservation Act Provisions and Other Regulations in the Atlantic Smoothhound Shark Fishery. | 0648–BB02 |
| 186 | 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 |
| 187 | Amendment 43 to the FMP for BSAI King and Tanner Crabs and Amendment 103 to the FMP for Groundfish of the BSAI. | 0648–BC34 |
| 188 | Amendment 3 to the Spiny Dogfish Fishery Management Plan | 0648–BC77 |
| 189 | Pacific Coast Groundfish Trawl Rationalization Program Trailing Action: Rule to Modify Chafing Gear Regulations for Midwater Trawl Gear Used in the Pacific Coast Groundfish Fishery. | 0648–BC84 |
| 190 | Inner Limit of the Exclusive Economic Zone under the Magnuson-Stevens Fishery Conservation and Management Act. | 0648–BC92 |
| 191 | Fisheries Off West Coast States; West Coast Salmon Fisheries; Amendment 18; Essential Fish Habitat Descriptions for Pacific Salmon. | 0648–BC95 |
| 192 | Vessel Monitoring Systems; Specification of Requirements for Mobile Transmitting Unit Type Approval | 0648–BD02 |
| 193 | Joint for-Hire Generic Reporting Amendment for the South Atlantic and Gulf of Mexico | 0648–BD21 |
| 194 | Amendment 5b to the Highly Migratory Species Fishery Management Plan | 0648–BD22 |
| 195 | Amendment 105 Bering Sea Flatfish Harvest Specifications Flexibility | 0648–BD23 |
| 196 | Amendment 39 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico | 0648–BD25 |
| 197 | Pacific Coast Groundfish Trawl Rationalization Program Trailing Actions: Permitting Requirements for Observer and Catch Monitor Providers. | 0648–BD30 |
| 198 | Modifications to the Pacific Coast Groundfish Trawl Rockfish Conservation Area Boundaries | 0648–BD37 |
| 199 | Southern New England Effort Controls to Address Lobster Stock Rebuilding Measures | 0648–BD45 |
| 200 | Western Pacific Pelagic Fisheries; Territorial Longline Catch and Effort Limits and Assignments | 0648–BD46 |
| 201 | Amendment 97 to the Fishery Management Plan for Groundfish of the Gulf of Alaska to Establish Chinook Salmon Prohibited Species Catch Limits for the Non-pollock Trawl Fisheries. | 0648–BD48 |
| 202 | Framework Adjustment 8 to the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan | 0648–BD50 |
| 203 | Management Measures for Fishing Years 2014–2016 Tropical Tunas in the Eastern Pacific Ocean | 0648–BD52 |
| 204 | Implementation of the Inter-American Tropical Tuna Commission Resolution for the Conservation of Whale Sharks and the Collection and Analyses of Data on Fish Aggregating Devices. | 0648–BD53 |
| 205 | Implementation of the Inter-American Tropical Tuna Commission Resolution to Establish a Vessel Monitoring System Program in the Eastern Pacific Ocean. | 0648–BD54 |
| 206 | Implementation of the Inter-American Tropical Tuna Commission Resolution to Adopt Conservation and Management Measures for Pacific Bluefin Tuna in the Eastern Pacific Ocean. | 0648–BD55 |
| 207 | Framework Adjustment 8 to the Monkfish Fishery Management Plan | 0648–BD56 |
| 208 | South Atlantic Coastal Migratory Pelagics Framework Action 2013 **(Section 610 Review)** | 0648–BD58 |
| 209 | Implementation of a Program for Transshipments by Large Scale Fishing Vessels in the Eastern Pacific Ocean. | 0648–BD59 |
| 210 | Amendment 45 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crab Freezer Longline Catcher/Processor Pacific Cod Sideboard Removal. | 0648–BD61 |
| 211 | Change to Fishing Season Start Date; Pacific Sardine Fishery; Coastal Pelagic Species Fishery Management Plan. | 0648–BD63 |
| 212 | Information Collection Program for Atlantic Surfclam and Ocean Quahog Fisheries | 0648–BD64 |
| 213 | 2014 Specifications and Management Measures for the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan. | 0648–BD65 |
| 214 | Modifications to Identification Markings on Fishing Gear Marker Buoys | 0648–BD66 |
| 215 | Designation of Critical Habitat for the North Atlantic Right Whale | 0648–AY54 |
| 216 | 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. |
|---|---|---|
| 217 | American Lobster Fishery; Fishing Effort Control Measures to Complement Interstate Lobster Management Recommendations by the Atlantic States Marine Fisheries Commission. | 0648–AT31 |
| 218 | Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan | 0648–AY26 |
| 219 | Amendment 5 to the Atlantic Herring Fishery Management Plan | 0648–AY47 |
| 220 | Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Trawl Rationalization Program; Cost Recovery Program. | 0648–BB17 |

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—FINAL RULE STAGE—Continued

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 221 | Amendment 89 to the Gulf of Alaska Groundfish Fishery Management Plan Area Closures for Chionoecetes bairdi Crab Protection in Gulf of Alaska Groundfish Fisheries. | 0648–BB76 |
| 222 | Amendment to the Vessel Ownership Requirements of the Individual Fishing Quota Program for Fixed-Gear Pacific Halibut and Sablefish Fisheries In and Off of Alaska. | 0648–BB78 |
| 223 | Georges Bank Yellowtail Flounder Emergency Action to Provide a Partial Exemption from Accountability Measures to the Atlantic Scallop Fishery. | 0648–BC33 |
| 224 | Amendment 95 to the Fishery Management Plan for Groundfish of the Gulf of Alaska | 0648–BC39 |
| 225 | Modification to the Hired Skipper Regulations for Management of the Individual Fishing Quota Program for the Fixed-Gear Commercial Fisheries for Pacific Halibut and Sablefish in Waters of Alaska. | 0648–BC62 |
| 226 | 2013 Monkfish Emergency Action | 0648–BC79 |
| 227 | Allowing Northeast Multispecies Sector Vessels Access to Year Round Closed Areas | 0648–BD09 |
| 228 | Amendment 2 to the Fishery Management Plan for the Queen Conch Resources of Puerto Rico and the USVI: Compatibility of Trip and Bag Limits in the Management Area of St. Croix, USVI. | 0648–BD15 |
| 229 | Framework Adjustment 2 to the Atlantic Herring Fishery Management Plan and Management Measures for Atlantic Herring for the 2013–2015 Fishing Years. | 0648–BD17 |
| 230 | Modification of Vessel Monitoring System Requirements for Atlantic Highly Migratory Species Fisheries | 0648–BD24 |
| 231 | Pacific Coast Groundfish Trawl Rationalization Program; Second Program Improvement and Enhancement Rule. | 0648–BD31 |
| 232 | Framework Action to Increase Quotas for the Red Snapper Component of the Reef Fish Fishery and Establish a Second Recreational Season. | 0648–BD39 |
| 233 | Revision of Hawaiian Monk Seal Critical Habitat | 0648–BA81 |
| 234 | Removal of the Sunset Provision of the Final Rule Implementing Vessel Speed Restrictions to Reduce the Threat of Ship Collisions With North Atlantic Right Whales. | 0648–BB20 |
| 235 | Endangered and Threatened Species: Designation of Critical Habitat for Threatened Lower Columbia River Coho Salmon and Puget Sound Steelhead. | 0648–BB30 |
| 236 | Designation of Critical Habitat for the Distinct Population Segments of Yelloweye Rockfish, Canary Rockfish, and Bocaccio. | 0648–BC76 |
| 237 | Amending the Atlantic Large Whale Take Reduction Plan | 0648–BC90 |
| 238 | Designation of Critical Habitat for the Northwest Atlantic Ocean Loggerhead Sea Turtle DPS and the Determination Regarding Critical Habitat for the North Pacific Ocean Loggerhead DPS. | 0648–BD27 |

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 239 | Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) Environmental Review Procedure. | 0648–AV53 |
| 240 | Amendment 6 to the Monkfish Fishery Management Plan | 0648–BA50 |
| 241 | Amendment 22 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region. | 0648–BA53 |
| 242 | Comprehensive Fishery Management Plan for Puerto Rico | 0648–BD32 |
| 243 | Comprehensive Fishery Management Plan for St. Croix | 0648–BD33 |
| 244 | Comprehensive Fishery Management Plan for St. Thomas/St. John | 0648–BD34 |
| 245 | Marine Mammal Protection Act Permit Regulation Revisions | 0648–AV82 |

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 246 | Amendment 18B to the Snapper Grouper Fishery Management Plan of the South Atlantic Region | 0648–BB58 |
| 247 | Pacific Coast Groundfish Trawl Rationalization Program Reconsideration of Allocation of Whiting (Raw 2) | 0648–BC01 |
| 248 | 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 |
| 249 | Amendment 42 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs | 0648–BC25 |
| 250 | Framework Adjustment 48 to the Northeast Multispecies Fishery Management Plan | 0648–BC27 |
| 251 | Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Specifications and Management Measures and FMP Amendment 21–1. | 0648–BC35 |
| 252 | Management Measures for Pacific Bluefin Tuna in the Eastern Pacific Ocean | 0648–BC44 |
| 253 | Regulatory Amendment to Implement an Exempted Fishery for the Spiny Dogfish Fishery off Cape Cod, MA. | 0648–BC50 |
| 254 | Pacific Halibut Fisheries; Catch Sharing Plan for Washington, Oregon, and California | 0648–BC75 |
| 255 | 2013–2015 Spiny Dogfish Fishery Specifications | 0648–BC85 |
| 256 | International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Restrictions in Purse Seine Fisheries for 2013 and 2014. | 0648–BC87 |
| 257 | Pacific Coast Whiting Fishery Allocations for 2013 | 0648–BC93 |
| 258 | Emergency Rule to Establish Recreational Closure Authority Specific to Federal Waters off Individual States for the Red Snapper Component of the Reef Fish Fishery. | 0648–BD00 |

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—COMPLETED ACTIONS—Continued

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 259 | Regulatory Amendment 18 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region. | 0648–BD04 |
| 260 | 2013 Summer Flounder, Scup, and Black Sea Bass Recreational Harvest Measures and Increase to the 2013 and 2014 Black Sea Bass Specifications. | 0648–BD13 |
| 261 | Framework Adjustment 24 to the Atlantic Sea Scallop FMP and Framework Adjustment 49 to the Northeast Multispecies Fishery Management Plan. | 0648–BC81 |

## DEPARTMENT OF COMMERCE (DOC)

*International Trade Administration (ITA)*

Final Rule Stage

### 181. Modification of Regulation Regarding the Extension of Time Limits

*Legal Authority:* 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. *et seq.;* 19 U.S.C. 3538

*Abstract:* Requesting comment on a proposed modification to 19 CFR 351.302, which concerns the extension of time limits for submissions in antidumping and countervailing duty proceedings.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Proposed Rule .... | 01/16/13 | 78 FR 3367 |
| Final Action ..... | 11/00/13 | |

*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–AA94

## DEPARTMENT OF COMMERCE (DOC)

*National Oceanic and Atmospheric Administration (NOAA)*

Proposed Rule Stage

**National Marine Fisheries Service**

### 182. 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 is to develop a regional permitting process for regulating and promoting environmentally sound and economically sustainable aquaculture in the Gulf of Mexico exclusive economic zone. This fishery management plan 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 of Mexico 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 of Mexico by supplementing harvest of wild caught species with cultured product. This rulemaking would outline a regulatory permitting process for aquaculture in the Gulf of Mexico, including: (1) Required permits; (2) duration of permits; (3) species allowed; (4) designation of sites for aquaculture; (5) reporting requirements; and (6) regulations to aid in enforcement.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice of Availability. | 06/04/09 | 74 FR 26829 |
| NOA comment period end. | 08/03/09 | |
| NPRM ..... | 12/00/13 | |

*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

### 183. 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:* 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.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 01/31/08 | 73 FR 5786 |
| ANPRM Comment Period Extended. | 03/28/08 | 73 FR 16617 |
| NPRM ..... | 07/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2322.

*RIN:* 0648–AW22

### 184. Addendum IV to the Weakfish Interstate Management Plan—Bycatch Trip Limit

*Legal Authority:* 16 U.S.C. 5101

*Abstract:* This action would modify management restrictions in the Federal weakfish fishery in a manner consistent with the Atlantic States Marine Fisheries Commission Interstate Plan. The proposed change would decrease the incidental catch allowance for weakfish in the exclusive economic zone 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 Reopened. | 06/16/10 | 75 FR 34092 |
| Comment Period End. | 06/30/10 | |
| Proposed Rule .... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Emily Menashes, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2234, *Email: emily.menashes@noaa.gov*.

*RIN:* 0648–AY41

**185. 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 proposed rule considers implementing the provisions of the 2010 Shark Conservation Act and other regulations in the Atlantic Smoothhound Fishery (which includes smooth dogfish and the Florida smoothhound). Specifically, this action would: (1) Modify regulations for smooth dogfish as needed to be consistent with the Shark Conservation Act; (2) consider other management measures, as needed, including the Terms and Conditions of the Endangered Species Act Smoothhound Biological Opinion; and, (3) consider revising the current smoothhound shark quota based on updated catch data.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Emily Menashes, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2234, *Email: emily.menashes@noaa.gov*.

*RIN:* 0648–BB02

**186. 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:* To better ensure commercial landings of managed fish stocks do not exceed annual catch limits, improvements are needed to the accuracy, completeness, consistency, and timeliness of data submitted by federally-permitted seafood dealers. The purpose of the generic amendment is to change the current reporting requirements for those dealers who purchase fish managed under several of the Gulf of Mexico and South Atlantic Fishery Management Council fishery management plans. Changes are proposed to the current six dealer permits to increase the species that must be reported. Changes are also proposed to the method and frequency of dealer reporting. 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 | 11/00/13 | |

*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–BC12

**187. 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:* This rule would implement both Amendment 43 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs and Amendment 103 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. Amendment 43 revises the current rebuilding plan for Pribilof Islands blue king crab (blue king crab) and Amendment 103 implements groundfish fishing restrictions. A no-trawl Pribilof Islands Habitat Conservation Zone (Zone) was established in 1995 and the directed fishery for blue king crab has been closed since 1999. A rebuilding plan was implemented in 2003; however, blue king crab remains overfished and the current rebuilding plan has not achieved adequate progress towards rebuilding the stock by 2014. The rule would close the Zone to all Pacific cod pot fishing in addition to the current trawl prohibition. This measure would help support blue king crab rebuilding and prevent exceeding the overfishing limit of blue king crab by minimizing to the extent practical blue king crab bycatch in the groundfish fisheries.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*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

**188. Amendment 3 to the Spiny Dogfish Fishery Management Plan**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* The action would make four modifications to the management measures in the Spiny Dogfish Fishery Management Plan. These include allowing up to 3 percent of the annual quota to be set aside for research purposes (research set-aside), updating the essential fish habitat definitions for spiny dogfish, allowing the previous year's management measures to be carried over into the subsequent year in the case of rulemaking delays, and removing the seasonal allocation of the commercial quota. The action is needed to improve the efficiency of the Spiny Dogfish Fishery Management Plan, and help reduce misalignment of regulations with the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for spiny dogfish.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

*RIN:* 0648–BC77

**189. Pacific Coast Groundfish Trawl Rationalization Program Trailing Action: Rule To Modify Chafing Gear Regulations for Midwater Trawl Gear Used in the Pacific Coast Groundfish Fishery**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action would modify the existing chafing gear regulations for midwater trawl gear, and includes housekeeping measures to clarify which

vessels can use midwater trawl gear and where midwater trawl gear can be used. This action includes regulations that affect all trawl sectors (Shorebased Individual Fishing Quota Program, Mothership Cooperative Program, Catcher/Processor Cooperative Program, and tribal fishery) managed under the Pacific Coast Groundfish Fishery Management Plan.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Deputy Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Building 1, 7600 Sand Point Way NE., Seattle, WA 48115–0070, *Phone:* 206 526–6150, *Fax:* 206 526–6426, *Email: barry.thom@noaa.gov*.

*RIN:* 0648–BC84

**190. Inner Limit of the Exclusive Economic Zone Under the Magnuson-Stevens Fishery Conservation and Management Act**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action would define the term ''inner limit of the exclusive economic zone'' under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The MSA establishes sovereign rights and exclusive management authority over fishery resources of the U.S. Exclusive Economic Zone. The inner limit of the Exclusive Economic Zone is described as a line coterminous with the seaward boundary of each of the coastal states. NMFS, as well as the U.S. Coast Guard and state partners, enforce Federal fishery regulations on the basis of the 3 nautical mile line as it is represented on NOAA charts. The use of 3 nautical mile line has caused confusion when NOAA charts are updated because the baseline for establishing this line is ambulatory. NMFS proposes to clarify/correct this by defining this seaward boundary line to be a line established pursuant to the Submerged Lands Act.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Emily Menashes, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2234, *Email: emily.menashes@noaa.gov*.

*RIN:* 0648–BC92

**191. Fisheries Off West Coast States; West Coast Salmon Fisheries; Amendment 18; Essential Fish Habitat Descriptions for Pacific Salmon**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* The proposed action would implement Amendment 18 to the Pacific Coast Salmon Fishery Management Plan. The purpose of the amendment is to address revisions to the Pacific coast salmon essential fish habitat provisions under the Magnuson-Stevens Fishery Conservation and Management Act.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Deputy Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Building 1, 7600 Sand Point Way NE., Seattle, WA 48115–0070, *Phone:* 206 526–6150, *Fax:* 206 526–6426, *Email: barry.thom@noaa.gov*.

*RIN:* 0648–BC95

**192. Vessel Monitoring Systems; Specification of Requirements for Mobile Transmitting Unit Type Approval**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* All vessels participating in a NOAA Vessel Monitoring System program are required to acquire a NMFS-approved mobile transmitting unit to comply with the Vessel Monitoring System requirements. Previously, this action was only taken through the publication of a notice in the **Federal Register**. However, this rule will establish the type-approval standards, specifications, and procedures that vendors may reference to maintain type-approval for their products and/or services. This action will establish type-approval standards for the initial approval, subsequent assessments, and the procedures for rescinding the type-approval if the vendor fails to comply with the performance standards. This action is necessary to ensure Vessel Monitoring System vendors continue to meet minimum performance standards over the long term.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Emily Menashes, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2234, *Email: emily.menashes@noaa.gov*.

*RIN:* 0648–BD02

**193. Joint For-Hire Generic Reporting Amendment for the South Atlantic and Gulf of Mexico**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action would require headboat vessel operators to submit electronic fishing records (via computer or internet) rather than paper logbooks for the South Atlantic snapper-grouper, dolphin wahoo, and coastal migratory pelagics fisheries. It also gives NMFS the flexibility to modify the reporting frequency, via notice, if this becomes necessary in the future. Electronic reporting will allow for more timely data collection which would help with tracking recreational annual catch limits and preventing annual catch limits overages.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*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–BD21

**194. Amendment 5B to the Highly Migratory Species Fishery Management Plan**

*Legal Authority:* 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 971 *et seq.*

*Abstract:* This rulemaking would propose management measures for dusky sharks based on a recent stock assessment, taking into consideration comments received on the proposed rule and Amendment 5 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan. This rulemaking could consider a range of commercial and recreational management measures in both directed

and incidental shark fisheries including, among other things, gear modifications, time/area closures, permitting, shark identification requirements, and reporting requirements. NMFS determined dusky sharks are still overfished and still experiencing overfishing and originally proposed management measures to end overfishing and rebuild dusky sharks in a proposed rule for Draft Amendment 5 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan. That proposed rule also contained management measures for scalloped hammerhead, sandbar, blacknose and Gulf of Mexico blacktip sharks. NMFS issued management measures for scalloped hammerhead, sandbar, blacknose and Gulf of Mexico blacktip sharks in a final rule and final amendment referred to as ''Amendment 5a'' to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan. Dusky shark management measures will be addressed in this separate, but related, action and will be referred to as ''Amendment 5b.''

*Timetable*:

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Emily Menashes, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2234, *Email: emily.menashes@noaa.gov*.

*RIN:* 0648–BD22

**195. • Amendment 105 Bering Sea Flatfish Harvest Specifications Flexibility**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This proposed action is intended to provide additional harvest opportunities to participants in Bering Sea and Aleutian Islands (BSAI) flatfish fisheries while (1) maintaining catch below the annual catch limits for these species and (2) ensuring that the maximum optimum yield for BSAI groundfish fisheries will not be exceeded. Specifically, Amendment 105 to the BSAI Fishery Management Plan would establish a process for Amendment 80 cooperatives and Western Alaska Community Development Quota groups to exchange harvest quota from one of the three flatfish species for an equivalent amount of quota of another species. In no case could the amount of fish exchanged exceed the annual catch limit, commonly known as the allowable biological catch (ABC), of that species. This action would modify the annual harvest specification process to allow the North Pacific Fishery Management Council (Council) to establish the maximum amount of harvest quota that can be exchanged for each of the three flatfish species. This process would allow the Council to establish a buffer below the ABC to account for management or socioeconomic considerations. Each participant could only exchange harvest quota up to three times per year. This action is intended to promote the goals and objectives of the BSAI Fishery Management Plan, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*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–BD23

**196. • Amendment 39 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* The purpose of this action is to facilitate management of the recreational red snapper component in the reef fish fishery by reorganizing the Federal fishery management strategy to better account for biological, social, and economic differences among the regions of the Gulf of Mexico. Regional management would enable regions and their associated communities to specify the optimal management parameters that best meet the needs of their local constituents thereby addressing regional socio-economic concerns.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice ..... | 05/13/13 | 78 FR 27956 |
| NPRM ..... | 11/00/13 | |

*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–BD25

**197. • Pacific Coast Groundfish Trawl Rationalization Program Trailing Actions: Permitting Requirements for Observer and Catch Monitor Providers**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action would modify regulations pertaining to certified catch monitors and observers required under the Pacific Coast Groundfish Fishery Management Plan. The action specifies permitting requirements for business entities interested in providing certified observers and catch monitor services, as well as addresses numerous housekeeping measures and updates observer provider and vessel responsibilities relative to observer safety such that the regulations are consistent with the Coast Guard and Maritime Transportation Act of 2012. This action affects individuals serving as certified catch monitors and observers, business entities that provide certified catch monitors and observers, vessels that are required to carry certified observers, and shore-based business entities that are required to employ the services of certified catch monitors.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Deputy Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Building 1, 7600 Sand Point Way NE., Seattle, WA 48115–0070, *Phone:* 206 526–6150, *Fax:* 206 526–6426, *Email: barry.thom@noaa.gov*.

*RIN:* 0648–BD30

**198. • Modifications to the Pacific Coast Groundfish Trawl Rockfish Conservation Area Boundaries**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action would implement recommendations from the Pacific Fishery Management Council to liberalize trawl Rockfish Conservation Area boundaries for participants in the Pacific Coast groundfish shorebased individual fishing quota program, beginning November 1, 2013 through the end of 2014. Different trawl Rockfish Conservation Area variations have been

in place since 2002–2003 and are typically adjusted through routine inseason actions to keep overfished fish species within acceptable catch limits or harvest guidelines. This rule proposes to modify the trawl Rockfish Conservation Area boundaries in order to increase access to target species. This rule would increase fishermen's access to their target species allocations, while allowing the individual accountability inherent in the individual fishing quota program to reduce bycatch. This action would also increase the flexibility and efficiency for individual fishing quota program participants and maintain the full catch accounting requirements of the individual fishing quota program.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Deputy Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Building 1, 7600 Sand Point Way NE., Seattle, WA 48115–0070, *Phone:* 206 526–6150, *Fax:* 206 526–6426, *Email: barry.thom@noaa.gov*.

*RIN:* 0648–BD37

**199. • Southern New England Effort Controls To Address Lobster Stock Rebuilding Measures**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* NMFS announces that the Agency is considering, and seeking public comment on, revisions to Federal American lobster regulations intended to assist in rebuilding the Southern New England lobster stock. The proposed measures include trap reductions in Lobster Management Areas 2 and 3, a minimum carapace size increase for Lobster Management Area 3, mandatory v-notching of egg-bearing female lobster in Lobster Management Areas 2, 4, and 5, and seasonal closures in Lobster Management Areas 4, 5, and 6. These actions are recommended for Federal implementation by the Atlantic States Marine Fisheries Commission (Commission). The proposed stock rebuilding measures were recommended by the Commission in consultation with some, but not all, Federal lobster permit holders through associated industry participation on the Commissions Lobster Conservation Management Teams. While this action could limit fishing effort and landings by Federal lobster permit holders in Southern New England, the proposed measures are consistent with those already implemented by the affected states.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 08/20/13 | 78 FR 51131 |
| NPRM ..... | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

*RIN:* 0648–BD45

**200. • Western Pacific Pelagic Fisheries; Territorial Longline Catch and Effort Limits and Assignments**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* The Consolidated and Further Continuing Appropriation Act of 2012, as extended through the end of 2013 by section 110 of the Consolidated and Further Appropriations Act of 2013, directed the Western Pacific Fishery Management Council to amend its fishery ecosystem plan for pelagic fisheries to authorize U.S. Participating Territories of the Western and Central Pacific Fisheries Commission (American Samoa, Northern Mariana Islands, and Guam) to use, assign, allocate, and manage their catch and effort limits for highly migratory fish stocks through arrangements with U.S. vessels permitted under the plan. The Western Pacific Fishery Management Council has therefore recommended establishing a process for assigning territorial catch or effort limit to U.S. vessels that meet specific criteria. Based on the Council's recommendations, NMFS would describe the terms, conditions, and process for U.S. vessels to enter into a fishing arrangement with a territory. Under the proposed amendment, and as part of the specification for the first year, NMFS would specify an annual longline catch limit for bigeye tuna of 2,000 mt for each territory. Each territory would be allowed to enter into fishing arrangements to transfer up to 1,000 mt of that limit, per year, to eligible U.S. vessels.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael Tosatto, Regional Administrator for the Pacific Islands Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814, *Phone:* 808 944–2281.

*RIN:* 0648–BD46

**201. • Amendment 97 to the Fishery Management Plan for Groundfish of the Gulf of Alaska to Establish Chinook Salmon Prohibited Species Catch Limits for the Non-Pollock Trawl Fisheries**

*Legal Authority:* 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 773 *et seq.*

*Abstract:* This rule would limit Chinook salmon prohibited species catch in the Western and Central Gulf of Alaska non-pollock trawl fisheries. Chinook salmon is a fully utilized species in Alaska coastal subsistence, recreational, and commercial fisheries. In recent years the returns of Chinook salmon to some Alaska river systems have been below the biological escapement goals established by the State of Alaska. This action is necessary to minimize the catch of Chinook salmon to the extent practicable in the Gulf of Alaska non-pollock trawl fisheries. The proposed rule would establish a 7,500 Chinook salmon prohibited species annual limit that would be seasonally apportioned among fishing vessel sectors. If a sector reached its Chinook salmon prohibited species limit, further directed fishing for groundfish by vessels in that sector and season would be prohibited. Vessel operators would be required to retain salmon until the number of salmon has been determined by the vessel or plant observer and the observers data collection has been completed. About 70 vessels could be affected by this action. This action could reduce revenues from the fisheries, if the Chinook salmon prohibited species limit is reached before the groundfish quota is harvested. The action may also increase costs if vessel operators move fishing operations or take other actions to lower their catch of Chinook salmon.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*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–BD48

**202. • Framework Adjustment 8 to the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* Framework 8 announces several changes to facilitate the operation of the butterfish discard cap on the longfin squid fishery. The alternatives proposed in Framework 8 would allocate the butterfish discard cap among the trimesters in the same percentages used for the trimester allocations for longfin squid. In addition, Framework 8 proposes allowing NMFS to transfer, in either direction, a certain amount of unused quota between the butterfish landing allocation and the discard cap on the longfin squid fishery. This would occur near the end of the year in order to optimally utilize the butterfish that is available for fishing each year.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930,*Phone:* 978 281–9287,*Email: john.bullard@noaa.gov*.

*RIN:* 0648–BD50

**203. • Management Measures for Fishing Years 2014–2016 Tropical Tunas in the Eastern Pacific Ocean**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This rule implements the Inter-American Tropical Tuna Commissions Resolution on a Multiannual Program for the Conservation of Tuna in the Eastern Pacific Ocean during 2014–2016 (C–13–01). This resolution requires that the United States restrict the catch of bigeye tuna in the longline fishery and the effort in the purse seine fishery in the eastern Pacific Ocean in each of the years 2014, 2015, and 2016 to prevent overfishing of bigeye and yellowfin tuna. Overall, the expected impacts on bigeye tuna and other living marine resources from this action are expected to be beneficial, because they would implement a landings limit on bigeye tuna and purse seine closure periods where they currently do not exist. This action is likely to have negligible economic impacts because: (i) the longline fishery based out of Hawaii operates primarily outside the Inter-American Tropical Tuna Commission Convention Area, (ii) based on historical data, NMFS predicts the 500-mt quota on bigeye tuna is not likely to be reached; and (iii) as for the purse seine closure, currently only five U.S. vessels of class 4 or greater fish in the Convention Area, all of which are capable of fishing outside of the Inter-American Tropical Tuna Commission Convention Area.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*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–BD52

**204. • Implementation of the Inter-American Tropical Tuna Commission Resolution for the Conservation of Whale Sharks and the Collection and Analyses of Data on Fish Aggregating Devices**

*Legal Authority:* 16 U.S.C. 951 *et seq.;* 16 U.S.C. 961 *et seq.;* 16 U.S.C. 971 *et seq.*

*Abstract:* This rule would implement the Inter-American Tropical Tuna Commissions Resolution intended to conserve whale sharks and collect information on fish aggregating devices. This action requires that by July 1, 2014, owners and operators of purse seine vessels in the eastern Pacific Ocean would be prohibited from setting a purse seine on a school of tuna associated with a live whale shark, if the shark is sighted prior to the beginning of the set. If a whale shark is encircled in the purse seine net the master of the vessel would be required to ensure that all reasonable steps are taken to ensure its safe release and report the details of the incident to the Inter-American Tropical Tuna Commission and NMFS. By January 1, 2015, owners and operators of purse seine vessels operating in the Inter-American Tropical Tuna Commission Convention area when fishing on fish aggregating devices would be required to collect and report the fish aggregating devices location and type. The data may be collected through a dedicated logbook, modifications to existing regional log sheets, or other domestic reporting procedures.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*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–BD53

**205. • Implementation of the Inter-American Tropical Tuna Commission Resolution To Establish a Vessel Monitoring System Program in the Eastern Pacific Ocean**

*Legal Authority:* 16 U.S.C. 951 *et seq.;* 16 U.S.C. 971 *et seq.*

*Abstract:* This rule would implement the Inter-American Tropical Tuna Commission's Resolution intended to require owners and operators of tuna-fishing vessels to have installed, activate, carry and operate vessel monitoring system units (also known as mobile transmitting units). This regulation would apply to owners and operators of tuna-fishing vessels 24 meters or more in length operating in the eastern Pacific Ocean. The vessel monitoring system units would have to be type-approved and authorize the Inter-American Tropical Tuna Commission and NMFS to receive and relay transmissions (also called position reports) from the vessel monitoring system unit. Vessel monitoring systems may enhance the safety of some vessels by allowing the vessels location to be tracked, which could assist in rescue efforts. This regulation would apply to commercial vessels and would not apply to recreational or charter vessels. This rule would apply to approximately seventy-four vessels, however, roughly thirty-eight of these vessels are already subject to vessel monitoring system requirements under the Western and Central Pacific Fisheries Commission. Due to the relatively small number of vessels affected, this rule is not expected to garner public opposition or congressional interest.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*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–BD54

**206. • Implementation of the Inter-American Tropical Tuna Commission Resolution To Adopt Conservation and Management Measures for Pacific Bluefin Tuna in the Eastern Pacific Ocean**

*Legal Authority:* 16 U.S.C. 951 *et seq.;* 16 U.S.C. 971 *et seq.*

*Abstract:* This action proposes regulations adopted by the Inter-American Tropical Tuna Commission that would place a limit on commercial harvests of Pacific bluefin tuna in the eastern Pacific Ocean in 2014. The Inter-American Tropical Tuna Commission resolution imposes an international aggregate catch limit of 5,000 metric tons for commercial fleets in the Eastern Pacific Ocean and, as in past years, the Resolution allows a minimum of 500 metric tons for nations such as the United States that have historically fished Pacific bluefin tuna in the Eastern Pacific Ocean but do not harvest large amounts. The rule is expected to have a beneficial impact on Pacific bluefin tuna and other living marine resources since it would extend catch limits currently set to expire December 31, 2013. This rule is likely to have negligible economic impacts because the U.S. fleets that catch Pacific bluefin tuna have not caught more than 500 metric tons of bluefin in more than a decade.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/13 | |

*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–BD55

**207. • Framework Adjustment 8 to the Monkfish Fishery Management Plan**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* Framework Adjustment 8 would specify acceptable biological catch amounts and annual catch limits for the monkfish fishery during fishing years 2014–2016 based on an updated stock assessment completed in April 2013. This action would also set monkfish days-at-sea allocations and trip limits for both the Northern and Southern Fishery Management Areas to achieve recommended annual catch targets. In addition, this action would allow vessels issued a limited access monkfish Category H permit to fish throughout the Southern Fishery Management Area. Both the directed and incidental monkfish fisheries would be affected by this action. Specifically, Category H vessels would be provided with greater flexibility to fish for monkfish in a broader geographical area. Since the fishery has not fully harvested available quotas in recent years, it is not expected that potential increases or decreases in catch allowances are likely to have a substantial economic effect.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930,*Phone:* 978 281–9287,*Email: john.bullard@noaa.gov*.

*RIN:* 0648–BD56

**208. • South Atlantic Coastal Migratory Pelagics Framework Action 2013 (Section 610 Review)**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* Currently in the South Atlantic, transfer of harvested fish at sea is prohibited for any species under a commercial trip limit, and only two gillnets are allowed on a federally permitted Spanish mackerel vessel. In some instances the trip limit may be exceeded with just one gillnet set, and the excess fish must be discarded. Most discarded fish caught in gillnet gear die due to trauma caused during capture. The Framework Action would allow a portion of a gillnet and its contents to be transferred from a vessel that has met the Spanish mackerel trip limit to another vessel that has not yet reached the trip limit. Allowing transfer at sea for federally permitted Spanish mackerel vessels using gillnet gear is intended to reduce dead discards and minimize waste when catch in one net exceeds the trip limit for the vessel. Additionally, the Framework Action would modify the commercial trip limits for Atlantic king mackerel in the Florida east coast subzone. The current system of trip limits may increase the rate of harvest causing the commercial sector to close before Lent, the most lucrative part of the fishing season. Therefore, the trip limit modifications that would be implemented through the Framework Action are expected to help minimize lost opportunities to fish and optimize profitability in the king mackerel sector of the coastal migratory pelagics fishery.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*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–BD58

**209. • Implementation of a Program for Transshipments by Large Scale Fishing Vessels in the Eastern Pacific Ocean**

*Legal Authority:* 16 U.S.C. 951 *et seq.;* 16 U.S.C. 971 *et seq.*

*Abstract:* This rule would establish the Inter-American Tropical Tuna Commission program to monitor transshipments by large-scale tuna fishing vessels. This rule would govern transshipments by U.S. large-scale tuna fishing vessels and carrier, or receiving, vessels. The rule would establish: Criteria for transshipping in port; criteria for transshipping at sea by longline vessels, only to an authorized carrier vessel with an Inter-American Tropical Tuna Commission observer onboard and an operational vessel monitoring system; and the Pacific Transshipment Declaration Form, which must be used to report transshipments in the Inter-American Tropical Tuna Commission Convention Area. The rule is neither applicable to troll or pole-and-line vessels, nor to vessels that transship fresh fish at sea. Very few transshipments occur annually and occurrence in the Eastern Pacific Ocean is uncertain. The vessels which may transship are from the Western and Central Pacific Ocean fleet, which cross into the Eastern Pacific Ocean. A similar rule was adopted in the Western and Central Pacific Ocean and NMFS

calculated that an average of twenty-four at-sea transshipments of fish caught by longline gear in the Western and Central Pacific Ocean have occurred annually from 1993 through 2009; only four in 2011. Although it is unknown how many may occur in the Eastern Pacific Ocean, it is likely much less than twenty-four.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*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–BD59

**210. • Amendment 45 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crab Freezer Longline Catcher/Processor Pacific Cod Sideboard Removal**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This rule would establish conditions for the removal of Gulf of Alaska Pacific cod catch limits, known as sideboards, which apply to some catcher/processor vessels using hook-and-line gear, also known as freezer longliners. The newly reorganized sideboard limits have effectively eliminated the ability of these stakeholders to participate in these GOA fisheries. The rule would remove the Gulf of Alaska Pacific cod sideboards from 6 freezer longline vessels if owners of vessels endorsed to catch and process Pacific cod in the Western Gulf of Alaska, Central Gulf of Alaska, or both (a total of 9 vessels) agree to removal the sideboards, within one year from the effective date of a final rule. If an agreement is not reached by the deadline the sideboarded vessels would not be able to participate in the Gulf of Alaska fisheries. The requirement for an agreement is intended to promote cooperation among all affected parties prior to the removal of sideboards.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/14 | |

*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–BD61

**211. • Change to Fishing Season Start Date; Pacific Sardine Fishery; Coastal Pelagic Species Fishery Management Plan**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action would implement regulations to change the date of the start of the Pacific sardine fishery from January 1 to July 1. Each year NMFS implements regulations that set the annual quota for the Pacific sardine fishing season that begins January 1 ends December 31 and that is divided into three seasonal allocation periods based on set percentages in the Fishery Management Plan. These annual quotas are based in large part on the results of annual stock assessments that provide biomass estimates from which the quota is calculated. This action changes the annual Pacific sardine fishing season so that it begins July 1 and ends June 30 of the following year and would allow the completion of the research and science that is used for the annual stock assessments. No changes to the annual allocation structure would be made, as the percentages associated with each seasonal allocation would remain the same, as would the current quota roll-over provisions.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*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–BD63

**212. • Information Collection Program for Atlantic Surfclam and Ocean Quahog Fisheries**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* NMFS is implementing this information collection program at the request of the Mid-Atlantic Fishery Management Council (Council). This program will collect additional information about the individuals who hold and/or control Individual Transferable Quota in the Atlantic surfclam and ocean quahog fisheries. This information will be used by the Council in the consideration and development of excessive shares cap(s) in these Individual Transferable Quota fisheries.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930,*Phone:* 978 281–9287,*Email: john.bullard@noaa.gov*.

*RIN:* 0648–BD64

**213. • 2014 Specifications and Management Measures for the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action establishes catch levels and associated management measures for the 2014 fishing year for species managed under the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. The Mid-Atlantic Fishery Management Council reaffirmed the 3-year catch level recommendations for Illex squid and longfin squid (2012–2014), and for Atlantic mackerel (2013–2015), so no changes are proposed for catch levels for those species.

The proposed action would:

- Increase the butterfish ABC by 8 percent and the butterfish landings limit by 24 percent compared to 2013;
- Set a 236 mt cap on river herring and shad catch in the mackerel fishery;
- Raise the post-closure possession limit for longfin squid to 10,000 lb for vessels targeting Illex squid; and
- Change the butterfish Phase 3 trip limit to 600 lb (from 500 lb) for longfin squid/butterfish moratorium permit holders to make it consistent with the incidental butterfish trip limit.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930,*Phone:* 978

281–9287,*Email: john.bullard@noaa.gov*.

*RIN:* 0648–BD65

**214. • Modifications to Identification Markings on Fishing Gear Marker Buoys**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This proposed rule would eliminate the requirement that buoys marking the location of commercial fishing gear be marked with the vessel's name, in addition to a vessel identification number. Regulations in 50 CFR part 679 require buoy markings to make it possible to identify the vessel from which the gear was deployed. Experience shows that it is not necessary to mark buoys with both the vessel's name and Federal fisheries permit number. While one vessel may share the same name as another vessel, vessel identification numbers are exclusive and unique to the recipient vessel. The purpose of this action is to reduce regulatory burdens by eliminating the requirement to mark buoys with the vessel's name. The proposed action will reduce costs to vessel owners by reducing the labor and materials needed to mark buoys.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* James Balisger, Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802,*Phone:* 907 586–7221,*Fax:* 907 586–7249,*Email: james.balsiger@noaa.gov*.

*RIN:* 0648–BD66

**215. Designation of Critical Habitat for the North Atlantic Right Whale**

*Legal Authority:* 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 1531–1543

*Abstract:* NMFS proposes to designate critical habitat for the North Atlantic right whale. This proposal would result in an expansion of critical habitat in the northeast feeding area (Gulf of Maine-Georges Bank region) and the southeast calving area (Florida to North Carolina) compared to what was designated in 1994 for right whales.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2322.

*RIN:* 0648–AY54

**216. Amendment and Updates to the Bottlenose Dolphin Take Reduction Plan**

*Legal Authority:* 16 U S C1361 *et seq.;* 16 U.S.C. 1531 *et seq.*

*Abstract:* This action would amend regulations under the Bottlenose Dolphin Take Reduction Plan (Plan) to reduce bottlenose dolphin serious injuries and mortalities incidental to the Virginia Pound net fishery. The Plan recommends the year-round use of modified leaders for offshore pound nets within parts of the Chesapeake Bay and Virginia coastal waters. Regulations for Virginia Pound Nets are currently implemented under the Endangered Species Act for sea turtle conservation. The Plan recommended similar regulations to those currently enacted under the Endangered Species Act; however, the regulations under the Plan will offer greater conservation benefits to both bottlenose dolphins and sea turtles. Because the regulations may affect current sea turtle regulations, a joint-rulemaking will be conducted under both the Marine Mammal Protection Act and Endangered Species Act to amend: (1) The Plan under the Marine Mammal Protection Act, proposing Virginia pound net requirements; and (2) current Federal sea turtle regulations for Virginia pound nets under the Endangered Species Act to ensure consistency between regulations.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2322.

*RIN:* 0648–BB37

## DEPARTMENT OF COMMERCE (DOC)

*National Oceanic and Atmospheric Administration (NOAA)*

Final Rule Stage

**National Marine Fisheries Service**

**217. 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 action would limit future access in the Lobster Conservation Management Area (Area) 2 and Outer Cape Area lobster trap fishery based on historic participation criteria, and implement a transferable trap program in Area 2, Area 3, and the Outer Cape Area as recommended by the Atlantic States Marine Fisheries Commission. NMFS proposes to use the same historic participation data and qualification criteria used by State agencies to qualify State lobstermen fishing in the State waters of the subject management areas.

*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 ..... | 06/12/13 | 78 FR 35217 |
| Final Action ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

*RIN:* 0648–AT31

**218. 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 primarily to minimize river herring and shad bycatch in the Atlantic mackerel fishery and implement an effective program for monitoring river herring and shad bycatch in the Mackerel, Squid and Butterfish fisheries. This action proposes measures to expand reporting requirements for permit holders; increase at-sea observer coverage; and establish a mortality cap on river herring and shad in the

mackerel fishery. This action is being taken because there is concern about the status of river herring and shad stocks throughout their range, and a push to reduce all sources of stock mortality, including fishing mortality.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice of Intent .... | 06/09/10 | 75 FR 32745 |
| Notice of Availability. | 08/12/13 | 78 FR 48852 |
| NPRM ..... | 08/29/13 | 78 FR 53404 |
| Final Action ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

*RIN:* 0648–AY26

**219. Amendment 5 to the Atlantic Herring Fishery Management Plan**

*Legal Authority:* 16 U.S.C. 1801

*Abstract:* The purpose of Amendment 5 is to minimize bycatch in the Atlantic herring fishery and improve the collection of real time catch data. Amendment 5 would increase observer coverage, improve at-sea sampling, include measures to reduce net slippage, and include measures to address bycatch. This action is being taken to more accurately characterize Atlantic herring landings, minimize and monitor bycatch of river herring in the Atlantic herring fishery, and to improve monitoring of Atlantic herring fishing activity in groundfish closed areas.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Supplemental Notice of Intent. | 12/28/09 | 74 FR 68576 |
| Notice of Availability. | 04/22/13 | 78 FR 23733 |
| NPRM ..... | 06/03/13 | 78 FR 33020 |
| Final Action ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

*RIN:* 0648–AY47

**220. Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Trawl Rationalization Program; Cost Recovery Program**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action would implement cost recovery for the Pacific Coast Groundfish Trawl Rationalization Program. Following final action on Amendment 20 to the Pacific Coast Groundfish Fishery Management Plan by the Pacific Fishery Management Council, NMFS implemented the trawl rationalization program on January 11, 2011. In accordance with the Magnuson-Stevens Fishery Conservation and Management Act, the Secretary of Commerce is required 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), which includes the trawl rationalization program. The fee will not exceed 3 percent of the ex-vessel value of the fish harvested under the LAPP.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/01/13 | 78 FR 7371 |
| Final Action ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Deputy Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Building 1, 7600 Sand Point Way NE., Seattle, WA 48115–0070, *Phone:* 206 526–6150, *Fax:* 206 526–6426, *Email: barry.thom@noaa.gov*.

*RIN:* 0648–BB17

**221. Amendment 89 to the Gulf of Alaska Groundfish Fishery Management Plan 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 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. These additional observer coverage requirements are expected to be rescinded with the implementation of the restructured Observer Program. 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 fishery resources in the Gulf of Alaska.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice of Availability. | 06/03/13 | 78 FR 33040 |
| Proposed Rule .... | 06/17/13 | 78 FR 36150 |
| Final Action ..... | 04/00/14 | |

*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

**222. Amendment to the Vessel Ownership Requirements of the Individual Fishing Quota 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 proposes a regulatory amendment to the vessel ownership requirements of the Individual Fishing Quota Program for fixed-gear Pacific halibut and sablefish fisheries in and off of Alaska. This action proposes to require 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 Individual Fishing Quota permit. This proposed action also would temporarily exempt 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 | 10/31/12 | 77 FR 65843 |
| Final Action | 11/00/13 | |

*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–BB78

**223. 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 for catch of Georges Bank yellowtail flounder exceeding the revised sub-annual catch limit of 156.9 mt up to the initial sub-annual catch limit level of 307.5 mt. 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. This specific accountability measure is not needed to comply with Magnuson Stevens Fishery Conservation and Management Act requirements because there is an accountability measure at the fishery level that remains unchanged by this proposed action. Any overage of the fishery level ACL is repaid pound-for-pound in a subsequent fishing year.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 10/01/12 | 77 FR 59883 |
| NPRM Comment Period End. | 10/31/12 | |
| Final Action | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

*RIN:* 0648–BC33

**224. 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. This action modifies halibut prohibited species catch management in the Gulf of Alaska to (1) establish the Gulf of Alaska halibut prohibited species catch limits in Federal regulation; (2) reduce the Gulf of Alaska halibut prohibited species catch 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 prohibited species catch reduction of this action.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice | 08/29/13 | 78 FR 53419 |
| NPRM | 08/29/13 | 78 FR 53419 |
| Final Action | 12/00/13 | |

*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

**225. Modification to the Hired Skipper Regulations for Management of the Individual Fishing Quota Program for the Fixed-Gear Commercial Fisheries for Pacific Halibut and Sablefish in Waters of Alaska**

*Legal Authority:* 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 773 *et seq.*

*Abstract:* NMFS proposes to amend the hired master regulations of the Individual Fishing Quota Program for the fixed-gear commercial Pacific halibut and sablefish fisheries in the Bering Sea and Aleutian Islands management area and the Gulf of Alaska. The Individual Fishing Quota Program allows initial recipients of catcher vessel halibut and sablefish quota share to hire a vessel master to harvest Individual Fishing Quota derived from the quota share. When a hired master fishes an initial recipients Individual Fishing Quota, the initial recipient is exempt from being onboard the vessel. If approved, this action would remove the owner-onboard exemption to hire a master to harvest Individual Fishing Quota derived from quota share that an initial recipient received by transfer after February 12, 2010. Between February 12, 2010 and the effective date of this action, initial recipient quota share transferred into a quota share block of the same category would retain the hired master privilege. After the effective date of this action, no hired master privilege would be retained on initial recipient quota share consolidated with quota share of the same category. This action is necessary to maintain a predominantly owner-operated fishery.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 04/26/13 | 78 FR 24707 |
| Final Action | 11/00/13 | |

*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–BC62

**226. 2013 Monkfish Emergency Action**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* At its November 2012 meeting, the New England Fishery Management Council (Council) requested that the Secretary of Commerce implement this Emergency action to eliminate monkfish possession limits in the Northern Fishery Management Area during fishing year 2013 due to the substantially reduced groundfish catch limits. This action eliminated monkfish possession limits for the vessels that have been issued both a limited access monkfish permit and a Northeast multispecies (groundfish) permit and are simultaneously using both a monkfish and a groundfish day-at-sea in the Northern Fishery Management Area (Management Area). By eliminating the possession limits in these specific cases, this action increased monkfish possession limits for the directed monkfish fishery in the NFMA. It is expected that this action allows some of the directed fishing vessels to land more monkfish per trip, which would result in an increase in revenue for such vessels.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 02/25/13 | 78 FR 12708 |

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule Extension of Interim Measures. | 04/30/13 11/00/13 | 78 FR 25214 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

*RIN:* 0648–BC79

**227. Allowing Northeast Multispecies Sector Vessels Access to Year Round Closed Areas**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action, if approved, would allow Northeast Multispecies vessels enrolled in a sector to fish in any of three year-round closed areas on Georges Bank during select times of the 2013 fishing year. The three areas under consideration include portions of the Nantucket Lightship Closed Area I, Closed Area I, and Closed Area II. All gear types would be permitted to fish in the Nantucket Lightship Closed Area year-round. Trawl vessels fishing with selective gear and vessels using hooks would be permitted to fish in Closed Areas I and II for portion of the fishing year. This action is being proposed to increase access to underharvest groundfish stocks while reducing potential impacts on groundfish stocks that are considered overfished or subject to overfishing.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... Final Action ..... | 07/11/13 11/00/13 | 78 FR 41772 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

*RIN:* 0648–BD09

**228. Amendment 2 to the Fishery Management Plan for the Queen Conch Resources of Puerto Rico and The USVI: Compatibility of Trip and Bag Limits in the Management Area of St. Croix, USVI**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This regulatory amendment addresses the current incompatibility between certain Federal and USVI regulations related to the harvest of queen conch. Fishing and possessing queen conch in the exclusive economic zone is only allowed in the area of Lang Bank, to the east of St. Croix, USVI. However, current regulations regarding commercial trip limits and recreational bag limits for the harvest of queen conch in Federal waters are not compatible with USVI regulations. The USVI has expressed interest in having Federal regulations modified to make them compatible with the territorial limits to facilitate enforcement efforts, enhance compliance by fishers, and allow for more efficient management of queen conch resources in the U.S. Caribbean. In this regulatory amendment, the Caribbean Fishery Management Council chose to modify the commercial trip limit but leave the recreational bag limit unchanged. Thus, the rule would change the commercial trip limit from 150 queen conch per licensed commercial fisher per day to 200 queen conch per vessel per day regardless of the number of licensed commercial fishers onboard.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... Final Action ..... | 06/07/13 11/00/13 | 78 FR 34310 |

*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–BD15

**229. Framework Adjustment 2 to the Atlantic Herring Fishery Management Plan and Management Measures for Atlantic Herring for the 2013–2015 Fishing Years**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* Framework 2 would allow the Council to use the specifications process to split annual catch limits (ACLs) seasonally (by month) for the Atlantic herring management areas. This will increase operational flexibility within the herring fishery by allowing for more precise tailoring of the catch limits for each management area. Framework 2 also proposes a policy for authorizing annual carryover of unharvested herring ACLs under specific conditions. This will provide increased opportunity to fish for unused herring ACL amounts from the previous year. Combined, these measures provide a greater opportunity to adjust for specific stock conditions. The Atlantic herring fishery specifications are annual catch amounts (for the 2013–2015 fishing years, January–December). These specifications are routine and are set for a duration of three years. If implemented, these specifications will retain or increase the current catch limit levels and will continue to prevent overfishing of the herring resource and achieve optimum yield. Further, these catch limits established in these specifications set a constant catch amount available to the industry that provides a stable allowable catch for 3-year business planning purposes.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... Final Action ..... | 08/02/13 11/00/13 | 78 FR 46897 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

*RIN:* 0648–BD17

**230. • Modification of Vessel Monitoring System Requirements for Atlantic Highly Migratory Species Fisheries**

*Legal Authority:* 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 971 *et seq.*

*Abstract:* NMFS is preparing a rule that considers modifying the current requirements concerning the use of Electronic Mobile Transmitting Unit (E–MTU) Vessel Monitoring Systems (VMS) units in Atlantic Highly Migratory Species (HMS) fisheries. The rule considers modifying the requirements for providing hail-in/hail-out declarations depending on whether the vessel is fishing for HMS. The rule also considers modifying when the VMS unit must be on and activated. The revised regulations would provide additional flexibility for vessel operators while continuing to provide the National Oceanic and Atmospheric Administration Office of Law Enforcement (NOAA OLE) with enhanced communication with HMS vessels at sea, improve enforcement capabilities of current regulations, and provide a secondary safety capability. This action is not significant under the

meaning of Executive Order 12866 since it is unlikely to make major changes to current management measures, is below the economic threshold of impact, and has no novel or legal policy associated with it.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 08/29/13 | 78 FR 53397 |
| Final Action ..... | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Emily Menashes, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2234, *Email: emily.menashes@noaa.gov*.

*RIN:* 0648–BD24

**231. • Pacific Coast Groundfish Trawl Rationalization Program; Second Program Improvement and Enhancement Rule**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action will implement trailing actions for the Pacific coast groundfish trawl rationalization program in order to further improve and refine the program. Since implementation of the program in January 2011, the Pacific Fishery Management Council (Council) and NMFS have developed numerous trailing actions to the program. This action includes multiple components that either implement original provisions of the program, or increase flexibility or efficiency, or address minor revisions/clarifications. Implementation of Quota share transfer regulations is also included in this action. The other components of this action are intended to increase flexibility and efficiency for participants and the Agency, and to make minor clarifications to the program regulations.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 07/19/13 | 78 FR 43125 |
| Final Action ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Deputy Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Building 1, 7600 Sand Point Way NE., Seattle, WA 48115–0070, *Phone:* 206 526–6150, *Fax:* 206 526–6426, *Email: barry.thom@noaa.gov*.

*RIN:* 0648–BD31

**232. • Framework Action To Increase Quotas for the Red Snapper Component of the Reef Fish Fishery and Establish a Second Recreational Season**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action would set the 2013 quotas for commercial and recreational harvest of red snapper in the Gulf of Mexico and open a second season for recreational fishing. A stock assessment was completed in April 2013. The Scientific and Statistical Committee reviewed the assessment in May 2013, and determined the catch could be increased. The Council will consider a range of alternatives that increase the total quota from 8.46 million pounds to 10.0–12.1 million pounds at a special meeting on July 17, 2013. The commercial and recreational sector quotas would be based on the current 51 percent commercial and 49 percent recreational allocation. The red snapper commercial sector is managed under an individual fishing quota program. The increase to the commercial quota will be distributed to individual fishing quota shareholders on or shortly after the effective date of the final rule. The increase to the recreational quota will allow additional days to be added to the red snapper recreational fishing season. The timing of the fishing season does not allow this rule to be in place before the closure date of June 28 currently set for the 2013 fishing season; therefore, a second season is proposed for Fall 2013. The duration of this second season would be determined based on the quota and the opening date.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 08/14/13 | 78 FR 49440 |
| Final Action ..... | 11/00/13 | |

*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–BD39

**233. Revision of Hawaiian Monk Seal Critical Habitat**

*Legal Authority:* 16 U.S.C. 1533

*Abstract:* NOAA Fisheries is developing a final rule to designate critical habitat for the Hawaiian monk seal in the main and Northwestern Hawaiian Islands. In response to a 2008 petition from the Center for Biological Diversity, Kahea, and the Ocean Conservancy to revise Hawaiian monk seal critical habitat, NOAA Fisheries published a proposed rule in June 2011 to revise Hawaiian monk seal critical habitat by adding critical habitat in the main Hawaiian Islands and extending critical habitat in the Northwestern Hawaiian Islands. Proposed critical habitat includes both marine and terrestrial habitats (e.g., foraging areas to 500 meter depth, pupping beaches, etc.). To address public comments on the proposed rule, NOAA Fisheries is augmenting its prior economic analysis to better describe the anticipated costs of the designation. NOAA Fisheries is analyzing new tracking data to assess monk seal habitat use in the main Hawaiian Islands. That may lead to some reduction in foraging area critical habitat for the main Hawaiian Islands to better reflect where preferred foraging features may be found.

*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 ..... | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910,*Phone:* 301 713–2322.

*RIN:* 0648–BA81

**234. Removal of the Sunset Provision of the Final Rule Implementing Vessel Speed Restrictions To Reduce the Threat of Ship Collisions With North Atlantic Right Whales**

*Legal Authority:* 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 1531 *et seq.*

*Abstract:* In 2008 NMFS promulgated a regulation designed to reduce the likelihood of deaths and serious injuries to endangered North Atlantic right whales that result from collisions with ships. The rule implemented speed restrictions of no more than 10 knots applying to all vessels 65 ft long or greater in certain locations and times of the year along the east coast of the United States. In view of uncertainties regarding the manner in which ships and whales interact and the burdens imposed on vessel operators, the rule included a sunset clause under which

the rule would expire on December 9, 2013. NMFS has proposed removing the sunset provision with the current provisions remaining in place, and has sought comment on eliminating or reinstating the sunset provision, studies and metrics that might be used to evaluate the existing rule, and future modifications that should be considered. Based on an evaluation of recent information, NMFS estimated economic impacts to be considerably less than was originally thought.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 06/06/13 | 78 FR 34024 |
| Final Action | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910,*Phone:* 301 713–2322.

*RIN:* 0648–BB20

**235. 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:* This action will designate critical habitat for lower Columbia River coho salmon and Puget Sound steelhead, currently listed as threatened species under the Endangered Species Act. The specific areas proposed for designation in for lower Columbia River coho include approximately 2,288 mi (3,681 km) of freshwater and estuarine habitat in Oregon and Washington. The specific areas proposed for designation for Puget Sound steelhead include approximately 1,880 mi (3,026 km) of freshwater and estuarine habitat in Puget Sound, Washington.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 01/14/13 | 78 FR 2725 |
| Final Action | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910,*Phone:* 301 713–2322.

*RIN:* 0648–BB30

**236. Designation of Critical Habitat for the Distinct Population Segments of Yelloweye Rockfish, Canary Rockfish, and Bocaccio**

*Legal Authority:* 16 U.S.C. 1531 *et seq.*

*Abstract:* This action proposes to designate critical habitat under the Endangered Species Act for three Distinct Population Segments of rockfish in the Puget Sound/Georgia Basin: (1) the threatened Distinct Population Segments of yelloweye rockfish; (2) the threatened Distinct Population Segments of canary rockfish; and (3) the endangered Distinct Population Segments of bocaccio. The proposed specific areas for canary rockfish and bocaccio comprise approximately 505 hectares (1,249 acres) of marine habitat in Puget Sound. The proposed areas for yelloweye rockfish comprise approximately of 245 hectares (606 acres) of marine habitat in Puget Sound.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 08/06/13 | 78 FR 47635 |
| Final Action | 08/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910,*Phone:* 301 713–2322.

*RIN:* 0648–BC76

**237. Amending the Atlantic Large Whale Take Reduction Plan**

*Legal Authority:* 16 U.S.C. 1361 *et seq.*

*Abstract:* NMFS is proposes to amend the Atlantic Large Whale Take Reduction Plan. These changes are designed to address ongoing right, humpback, and fin whale entanglements resulting in serious injury or mortality. In 2009, the Atlantic Large Whale Take Reduction Team (Team) agreed on a schedule to develop conservation measures for reducing the risk of serious injury and mortality of large whales that become entangled in vertical lines. In an August 2012 American Lobster Biological Opinion, NMFS committed to publishing a proposed rule to address vertical line entanglements in 2013 and to publish a final rule by April 2014. Unlike the broad-scale management approach taken to address entanglement risks associated with groundlines (rope between trap/pots), the approach for the vertical line rulemaking will focus on reducing the risk of vertical line entanglements in finer-scale high impact areas. Using fishing gear characterization data and whale sightings per unit effort data, NMFS developed a model to determine the co-occurrence of fishing gear density and whale density to serve as a guide in the identification of these high risk areas. Potential measures include: expanding the gear marking scheme to require larger and more frequent marks along the buoy line; increasing the number of traps per trawl based on area fished and miles fished from shore in the northeast; establishing several closures in the northeast for trap/pot fisheries; modifying weak link and breaking strength requirements of buoy lines; and requiring the use of one buoy line with one trap in the southeast.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/16/13 | 78 FR 42653 |
| Notice | 07/24/13 | 78 FR 44536 |
| Final Action | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910,*Phone:* 301 713–2322.

*RIN:* 0648–BC90

**238. • Designation of Critical Habitat for the Northwest Atlantic Ocean Loggerhead Sea Turtle DPS and the Determination Regarding Critical Habitat for the North Pacific Ocean Loggerhead DPS**

*Legal Authority:* 16 U.S.C. 1531 *et seq.*

*Abstract:* This action would designate critical habitat for the Loggerhead sea turtle pursuant to the Endangered Species Act of 1973, as amended. The loggerhead sea turtle was originally listed worldwide as a threatened species on July 28, 1978. No critical habitat was designated for the loggerhead at that time. On September 22, 2011, NMFS and the U.S. Fish and Wildlife Service jointly published a final rule revising the loggerheads listing from a single worldwide threatened species to nine Distinct Population Segments. The two Distinct Population Segments occurring in U.S. jurisdiction are the Northwest Atlantic Ocean Distinct Population Segment (range defined as north of the equator, south of 60 N. lat., and west of 40 W. long.) and the North Pacific

Ocean Distinct Population Segments (range defined as north of the equator and south of 60 N. lat.). For the 2011 final listing rule, NMFS and the U.S. Fish and Wildlife Service found designation of critical habitat to be not determinable. This action will satisfy the provisions under the Endangered Species Act requiring critical habitat to be designated for these Distinct Population Segments.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/18/13 | 78 FR 43006 |
| Proposed Rule Correction. | 08/01/13 | 78 FR 46563 |
| Notice | 08/21/13 | 78 FR 51705 |
| Final Action | 07/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910,*Phone:* 301 713–2322.

*RIN:* 0648–BD27

## DEPARTMENT OF COMMERCE (DOC)

*National Oceanic and Atmospheric Administration (NOAA)*

Long-Term Actions

**National Marine Fisheries Service**

**239. Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) Environmental Review Procedure**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* 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 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Steve Leathery,*Phone:* 301 713–2239,*Email: steve.leathery@noaa.gov*.

*RIN:* 0648–AV53

**240. 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 | 01/00/15 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard,*Phone:* 978 281–9287,*Email: john.bullard@noaa.gov*.

*RIN:* 0648–BA50

**241. 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 red snapper stock in the South Atlantic was assessed through the Southeast, Data, Assessment, and Review process in 2008 and 2010. The assessments indicate that the stock is experiencing overfishing and is overfished. As a result of the 2008 assessment, fishing for red snapper has been prohibited in Federal waters off the south Atlantic States since January 4, 2010. In Amendment 22, the National Marine Fisheries Service and the South Atlantic Fishery Management Council are considering alternatives to change the current harvest restrictions on red snapper as the stock increases in biomass. Examples of measures under consideration include the implementation of red snapper trip limits, bag limits, a catch share program, tag program, temporal and spatial closures including those to protect spawning stocks, and gear prohibitions.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice of Intent | 01/03/11 | 76 FR 101 |
| Notice of Intent Comment Period End. | 02/14/11 | |
| NPRM | 11/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Roy E. Crabtree,*Phone:* 727 824–5305,*Fax:* 727 824–5308,*Email: roy.crabtree@noaa.gov*.

*RIN:* 0648–BA53

**242. • Comprehensive Fishery Management Plan for Puerto Rico**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This comprehensive Puerto Rico Fishery Management Plan will incorporate, and modify as needed, Federal fisheries management measures presently included in each of the existing species-based U.S. Caribbean Fishery Management Plans (Spiny Lobster, Reef Fish, Coral, and Queen Conch Fishery Management Plans) as those measures pertain to Puerto Rico exclusive economic zone waters. The goal of this action is to create a Fishery Management Plan tailored to the specific fishery management needs of Puerto Rico. If approved, this new Puerto Rico Fishery Management Plan, in conjunction with similar comprehensive Fishery Management Plans being developed for each of St. Croix and St. Thomas/St. John, will replace the Spiny Lobster, Reef Fish, Coral and Queen Conch Fishery Management Plans presently governing the commercial and recreational harvest in U.S. Caribbean exclusive economic zone waters.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 11/00/14 | |

*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–BD32

**243. • Comprehensive Fishery Management Plan for St. Croix**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This comprehensive St. Croix Fishery Management Plan will incorporate, and modify as needed, Federal fisheries management measures presently included in each of the existing species-based U.S. Caribbean Fishery Management Plans (Spiny Lobster, Reef Fish, Coral, and Queen Conch Fishery Management Plans) as those measures pertain to St. Croix exclusive economic zone waters. The goal of this action is to create a Fishery Management Plan tailored to the specific fishery management needs of St. Croix. If approved, this new St. Croix Fishery Management Plan, in conjunction with similar comprehensive

Fishery Management Plans being developed for each of Puerto Rico and St. Thomas/St. John, will replace the Spiny Lobster, Reef Fish, Coral and Queen Conch Fishery Management Plans presently governing the commercial and recreational harvest in U.S. Caribbean exclusive economic zone waters.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/14 | |

*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–BD33

**244. • Comprehensive Fishery Management Plan for St. Thomas/St. John**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This comprehensive St. Thomas/St. John Fishery Management Plan will incorporate, and modify as needed, Federal fisheries management measures presently included in each of the existing species-based U.S. Caribbean Fishery Management Plans (Spiny Lobster, Reef Fish, Coral, and Queen Conch Fishery Management Plans) as those measures pertain to St. Thomas/St. John exclusive economic zone waters. The goal of this action is to create a Fishery Management Plan tailored to the specific fishery management needs of St. Thomas/St. John. If approved, this new St. Thomas/St. John Fishery Management Plan, in conjunction with similar comprehensive Fishery Management Plans being developed for each of St. Croix and Puerto Rico, will replace the Spiny Lobster, Reef Fish, Coral and Queen Conch Fishery Management Plans presently governing the commercial and recreational harvest in U.S. Caribbean exclusive economic zone waters.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/14 | |

*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–BD34

**245. Marine Mammal Protection Act Permit Regulation Revisions**

*Legal Authority:* 16 U.S.C. 1374

*Abstract:* This action would consider revisions to the implementing regulations governing the issuance of permits for activities under Section 104 of the Marine Mammal Protection Act. The intent of this action would be to streamline and update (using plain language) the general permitting information and the specific requirements for the four categories of permits: scientific research (including the General Authorization); enhancement; educational and commercial photography; and public display. The revisions would also simplify procedures for collection, possession, and transfer of marine mammals parts collected before the effective date of the Marine Mammal Protection Act, and also clarify reporting requirements for public display facilities holding marine mammals.

*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 ..... | 12/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, *Phone:* 301 713–2322.

*RIN:* 0648–AV82

## DEPARTMENT OF COMMERCE (DOC)

*National Oceanic and Atmospheric Administration (NOAA)*

Completed Actions

**246. Amendent 18B to the Snapper Grouper Fishery Management Plan of the South Atlantic Region**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* The South Atlantic Council intends to limit participation in the golden tilefish component of the snapper-grouper fishery. This amendment proposes to establish a longline endorsement program for golden tilefish, establish golden tilefish allocations for the hook and line and longline sectors, and modify golden tilefish trip limits.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice ..... | 10/26/12 | 77 FR 65356 |
| NPRM ..... | 12/19/12 | 77 FR 75093 |
| Final Action ..... | 04/23/13 | 78 FR 23858 |

*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

**247. 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 courts 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 implements 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 .... | 01/02/13 | 78 FR 72 |
| Final Action ..... | 03/28/13 | 78 FR 18879 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Deputy Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Building

1, 7600 Sand Point Way NE., Seattle, WA 48115–0070, *Phone:* 206 526–6150, *Fax:* 206 526–6426, *Email: barry.thom@noaa.gov*.

*RIN:* 0648–BC01

**248. 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:* This amendment implemented size limits for parrotfish harvest in the U.S. Caribbean exclusive economic zone. Size limits are intended to allow juvenile parrotfish to mature into reproductively active females, and to 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 | 03/11/13 | 78 FR 15338 |
| Final Action | 07/30/13 | 78 FR 45894 |

*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

**249. 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.*

*Abstract:* NMFS implemented regulations for Amendment 42 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). Amendment 42 revised the annual economic data reports currently required from catcher vessels, catcher/processors, shoreside processors, and stationary floating crab processors participating in the Bering Sea and Aleutian Islands Crab Rationalization Program. The economic data reports include cost, revenue, ownership, and employment data in order to study the economic impacts of the Crab Rationalization Program on harvesters, processors, and affected communities. Amendment 42 eliminated redundant reporting requirements, standardized reporting across respondents, and reduced costs associated with the data collection.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice | 03/12/13 | 78 FR 15677 |
| NPRM | 03/21/13 | 78 FR 17341 |
| Final Action | 06/17/13 | 78 FR 36122 |

*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

**250. Framework Adjustment 48 to the Northeast Multispecies Fishery Management Plan**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* The action implemented Framework Adjustment 48 to the Northeast Multispecies Fishery Management Plan. Framework 48 set specifications for groundfish stocks for fishing years 2013 through 2015. This action also adopted the total allowable catches for the U.S./Canada Management Area consistent with the U.S./Canada Resource Understanding. The Georges Bank yellowtail flounder quota was substantially reduced through this action, potentially limiting fishing for more valuable species and resulting in economic losses for the groundfish and scallop industries. Quotas for Gulf of Maine and Georges Bank cod were also substantially reduced. This action also included measures to allow fishing in areas that have been previously closed. This action was necessary to end overfishing and continue rebuilding of certain groundfish stocks and improve the profitability of the groundfish fishery.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice of Intent | 06/21/12 | 77 FR 37387 |
| NPRM | 03/25/13 | 78 FR 18187 |
| Interim Final Rule | 05/03/13 | 78 FR 26117 |
| Correcting Amendment. | 06/10/13 | 78 FR 34587 |
| Final Rule | 08/29/13 | 78 FR 53363 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

*RIN:* 0648–BC27

**251. Magnuson-Stevens Act Provisions; Fisheries off West Coast States: Pacific Coast Groundfish Fishery; Specifications and Management Measures and FMP Amendment 21–1**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* Every other year, the Pacific Fishery Management Council (Council) makes recommendations to set biennial allowable harvest levels for Pacific Coast groundfish, and recommends management measures for commercial and recreational fisheries that are designed to achieve those harvest levels.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 11/14/12 | 77 FR 67974 |
| Final Rule | 01/03/13 | 78 FR 579 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Deputy Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Building 1, 7600 Sand Point Way NE., Seattle, WA 48115–0070, *Phone:* 206 526–6150, *Fax:* 206 526–6426, *Email*: *barry.thom@noaa.gov*.

*RIN:* 0648–BC35

**252. Management Measures for Pacific Bluefin Tuna in the Eastern Pacific Ocean**

*Legal Authority:* 16 U.S.C. 951–961 *et seq.*

*Abstract:* This rule restricts 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 catch 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 catch up to 500 metric tons of pacific bluefin tuna in 2012 and 2013. This regulation was issued under the authority of the Tuna Conventions Act, as amended to implement recommendations of the Inter-American Tropical Tuna Commission (IATTC). At the annual IATTC meeting in June 2012, the IATTC adopted Resolution C–12–09, Conservation and Management Measure for Bluefin Tuna in the Eastern Pacific Ocean. This rulemaking ensures that the United States is satisfying its obligations as a party to the IATTC Convention. It is not anticipated that as a result of implementing Resolution C–12–09 that there would be any economic effect, or very limited economic effect. No

commercial vessels specialize in harvesting Pacific Bluefin. Pacific Bluefin is caught commercially by small coastal purse seine vessels operating in the Southern California Bight with limited additional landings by the drift gillnet fleet that targets swordfish. 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 ..... | 12/12/12 | 77 FR 73969 |
| Final Action ..... | 06/04/13 | 78 FR 33240 |

*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

**253. Regulatory Amendment To Implement an Exempted Fishery for the Spiny Dogfish Fishery Off Cape Cod, MA**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action established an exempted fishery because it has been determined that the directed fishery for spiny dogfish does not catch more than a small amount of groundfish. Implementing this action allows vessels to target spiny dogfish without having to use their declared days-at-sea or sector groundfish trips affected. This action exempts the groundfish sectors from having a groundfish discard rate applied to these trips, which means the sectors would not use their groundfish allocations as fast. Specifically, this rule created an exempted fishery for vessels using gillnet and longline gear from June through December and handline gear from June through August in an area off Cape Cod, MA where less than five percent of their catch is groundfish.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 10/19/12 | 77 FR 64305 |
| Interim Final Rule | 05/07/13 | 78 FR 26518 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930,*Phone:* 978 281–9287,*Email: john.bullard@noaa.gov*.

*RIN:* 0648–BC50

**254. Pacific Halibut Fisheries; Catch Sharing Plan for Washington, Oregon, and California**

*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. As recommended by the Council, for 2013 and beyond, this action implements minor changes to the portion of the Plan covering the sport fisheries and the salmon troll commercial fishery that incidentally catches halibut. For the Columbia River subarea sport fishery the changes increase the early season percentage, decrease the late season percentage, and decrease the days of the week. This change was recommended to more fully attain this subarea's quota. This action eliminates the summer all depth season and transferring the summer quota to the spring and nearshore fisheries, for the Oregon Central coast subarea, which may be triggered by a U.S. West Coast TAC of 700,000 lbs. Additionally in this area for the nearshore fishery, there will be a reduction to the number of open days from seven to three. Finally, the start date for halibut retention in the salmon troll fishery will be changed from May 1 to April 1 each year.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/11/13 | 78 FR 9660 |
| Final Rule ..... | 03/15/13 | 78 FR 16423 |
| Correcting Amendment. | 05/08/13 | 78 FR 26708 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Deputy Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Building 1, 7600 Sand Point Way NE., Seattle, WA 48115–0070,*Phone:* 206 526–6150,*Fax:* 206 526–6426,*Email: barry.thom@noaa.gov*.

*RIN:* 0648–BC75

**255. 2013–2015 Spiny Dogfish Fishery Specifications**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action implements the specifications for the spiny dogfish fishery for fishing years 2013–2015. Each year would include annual catch limits and commercial fishery quotas that represent increases from fishing year 2012 levels. The action also increases the spiny dogfish possession limit from 3,000 to 4,000 pounds per trip. The New England and Mid-Atlantic Fishery Management Councils jointly recommended the Annual catch limits and commercial quotas for FYs 2013–2015.2013: ACL = 54.295 million lb; commercial quota = 40.842 million lb (+14 percent from 2012)2014: ACL = 55.277 million lb; commercial quota = 41.784 million lb (+17 percent from 2012)2015: ACL = 55.063 million lb; commercial quota = 41.578 million lb (+16 percent from 2012).

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/12/13 | 78 FR 15674 |
| Final Action ..... | 05/03/13 | 78 FR 25862 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930,*Phone:* 978 281–9287,*Email: john.bullard@noaa.gov*.

*RIN:* 0648–BC85

**256. International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Restrictions in Purse Seine Fisheries for 2013 and 2014**

*Legal Authority:* 16 U.S.C. 6901 *et seq.*

*Abstract:* This rule establishes requirements for U.S. purse seine vessels pursuant to a decision made by the Western and Central Pacific Fisheries Commission, which is intended to reduce or otherwise control the fishing mortality rates on three stocks of tuna (Bigeye, Yellowfin, and Skipjack Tuna). Member States of the Commission, including the United States, are obligated to establish specific requirements in their fisheries for highly migratory fish stocks in the western and central Pacific Ocean. Pursuant to the Western and Central Pacific Fisheries Convention Implementation Act, 16 U.S.C. 6901, *et seq.,* the Secretary of Commerce is authorized to implement regulations to carry out the obligations of the United States under the Western and Central Pacific Fisheries Convention (Convention), including the implementation of Commission

decisions such as CMM 2012–01. This rule implements the requirements for U.S. purse seine vessels. The rule includes limits for calendar years 2013 and 2014 on U.S. purse seine fishing effort on the high seas and in the U.S. exclusive economic zone in the Convention Area. It sets controls on the use of fish aggregating devices by U.S. purse seine vessels during 2013 and 2014, including periods during which purse seine fishing may not be done on schools aggregated in association with fish aggregating devices. Finally, this action implements a requirement, if necessary, for U.S. purse seine vessels to carry observers on all fishing trips in the Convention Area.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 03/07/13 | 78 FR 14755 |
| Correction | 03/25/13 | 78 FR 17919 |
| Final Action | 05/23/13 | 78 FR 30773 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael Tosatto, Regional Administrator for the Pacific Islands Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814,*Phone:* 808 944–2281.

*RIN:* 0648–BC87

**257. Pacific Coast Whiting Fishery Allocations for 2013**

*Legal Authority:* 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 773 *et seq.*

*Abstract:* This rule is a routine action which is issued consistent with a regulatory framework that was established in 1996 to implement the Washington coastal treaty Indian tribes rights to harvest Pacific Coast groundfish. The proposed rule established a formula for determining the Pacific whiting tribal allocation for 2013. The final rule for Pacific whiting in 2013 included the tribal allocation as well as final allocations to the non-tribal sector.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 03/05/13 | 78 FR 14259 |
| Final Action | 05/07/13 | 78 FR 26526 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Deputy Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Building 1, 7600 Sand Point Way NE., Seattle, WA 48115–0070,*Phone:* 206 526–6150,*Fax:* 206 526–6426,*Email: barry.thom@noaa.gov*.

*RIN:* 0648–BC93

**258. Emergency Rule To Establish Recreational Closure Authority Specific to Federal Waters Off Individual States for the Red Snapper Component of the Reef Fish Fishery**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* Prior to the June 1 opening each year, NMFS determines the recreational red snapper fishing season length based on landings projections, which evaluate catch rates and the average weight of red snapper landed in previous years. Those projections also account for any excess fish that will be harvested in waters of States that adopt inconsistent regulations. This means that the recreational season in the entire Gulf of Mexico EEZ has been shortened to account for harvest occurring in State waters when Federal waters are closed. To reduce the impact of inconsistent State regulations on all Gulf Coast states and provide for a more equitable allocation of red snapper harvest, the Council requested that NMFS implement an emergency rule that provides the authority to shorten the federal season only off those States that adopt inconsistent regulations. The Federal seasons off those States would be shortened by the amount needed to correct for the additional harvest that would occur as a result of their regulations.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Final Rule | 03/25/13 | 78 FR 17882 |

*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–BD00

**259. Regulatory Amendment 18 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:* Stock assessment updates for vermilion snapper and red porgy were completed in 2012, and suggest the annual catch limit (ACL) for both species could be modified based upon advice from the South Atlantic Fishery Management Council's (South Atlantic Council) Scientific and Statistical Committee. The stock assessment updates indicate vermilion snapper is no longer undergoing overfishing and is not overfished, and red porgy is not undergoing overfishing but is still overfished. Based on the outcome of the stock assessment updates the Council recommended modifying the commercial and recreational ACLs for red porgy and vermilion snapper.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/08/13 | 78 FR 26740 |
| Final Action | 08/06/13 | 78 FR 47574 |

*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–BD04

**260. 2013 Summer Flounder, Scup, and Black Sea Bass Recreational Harvest Measures and Increase to the 2013 and 2014 Black Sea Bass Specifications**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This rulemaking implements management measures to achieve recreational harvest limits for the 2013 summer flounder, scup, and black sea bass recreational fisheries. Recreational management measures include recreational possession limits, minimum fish sizes. The Mid-Atlantic Fishery Management Council's recommended recreational management measures intend to achieve the recreational harvest limits which were established consistent with the Scientific and Statistical Committee's recommendations. This rulemaking also increases the catch limits for the 2013 and 2014 black sea bass fishery, consistent with a revised recommendation from the Scientific and Statistical Committee.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 04/29/13 | 78 FR 25052 |
| Final Action | 06/21/13 | 78 FR 37475 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930,*Phone:* 978

281–9287,*Email: john.bullard@noaa.gov*.

*RIN:* 0648–BD13

**261. Framework Adjustment 24 to the Atlantic Sea Scallop FMP and Framework Adjustment 49 to the Northeast Multispecies Fishery Management Plan**

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* Framework 24 to the Atlantic Sea Scallop FMP set management measures for the scallop fishery for the 2013 fishing year, including the annual catch limits for the limited access and limited access general category fleets, as well as days-at-sea allocations and sea scallop access area trip allocations. In addition, it adjusts the Georges Bank scallop access area closure schedule, refines the management of yellowtail flounder accountability measures in the scallop fishery, makes adjustments to the industry-funded observer program, and provides more flexibility in the management of the individual fishing quota program. Because Framework 24 includes an alternative to modify the Georges Bank scallop access area seasonal restrictions, this action is also a joint framework with the Northeast Multispecies Fishery Management Plan (Framework 49).

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 03/15/13 | 78 FR 16573 |
| Final Rule | 05/09/13 | 78 FR 27088 |
| Correction | 07/18/13 | 78 FR 42890 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John K. Bullard, Northeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930;*Phone:* 978 281–9287,*Email: john.bullard@noaa.gov*.

*RIN:* 0648–BC81

[FR Doc. 2013–29629 Filed 1–6–14; 8:45 am]

**BILLING CODE 3510–12–P**

# FEDERAL REGISTER

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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 July 3, 2013, 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 2014. 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.l.toppings.civ@mail.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.e.park.civ@mail.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, Suite15D07–2, 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, Virginia 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 Chiappetta, 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.chiappetta@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: September 4, 2013.

**Michael L. Rhodes,**

*Director, Administration and Management.*

DEFENSE ACQUISITION REGULATIONS COUNCIL—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 262 | Safeguarding Unclassified Controlled Technical Information (DFARS Case 2011–D039) **(Reg Plan Seq No. 33)**. | 0750–AG47 |
| 263 | Ownership of Offeror (DFARS Case 2011–D044) | 0750–AH58 |

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

DEFENSE ACQUISITION REGULATIONS COUNCIL—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 264 | Release of Fundamental Research Information (DFARS Case 2012–D054) | 0750–AH92 |

OFFICE OF ASSISTANT SECRETARY FOR HEALTH AFFAIRS—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 265 | TRICARE; Reimbursement of Sole Community Hospitals | 0720–AB41 |

## DEPARTMENT OF DEFENSE (DOD)

*Defense Acquisition Regulations Council (DARC)*

Final Rule Stage

### 262. Safeguarding Unclassified Controlled Technical Information (DFARS Case 2011–D039)

*Regulatory Plan:* This entry is Seq. No. 33 in part II of this issue of the **Federal Register**.

*RIN:* 0750–AG47

### 263. 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 | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Manuel Quinones, Department of Defense, Defense Acquisition Regulations Council, 4800 Mark Center Drive, Suite 15D07–2, Alexandria, VA 22350, *Phone:* 571 372–6088, *Email: manuel.quinones@osd.mil.*

*RIN:* 0750–AH58

## DEPARTMENT OF DEFENSE (DOD)

*Defense Acquisition Regulations Council (DARC)*

Completed Actions

### 264. Release of Fundamental Research Information (DFARS Case 2012–D054)

*Legal Authority:* 41 U.S.C. 1303

*Abstract:* DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to provide guidance relating to the release of fundamental research information. This rule was previously published as part of the proposed rule 2011–D039, Safeguarding Unclassified DoD Information. This was broken out as a separate rule because the changes in this DFARS clause deal with the release of information on fundamental research projects and not safeguarding. This rule was initiated to implement guidance provided by the Under Secretary of Defense for Acquisition, Technology and Logistics (AT&L) in a memorandum dated May 24, 2010. The memorandum provided additional clarifying guidance to ensure that DoD does not restrict disclosure of the results of fundamental research, as defined by the National Security Decision Directive (NSDD) 189, unless such research efforts are classified for reasons of national security or otherwise restricted by applicable Federal statutes, regulations, or executive orders. The final rule is not expected to have a significant impact on

small entities, because the rule aims to implement policy guidance that is already being followed within DoD regarding restrictions on the disclosure of fundamental research.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Final Action ..... | 08/08/13 | 78 FR 48331 |
| Final Action Effective. | 08/08/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Manuel Quinones, Department of Defense, Defense Acquisition Regulations Council, 4800 Mark Center Drive, Suite 15D07–2, Alexandria, VA 22350, *Phone:* 571 372–6088, *Email: manuel.quinones@osd.mil.*

*RIN:* 0750–AH92

## DEPARTMENT OF DEFENSE (DOD)

*Office of Assistant Secretary for Health Affairs (DODOASHA)*

Completed Actions

**265. TRICARE; Reimbursement of Sole Community Hospitals**

*Legal Authority:* 5 U.S.C. 301; 10 U.S.C. ch 55

*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.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 07/05/11 | 76 FR 39043 |
| NPRM Comment Period End. | 09/06/11 | |
| Final Action ..... | 08/08/13 | 78 FR 48303 |
| Final Action Effective. | 10/07/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*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

[FR Doc. 2013–29699 Filed 1–6–14; 8:45 am]

**BILLING CODE 5001–06–P**

# FEDERAL REGISTER

Vol. 79 Tuesday,
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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 (78 FR 1361, published January 8, 2013), ED is committed to regulations that improve the quality and equality 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.

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—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 266 | Gainful Employment **(Reg Plan Seq No. 40)** | 1840–AD15 |

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

OFFICE OF POSTSECONDARY EDUCATION—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 267 | 150% Regulations | 1840–AD13 |

OFFICE OF POSTSECONDARY EDUCATION—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 268 | Transitioning from the FFEL Program to the Direct Loan Program and Loan Rehabilitation Under the FFEL, Direct Loan, and Perkins Loan Programs. | 1840–AD12 |

## DEPARTMENT OF EDUCATION (ED)

*Office of Postsecondary Education (OPE)*

Proposed Rule Stage

**266. • Gainful Employment**

Regulatory Plan: This entry is Seq. No. 40 in part II of this issue of the **Federal Register**.

*RIN:* 1840–AD15

## DEPARTMENT OF EDUCATION (ED)

*Office of Postsecondary Education (OPE)*

Final Rule Stage

**267. 150% Regulations**

*Legal Authority:* Pub. L. 112–141

*Abstract:* We are announcing final regulations to implement Public Law 112–141, which made changes to section 455 of the Higher Education Act of 1965, as amended (HEA). Specifically, we are regulating to implement the following: (1) A new borrower on or after July 1, 2013, becomes ineligible to receive additional Direct Subsidized Loans if the period during which the borrower has received such loans exceeds 150% of the published length of the borrower's educational program, and (2) interest on all Direct Subsidized Loans that were disbursed to such borrower on or after July 1, 2013, will accrue.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 05/16/13 | 78 FR 28954 |
| Interim Final Rule Comment Period End. | 07/01/13 | |
| Final Rule ..... | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Nathan Arnold, Department of Education, Office of Postsecondary Education, Room 8084, 1990 K Street NW., Washington, DC 20006, *Phone*: 202 219–7134, *Email*: *nathan.arnold@ed.gov*.

*RIN:* 1840–AD13

## DEPARTMENT OF EDUCATION (ED)

*Office of Postsecondary Education (OPE)*

Completed Actions

**268. Transitioning From the FFEL Program to the Direct Loan Program and Loan Rehabilitation Under the FFEL, Direct Loan, and Perkins Loan Programs**

*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

*Abstract:* The Secretary amends 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) clarify for borrowers using the rehabilitation option to get out of default on their loans how reasonable and affordable will be defined, and (c) make other improvements to the Direct Loan, FFEL, and Perkins Loan programs.

*Completed:*

| Reason | Date | FR Cite |
|---|---|---|
| NPRM ..... | 07/29/13 | 78 FR 45618 |
| Final Action ..... | 11/01/13 | 78 FR 65768 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Lynn Mahaffie, *Phone:* 202 502–7903, *Email*: *lynn.mahaffie@ed.gov*.

*RIN:* 1840–AD12

[FR Doc. 2013–29630 Filed 1–6–14; 8:45 am]

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# FEDERAL REGISTER

Vol. 79 Tuesday,
No. 4 January 7, 2014

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 2013 Agenda can be accessed online by going to: *www.reginfo.gov.* Agenda entries reflect the status of activities as of approximately October 31, 2013.

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 five rulemakings setting either energy efficiency standards or test procedures for the following products:

Energy Conservation Standard for Battery Chargers and External Power Supplies

Energy Conservation Standard for Commercial Packaged Boilers

Energy Conservation Standard for Commercial Refrigeration Equipment

Test Procedure for Residential Refrigerators, Refrigerator-freezers, and Freezers

Energy Conservation Standard for Walk-in Coolers and Freezers

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.

**Eric J. Fygi,**

*Acting General Counsel.*

ENERGY EFFICIENCY AND RENEWABLE ENERGY—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 269 | Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers **(Reg Plan Seq No. 41)** | 1904–AB86 |
| 270 | Energy Conservation Standards for Commercial Refrigeration Equipment **(Reg Plan Seq No. 44)** | 1904–AC19 |
| 271 | Test Procedures for Residential Refrigerators, Refrigerator-Freezers, and Freezers | 1904–AC76 |
| 272 | Energy Conservation Standards for Commercial Packaged Boilers | 1904–AD01 |

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. |
|---|---|---|
| 273 | Energy Efficiency Standards for Battery Chargers and External Power Supplies **(Reg Plan Seq No. 47)** | 1904–AB57 |

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## DEPARTMENT OF ENERGY (DOE)

*Energy Efficiency and Renewable Energy (EE)*

Proposed Rule Stage

### 269. Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers

*Regulatory Plan:* This entry is Seq. No. 41 in part II of this issue of the **Federal Register**.

*RIN:* 1904–AB86

### 270. Energy Conservation Standards for Commercial Refrigeration Equipment

*Regulatory Plan:* This entry is Seq. No. 44 in part II of this issue of the **Federal Register**.

*RIN:* 1904–AC19

### 271. 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 clarify a number of testing issues and to add a test for measuring ice maker energy use.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/10/13 | 78 FR 41610 |
| NPRM Comment Period Extended. | 08/29/13 | 78 FR 53374 |
| NPRM Comment Period End. | 01/31/14 | |
| Final Action | 07/00/14 | |

*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

### 272. • Energy Conservation Standards for Commercial Packaged Boilers

*Legal Authority:* 42 U.S.C. 6295(o)(2)(B)(i)(l)–(Vll); 42 U.S.C. 6313(a)

*Abstract:* DOE is initiating this rulemaking pursuant to EPCA 42 U.S.C. 6313(a)(6)(C), as amended by the Energy Independence and Security Act of 2007 (EISA 2007) and the American Energy Manufacturing Technical Corrections Act (AEMTCA), which requires that every six years DOE must publish either a notice of the determination that standards for the product do not need to be amended, or a Notice of Proposed Rulemaking including new proposed

energy conservation standards. DOE's last final rule for commercial packaged boilers was issued on July 22, 2009, so as a result, DOE must act by July 22, 2015. This rulemaking will satisfy this statutory provision.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Public Meeting; Framework Document Availability. | 09/03/13 | 78 FR 54197 |
| Comment Period End. | 10/18/13 | |
| NPRM | 06/00/14 | |
| Final Action | 12/00/16 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* James Raba, Office of Building Technologies Program, EE–2J, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 586–8654, *Email: jim.raba@ee.doe.gov*.

*RIN:* 1904–AD01

## DEPARTMENT OF ENERGY (DOE)

*Energy Efficiency and Renewable Energy (EE)*

Final Rule Stage

### 273. Energy Efficiency Standards for Battery Chargers and External Power Supplies

*Regulatory Plan:* This entry is Seq. No. 47 in part II of this issue of the **Federal Register**.

*RIN:* 1904–AB57

[FR Doc. 2013–29631 Filed 1–6–14; 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–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. HHS enhances the health and well-being of Americans by promoting 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.

HHS has an agency-wide effort to support the agenda's purpose of encouraging more effective public participation in the regulatory process. The Department's Public Participation Task Force, which was created as part of the HHS Retrospective Review plan in response to Executive Order 13563 (*Improving Regulation and Regulatory Review*), regularly meets to identify ways to make the rulemaking process more accessible to the general public. For example, to encourage public participation, HHS regularly updates its main regulatory Web page (*http://www.HHS.gov/regulations/*), which includes links to HHS rules currently open for public comment and provides a ''regulations toolkit'' with background information on regulations, the commenting process, how public comments influence the development of a rule, and how the public can provide effective comments. HHS also actively encourages meaningful public participation in its retrospective review of regulations, including through a comment form on the HHS retrospective review Web page (*http://www.HHS.gov/RetrospectiveReview*). In addition, a cross-agency team at HHS is currently considering how to increase efficiency in rulemaking by organizing public comment on proposed rules.

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 *http://www.RegInfo.gov.*

Dated: August 21, 2013.

**Jennifer M. Cannistra,**

*Executive Secretary to the Department.*

FOOD AND DRUG ADMINISTRATION—PRERULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 274 | Over-the-Counter (OTC) Drug Review—Sunscreen Products | 0910–AF43 |
| 275 | 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—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 276 | Food Labeling; Revision of the Nutrition and Supplement Facts Labels **(Reg Plan Seq No. 49)** | 0910–AF22 |
| 277 | Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed at One-Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain RACCs **(Reg Plan Seq No. 50)**. | 0910–AF23 |
| 278 | Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products | 0910–AF31 |
| 279 | Over-the-Counter (OTC) Drug Review—Internal Analgesic Products | 0910–AF36 |
| 280 | Updated Standards for Labeling of Pet Food | 0910–AG09 |
| 281 | Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals **(Reg Plan Seq No. 51)**. | 0910–AG10 |
| 282 | Over-the-Counter (OTC) Drug Review—Pediatric Dosing for Cough/Cold Products | 0910–AG12 |
| 283 | Electronic Distribution of Prescribing Information for Human Prescription Drugs Including Biological Products. | 0910–AG18 |
| 284 | Produce Safety Regulation | 0910–AG35 |
| 285 | Hazard Analysis and Risk-Based Preventive Controls | 0910–AG36 |
| 286 | ''Tobacco Products'' Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act **(Reg Plan Seq No. 52)**. | 0910–AG38 |
| 287 | Requirements for the Testing and Reporting of Tobacco Product Constituents, Ingredients, and Additives | 0910–AG59 |
| 288 | Foreign Supplier Verification Program | 0910–AG64 |
| 289 | Supplemental Applications Proposing Labeling Changes for Approved Drugs and Biological Products **(Reg Plan Seq No. 55)**. | 0910–AG94 |

FOOD AND DRUG ADMINISTRATION—PROPOSED RULE STAGE—Continued

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 290 | Veterinary Feed Directive **(Reg Plan Seq No. 56)** | 0910–AG95 |
| 291 | Format and Content of Reports Intended to Demonstrate Substantial Equivalence | 0910–AG96 |
| 292 | Radiology Devices; Designation of Special Controls for the Computed Tomography X-Ray System | 0910–AH03 |
| 293 | Mammography Quality Standards Act; Regulatory Amendments | 0910–AH04 |

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. |
|---|---|---|
| 294 | Content and Format of Labeling for Human Prescription Drugs and Biologics; Requirements for Pregnancy and Lactation Labeling. | 0910–AF11 |
| 295 | Infant Formula: Current Good Manufacturing Practices; Quality Control Procedures; Notification Requirements; Records and Reports; and Quality Factors. | 0910–AF27 |
| 296 | Combinations of Bronchodilators With Nasal Decongestants or Expectorants; Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use. | 0910–AF33 |
| 297 | Laser Products; Proposed Amendment to Performance Standard | 0910–AF87 |
| 298 | Food Labeling: Calorie Labeling of Articles of Food Sold in Vending Machines **(Reg Plan Seq No. 57)** | 0910–AG56 |
| 299 | Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments **(Reg Plan Seq No. 58)**. | 0910–AG57 |
| 300 | Use of Certain Symbols in Labeling | 0910–AG74 |
| 301 | Requirements for the Submission of Data Needed To Calculate User Fees for Manufacturers and Importers of Tobacco Products. | 0910–AG81 |

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. |
|---|---|---|
| 302 | Over-the-Counter (OTC) Drug Review—Topical Antimicrobial Drug Products | 0910–AF69 |
| 303 | Amendment to the Current Good Manufacturing Practice Regulations for Finished Pharmaceuticals—Second Phase. | 0910–AG20 |
| 304 | Human Subject Protection; Acceptance of Data From Clinical Studies for Medical Devices | 0910–AG48 |
| 305 | Amendments to the Current Good Manufacturing Practice Regulations for Finished Pharmaceuticals—Components. | 0910–AG70 |

FOOD AND DRUG ADMINISTRATION—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 306 | Unique Device Identification | 0910–AG31 |
| 307 | Food Labeling: Serving Sizes; Reference Amount and Serving Size Declaration for Hard Candies and Breath Mints. | 0910–AG82 |
| 308 | Food Labeling; Gluten-Free Labeling of Foods | 0910–AG84 |

CENTERS FOR MEDICARE & MEDICAID SERVICES—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 309 | Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers (CMS–3178–P) **(Section 610 Review)**. | 0938–AO91 |
| 310 | Prospective Payment System for Federally Qualified Health Centers; Changes to Contracting Policies for Rural Health Clinics and CLIA Enforcement Actions for Proficiency Testing Referral (CMS–1443–F) **(Section 610 Review)**. | 0938–AR62 |
| 311 | Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2015 Rates (CMS–1607–P) **(Reg Plan Seq No. 62)**. | 0938–AS11 |
| 312 | CY 2015 Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1612–P) **(Reg Plan Seq No. 63)**. | 0938–AS12 |
| 313 | CY 2015 Hospital Outpatient Prospective Payment System (PPS) Policy Changes and Payment Rates, and CY 2015 Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1613–P) **(Reg Plan Seq No. 64)**. | 0938–AS15 |

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. |
|---|---|---|
| 314 | Covered Outpatient Drugs (CMS–2345–F) **(Section 610 Review)** | 0938–AQ41 |
| 315 | CY 2014 Changes to the End-Stage Renal Disease (ESRD) Prospective Payment System, ESRD Quality Incentive Program, and Durable Medical Equipment (CMS–1526–F). | 0938–AR55 |
| 316 | Revisions to Payment Policies Under the Physician Fee Schedule and Medicare Part B for CY 2014 (CMS–1600–F). | 0938–AR56 |
| 317 | Adoption of Operating Rules for HIPAA Transactions (CMS–0036–IFC) | 0938–AS01 |

CENTERS FOR MEDICARE & MEDICAID SERVICES—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 318 | Changes to the Hospital Inpatient and Long-Term Care Prospective Payment System for FY 2014 (CMS–1599–F). | 0938–AR53 |
| 319 | Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2014 (CMS–1601–F). | 0938–AR54 |

## DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

*Food and Drug Administration (FDA)*

Prerule Stage

### 274. 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.

*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) | 06/00/14 | |

*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

### 275. 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 November 2013.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Begin Review of Current Regulation. | 11/24/08 | |
| End Review of Current Regulation. | 11/00/13 | |

*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)*

Proposed Rule Stage

### 276. Food Labeling; Revision of the Nutrition and Supplement Facts Labels

*Regulatory Plan:* This entry is Seq. No. 49 in part II of this issue of the **Federal Register**.

*RIN:* 0910–AF22

### 277. Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed at One-Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain RACCs

*Regulatory Plan:* This entry is Seq. No. 50 in part II of this issue of the **Federal Register**.

*RIN:* 0910–AF23

### 278. 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) as part of efforts to reduce unnecessary duplication and differences. This pilot exercise will help determine the feasibility of developing an ongoing mechanism for alignment in review and adoption of 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). | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Janice Adams–King, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5416, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–3713, *Fax:* 301 796–9899, *Email: janice.adams-king@fda.hhs.gov.*

*RIN:* 0910–AF31

**279. 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) (Pediatric). | 07/00/14 | |
| NPRM (Amendment) (Acetaminophen). | 12/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Janice Adams–King, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5416, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–3713, *Fax:* 301 796–9899, *Email: janice.adams-king@fda.hhs.gov.*

*RIN:* 0910–AF36

**280. Updated Standards for Labeling of Pet Food**

*Legal Authority:* 21 U.S.C. 343; 21 U.S.C. 371; Pub. L. 110–85, sec 1002(a)(3)

*Abstract:* FDA is proposing updated standards for the labeling of pet food that include nutritional and ingredient information, as well as style and formatting standards. FDA is taking this action to provide pet owners and animal health professionals more complete and useful information about the nutrient content and ingredient composition of pet food products.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* William Burkholder, Veterinary Medical Officer, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine, Room 2642 (MPN–4, HFV–228), 7519 Standish Place, Rockville, MD 20855, *Phone:* 240 453–6865, *Email: william.burkholder@fda.hhs.gov.*

*RIN:* 0910–AG09

**281. Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals**

*Regulatory Plan:* This entry is Seq. No. 51 in part II of this issue of the **Federal Register**.

*RIN:* 0910–AG10

**282. 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 ..... | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Janice Adams–King, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5416, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–3713, *Fax:* 301 796–9899, *Email: janice.adams-king@fda.hhs.gov.*

*RIN:* 0910–AG12

**283. Electronic Distribution of Prescribing Information for Human Prescription 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 ..... | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Megan 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.velez@fda.hhs.gov.*

*RIN:* 0910–AG18

**284. Produce Safety Regulation**

*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)

*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.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/16/13 | 78 FR 3503 |
| NPRM Comment Period End. | 05/16/13 | |
| NPRM Comment Period Extended. | 04/26/13 | 78 FR 24692 |
| NPRM Comment Period Extended End. | 09/16/13 | |
| NPRM Comment Period Extended. | 08/09/13 | 78 FR 48637 |
| NPRM Comment Period Extended End. | 11/15/13 | |
| Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Rule. | 08/19/13 | 78 FR 50358 |
| Notice of Intent To Prepare Environmental Impact Statement for the Proposed Rule Comment Period End. | 11/15/13 | |
| NPRM Comment Period Extended. | 11/20/13 | 78 FR 69605 |
| NPRM Comment Period Extended End. | 11/22/13 | |
| Environmental Impact Statement for the Proposed Rule; Comment Period Extended. | 11/18/13 | 78 FR 69006 |
| Environmental Impact Statement for the Proposed Rule; Comment Period Extended End. | 03/14/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*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

**285. Hazard Analysis and Risk–Based Preventive Controls**

*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)

*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.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/16/13 | 78 FR 3646 |
| NPRM Comment Period End. | 05/16/13 | |
| NPRM Comment Period Extended. | 04/26/13 | 78 FR 24691 |
| NPRM Comment Period Extended End. | 09/16/13 | |
| NPRM Comment Period Extended. | 08/09/13 | 78 FR 48636 |
| NPRM Comment Period Extended End. | 11/15/13 | |
| NPRM Comment Period Extended. | 11/20/13 | 78 FR 69604 |
| NPRM Comment Period Extended End. | 11/22/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jenny Scott, Senior Advisor, Department of Health and Human Services, Food and Drug Administration, Office of Food Safety, 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–1488, *Email: jenny.scott@fda.hhs.gov.*

*RIN:* 0910–AG36

**286. ''Tobacco Products'' Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act**

*Regulatory Plan:* This entry is Seq. No. 52 in part II of this issue of the **Federal Register**.

*RIN:* 0910–AG38

**287. 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 ..... | 12/00/13 | |

*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

**288. Foreign Supplier Verification Program**

*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)

*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.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/29/13 | 78 FR 45729 |
| NPRM Comment Period End. | 11/26/13 | |
| NPRM Comment Period Extended. | 11/20/13 | 78 FR 69602 |
| NPRM Comment Period Extended End. | 01/27/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*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

**289. Supplemental Applications Proposing Labeling Changes for Approved Drugs and Biological Products**

*Regulatory Plan:* This entry is Seq. No. 55 in part II of this issue of the **Federal Register**.

*RIN:* 0910–AG94

**290. Veterinary Feed Directive**

*Regulatory Plan:* This entry is Seq. No. 56 in part II of this issue of the **Federal Register**.

*RIN:* 0910–AG95

**291. Format and Content of Reports Intended To Demonstrate Substantial Equivalence**

*Legal Authority:* 21 U.S.C. 387e(j); 21 U.S.C. 387j(a); secs 905(j) and 910(a) of the Federal Food, Drug, and Cosmetic Act

*Abstract:* This regulation would establish the format and content of reports intended to demonstrate substantial equivalence and compliance with the FD&C Act (sections 905(j) and 910(a) of the FD&C Act). This regulation also would provide information as to how the Agency will review and act on these submissions.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Gerie Voss, 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:* 240 276–4193, *Email: gerie.voss@fda.hhs.gov*.

*RIN:* 0910–AG96

**292. Radiology Devices; Designation of Special Controls for the Computed Tomography X-Ray System**

*Legal Authority:* 21 U.S.C. 360

*Abstract:* The proposed rule would establish special controls for the computed tomography (CT) X-ray system, a class II device as defined in 21 CFR 892.1750. A CT X-ray system is a diagnostic X-ray imaging system intended to produce cross-sectional images of the body through use of a computer to reconstruct an image from the same axial plane taken at different angles. High doses of ionizing radiation can cause acute (deterministic) effects such as burns, reddening of the skin, cataracts, hair loss, sterility, or, in extremely high doses, radiation poisoning. Therefore, the design of a CT X-ray system needs to balance the benefits of the device (i.e., the ability of the device to produce a diagnostic quality image) with the known risks (e.g., exposure to ionizing radiation). FDA is establishing special controls, combined with the general controls, to provide reasonable assurance of the safety and effectiveness of a class II CT X-ray system.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Erica Blake, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, WO 66, Room 4426, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–6248, *Fax:* 301 847–8145, *Email: erica.blake@fda.hhs.gov*.

*RIN:* 0910–AH03

**293. Mammography Quality Standards Act; Regulatory Amendments**

*Legal Authority:* 21 U.S.C. 360i; 21 U.S.C. 360nn; 21 U.S.C. 374(e); 42 U.S.C. 263b

*Abstract:* FDA is proposing to amend its regulations governing mammography. The amendments would update the regulations issued under the Mammography Quality Standards Act of 1992 (MQSA). FDA is taking this action to address changes in mammography technology and mammography processes, such as breast density reporting, that have occurred since the regulations were published in 1997.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 12/00/13 | |

*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–AH04

## DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

*Food and Drug Administrtion (FDA)*

Final Rule Stage

**294. Content and Format of Labeling for Human Prescription Drugs and Biologics; Requirements for Pregnancy and Lactation Labeling**

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351 to 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 final rule will amend the content and format of the ''Pregnancy,'' ''Labor and delivery,'' and ''Nursing mothers'' subsections of the ''Use in Specific Populations'' section of regulations regarding the labeling for human prescription drug and biological products (21 CFR 201.56 and 201.57) to better communicate risks.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/29/08 | 73 FR 30831 |

| Action | Date | FR Cite |
|---|---|---|
| NPRM Comment Period End. | 08/27/08 | |
| Final Action ..... | 05/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Molly Flannery, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 51, Room 6246, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–3543, *Email: molly.flannery@fda.hhs.gov.*

*RIN:* 0910–AF11

**295. 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 Reopened. | 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 Reopened. | 08/01/06 | 71 FR 43392 |
| NPRM Comment Period End. | 09/15/06 | |
| Final Rule ..... | 11/00/13 | |

*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

**296. Combinations of Bronchodilators With Nasal Decongestants or Expectorants; Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use**

*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 ..... | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Janice Adams-King, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5416, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–3713, *Fax:* 301 796–9899, *Email: janice.adams-king@fda.hhs.gov.*

*RIN:* 0910–AF33

**297. Laser Products; Proposed 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 ..... | 06/24/13 | 78 FR 37723 |
| NPRM Comment Period End. | 09/23/13 | |
| Final Action ..... | 06/00/14 | |

*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

**298. Food Labeling: Calorie Labeling of Articles of Food Sold in Vending Machines**

*Regulatory Plan:* This entry is Seq. No. 57 in part II of this issue of the **Federal Register**.

*RIN:* 0910–AG56

**299. Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments**

*Regulatory Plan:* This entry is Seq. No. 58 in part II of this issue of the **Federal Register**.

*RIN:* 0910–AG57

**300. Use of Certain Sysmbols 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 rule is to allow for the inclusion of certain stand-alone symbols contained in a standard that FDA recognizes, provided that such symbols are explained in a symbols glossary that contemporaneously accompanies the medical device.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/19/13 | 78 FR 23508 |
| NPRM Comment Period End. | 06/18/13 | |
| Final Action ..... | 04/00/14 | |

*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

**301. 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; Pub. L. 111–31

*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 | 05/31/13 | 78 FR 32581 |
| NPRM Comment Period End. | 08/14/13 | |
| Final Action | 06/00/14 | |

*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, Room 340K, 9200 Corporate Boulevard, Rockville, MD 20850, *Phone:* 877 287–1373, *Fax:* 240 276–3904, *Email: annette.marthaler@fda.hhs.gov*.

*RIN:* 0910–AG81

## DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

*Food and Drug Administration (FDA)*

Long-Term Actions

**302. 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. This action addresses antimicrobial agents in consumer hand wash 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). | 12/00/14 | |

*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

**303. Amendment to the Current Good Manufacturing Practice Regulations for Pharmaceuticals—Second Phase**

*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:* FDA will revise regulations for ''current good manufacturing practice'' for oversight and controls over the manufacture of drugs to ensure quality, including managing the risk of and establishing the safety of raw materials, materials used in the manufacturing of drugs, and finished drug products. This revision will update and harmonize requirements and improve detection and response to emerging product safety and quality signals.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 11/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Paula Katz, Regulatory Counsel, Office of Compliance, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 51, Room 4314, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–6972, *Fax:* 301 847–8742, *Email: paula.katz@fda.hhs.gov*.

*RIN:* 0910–AG20

**304. Human Subject Protection; Acceptance of Data From Clinical Studies for Medical Devices**

*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. 360; 21 U.S.C. 360c; 21 U.S.C. 360e; 21 U.S.C. 360i; 21 U.S.C. 360j; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 381; 21 U.S.C. 393; 42 U.S.C. 264; 42 U.S.C. 271; * * *

*Abstract:* This rule will amend FDA's regulations on acceptance of data from clinical studies conducted in support of a premarket approval application, humanitarian device exemption application, an investigational device exemption application, or a premarket notification submission for a medical device.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 02/25/13 | 78 FR 12664 |
| NPRM Comment Period End. | 05/28/13 | |
| Final Action | 12/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Sheila Anne Brown, Policy Analyst, Investigational Device Exemptions Staff, Department of Health and Human Services, Food and Drug Administration, WO 66, Room 1651, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–6563, *Fax:* 301 847–8120, *Email: sheila.brown@fda.hhs.gov*.

*RIN:* 0910–AG48

**305. 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. 360bbb–7; 21 U.S.C. 371; 21 U.S.C. 374; 42 U.S.C. 262; 42 U.S.C. 264

*Abstract:* FDA will revise regulations for ''current good manufacturing practice'' with regard to the control over components used in manufacturing finished pharmaceuticals.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 11/00/14 | |

*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

## DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

*Food and Drug Administration (FDA)*

Completed Actions

### 306. Unique Device Identification

*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

*Abstract:* FDA is issuing a final rule establishing a unique device identification system for medical devices. A unique device identification system would allow healthcare professionals and others to rapidly and precisely identify a device and obtain important information concerning the device and would reduce medical errors.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/10/12 | 77 FR 40735 |
| NPRM Comment Period End. | 11/07/12 | |
| Second NPRM | 11/19/12 | 77 FR 69393 |
| Second NPRM Comment Period End. | 12/19/13 | |
| Final Action | 09/24/13 | 78 FR 58786 |

*Regulatory Flexibility Analysis Required:* Yes.

*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

### 307. Food Labeling: Serving Sizes; Reference Amount and Serving Size Declaration for 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 unit. FDA is taking this action in response to a citizen petition that requested a serving size for breath mints that more accurately reflects the amount customarily consumed per eating occasion and 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 | |
| Withdrawn and Merged with 0910–AF23. | 08/14/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Mark Kantor, Nutritionist, Department of Health and Human Services, Food and Drug Administration, HFS–830, 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–1450, *Fax:* 301 436–1191, *Email: mark.kantor@fda.hhs.gov*.

*RIN:* 0910–AG82

### 308. Food Labeling; Gluten-Free Labeling of Foods

*Legal Authority:* Title II of Pub. L. 108–282; 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 342; 21 U.S.C. 343; 21 U.S.C. 348; 21 U.S.C. 371

*Abstract:* FDA is amending its regulations to define the term ''gluten-free'' for voluntary use in the labeling of foods. FDA is taking this action to assist persons who have celiac disease to more easily identify foods that they can eat while following a ''gluten-free'' diet.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 01/23/07 | 72 FR 2795 |
| NPRM Comment Period End. | 04/23/07 | |
| NPRM Comment Period Reopened. | 08/03/11 | 76 FR 46671 |
| NPRM Comment Period Reopened End. | 10/03/11 | |
| Final Action | 08/05/13 | 78 FR 47154 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Felicia Billingslea, Director, Food Labeling and Standard Staff, Department of Health and Human Services, Food and Drug Administration, Room 4D045, HFS 820, 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–1803, *Fax:* 301 436–2636, *Email: felicia.billingslea@fda.hhs.gov.*

*RIN:* 0910–AG84

## DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

*Centers for Medicare & Medicaid Services (CMS)*

Proposed Rule Stage

### 309. Emergency Preparedness Requirements for Medicare and Medicaid 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 would 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 | 11/00/13 | |

*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, Center for Clincial Standards and Quality, Mail Stop S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244–1850, *Phone:* 410 786–8020, *Email: janice.graham@cms.hhs.gov*.

*RIN:* 0938–AO91

### 310. Prospective Payment System for Federally Qualified Health Centers; Changes to Contracting Policies for Rural Health Clinics and CLIA Enforcement Actions for Proficiency Testing Referral (CMS–1443–F) (Section 610 Review)

*Legal Authority:* Pub. L. 111–148, sec 10501

*Abstract:* This final rule establishes methodology and payment rates for a prospective payment system (PPS) for federally qualified health center (FQHC)

services under Medicare Part B beginning on October 1, 2014, in compliance with the statutory requirement of the Affordable Care Act. This rule also establishes a policy which would allow rural health clinics (RHCs) to contract with nonphysician practitioners when statutory requirements for employment of nurse practitioners and physician assistants are met, and makes other technical and conforming changes to the RHC and FQHC regulations. Finally, this rule makes changes to the Clinical Laboratory Improvement Amendments (CLIA) regulations regarding enforcement actions for proficiency testing referral.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 09/23/13 | 78 FR 58386 |
| NPRM Comment Period End. | 11/18/13 | |
| Final Action ..... | 08/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Sarah Harding, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C4–01–26, 7500 Security Boulevard, Windsor Mill, MD 21244, *Phone:* 410 786–4001, *Email: sarah.harding@cms.hhs.gov*.

*RIN:* 0938–AR62

**311. • Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2015 Rates (CMS–1607–P)**

*Regulatory Plan:* This entry is Seq. No. 62 in part II of this issue of the **Federal Register**.

*RIN:* 0938–AS11

**312. • CY 2015 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1612–P)**

*Regulatory Plan:* This entry is Seq. No. 63 in part II of this issue of the **Federal Register**.

*RIN:* 0938–AS12

**313. • CY 2015 Hospital Outpatient Prospective Payment System (PPS) Policy Changes and Payment Rates, and CY 2015 Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1613–P)**

*Regulatory Plan:* This entry is Seq. No. 64 in part II of this issue of the **Federal Register**.

*RIN:* 0938–AS15

## DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

*Centers for Medicare & Medicaid Services (CMS)*

Final Rule Stage

**314. 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 ..... | 05/00/14 | |

*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

**315. CY 2014 Changes to the End-Stage Renal Disease (ESRD) Prospective Payment System, ESRD Quality Incentive Program, and Durable Medical Equipment (CMS–1526–F)**

*Legal Authority:* MIPPA sec 153(b); Pub. L. 111–148 sec 3401(h); ATRA sec 632(a)

*Abstract:* This final rule updates the bundled payment system for End Stage Renal Disease (ESRD) facilities by 1/1/13. The rule also updates the Quality Incentives in the ESRD Program. In addition, this rule clarifies the grandfathering provision related to the 3-year minimum lifetime requirement for Durable Medical Equipment (DME). It also provides clarification of the definition of routinely purchased DME.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 07/08/13 | 78 FR 40835 |
| NPRM Comment Period End. | 08/30/13 | |
| Final Action ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michelle Cruse, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop C5–05–27, Baltimore, MD 21244, *Phone:* 410 786–7540, *Email: michelle.cruse@cms.hhs.gov*.

*RIN:* 0938–AR55

**316. Revisions to Payment Policies Under the Physician Fee Schedule and Medicare Part B for CY 2014 (CMS–1600–F)**

*Legal Authority:* Social Security Act secs 1102, 1871, 1848

*Abstract:* This final rule revises payment polices under the Medicare physician fee schedule, and make other policy changes to payment under Medicare Part B. These changes are applicable to services furnished on or after January 1 annually.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 07/19/13 | 78 FR 43282 |
| NPRM Comment Period End. | 09/06/13 | |
| Final Action ..... | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Kathy Bryant, Deputy Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C4–01–27, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–3448, *Email: kathy.bryant@cms.hhs.gov*.

*RIN:* 0938–AR56

**317. • Adoption of Operating Rules for HIPAA Transactions (CMS–0036–IFC)**

*Legal Authority:* Pub. L. 104–191, sec 1104

*Abstract:* Under the Affordable Care Act, this interim final rule adopts operating rules for HIPAA transactions for health care claims or equivalent encounter information, enrollment and disenrollment of a health plan, health plan premium payments, and referral certification and authorization.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 06/00/14 | |

*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–AS01

## DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

*Centers for Medicare & Medicaid Services (CMS)*

Completed Actions

### 318. Changes to the Hospital Inpatient and Long-Term Care Prospective Payment System for FY 2014 (CMS–1599–F)

*Legal Authority:* sec 1886(d) of the Social Security Act

*Abstract:* This annual 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 | 05/10/13 | 78 FR 27485 |
| NPRM Comment Period End. | 06/25/13 | |
| Final Action | 08/19/13 | 78 FR 50419 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Roechel Kujawa, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C4–07–07, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–9111, *Email: roechel.kujawa@cms.hhs.gov*.

*RIN:* 0938–AR53

### 319. Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2014 (CMS–1601–F)

*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 finalizes changes to the Ambulatory Surgical Center Payment System list of services and rates.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/19/13 | 78 FR 43534 |
| NPRM Comment Period End. | 09/06/13 | |
| Final Action | 09/06/13 | 78 FR 54842 |

*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, Mail Stop C4–03–06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–4617, *Email: marjorie.baldo@cms.hhs.gov*.

*RIN:* 0938–AR54

[FR Doc. 2013–29632 Filed 1–6–14; 8:45 am]

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# FEDERAL REGISTER

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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 July 23, 2013, at 78 FR 44266.

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: August 29, 2013.

**Christina E. McDonald,**

*Associate General Counsel for Regulatory Affairs.*

OFFICE OF THE SECRETARY—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 320 | Ammonium Nitrate Security Program **(Reg Plan Seq No. 68)** | 1601–AA52 |

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. CITIZENSHIP AND IMMIGRATION SERVICES—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 321 | Administrative Appeals Office: Procedural Reforms To Improve Efficiency **(Reg Plan Seq No. 73)** | 1615–AB98 |

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. COAST GUARD—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 322 | Numbering of Undocumented Barges | 1625–AA14 |
| 323 | Outer Continental Shelf Activities | 1625–AA18 |
| 324 | Updates to Maritime Security | 1625–AB38 |
| 325 | Lifesaving Devices Uninspected Vessels Commercial Barges and Sailing Vessels **(Section 610 Review)** | 1625–AB83 |

## U.S. Coast Guard—Final Rule Stage

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 326 | Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978 **(Reg Plan Seq No. 78)**. | 1625–AA16 |
| 327 | Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System **(Reg Plan Seq No. 79)**. | 1625–AA99 |
| 328 | Inspection of Towing Vessels | 1625–AB06 |
| 329 | Transportation Worker Identification Credential (TWIC); Card Reader Requirements **(Reg Plan Seq No. 80)**. | 1625–AB21 |
| 330 | Commercial Fishing Vessels—Implementation of 2010 and 2012 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—Completed Actions

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 331 | Nontank Vessel Response Plans and Other Vessel Response Plan Requirements | 1625–AB27 |
| 332 | Marine Vapor Control Systems | 1625–AB37 |

## U.S. Customs and Border Protection—Final Rule Stage

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 333 | Importer Security Filing and Additional Carrier Requirements **(Section 610 Review) (Reg Plan Seq No. 82)**. | 1651–AA70 |
| 334 | Implementation of the Guam-CNMI Visa Waiver Program **(Section 610 Review) (Reg Plan Seq No. 84)** | 1651–AA77 |

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 No. | Title | Regulation Identifier No. |
|---|---|---|
| 335 | Modification of the Aviation Security Infrastructure Fee (ASIF) (Market Share) | 1652–AA43 |
| 336 | General Aviation Security and Other Aircraft Operator Security | 1652–AA53 |
| 337 | Security Training for Surface Mode Employees **(Reg Plan Seq No. 86)** | 1652–AA55 |
| 338 | Standardized Vetting, Adjudication, and Redress Services **(Reg Plan Seq No. 87)** | 1652–AA61 |

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## Transportation Security Administration—Final Rule Stage

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 339 | Aircraft Repair Station Security **(Reg Plan Seq No. 88)** | 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—Final Rule Stage

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 340 | Standards To Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities **(Section 610 Review) (Reg Plan Seq No. 91)**. | 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)*

Final Rule Stage

### 320. Ammonium Nitrate Security Program

*Regulatory Plan:* This entry is Seq. No. 68 in part II of this issue of the **Federal Register**.

*RIN:* 1601–AA52

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*U.S. Citizenship and Immigration Services (USCIS)*

Proposed Rule Stage

### 321. Administrative Appeals Office: Procedural Reforms to Improve Efficiency

*Regulatory Plan:* This entry is Seq. No. 73 in part II of this issue of the **Federal Register**.

*RIN:* 1615–AB98

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*U.S. Coast Guard (USCG)*

Proposed Rule Stage

### 322. 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 allows the Coast Guard to identify the owners of abandoned barges. This rulemaking supports the Coast Guard's broad role and responsibility of protecting natural resources.

*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. | 03/00/14 | |

*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, *Email: denise.e.harmon@uscg.mil.*

*RIN:* 1625–AA14

### 323. Outer Continental Shelf Activities

*Legal Authority:* 43 U.S.C. 1333(d)(1); 43 U.S.C. 1348(c); 43 U.S.C. 1356; DHS Delegation No 0170.1

*Abstract:* The Coast Guard is the lead Federal agency for workplace safety and health on facilities and vessels engaged in the exploration for, or development, or production of, minerals on the Outer Continental Shelf (OCS), other than for matters generally related to drilling and production that are regulated by the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE). This project would revise the regulations on OCS activities by: (1) Adding new requirements, for OCS units for lifesaving, fire protection, training, hazardous materials used as stores, and accommodation spaces; (2) adding standards for electrical and machinery installations in hazardous locations; (3) providing regulations for dynamic positioning systems; (4) providing for USCG acceptance and approval of specified classification society plan reviews, inspections, audits, and surveys; and (5) requiring foreign vessels engaged in OCS activities to comply with rules similar to those imposed on U.S. vessels similarly engaged. This project would affect the owners and operators of facilities and vessels engaged in offshore activities.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Request for Comments. | 06/27/95 | 60 FR 33185 |
| Comment Period End. | 09/25/95 | |
| NPRM | 12/07/99 | 64 FR 68416 |
| NPRM Correction | 02/22/00 | 65 FR 8671 |
| NPRM Comment Period Extended. | 03/16/00 | 65 FR 14226 |
| NPRM Comment Period Extended. | 06/30/00 | 65 FR 40559 |
| NPRM Comment Period End. | 11/30/00 | |
| Supplemental NPRM. | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dan Lawrence, Program Manager, CG–OES–2, Department of Homeland Security, U.S. Coast Guard, Commandant, 2100 Second Street SW., STOP 7509, Washington, DC 20593–7509, *Phone:* 202 372–1382, *Email: james.d.lawrence@uscg.mil.*

*RIN:* 1625–AA18

### 324. 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 (MTSA). 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 Security and Accountability for Every (SAFE) Port Act of 2006, 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 | 09/00/14 | |

*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), 2703 Martin Luther King Jr. Avenue SE., STOP 7501, Washington, DC 20593–7501, *Phone:* 202 372–1133, *Email: loan.t.o'brien@uscg.mil.*

*RIN:* 1625–AB38

**325. Lifesaving Devices Uninspected Vessels Commercial Barges and Sailing Vessels (Section 610 Review)**

*Legal Authority:* 46 U.S.C. 2103; 46 U.S.C. 4102; Department of Homeland Security Delegation No. 0170.1(92)(a), (92)(b)

*Abstract:* The Coast Guard proposed aligning its regulations with the 2010 Coast Guard Authorization Act. Before 2010, uninspected commercial barges and uninspected commercial sailing vessels fell outside the scope of a statute requiring the regulation of lifesaving devices on uninspected vessels. Lifesaving devices were required on these vessels only if they carried passengers for hire. The 2010 Act brought these vessels within the scope of the statutory requirement to carry lifesaving devices even if they carry no passengers. The Coast Guard proposed requiring the use of wearable personal flotation devices for individuals on board uninspected commercial barges and sailing vessels, and amending several regulatory tables to reflect that requirement. This rulemaking promotes the Coast Guard's maritime safety mission.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/17/13 | 78 FR 42739 |
| NPRM Comment Period End. | 10/15/13 | |
| Final Rule | To Be | Determined |

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Martin L. Jackson, Project Manager, Department of Homeland Security, U.S. Coast Guard, Commandant (CG–ENG–4), 2703 Martin Luther King Jr. Avenue SE., STOP 7509, Washington, DC 20593–7509, *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

**326. 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. 78 in part II of this issue of the **Federal Register**.

*RIN:* 1625–AA16

**327. Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System**

*Regulatory Plan:* This entry is Seq. No. 79 in part II of this issue of the **Federal Register**.

*RIN:* 1625–AA99

**328. 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 | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Patrick Mannion, Project Manager, CG–OES2, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., STOP 7509, Washington, DC 20593–7509, *Phone:* 202 372–1439, *Email: patrick.j.mannion@uscg.mil.*

*RIN:* 1625–AB06

**329. Transportation Worker Identification Credential (TWIC); Card Reader Requirements**

*Regulatory Plan:* This entry is Seq. No. 80 in part II of this issue of the **Federal Register**.

*RIN:* 1625–AB21

**330. Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation**

*Legal Authority:* Pub. L. 111–281; title VI (Marine Safety)

*Abstract:* The Coast Guard is implementing those requirements of 2010 and 2012 legislation that pertain to uninspected commercial fishing industry vessels and that took effect upon enactment of the legislation 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 maritime safety mission.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jack Kemerer, Project Manager, CG–CVC–43, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., STOP 7501, Washington, DC 20593–7501, *Phone:* 202 372–1249, *Email: jack.a.kemerer@uscg.mil.*

*RIN:* 1625–AB85

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*U.S. Coast Guard (USCG)*

Completed Actions

**331. 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 | 09/30/13 | 78 FR 60099 |
| Final Rule Effective. | 10/30/13 | |

*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, 2703 Martin Luther King Jr. Avenue SE., STOP 7501, Washington, DC 20593–7501, *Phone:* 202 372–2358, *Email: timothy.m.brown@uscg.mil.*

*RIN:* 1625–AB27

**332. Marine Vapor Control Systems**

*Legal Authority:* 33 U.S.C. 1225; 42 U.S.C. 7511b(f)(2); 46 U.S.C. 3703

*Abstract:* The Coast Guard proposes to revise the existing safety regulations for facility and vessel vapor control systems (VCSs). The proposed changes would make VCS requirements more compatible with new Federal and State environmental requirements, regulate industry advancements in VCS technology, and codify the standards in the design and operation of a VCS at a tank barge cleaning facility. These changes would increase the safety of operations by regulating the design, installation, and use of VCSs, but would not require the installation or use of the systems.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 10/21/10 | 75 FR 65151 |
| NPRM Comment Period End. | 04/21/11 | |
| Final Rule | 07/16/13 | 78 FR 42596 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* LT Jodi Min, Project Manager, CG–ENG–5, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., STOP 7509, Washington, DC 20593–7509, *Phone:* 202 372–1422, *Email: jodi.j.min@uscg.mil.*

*RIN:* 1625–AB37

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*U.S. Customs and Border Protection (USCBP)*

Final Rule Stage

**333. Importer Security Filing and Additional Carrier Requirements (Section 610 Review)**

*Regulatory Plan:* This entry is Seq. No. 82 in part II of this issue of the **Federal Register**.

*RIN:* 1651–AA70

**334. Implementation of the Guam-CNMI Visa Waiver Program (Section 610 Review)**

*Regulatory Plan:* This entry is Seq. No. 84 in part II of this issue of the **Federal Register**.

*RIN:* 1651–AA77

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*Transportation Security Administration (TSA)*

Proposed Rule Stage

**335. Modification of the Aviation Security Infrastructure Fee (ASIF) (Market Share)**

*Legal Authority:* 49 U.S.C. 44901; 49 U.S.C. 44940

*Abstract:* On February 20, 2002 (67 FR 7926), the Transportation Security Administration (TSA) published an interim final rule (IFR) that established the Aviation Security Infrastructure Fee (ASIF), which is imposed on air carriers and foreign air carriers in air transportation, foreign air transportation, and intrastate air transportation to help defray TSA's costs of providing U.S. civil aviation security services. TSA is developing a notice of proposed rulemaking (NPRM) that will propose to amend current ASIF requirements, see 49 CFR part 1511, by modifying the method that TSA uses to assess the ASIF, reapportioning the amount to be paid per airline. The NPRM will also respond to any comments submitted regarding the IFR.

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.

*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 | |
| NPRM | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*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, 601 South 12th Street, Arlington, VA 20598–6014, *Phone:* 571 227–1081, *Fax:* 571 227–2904, *Email: michael.gambone@tsa.dhs.gov.*

Monica Grasso Ph.D., Manager, Economic Analysis Branch–Cross Modal Division, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, TSA–28, HQ, E10, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–3329, *Email: monica.grasso@tsa.dhs.gov.*

Traci Klemm, Senior Counsel, Regulations and Security Standards Division, Department of Homeland Security, Transportation Security Administration, Office of the Chief Counsel, TSA–2, HQ, E12, 601 South 12th Street, Arlington, VA 20598–6002, *Phone:* 571 227–3596, *Email: traci.klemm@tsa.dhs.gov.*

*RIN:* 1652–AA43

**336. 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) Security measures for foreign aircraft operators commensurate with measures for U.S. operators, (2) the type of aircraft subject to TSA regulation, (3) compliance oversight, (4) watch list matching of passengers, (5) prohibited items, (6) scope of the background check requirements and the procedures used to implement the requirement, and (7) other issues.

*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. | 08/00/14 | |

*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*.

Monica Grasso Ph.D., Manager, Economic Analysis Branch–Cross Modal Division, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, TSA–28, HQ, E10, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–3329, *Email: monica.grasso@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, 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

**337. Security Training for Surface Mode Employees**

*Regulatory Plan:* This entry is Seq. No. 86 in part II of this issue of the **Federal Register**.

*RIN:* 1652–AA55

**338. Standardized Vetting, Adjudication, and Redress Services**

*Regulatory Plan:* This entry is Seq. No. 87 in part II of this issue of the **Federal Register**.

*RIN:* 1652–AA61

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*Transportation Security Administration (TSA)*

Final Rule Stage

**339. Aircraft Repair Station Security**

*Regulatory Plan:* This entry is Seq. No. 88 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)*

Final Rule Stage

**340. Standards To Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities (Section 610 Review)**

*Regulatory Plan:* This entry is Seq. No. 91 in part II of this issue of the **Federal Register**.

*RIN:* 1653–AA65

[FR Doc. 2013–29633 Filed 1–6–14; 8:45 am]

BILLING CODE 9110–9B–P

# FEDERAL REGISTER

Vol. 79 Tuesday,
No. 4 January 7, 2014

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 2013 and spring 2014. 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, 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.*

BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 341 | Blowout Prevention Systems | 1014–AA11 |

BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 342 | Production Safety Systems and Lifecycle Analysis | 1014–AA10 |

UNITED STATES FISH AND WILDLIFE SERVICE—PRERULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 343 | National Wildlife Refuge System; Oil and Gas Regulations | 1018–AX36 |

UNITED STATES FISH AND WILDLIFE SERVICE—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 344 | Injurious Wildlife Evaluation; Constrictor Species From Python, Boa, and Eunectes Genera | 1018–AV68 |

NATIONAL PARK SERVICE—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 345 | Non-Federal Oil and Gas Rights | 1024–AD78 |

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 346 | Stream Protection Rule | 1029–AC63 |

## DEPARTMENT OF THE INTERIOR (DOI)

*Bureau of Safety and Environmental Enforcement (BSEE)*

Proposed Rule Stage

### 341. Blowout Prevention Systems

*Legal Authority:* 30 U.S.C. 1751; 31 U.S.C. 9701; 43 U.S.C. 1334

*Abstract:* This proposed rule would revise regulations related to blowout preventers (BOPs). BSEE regulations for BOPs currently consist of: (1) Field pressure and functions tests, (2) performance statements related to BOP capabilities, and (3) several industry practices related to inspection and maintenance. The industry has developed new standards for BOP design and testing that contain significant improvements to existing documents. By incorporating these new requirements into regulations and other supplemental requirements, the regulatory oversight over this critical equipment will be increased.

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 03/00/14 | |
| Final Action | 10/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Amy White, Chief, Regulations and Standards Branch, Department of the Interior, 381 Elden Street, Herndon, VA 20170, *Phone:* 703 787–1665, *Fax:* 703 787–1555, *Email: amy.white@bsee.gov.*

*RIN:* 1014–AA11

## DEPARTMENT OF THE INTERIOR (DOI)

*Bureau of Safety and Environmental Enforcement (BSEE)*

Final Rule Stage

### 342. Production Safety Systems and Lifecycle Analysis

*Legal Authority:* 31 U.S.C. 9701; 43 U.S.C. 1334

*Abstract:* This proposed rule would amend and update the regulations regarding oil and natural gas production. This rewrite of subpart H regulations would address issues such as production safety systems, subsurface safety devices, and safety device testing. The rule has been expanded to differentiate the requirements for operating dry tree and wet tree production systems on the Outer Continental Shelf (OCS). This rule would also propose an expanded use of lifecycle analysis of critical equipment.

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 08/22/13 | 78 FR 52240 |
| NPRM Comment Period End. | 10/21/13 | |
| Final Action | 05/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Amy White, Chief, Regulations and Standards Branch, Department of the Interior, 381 Elden Street, Herndon, VA 20170, *Phone:* 703 787–1665, *Fax:* 703 787–1555, *Email: amy.white@bsee.gov.*

*RIN:* 1014–AA10

**BILLING CODE 4310–MR–P**

## DEPARTMENT OF THE INTERIOR (DOI)

*United States Fish and Wildlife Service (FWS)*

Prerule Stage

### 343. 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 | 12/00/13 | |

*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

## DEPARTMENT OF THE INTERIOR (DOI)

*United States Fish and Wildlife Service (FWS)*

Final Rule Stage

### 344. Injurious Wildlife Evaluation; Constrictor Species From Python, Boa, and Eunectes Genera

*Legal Authority:* 18 U.S.C. 42

*Abstract:* We are making a final determination on the listing of five species of large constrictor snakes as injurious wildlife under the Lacey Act: Reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 01/31/08 | 73 FR 5784 |
| ANPRM Comment Period End. | 04/30/08 | |
| NPRM | 03/12/10 | 75 FR 11808 |
| NPRM Comment Period End. | 05/11/10 | |
| NPRM Comment Period Re-opened. | 07/01/10 | 75 FR 38069 |
| NPRM Comment Period Re-opened End. | 08/02/10 | |
| Final Action | 01/23/12 | 77 FR 3330 |
| Final Action Effective. | 03/23/12 | |
| Final Rule | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Mike Weimer, Chief, Division of Fish and Aquatic Conservation, Department of the Interior, United States Fish and Wildlife Service, Suite 700E, 4401 North Fairfax Drive, Arlington, VA 22203, Phone: 703 358–2279, *Email: mike_weimer@fws.gov.*

*RIN:* 1018–AV68

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR (DOI)

*National Park Service (NPS)*

Proposed Rule Stage

### 345. Non-Federal Oil and Gas Rights

*Legal Authority:* 16 U.S.C. 1 *et seq.;* 16 U.S.C. 1901 *et seq*

*Abstract:* This rule would accommodate new technology and industry practices, eliminate regulatory exemptions, update requirements, remove caps on bond amounts, and allow NPS to recover administrative costs. The changes make the regulations more effective and efficient and maintain the highest level of protection

compatible with park resources and values.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 11/25/09 | 74 FR 61596 |
| ANPRM Comment Period End. | 01/25/10 | |
| NPRM ..... | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Ed Kassman, Regulatory Specialist, Department of the Interior, National Park Service, 12795 West Alameda Parkway, Lakewood, CA 80225, *Phone:* 303 969–2146, *Email: edward_kassman@nps.gov.*

*RIN:* 1024–AD78

**BILLING CODE 4310–70–P**

## DEPARTMENT OF THE INTERIOR (DOI)

*Office of Surface Mining Reclamation and Enforcement (OSMRE)*

Proposed Rule Stage

### 346. 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 ..... | 08/00/14 | |

*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. 2013–29634 Filed 1–6–14; 8:45 am]

**BILLING CODE 4310–05–P**

# FEDERAL REGISTER

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Part XI

## Department of Justice

Semiannual Regulatory Agenda

## DEPARTMENT OF JUSTICE

**8 CFR Ch. V**

**21 CFR Ch. I**

**27 CFR Ch. II**

**28 CFR Ch. I, V**

**Regulatory Agenda**

**AGENCY:** Department of Justice.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Department of Justice is publishing its fall 2013 regulatory agenda pursuant to Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. sections 601 to 612 (1988).

**FOR FURTHER INFORMATION CONTACT:** Robert Hinchman, Senior Counsel, Office of Legal Policy, Department of Justice, Room 4252, 950 Pennsylvania Avenue NW., Washington, DC 20530, (202) 514–8059.

**SUPPLEMENTARY INFORMATION:** 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 of Justice's Statement of Regulatory Priorities is included in the Plan.

Beginning with 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), the Department of Justice's printed agenda entries include only:

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 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 the Department of Justice's regulatory plan.

Dated: August 29, 2013.

**Elana Tyrangiel,**

*Principal Deputy Assistant Attorney General, Office of Legal Policy.*

DRUG ENFORCEMENT ADMINISTRATION—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 347 | Disposal of Controlled Substances | 1117–AB18 |

## DEPARTMENT OF JUSTICE (DOJ)

*Drug Enforcement Administration (DEA)*

Final Rule Stage

### 347. Disposal of Controlled Substances

*Legal Authority:* 21 U.S.C. 821; 21 U.S.C. 822; 21 U.S.C. 823; 21 U.S.C. 827; 21 U.S.C. 828; 21 U.S.C. 871; 21 U.S.C. 958

*Abstract:* This action would finalize requirements governing the safe and secure disposal of controlled substances by DEA registrants and ultimate users. This final rule would implement the Secure and Responsible Drug Disposal Act of 2010 by providing ultimate users safe and convenient options to transfer controlled substances for the purpose of disposal. The rule would reorganize and consolidate existing regulations concerning disposal (including the role of reverse distributors) and establish a comprehensive regulatory framework for the collection and destruction of controlled substances consistent with the Controlled Substances Act.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 01/21/09 | 74 FR 3480 |
| ANPRM Comment Period End. | 03/23/09 | |
| Notice of Public Meeting. | 12/22/10 | 75 FR 80536 |
| NPRM | 12/21/12 | 77 FR 75784 |
| NPRM Comment Period End. | 02/19/13 | |
| Final Action | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Ruth A. Carter, Chief, Policy Evaluation and Analysis Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152, *Phone:* 202 598–6812.

*RIN:* 1117–AB18

[FR Doc. 2013–29635 Filed 1–6–14; 8:45 am]

**BILLING CODE 4410–BP–P**

# FEDERAL REGISTER

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Part XII

## 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*.

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.

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.

**Thomas E. Perez,**

*Secretary of Labor.*

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PRERULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 348 | Bloodborne Pathogens **(Section 610 Review)** | 1218–AC34 |
| 349 | Infectious Diseases | 1218–AC46 |
| 350 | Reinforced Concrete in Construction and Preventing Backover Injuries and Fatalities | 1218–AC51 |

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 351 | Occupational Exposure to Crystalline Silica | 1218–AB70 |
| 352 | Occupational Exposure to Beryllium | 1218–AB76 |
| 353 | Combustible Dust | 1218–AC41 |
| 354 | Injury and Illness Prevention Program | 1218–AC48 |

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 355 | Confined Spaces in Construction | 1218–AB47 |
| 356 | Electric Power Transmission and Distribution; Electrical Protective Equipment | 1218–AB67 |

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 357 | Occupational Exposure to Food Flavorings Containing Diacetyl and Diacetyl Substitutes | 1218–AC33 |

## DEPARTMENT OF LABOR (DOL)

*Occupational Safety and Health Administration (OSHA)*

Prerule Stage

### 348. 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. | 05/00/14 | |

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Jens Svenson, Deputy Director, Directorate of Evaluation and Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3641, Washington, DC 20210, *Phone:* 202 693–2400, *Fax:* 202 693–1641, *Email: svenson.jens@dol.gov*.

*RIN:* 1218–AC34

### 349. Infectious Diseases

*Legal Authority:* 5 U.S.C. 533; 29 U.S.C. 657 and 658; 29 U.S.C. 660; 29 U.S.C. 666; 29 U.S.C. 669; 29 U.S.C. 673; * * *

*Abstract:* Employees in health care and other high-risk environments face long-standing infectious diseases hazards such as tuberculosis (TB), varicella disease (chickenpox, shingles), and measles (rubeola), as well as new and emerging infectious disease threats, such as Severe Acute Respiratory Syndrome (SARS) and pandemic influenza. Health care workers and workers in related occupations, or who are exposed in other high-risk environments, are at increased risk of contracting TB, SARS, Methicillin-resistant Staphylococcus aureus (MRSA), and other infectious diseases that can be transmitted through a variety of exposure routes. OSHA is concerned about the ability of employees to continue to provide health care and other critical services without unreasonably jeopardizing their health. OSHA is considering the need for a standard to ensure that employers establish a comprehensive infection control program and control measures to protect employees from infectious disease exposures to pathogens that can cause significant disease. Workplaces where such control measures might be necessary include: health care, emergency response, correctional facilities, homeless shelters, drug treatment programs, and other occupational settings where employees can be at increased risk of exposure to potentially infectious people. A standard could also apply to laboratories, which handle materials that may be a source of pathogens, and to pathologists, coroners' offices, medical examiners, and mortuaries.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Request for Information (RFI). | 05/06/10 | 75 FR 24835 |
| RFI Comment Period End. | 08/04/10 | |
| Analyze Comments. | 12/30/10 | |
| Stakeholder Meetings. | 07/29/11 | |
| Initiate SBREFA .. | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* William Perry, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov*.

*RIN:* 1218–AC46

### 350. Reinforced Concrete in Construction and Preventing Backover Injuries and Fatalities

*Legal Authority:* 29 U.S.C. 655(b)

*Abstract:* OSHA published an RFI (77 FR 18973; March 29, 2012) that sought information on two subjects: 1) preventing backover injuries; and 2) hazards and risks of reinforcing concrete operations in construction, including post-tensioning.

Backing vehicles and equipment are common causes of struck-by injuries and can also cause caught-between injuries when backing vehicles and equipment pin a worker against an object. Struck-by injuries and caught-between injuries are two of the four leading causes of workplace fatalities. The Bureau of Labor Statistics reports that in 2011, 75 workers were fatally backed over while working. While many backing incidents can prove to be fatal, workers can suffer severe, non-fatal injuries as well. A review of OSHA's IMIS database found that backing incidents can result in serious injury to the back and pelvis, fractured bones, concussions, amputations, and other injuries. Emerging technologies in the field of backing operations may prevent incidents. The technologies include cameras and proximity detection systems. The use of spotters and internal traffic control plans can also make backing operations safer. The Agency has held stakeholder meetings on backovers and is conducting site visits to employers. 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 many types of construction. OSHA's IMIS data indicates that 31 workers died while performing work on or near post-tensioning operations or reinforcing steel between 2000 and 2009.

Currently, workers performing steel reinforcing suffer injuries caused by unsafe material handling, structural collapse, and impalement by protruding reinforcing steel dowels, among other causes. Employees involved in post-tensioning activities are at risk for incidents caused by the misuse of post-tensioning equipment and improper training. The Agency is continuing to seek information about injuries and hazards of reinforcing steel operations.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Request for Information. | 03/29/12 | 77 FR 18973 |
| Comment Period End. | 07/27/12 | |
| Analyze Comments (Concrete). | 04/00/14 | |
| Initiate SBREFA (Backovers). | 06/00/14 | |

*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–AC51

## DEPARTMENT OF LABOR (DOL)

*Occupational Safety and Health Administration (OSHA)*

Proposed Rule Stage

### 351. 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 Occupational Safety and Health Administration (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=10mg/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. National Institute for Occupational Safety and Health (NIOSH) and ACGIH recommend 50µg/m3 and 25µg/m3 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 | 09/12/13 | 78 FR 56274 |
| Extension of Deadline for Submitting Notices of Intention to Appear at Public Hearing. | 10/31/13 | 78 FR 65242 |
| Extension of Comment Period. | 10/31/13 | |
| Scheduling of Public Hearing. | 10/31/13 | |
| NPRM Comment Period End. | 12/11/13 | |
| Extension of Comment Period End. | 01/27/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* William Perry, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov*.

*RIN:* 1218–AB70

### 352. 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 | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* William Perry, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov*.

*RIN:* 1218–AB76

### 353. Combustible Dust

*Legal Authority:* 29 U.S.C. 655(b); 29 U.S.C. 657

*Abstract:* Occupational Safety and Health Administration (OSHA) has commenced rulemaking to develop a combustible dust standard for general industry. The U.S. Chemical Safety Board (CSB) completed a study of combustible dust hazards in late 2006, which identified 281 combustible dust incidents between 1980 and 2005 that killed 119 workers and injured another 718. Based on these findings, the CSB recommended the Agency pursue a rulemaking on this issue. OSHA has previously addressed aspects of this risk. For example, on July 31, 2005, OSHA published the Safety and Health Information Bulletin, ''Combustible Dust in Industry: Preventing and Mitigating the Effects of Fire and Explosions.'' Additionally, OSHA implemented a Combustible Dust National Emphasis Program (NEP) March 11, 2008, launched a new Web page, and issued several other guidance documents. However, the Agency does

not have a comprehensive standard that addresses combustible dust hazards.

OSHA will use the information gathered from the NEP to assist in the development of this rule. OSHA published an ANPRM October 21, 2009. Additionally, stakeholder meetings were held in Washington, DC, on December 14, 2009, in Atlanta, GA, on February 17, 2010, and in Chicago, IL, on April 21, 2010. A webchat for combustible dust was also held on June 28, 2010 and an expert forum was convened on May 13, 2011

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 10/21/09 | 74 FR 54333 |
| Stakeholder Meetings. | 12/14/09 | |
| ANPRM Comment Period End. | 01/19/10 | |
| Stakeholder Meetings. | 02/17/10 | |
| Stakeholders Meetings. | 03/09/10 | 75 FR 10739 |
| Initiate SBREFA .. | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* William Perry, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov*.

*RIN:* 1218–AC41

**354. Injury and Illness Prevention Program**

*Legal Authority:* 29 U.S.C. 653; 29 U.S.C. 655(b); 29 U.S.C. 657

*Abstract:* OSHA is developing a rule requiring employers to implement an Injury and Illness Prevention Program. It involves planning, implementing, evaluating, and improving processes and activities that protect employee safety and health. OSHA has substantial data on reductions in injuries and illnesses from employers who have implemented similar effective processes. The Agency currently has voluntary Safety and Health Program Management Guidelines (54 FR 3904 to 3916), published in 1989. An injury and illness prevention program rule would build on these guidelines as well as lessons learned from successful approaches and best practices under OSHA's Voluntary Protection Program Safety and Health Achievement Recognition Program, and similar industry and international initiatives such as American National Standards Institute/American Industrial Hygiene Association Z10 and Occupational Health and Safety Assessment Series 18001.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Stakeholder Meetings. | 06/03/10 | 75 FR 35360 and 75 FR 23637 |
| Initiate SBREFA .. | 01/06/12 | |
| NPRM ..... | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* William Perry, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov*.

*RIN:* 1218–AC48

## DEPARTMENT OF LABOR (DOL)

*Occupational Safety and Health Administration (OSHA)*

Final Rule Stage

**355. 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 ..... | 02/00/14 | |

*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

**356. 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. Occupational Safety and Health Administration (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 | |

| Action | Date | FR Cite |
|---|---|---|
| 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 | |
| Posthearing Comment Period End. | 02/10/10 | |
| Final Rule | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* William Perry, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov*.

*RIN:* 1218–AB67

## DEPARTMENT OF LABOR (DOL)

*Occupational Safety and Health Administration (OSHA)*

Completed Actions

### 357. 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. The National Institute for Occupational Safety and Health (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 | |
| Withdrawn | 08/22/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* William Perry, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov*.

*RIN:* 1218–AC33

[FR Doc. 2013–29636 Filed 1–6–14; 8:45 am]

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# FEDERAL REGISTER

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Part XIII

## Department of Transportation

Semiannual Regulatory Agenda

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### 14 CFR Chs. I–III

### 23 CFR Chs. I–III

### 33 CFR Chs. I and IV

### 46 CFR Chs. I–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 intent of the Agenda is to provide the public with information about the Department of Transportation's regulatory activity planned for the next 12 months. 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 Kathryn Sinniger, 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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Appendix D—Review Plans for Section 610 and Other Requirements

**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) decides 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 August 7, 2013, 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 is 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 *www.regulations.gov* and Idea Scale 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* and *http://www.dot.gov/mission/open/open-government.*

*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: September 4, 2013.

**Anthony Foxx,**

*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—Mark Bury, Chief Counsel, International Law, Legislation and Regulations Division, 800 Independence Avenue SW., Room

915A, Washington, DC 20591; telephone (202) 267–3110.

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—Kathryn Sinniger, 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.

*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.

**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 in 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*

Section 610 and Other Reviews

| Year | Regulations to be reviewed | Analysis year | Review year |
|---|---|---|---|
| 1 | 49 CFR parts 91 through 99 and 14 CFR parts 200 through 212 | 2008 | 2009 |
| 2 | 48 CFR parts 1201 through 1253 and new parts and subparts | 2009 | 2010 |
| 3 | 14 CFR parts 213 through 232 | 2010 | 2011 |
| 4 | 14 CFR parts 234 through 254 | 2011 | 2012 |
| 5 | 14 CFR parts 255 through 298 and 49 CFR part 40 | 2012 | 2013 |
| 6 | 14 CFR parts 300 through 373 | 2013 | 2014 |
| 7 | 14 CFR parts 374 through 398 | 2014 | 2015 |
| 8 | 14 CFR part 399 and 49 CFR parts 1 through 11 | 2015 | 2016 |
| 9 | 49 CFR parts 17 through 28 | 2016 | 2017 |
| 10 | 49 CFR parts 29 through 39 and parts 41 through 89 | 2017 | 2018 |

Year 1 (Fall 2008) List of Rules With Ongoing Analysis

49 CFR part 91—International Air Transportation Fair Competitive Practices
49 CFR part 92—Recovering Debts to the United States by Salary Offset
49 CFR part 98—Enforcement of Restrictions on Post-Employment Activities
49 CFR part 99—Employee Responsibilities and Conduct
14 CFR part 200—Definitions and Instructions
14 CFR part 201—Air Carrier Authority Under Subtitle VII of Title 49 of the United States Code [Amended]
14 CFR part 203—Waiver of Warsaw Convention Liability Limits and Defenses
14 CFR part 204—Data to Support Fitness Determinations
14 CFR part 205—Aircraft Accident Liability Insurance
14 CFR part 206—Certificates of Public Convenience and Necessity: Special Authorizations and Exemptions
14 CFR part 207—Charter Trips by U.S. Scheduled Air Carriers
14 CFR part 208—Charter Trips by U.S. Charter Air Carriers
14 CFR part 211—Applications for Permits to Foreign Air Carriers
14 CFR part 212—Charter Rules for U.S. and Foreign Direct Air Carriers

Year 3 (Fall 2010) List of Rules With Ongoing Analysis

14 CFR part 213—Terms, Conditions, and Limitations of Foreign Air Carrier Permits
14 CFR part 214—Terms, Conditions, and Limitations of Foreign Air Carrier Permits Authorizing Charter Transportation Only
14 CFR part 215—Use and Change of Names of Air Carriers, Foreign Air Carriers, and Commuter Air Carriers
14 CFR part 216—Comingling of Blind Sector Traffic by Foreign Air Carriers
14 CFR part 217—Reporting Traffic Statistics by Foreign Air Carriers in Civilian Scheduled, Charter, and Nonscheduled Services
14 CFR part 218—Lease by Foreign Air Carrier or Other Foreign Person of Aircraft With Crew
14 CFR part 221—Tariffs
14 CFR part 222—Intermodal Cargo Services by Foreign Air Carriers
14 CFR part 223—Free and Reduced-Rate Transportation
14 CFR part 232—Transportation of Mail, Review of Orders of Postmaster General

Year 4 (Fall 2011) List of Rules With Ongoing Analysis

14 CFR part 240—Inspection of Accounts and Property
14 CFR part 241—Uniform System of Accounts and Reports for Large Certificated Air Carriers
14 CFR part 243—Passenger Manifest Information
14 CFR part 247—Direct Airport-to-Airport Mileage Records
14 CFR part 248—Submission of Audit Reports
14 CFR part 249—Preservation of Air Carrier Records

Year 5 (Fall 2012) List of Rules With Ongoing Analysis

14 CFR part 255—Airline Computer Reservations Systems
14 CFR part 256—[Reserved]
14 CFR part 271—Guidelines for Subsidizing Air Carriers Providing Essential Air Transportation
14 CFR part 272—Essential Air Service to the Freely Associated States
14 CFR part 291—Cargo Operations in Interstate Air Transportation
14 CFR part 292—International Cargo Transportation
14 CFR part 293—International Passenger Transportation
14 CFR part 294—Canadian Charter Air Taxi Operators
14 CFR part 296—Indirect Air Transportation of Property
14 CFR part 297—Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations
14 CFR part 298—Exemptions for Air Taxi and Commuter Air Carrier Operations

Year 6 (2013) List of Rules That Will Be Analyzed During the Next Year

14 CFR part 300—Rules of Conduct in Dot Proceedings Under This Chapter
14 CFR part 302—Rules of Practice in Proceedings
14 CFR part 303—Review of Air Carrier Agreements
14 CFR part 305—Rules of Practice in Informal Nonpublic Investigations
14 CFR part 313—Implementation of the Energy Policy and Conservation Act

14 CFR part 323—Terminations, Suspensions, and Reductions of Service

14 CFR part 325—Essential Air Service Procedures

14 CFR part 330—Procedures For Compensation of Air Carriers

14 CFR part 372—Overseas Military Personnel Charters

*Federal Aviation Administration*

Section 610 Review Plan

The FAA has elected to use the two-step, two-year process used by most DOT modes in past plans. As such, the FAA has divided its rules into 10 groups as displayed in the table below. During the first year (the ''*analysis year*''), all rules published during the previous 10 years within a 10 percent block of the regulations will be *analyzed* to identify those with a SEIOSNOSE. During the second year (the ''*review year*''), each rule identified in the analysis year as having a SEIONOSE will be *reviewed* in accordance with Section 610 (b) to determine if it should be continued without change or changed to minimize impact on small entities. Results of those reviews will be published in the DOT Semiannual Regulatory Agenda.

| Year | Regulations to be reviewed | Analysis year | Review year |
|---|---|---|---|
| 1 | 14 CFR parts 119 through 129 and parts 150 through 156 | 2008 | 2009 |
| 2 | 14 CFR parts 133 through 139 and parts 157 through 169 | 2009 | 2010 |
| 3 | 14 CFR parts 141 through 147 and parts 170 through 187 | 2010 | 2011 |
| 4 | 14 CFR parts 189 through 198 and parts 1 through 16 | 2011 | 2012 |
| 5 | 14 CFR parts 17 through 33 | 2012 | 2013 |
| 6 | 14 CFR parts 34 through 39 and parts 400 through 405 | 2013 | 2014 |
| 7 | 14 CFR parts 43 through 49 and parts 406 through 415 | 2014 | 2015 |
| 8 | 14 CFR parts 60 through 77 | 2015 | 2016 |
| 9 | 14 CFR parts 91 through 105 | 2016 | 2017 |
| 10 | 14 CFR parts 417 through 460 | 2017 | 2018 |

Year 6 (2013) List of Rules Analyzed and Summary of Results

14 CFR Part 34—Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes
- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR Part 35—Airworthiness Standards: Propellers
- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR Part 36—Noise Standards: Aircraft Type and Airworthiness Certification
- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR Part 39—Airworthiness Directives
- Section 610: No amendments to the codified text of this part were promulgated during the period of review, thus there is no SEISNOSE.
- General: No changes are needed.

14 CFR Part 400—Basis and Scope
- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR Part 401—Organization and Definitions
- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR Part 404—Regulations and Licensing Requirements
- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR Part 405—Investigations and Enforcement
- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

Year 7 (2014) List of Rules That Will Be Analyzed During the Next Year

14 CFR part 43—Maintenance, Preventive Maintenance, Rebuilding, and Alteration

14 CFR part 45—Identification and Registration Marking

14 CFR part 47—Aircraft Registration

14 CFR part 49—Recording of Aircraft Titles and Security Documents

14 CFR part 406—Investigations, Enforcement, and Administrative Review

14 CFR part 413—License Application Procedures

14 CFR part 414—Safety Approvals

14 CFR part 415—Launch License

*Federal Highway Administration*

Section 610 and Other Reviews

| Year | Regulations to be reviewed | Analysis year | Review year |
|---|---|---|---|
| 1 | None | 2008 | 2009 |
| 2 | 23 CFR parts 1 to 260 | 2009 | 2010 |
| 3 | 23 CFR parts 420 to 470 | 2010 | 2011 |
| 4 | 23 CFR part 500 | 2011 | 2012 |
| 5 | 23 CFR parts 620 to 637 | 2012 | 2013 |

| Year | Regulations to be reviewed | Analysis year | Review year |
|---|---|---|---|
| 6 | 23 CFR parts 645 to 669 | 2013 | 2014 |
| 7 | 23 CFR parts 710 to 924 | 2014 | 2015 |
| 8 | 23 CFR parts 940 to 973 | 2015 | 2016 |
| 9 | 23 CFR parts 1200 to 1252 | 2016 | 2017 |
| 10 | New parts and subparts | 2017 | 2018 |

*Federal-Aid Highway Program*

The FHWA has adopted regulations in title 23 of the CFR, chapter I, related to the Federal-Aid Highway Program. These regulations implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways. The primary law authorizing Federal aid for highways is chapter I of title 23 of the U.S.C. section 145 of title 23 expressly provides for a federally assisted State program. For this reason, the regulations adopted by the FHWA in title 23 of the CFR primarily relate to the requirements that States must meet to receive Federal funds for the construction and other work related to highways. Because the regulations in title 23 primarily relate to States, which are not defined as small entities under the Regulatory Flexibility Act, the FHWA believes that its regulations in title 23 do not have a significant economic impact on a substantial number of small entities. The FHWA solicits public comment on this preliminary conclusion.

Year 5 (Fall 2012) List of Rules Analyzed and a Summary of Results

23 CFR part 620—Engineering
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 625—Design Standards for Highways
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision. The FHWA will update Section 625.4 (Standards, Policies, and Standard Specifications) to reflect the most current information.

23 CFR part 626—Pavement Policy
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 627—Value Engineering
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision. These regulations are being updated to incorporate changes made to this part by MAP–21.

23 CFR part 630—Preconstruction Procedures
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 633—Required Contract Provisions
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 635—Construction and Maintenance
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 636—Design-Build Contracting
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision. These regulations are being updated at 23 CFR 636.209 to allow proposers to submit technical and price proposals based on their preapproved alternative technical concepts without submitting a base proposal to encourage a wider use of alternative technical concepts in design-build project delivery.

23 CFR part 637—Construction Inspection and Approval
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

Year 6 (Fall 2013) List of Rules That Will Be Analyzed During the Next Year

23 CFR part 645—Utilities
23 CFR part 646—Railroads
23 CFR part 650—Bridges, structures, and hydraulics
23 CFR part 652—Pedestrian and bicycle accommodations and projects
23 CFR part 655—Traffic Operations
23 CFR part 656—Carpool and vanpool projects
23 CFR part 657—Certification of size and weight enforcement
23 CFR part 658—Truck size and weight, route designations—length, width, and weight limitations
23 CFR part 660—Special programs (Direct Federal)
23 CFR part 661—Indian Reservation Road Bridge Program
23 CFR part 667—[Reserved]
23 CFR part 668—Emergency relief program
23 CFR part 669—Enforcement of heavy vehicle use tax

*Federal Motor Carrier Safety Administration*

Section 610 and Other Reviews

| Year | Regulations to be reviewed | Analysis year | Review year |
|---|---|---|---|
| 1 | 49 CFR part 372, subpart A | 2008 | 2009 |
| 2 | 49 CFR part 386 | 2009 | 2010 |
| 3 | 49 CFR parts 325 and 390 (General) | 2010 | 2011 |

| Year | Regulations to be reviewed | Analysis year | Review year |
|---|---|---|---|
| 4 | 49 CFR parts 390 (Small Passenger—Carrying Vehicles), 391 to 393 and 396 to 399. | 2011 | 2012 |
| 5 | 49 CFR part 387 | 2012 | 2013 |
| 6 | 49 CFR parts 356, 367, 369 to 371, 372 (subparts B and C) | 2013 | 2014 |
| 7 | 49 CFR parts 373, 374, 376, and 379 | 2014 | 2015 |
| 8 | 49 CFR parts 360, 365, 366, and 368 | 2015 | 2016 |
| 9 | 49 CFR parts 377, 378 | 2016 | 2017 |
| 10 | 49 CFR part 395 | 2017 | 2018 |

Year 3 (Fall 2010) List of Rules With Ongoing Analysis

49 CFR part 325—Compliance with Interstate Motor Carrier Noise Emission

49 CFR part 390—Federal Motor Carrier Safety Regulations, General

Year 4 (Fall 2011) List of Rules with Ongoing Analysis

49 CFR part 390—Definition of Commercial Motor Vehicle (CMV)—Requirements for Operators of Small Passenger-Carrying CMVs.

- *This rule was moved up from Year 4 as a result of the Department's Retrospective Regulatory Review.*

49 CFR part 391—Driver Qualifications

49 CFR part 392—Driving of Commercial Motor Vehicles

49 CFR part 393—Parts and Accessories Necessary for Safe Operation

49 CFR part 396—Inspection, Repair and Maintenance of Commercial Motor Vehicles

49 CFR part 397—Transportation of Hazardous Materials; Driving and Parking Rules

49 CFR part 398—Transportation of Migrant Workers

49 CFR part 399—Employee Safety and Health Standards

Year 5 (Fall 2012) List of Rule(s) With Ongoing Analysis

49 CFR part 387—Minimum Levels of Financial Responsibility for Motor Carriers

Year 6 (Fall 2013) List of Rule(s) That Will Be Analyzed This Year

49 CFR part 356—Motor Carrier Routing Regulations

49 CFR part 367—Standards for Registration with States

49 CFR part 369—Reports of Motor Carriers

49 CFR part 370—Principles and Practices for the investigation and voluntary disposition of loss and damage claims and processing salvage

49 CFR part 371—Brokers of Property

49 CFR part 372 (subparts B and C)—Exemptions, Commercial Zones and Terminal Areas

*National Highway Traffic Safety Administration*

Section 610 and Other Reviews

| Year | Regulations to be reviewed | Analysis year | Review year |
|---|---|---|---|
| 1 | 49 CFR parts 571.223 through 571.500, and parts 575 and 579 | 2008 | 2009 |
| 2 | 23 CFR parts 1200 through 1300 | 2009 | 2010 |
| 3 | 49 CFR parts 501 through 526 and 571.213 | 2010 | 2011 |
| 4 | 49 CFR parts 571.131, 571.217, 571.220, 571.221, and 571.222 | 2011 | 2012 |
| 5 | 49 CFR parts 571.101 through 571.110, and 571.135, 571.138, and 571.139 | 2012 | 2013 |
| 6 | 49 CFR parts 529 through 578, except parts 571 and 575 | 2013 | 2014 |
| 7 | 49 CFR parts 571.111 through 571.129 and parts 580 through 588 | 2014 | 2015 |
| 8 | 49 CFR parts 571.201 through 571.212 | 2015 | 2016 |
| 9 | 49 CFR parts 571.214 through 571.219, except 571.217 | 2016 | 2017 |
| 10 | 49 CFR parts 591 through 595 and new parts and subparts | 2017 | 2018 |

Year 5 (Fall 2012) List of Rules Analyzed and a Summary of the Results

49 CFR part 571.101—Controls and Displays

- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.102—Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect

- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.103—Windshield Defrosting and Defogging Systems

- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.104—Windshield Wiping and Washing Systems

- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.105—Hydraulic and Electric Brake Systems

- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.106—Brake Hoses

- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.108—Lamps, Reflective Devices, and Associated Equipment
- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.109—New Pneumatic and Certain Specialty Tires
- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.110—Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 Kilograms (10,000 Pounds) or Less
- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.135—Light Vehicle Brake Systems
- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.138—Tire Pressure Monitoring Systems
- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.139—New Pneumatic Radial Tires for Light Vehicles
- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

Year 6 (Fall 2013) List of Rules That Will Be Analyzed During the Next Year

49 CFR part 529—Manufacturers of Multistage Automobiles
49 CFR part 531—Passenger Automobile Average Fuel Economy Standards
49 CFR part 533—Light Truck Fuel Economy Standards
49 CFR part 534—Rights and Responsibilities of Manufacturers in the Context of Changes in Corporate Relationships
49 CFR part 535— Medium- and Heavy-Duty Vehicle Fuel Efficiency Program
49 CFR part 536—Transfer and Trading of Fuel Economy Credits
49 CFR part 537—Automotive Fuel Economy Reports
49 CFR part 538—Manufacturing Incentives for Alternative Fuel Vehicles
49 CFR part 541—New Pneumatic and Certain Specialty Tires
49 CFR part 542—Procedures for Selecting Light Duty Truck Lines to be Covered by the Theft Prevention Standard
49 CFR part 543—Exemption from Vehicle Theft Prevention Standard
49 CFR part 544—Insurer Reporting Requirements
49 CFR part 545—Federal Motor Vehicle Theft Prevention Standard Phase-in and Small-Volume Line Reporting Requirements
49 CFR part 551—Procedural Rules
49 CFR part 552—Petitions for Rulemaking, Defect, and Noncompliance Orders
49 CFR part 553—Rulemaking Procedures
49 CFR part 554—Standards Enforcement and Defects Investigation
49 CFR part 555—Temporary Exemption from Motor Vehicle Safety and Bumper Standards
49 CFR part 556—Exemption for Inconsequential Defect or Noncompliance
49 CFR part 557—Petitions for Hearings on Notification and Remedy of Defects
49 CFR part 563—Event Data Recorders
49 CFR part 564—Replaceable Light Source and Sealed Beam Headlamp Information
49 CFR part 565—Vehicle Identification Number (VIN) Requirements
49 CFR part 566—Manufacturer Identification
49 CFR part 567—Certification
49 CFR part 568—Vehicles Manufactured in Two or More Stages—All Incomplete, Intermediate and Final-Stage Manufacturers of Vehicles Manufactured in Two or More Stages
49 CFR part 569—Regrooved Tires
49 CFR part 570—Vehicle In Use Inspection Standards
49 CFR part 572—Anthropomorphic Test Devices
49 CFR part 573—Defect and Noncompliance Responsibility and Reports
49 CFR part 574—Tire Identification and Recordkeeping
49 CFR part 576—Record Retention
49 CFR part 577—Defect and Noncompliance Notification
49 CFR part 578—Civil and Criminal Penalties

*Federal Railroad Administration*

Section 610 and Other Reviews

| Year | Regulations to be reviewed | Analysis year | Review year |
|---|---|---|---|
| 1 | 49 CFR parts 200 and 201 | 2008 | 2009 |
| 2 | 49 CFR parts 207, 209, 211, 215, 238, and 256 | 2009 | 2010 |
| 3 | 49 CFR parts 210, 212, 214, 217, and 268 | 2010 | 2011 |
| 4 | 49 CFR part 219 | 2011 | 2012 |
| 5 | 49 CFR parts 218, 221, 241, and 244 | 2012 | 2013 |
| 6 | 49 CFR parts 216, 228, and 229 | 2013 | 2014 |
| 7 | 49 CFR parts 223 and 233 | 2014 | 2015 |
| 8 | 49 CFR parts 224, 225, 231, and 234 | 2015 | 2016 |
| 9 | 49 CFR parts 222, 227, 235, 236, 250, 260, and 266 | 2016 | 2017 |
| 10 | 49 CFR parts 213, 220, 230, 232, 239, 240, and 265 | 2017 | 2018 |

Year 5 (Fall 2012) List of Rules Analyzed and a Summary of Results

49 CFR part 218—Railroad Operating Practices
- Section 610: There is no SEIOSNOSE.
- General: The rule prescribes minimum requirements for railroad operating rules and practices. No changes are needed. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR part 221—Rear End Marking Device—Passenger, Commuter, and Freight Trains
- Section 610: There is no SEIOSNOSE.
- General: Since the rule prescribes minimum requirements for railroads to equip the rear car of passenger, commuter and freight trains with highly visible markers it will provide safety and security not only for railroad employees but also for the general public. No changes are needed. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR part 241—United States Locational Requirement for Dispatching of United States Rail Operations
- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR part 244—Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers and Acquisitions of Control
- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. FRA's plain language review of this rule indicates no need for substantial revision.

Year 6 (Fall 2013) List of Rule(s) That Will Be Analyzed During Next Year

49 CFR part 216—Special Notice and Emergency Order Procedures: Railroad Track, Locomotive, and Equipment

49 CFR part 228—Hours of Service of Railroad Employees; Recordkeeping and Reporting; Sleeping Quarters

49 CFR part 229—Railroad Locomotive Safety Standards

*Federal Transit Administration*

Section 610 and Other Reviews

| Year | Regulations to be reviewed | Analysis year | Review year |
|---|---|---|---|
| 1 | 49 CFR parts 604, 605, and 633 | 2008 | 2009 |
| 2 | 49 CFR parts 661 and 665 | 2009 | 2010 |
| 3 | 49 CFR part 633 | 2010 | 2011 |
| 4 | 49 CFR parts 609 and 611 | 2011 | 2012 |
| 5 | 49 CFR parts 613 and 614 | 2012 | 2013 |
| 6 | 49 CFR part 622 | 2013 | 2014 |
| 7 | 49 CFR part 630 | 2014 | 2015 |
| 8 | 49 CFR part 639 | 2015 | 2016 |
| 9 | 49 CFR parts 659 and 663 | 2016 | 2017 |
| 10 | 49 CFR part 665 | 2017 | 2018 |

Year 4 (Fall 2011) List of Rules Analyzed and Summary of Results

49 CFR part 609—Transportation for Elderly and Handicapped Persons
- Section 610: The agency has determined that the rule does not have a significant effect on a substantial number of small entities.
- General: This rule was promulgated to enact the statutory requirements of sections 49 U.S.C. 5307(d) and 5308(b) to establish requirements for determining the maximum fare for the transportation of elderly persons and persons with disabilities during a public transportation's period of off-peak hours. Recently, Congress enacted the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141, (2012). The underlying purpose for the rule was unchanged by Map§21; however, the reference to maximum fares in section 5308(b) was repealed long ago and MAP–21 amended 49 U.S.C. section 5307. Therefore, in Fiscal Year 2014, FTA plans to issue a rulemaking to implement technical corrections to the authority and applicability sections of 49 CFR part 609.

49 CFR part 611—Major Capital Investment Projects
- Section 610: The agency has determined that the rule does not have a significant effect on a substantial number of small entities. FTA recently revised the rule and evaluated the likely effects of the final rule on small entities and requested public comment during the rulemaking process. FTA determined that the rule does not have a significant economic impact on a substantial number of small entities because small entities do not generally undertake the development of major capital projects. There were no public comments submitted on this issue during the rulemaking process.
- General: FTA revised part 611 via a final rule in January 2013, in order to implement recent MAP–21 amendments to 49 U.S.C. section 5309 (*see* 78 Fed. Reg. 1992). The ''New Starts'' and ''Small Starts'' programs authorized by section 5309 are FTA's primary capital funding programs for new or extended transit systems. Part 611 of the Code of Federal Regulations outlines the process by which FTA rates and evaluates grants proposals for these programs. With the revised rule, FTA has significantly streamlined its evaluation process for both programs.

Year 5 (Fall 2012) List of Rule(s) Analyzed and Summary of Results

49 CFR part 613—Planning Assistance and Standards
- Section 610: The Agency has determined that the rule does not have a significant effect on a substantial number of small entities because it is only applicable to States and metropolitan planning organizations which are not included in the definition of small entity as set forth in 5 U.S.C. 601.
- General: The rule was promulgated to govern the development of metropolitan transportation plans and programs for urbanized areas, State transportation plans and programs, and the congestion management process. Recently, Congress amended the planning statutes when it enacted the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law

112–141, (2012). In Fiscal Year 2014, FTA will undertake a joint notice of proposed rulemaking with FHWA in order to revise the regulations consistent with current statutory requirements. In doing so, FHWA and FTA will propose establishing a performance-based approach to transportation decisionmaking.

49 CFR part 614—Transportation Infrastructure Management

- Section 610: The Agency has determined that the rule does not have a significant effect on a substantial number of small entities as it only cross-references 23 CFR part 500, a FHWA regulation which is applicable to States.
- General: No changes are needed at this time. However, FTA will continue to work with FHWA to assess whether or not technology will warrant revisions to the regulation.

Year 6: List of Rules That Will Be Analyzed During the Next Year

49 CFR part 622—Environmental Impact and Related Procedures

*Maritime Administration*

Section 610 and Other Reviews

| Year | Regulations to be reviewed | Analysis year | Review year |
|---|---|---|---|
| 1 | 46 CFR parts 201 through 205 | 2008 | 2009 |
| 2 | 46 CFR parts 221 through 232 | 2009 | 2010 |
| 3 | 46 CFR parts 249 through 296 | 2010 | 2011 |
| 4 | 46 CFR parts 221, 298, 308, and 309 | 2011 | 2012 |
| 5 | 46 CFR parts 307 through 309 | 2012 | 2013 |
| 6 | 46 CFR part 310 | 2013 | 2014 |
| 7 | 46 CFR parts 315 through 340 | 2014 | 2015 |
| 8 | 46 CFR parts 345 through 381 | 2015 | 2016 |
| 9 | 46 CFR parts 382 through 389 | 2016 | 2017 |
| 10 | 46 CFR parts 390 through 393 | 2017 | 2018 |

Year 4 (Fall 2011) List of Rules With Ongoing Analysis

46 CFR part 381—Cargo Preference—U.S.-Flag Vessels

46 CFR part 383—Cargo Preference—Compromise, Assessment, Mitigation, Settlement & Collection of Civil Penalties

46 CFR part 221—Foreign Transfer Regulations

46 CFR part 249—Approval of Underwriters for Marine Hull Insurance

46 CFR part 272—Requirements and Procedures for Conducting Condition Surveys and Administering Maintenance and Repair Subsidy

46 CFR part 287—Establishment of Construction Reserve Funds

46 CFR part 295—Maritime Security Program (MSP)

46 CFR part 296—Maritime Security Program (MSP)

Year 5 (2012) List of Rules With Ongoing Analysis

46 CFR part 307—Mandatory Position Report System for Vessels

46 CFR part 308—War Risk Insurance

46 CFR part 309—War Risk Ship Valuation

Year 6 (2013) List of Rules That Will Be Analyzed During the Next Year

46 CFR part 310—Merchant Marine Training

*Pipeline and Hazardous Materials Safety Administration (PHMSA)*

Section 610 and Other Reviews

| Year | Regulations to be reviewed | Analysis year | Review year |
|---|---|---|---|
| 1 | 49 CFR part 178 | 2008 | 2009 |
| 2 | 49 CFR parts 178 through 180 | 2009 | 2010 |
| 3 | 49 CFR parts 172 and 175 | 2010 | 2011 |
| 4 | 49 CFR part 171, sections 171.15 and 171.16 | 2011 | 2012 |
| 5 | 49 CFR parts 106, 107, 171, 190, and 195 | 2012 | 2013 |
| 6 | 49 CFR parts 174, 177, 191, and 192 | 2013 | 2014 |
| 7 | 49 CFR parts 176 and 199 | 2014 | 2015 |
| 8 | 49 CFR parts 172 through 178 | 2015 | 2016 |
| 9 | 49 CFR parts 172, 173, 174, 176, 177, and 193 | 2016 | 2017 |
| 10 | 49 CFR parts 173 and 194 | 2017 | 2018 |

Year 5 (Fall 2012) List of Rules Analyzed and a Summary of Results

49 CFR part 106—Rulemaking Procedures;

49 CFR part 107—Hazardous Materials Program Procedures; and

49 CFR part 171—General Information, Regulations, and Definitions

- Section 610: There is no SEIOSNOSE. On May 9, 2013 (78 FR 27169) PHMSA published the intent to review and analyze regulations in its Unified Agenda and Regulatory Plan to identify requirements which may have a significant impact on a substantial number of small entities. Specifically, PHMSA provided an initial review and requested comments on the impact of the rules in 49 CFR parts 106, 107, and 171 on small businesses. In addition, PHMSA asked the following questions of small businesses:

1. How and to what degree these rules affect you;

2. Any complaints or comments you may have concerning the covered rules;

3. The complexity of the covered rules;

4. The extent to which the rules overlap, duplicate or conflict with other Federal rules, and to the extent feasible, with State and local Government rules; and

5. The extent of the economic impact on you and why you believe the economic impact is significant.''

Two comments were received in response to the notice (notice and comments are available for review at: *http://www.regulations.gov;* under Docket No. PHMSA–2013–0027). The comments did not directly relate to the rules under review or the impacts those rules on small businesses. Based on PHMSA's initial review of these rules and evaluation of the comments received, the Agency has determined that the rules do not have a significant effect on a substantial number of small entities.

- General: No changes are needed. These regulations are cost effective and impose the least burden. PHMSA's plain language review of this rule indicates no need for substantial revision.

49 CFR part 190—Pipeline Safety Programs and Rulemaking Procedures

- Section 610: There is no SEIOSNOSE. Based on regulated entities, PHMSA found that the majority of operators are not small businesses. Therefore, though some small entities may be affected the economic impact on small entities will not be significant.
- General: No changes are needed. These regulations are cost effective and impose the least burden. PHMSA's plain language review indicates no need for substantial revision.

49 CFR part 195—Transportation of Hazardous Liquids by Pipeline

- Section 610: There is no SEIOSNOSE. Based on regulated entities, PHMSA found that the majority of operators are not small businesses. Therefore, though some small entities may be affected the economic impact on small entities will not be significant.
- General: No changes are needed. These regulations are cost effective and impose the least burden. PHMSA's plain language review indicates no need for substantial revision.

Year 6 (Fall 2013) List of Rules That Will Be Analyzed During the Next Year

49 CFR part 174—Carriage by Rail

49 CFR part 177—Carriage by Public Highway

49 CFR part 191—Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety Related Condition Reports

49 CFR part 192— Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards

*Research and Innovative Technology Administration (RITA)*

Section 610 and Other Reviews

| Year | Regulations to be reviewed | Analysis year | Review year |
|---|---|---|---|
| 1 | 14 CFR part 241, form 41 | 2008 | 2009 |
| 2 | 14 CFR part 241, schedule T–100, and part 217 | 2009 | 2010 |
| 3 | 14 CFR part 298 | 2010 | 2011 |
| 4 | 14 CFR part 241, section 19–7 | 2011 | 2012 |
| 5 | 14 CFR part 291 | 2012 | 2013 |
| 6 | 14 CFR part 234 | 2013 | 2014 |
| 7 | 14 CFR part 249 | 2014 | 2015 |
| 8 | 14 CFR part 248 | 2015 | 2016 |
| 9 | 14 CFR part 250 | 2016 | 2017 |
| 10 | 14 CFR part 374a, ICAO | 2017 | 2018 |

Year 1 (Fall 2008) List of Rules With Ongoing Analysis

14 CFR part 241—Uniform System of Accounts and Reports for Large Certificated Air Carriers, Form 41

Year 3 (Fall 2010) List of Rules With Ongoing Analysis

14 CFR part 298, subpart f—Exemptions for Air Taxi and Commuter Air Carrier Operations—Reporting Requirements

Year 4 (Fall 2011) List of Rules With Ongoing Analysis

14 CFR part 241, section 19–7—Passenger Origin-Destination Survey

Year 5 (Fall 2012) List of Rules With Ongoing Analysis

14 CFR part 291—Cargo Operations in Interstate Air Transportation

Year 6 (Fall 2013) List of Rules That Will Be Analyzed During the Next Year

14 CFR Part 234—Airline Service Quality Performance Reports

*Saint Lawrence Seaway Development Corporation*

Section 610 and Other Reviews

| Year | Regulations to be reviewed | Analysis year | Review year |
|---|---|---|---|
| 1 | 33 CFR parts 401 through 403 | 2008 | 2009 |

Year 1 (Fall 2008) List of Rules With Ongoing Analysis

33 CFR part 401—Seaway Regulations and Rules

33 CFR part 402—Tariff of Tolls

33 CFR part 403—Rules of Procedure of the Joint Tolls Review Board

## OFFICE OF THE SECRETARY—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 358 | + Enhancing Airline Passenger Protections III | 2105–AE11 |

+ DOT-designated significant regulation.

## OFFICE OF THE SECRETARY—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 359 | + 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. |
|---|---|---|
| 360 | + Operation and Certification of Small Unmanned Aircraft Systems (sUAS) | 2120–AJ60 |
| 361 | + Flight Crewmember Mentoring, Leadership, and Professional Development (H.R. 5900) | 2120–AJ87 |
| 362 | + Flight Simulation Training Device (FSTD) Qualification Standards for Extended Envelope and Adverse Weather Event Training. | 2120–AK08 |

+ DOT-designated significant regulation.

## FEDERAL AVIATION ADMINISTRATION—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 363 | + Safety Management Systems for Part 121 Certificate Holders **(Section 610 Review) (Reg Plan Seq No. 104)**. | 2120–AJ86 |

+ DOT-designated significant regulation.
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## FEDERAL AVIATION ADMINISTRATION—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 364 | + Air Carrier Maintenance Training Program **(Section 610 Review)** | 2120–AJ79 |

+ DOT-designated significant regulation.

## FEDERAL AVIATION ADMINISTRATION—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 365 | + Pilot Certification and Qualification Requirements (Formerly First Officer Qualification Requirements) (H.R. 5900). | 2120–AJ67 |

+ DOT-designated significant regulation.

## FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 366 | + Carrier Safety Fitness Determination **(Reg Plan Seq No. 108)** | 2126–AB11 |
| 367 | + Commercial Driver's License Drug and Alcohol Clearinghouse (MAP–21) **(Reg Plan Seq No. 109)** | 2126–AB18 |
| 368 | + Electronic Logging Devices and Hours of Service Supporting Documents (MAP–21) **(Reg Plan Seq No. 110)**. | 2126–AB20 |
| 369 | + Lease and Interchange of Vehicles; Motor Carriers of Passengers | 2126–AB44 |
| 370 | + Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (RRR) | 2126–AB46 |

+ DOT-designated significant regulation.
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 371 | + Unified Registration System | 2126–AA22 |

+ DOT-designated significant regulation.

FEDERAL RAILROAD ADMINISTRATION—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 372 | + Alcohol and Controlled Substance Testing for Maintenance-of-Way Employees | 2130–AC10 |
| 373 | + Risk Reduction Program | 2130–AC11 |
| 374 | + Passenger Equipment Safety Standards; Standards for Alternative Compliance and High-Speed Trainsets. | 2130–AC46 |

+ DOT-designated significant regulation.

FEDERAL RAILROAD ADMINISTRATION—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 375 | + Training Standards for Railroad Employees | 2130–AC06 |

+ DOT-designated significant regulation.

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 376 | + Pipeline Safety: Safety of On-Shore Liquid Hazardous Pipelines **(Reg Plan Seq No. 118)** | 2137–AE66 |
| 377 | Pipeline Safety: Issues related to the use of Plastic Pipe in Gas Pipeline Industry | 2137–AE93 |
| 378 | Pipeline Safety: Operator Qualification, Cost Recovery and other Pipeline Safety Proposed Changes (RRR). | 2137–AE94 |

+ DOT-designated significant regulation.
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 379 | + Hazardous Materials: Revisions to Requirements for the Transportation of Lithium Batteries | 2137–AE44 |

+ DOT-designated significant regulation.

MARITIME ADMINISTRATION—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 380 | + 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. | 2133–AB74 |

+ DOT-designated significant regulation.

## DEPARTMENT OF TRANSPORTATION (DOT)

*Office of the Secretary (OST)*

Proposed Rule Stage

### 358. + 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 |
|---|---|---|
| NPRM ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Blane A Workie, Attorney, Department of Transportation, Office of the Secretary, 1200 New Jersey Ave. 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)*

Completed Actions

### 359. + 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 ..... | 11/12/13 | 78 FR 67918 |
| Final Action Effective. | 01/13/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Blane A Workie, Attorney, Department of Transportation, Office of the Secretary, 1200 New Jersey Ave. 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

### 360. + Operation and Certification of Small Unmanned Aircraft Systems (SUAS)

*Legal Authority:* 49 U.S.C. 44701; Pub. L. 112–95

*Abstract:* This rulemaking would adopt specific rules for the operation of small unmanned aircraft systems (sUAS) in the national airspace system. These changes would address the classification of small unmanned aircraft, certification of their pilots and visual observers, registration, approval of operations, and operational limits in order to increase the safety and efficiency of the national airspace system. The rulemaking would result in regular collection of safety data from the user community and aid the FAA in assessing effectiveness of regulations to expand sUAS access to the national airspace system.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/14 | |

*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

### 361. + 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 ..... | 12/00/13 | |

*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

### 362. + Flight Simulation Training Device (FSTD) Qualification Standards for Extended Envelope and Adverse Weather Event Training

*Legal Authority:* 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 44701; Pub. L. 111–216

*Abstract:* This rulemaking would amend evaluation qualifications for simulators to ensure the simulators are technically capable of performing new flight training tasks as identified in the Airline Safety and Federal Aviation Administration Extension Act of 2010 (Pub. L. 111–216) and that are included in a separate rulemaking (2120–AJ00). By ensuring the simulators provide an accurate and realistic simulation, this rulemaking would allow for training on the following tasks: (1) Full/ aerodynamic stall, and (2) upset recognition and recovery, as identified in Pub. L. 111–216. Furthermore, this rulemaking would improve the minimum FSTD evaluation requirements for gusting crosswinds (takeoff/landing), engine and airframe icing, and bounced landing recovery methods in response to NTSB and Aviation Rulemaking Committee recommendations. The intended effect is to ensure an adequate level of simulator fidelity.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Larry McDonald, Department of Transportation, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320, *Phone:* 404–474–5620, *Email: larry.e.mcdonald@faa.gov.*

*RIN:* 2120–AK08

## DEPARTMENT OF TRANSPORTATION (DOT)

*Federal Aviation Administration (FAA)*

Final Rule Stage

### 363. + Safety Management Systems for Part 121 Certificate Holders (Section 610 Review)

Regulatory Plan: This entry is Seq. No. 104 in part II of this issue of the **Federal Register**.

*RIN:* 2120–AJ86

## DEPARTMENT OF TRANSPORTATION (DOT)

*Federal Aviation Administration (FAA)*

**Long-Term Actions**

### 364. + Air Carrier Maintenance Training Program (Section 610 Review)

*Legal Authority:* 49 U.S.C. 44101; 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. 44701; 49 U.S.C. 44702; 49 U.S.C. 44705; 49 U.S.C. 44709 to 47111; 49 U.S.C. 44713; 49 U.S.C. 44715; 49 U.S.C. 44716; 49 U.S.C. 44717; 49 U.S.C. 44722; 49 U.S.C. 46105

*Abstract:* This rulemaking would require FAA approval of maintenance training programs of air carriers that operate aircraft type certificated for a passenger seating configuration of 10 seats or more (excluding any pilot seat). The intent of this rulemaking is to reduce the number of accidents and incidents caused by human error, improper maintenance, inspection, or repair practices.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Undetermined ..... | To Be Determined | |

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* John J Hiles, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 950 L'Enfant Plaza North SW., Washington, DC 20591,*Phone:* 202–385–6421,*Email: john.j.hiles@faa.gov*.

*RIN:* 2120–AJ79

## DEPARTMENT OF TRANSPORTATION (DOT)

*Federal Aviation Administration (FAA)*

Completed Actions

### 365. + 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 Pub. L. 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 ..... | 07/15/13 | 78 FR 42324 |
| Final Rule Effective. | 07/15/13 | |
| Correction ..... | 07/25/13 | 78 FR 44873 |
| Correction ..... | 07/26/13 | 78 FR 45055 |

*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

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION (DOT)

*Federal Motor Carrier Safety Administration (FMCSA)*

Proposed Rule Stage

### 366. + Carrier Safety Fitness Determination

Regulatory Plan: This entry is Seq. No. 108 in part II of this issue of the **Federal Register**.

*RIN:* 2126–AB11

### 367. + Commercial Driver's License Drug and Alcohol Clearinghouse (MAP–21)

Regulatory Plan: This entry is Seq. No. 109 in part II of this issue of the **Federal Register**.

*RIN:* 2126–AB18

### 368. + Electronic Logging Devices and Hours of Service Supporting Documents (MAP–21)

Regulatory Plan: This entry is Seq. No. 110 in part II of this issue of the **Federal Register**.

*RIN:* 2126–AB20

### 369. + Lease and Interchange of Vehicles; Motor Carriers of Passengers

*Legal Authority:* 49 U.S.C. 31502; 49 U.S.C. 13301; 49 U.S.C. 31136

*Abstract:* The rulemaking would adopt regulations governing the lease and interchange of passenger vehicles to: (1) identify the motor carrier operating a bus or motorcoach and responsible for compliance with the Federal Motor Carrier Safety Regulations; (2) ensure that a lessor surrenders control of the vehicle for the full term of the lease or temporary exchange of vehicles and drivers; and (3) require motor carriers subject to a prohibition on operating in interstate commerce to notify FMCSA in writing before leasing or otherwise transferring control of their vehicles to other carriers. This action is necessary to ensure that unsafe passenger carriers cannot evade FMCSA oversight and enforcement by operating under the authority of another carrier that exercises no actual control over those operations. This action will ensure that FMCSA, the National Transportation Safety Board (NTSB), and our State partners are able to identify motor carriers transporting passengers in interstate commerce and correctly assign responsibility for regulatory violations during inspections, compliance investigations, and crash studies. It also provides the general public with the means to identify the responsible motor carrier at the time of transportation. While detailed lease and

interchange regulations for cargo-carrying vehicles have been in effect since 1950, this rulemaking for passenger-carrying CMVs would focus entirely on operational safety.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 09/20/13 | 78 FR 57822 |
| NPRM Comment Period End. | 11/19/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* David Miller, Regulatory Development Division, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590,*Phone:* 202–366–5370,*Email: fmcsaregs@dot.gov*.

*RIN:* 2126–AB44

**370. + Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (RRR)**

*Legal Authority:* 49 U.S.C. 31502(b)

*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 responds in part to the President's January 2012 Regulatory Review and Reform initiative.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 08/07/13 | 78 FR 48125 |
| NPRM Comment Period End. | 10/00/14 | |

*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)*

Completed Actions

**371. + 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 four 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 provide 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, motor carriers, brokers, freight forwarders, and others required to register with the Department of Transportation.

*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 ..... | 08/23/13 | 78 FR 52608 |
| Final Rule Effective. | 10/23/15 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Genevieve Sapir, Management Analyst, Department of Transportation, Federal Motor Carrier Safety Administration, Office of Policy (MC–CCR), 1200 New Jersey Avenue SE., Washington, DC 20590,*Phone:* 202 366–7056,*Email: genevieve.sapir@dot.gov*.

*RIN:* 2126–AA22

BILLING CODE 4910–EX–P

## DEPARTMENT OF TRANSPORTATION (DOT)

*Federal Railroad Administration (FRA)*

Proposed Rule Stage

**372. + Alcohol and Controlled Substance Testing for Maintenance-of-Way Employees**

*Legal Authority:* Pub. L. 220–432, Div A, 122 Stat 4848 *et seq.;* Rail Safety Improvement Act of 2008; sec 412 (uncodified)

*Abstract:* This rulemaking would revise the Federal Railroad Administration´s (FRA) alcohol and drug regulations to cover all employees of railroads, railroad contractors, and subcontractors who perform maintenance-of-way activities. FRA's alcohol and drug regulations (49 CFR part 219) contain certain prohibitions on the use and possession of alcohol and drugs. The regulations also contain requirements for post-accident toxicological (PAT) testing, random testing, reasonable cause testing, reasonable suspicion testing, co-worker and voluntary referral policies, pre-employment drug testing, and reporting. Currently, the regulations only apply to covered employees (defined as employees assigned to perform covered service subject to the Hours of Service Act, 49 CFR chapter 211). In response to a statutory mandate, the proposed rulemaking would expand coverage of part 219 to employees who perform maintenance-of-way (MOW) activities. This rulemaking would also make other miscellaneous updates to 14 CFR part 219.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/14 | |

*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–AC10

**373. + Risk Reduction Program**

*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 consider appropriate contents for Risk Reduction Programs and how they should be implemented and reviewed by FRA.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 12/08/10 | 75 FR 76345 |
| ANPRM Comment Period End. | 02/07/11 | |
| NPRM | 04/00/14 | |

*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

**374. • + Passenger Equipment Safety Standards; Standards for Alternative Compliance and High–Speed Trainsets**

*Legal Authority:* 49 U.S.C. 20103

*Abstract:* This rulemaking would amend 49 CFR part 238 to update existing safety standards for passenger rail equipment. Specifically, the proposed rulemaking would add standards for alternative compliance with requirements for Tier I passenger equipment, increase the maximum authorized speed for Tier II passenger equipment, and add requirements for a new Tier III category of passenger equipment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 06/00/14 | |

*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–AC46

## DEPARTMENT OF TRANSPORTATION (DOT)

*Federal Railroad Administration (FRA)*

Final Rule Stage

**375. + Training Standards for Railroad Employees**

*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 by requiring railroads, contractors, and subcontractors to qualify and document the proficiency of such employees on 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 the training and qualification programs for FRA approval; and (3) establish a minimum training curriculum and ongoing training criteria, testing, and skills evaluation measures.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 02/07/12 | 77 FR 6412 |
| NPRM Comment Period End. | 04/09/12 | |
| Final Rule | 04/00/14 | |

*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

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION (DOT)

*Pipeline and Hazardous Materials Safety Administration (PHMSA)*

Proposed Rule Stage

**376. + Pipeline Safety: Safety of On-Shore Liquid Hazardous Pipelines**

Regulatory Plan: This entry is Seq. No. 118 in part II of this issue of the **Federal Register**.

*RIN:* 2137–AE66

**377. Pipeline Safety: Issues Related to the Use of Plastic Pipe in Gas Pipeline Industry**

*Legal Authority:* 49 U.S.C. 60101 *et seq.*

*Abstract:* This rulemaking would address a number of issues related to the use of plastic pipe in the gas pipeline industry. These issues include composite pipe petitions, plastic issues on gas lines, authorized use of PA12 at higher pressures, 50 year markings, increasing design factor from 0.32 to 0.40 for polyethylene pipe, characterization of ''plastic pipe'' to ''non-metallic pipe,'' leak repair revisions, incorporation by reference certain ANSI standards and enhanced tracking and traceability of lines.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Cameron H Satterthwaite, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 366–8553, *Email: cameron.satterthwaite@dot.gov.*

*RIN:* 2137–AE93

**378. Pipeline Safety: Operator Qualification, Cost Recovery and Other Pipeline Safety Proposed Changes (RRR)**

*Legal Authority:* 49 U.S.C. 60101 *et seq.*

*Abstract:* This rulemaking would 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 | 11/00/13 | |

*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

**379. + 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 | |
| Notice | 04/11/12 | 77 FR 21714 |
| Comment Period End. | 05/11/12 | |
| NPRM; Request for Additional Comments. | 01/07/13 | 78 FR 1119 |
| Comment Period End. | 03/08/13 | |
| Final Rule | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Kevin Leary, Transportation Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590,*Phone:* 202 366–8553, *Email: kevin.leary@dot.gov.*

*RIN:* 2137–AE44

**BILLING CODE 4910–60–P**

## DEPARTMENT OF TRANSPORTATION (DOT)

*Maritime Administration (MARAD)*

Long-Term Actions

### 380. + 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

*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 update and clarify the Cargo Preference rules that have not been revised substantially since 1971.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Next Action Undetermined. | To Be Determined | |

*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. 2013–29637 Filed 1–6–14; 8:45 am]

**BILLING CODE 4910–81–P**

# FEDERAL REGISTER

Vol. 79 Tuesday,
No. 4 January 7, 2014

Part XIV

## Department of the Treasury

Semiannual Regulatory Agenda

## DEPARTMENT OF THE TREASURY

### 31 CFR Subtitles A and B

### Semiannual Agenda and Fiscal Year 2014 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 (EO) 12866 (''Regulatory Planning and Review''), which require the publication by the Department of a semiannual agenda of regulations. EO 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: August 27, 2013.

**Brian J. Sonfield,**

*Deputy Assistant General Counsel for General Law and Regulation.*

COMPTROLLER OF THE CURRENCY—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 381 | Strengthening Tier 1 Capital Other Capital Enhancements, Standardized Approach (Basel III) | 1557–AD46 |

INTERNAL REVENUE SERVICE—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 382 | Reporting and Notice Requirements Under Section 6056 | 1545–BL26 |

## DEPARTMENT OF THE TREASURY (TREAS)

*Comptroller of the Currency (OCC)*

Completed Actions

### 381. Strengthening Tier 1 Capital Other Capital Enhancements, Standardized Approach (Basel III)

*Legal Authority:* 12 U.S.C. 1 *et seq.;* 12 U.S.C. 24a; 12 U.S.C. 93a; 12 U.S.C. 161; 12 U.S.C. 215a–2; 12 U.S.C. 215a–3; 12 U.S.C. 481; 12 U.S.C. 1462 to 1462a; 12 U.S.C. 1463 to 1464; 12 U.S.C. 1467a; 12 U.S.C. 1818; 12 U.S.C. 1828 note; 12 U.S.C. 1828(n); 12 U.S.C. 1831n note; 12 U.S.C. 1831o; 12 U.S.C. 1835; 12 U.S.C. 3907; 12 U.S.C. 3909; 12 U.S.C. 5412(b)(2)(B)

*Abstract:* Regulatory Capital Rules—Basel III (12 CFR parts 3, 5, 6, 165, 167). The banking agencies (OCC and Board of Governors of the Federal Reserve System (Federal Reserve) have issued a final rule that revises their risk-based and leverage capital requirements for banking organizations. (The Federal Deposit Insurance Corporation (FDIC) separately issued an interim final rule that is substantively the same as the OCC and Federal Reserve final rule.) The final rule consolidates three separate proposed rules that the banking agencies published on August 30, 2012 (77 FR 52792, 52888, 52978), into one final rule. The final rule implements a revised definition of regulatory capital, a new common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for banking organizations subject to the advanced approaches risk-based capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator. The final rule incorporates new requirements into the banking agencies' prompt corrective action framework and establishes limits on a banking organization's capital distributions and certain discretionary bonus payments if the banking organization does not hold a specified amount of common equity tier 1 capital in addition to the amount necessary to meet its minimum risk-based capital requirements. The final rule amends the methodologies for determining risk-weighted assets for all banking organizations, and introduces disclosure requirements that would apply to top-tier banking organizations domiciled in the United States with $50 billion or more in total assets. The final rule also adopts changes required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111–203) to implement more stringent capital and leverage requirements and to replace regulatory references to credit ratings with new creditworthiness measures. In addition, the OCC has amended the market risk capital rule to apply to Federal savings associations. The final rule was published on October 11, 2013. 78 FR 62018.

*Completed:*

| Reason | Date | FR Cite |
|---|---|---|
| Final Action ..... | 10/11/13 | 78 FR 62018 |
| Final Action Effective. | 01/01/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Carl Kaminski, *Phone:* 202 649–6294, *Email: carl.kaminski@occ.treas.gov*.

*RIN:* 1557–AD46

## DEPARTMENT OF THE TREASURY (TREAS)

*Internal Revenue Service (IRS)*

Proposed Rule Stage

### 382. 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 ..... | 12/00/13 | |

*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

[FR Doc. 2013–29638 Filed 1–6–14; 8:45 am]

BILLING CODE 4810–25–P

# FEDERAL REGISTER

Vol. 79 Tuesday,
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Part XV

## 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—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 383 ..... | Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way **(Reg Plan Seq No. 121)** ..... | 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—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 384 ..... | Americans With Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels ..... | 3014–AA11 |

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Final Rule Stage

### 383. Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way

*Regulatory Plan:* This entry is Seq. No. 121 in part II of this issue of the **Federal Register**.

*RIN:* 3014–AA26

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Long-Term Actions

### 384. Americans With Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels

*Legal Authority:* 42 U.S.C. 12204, Americans With Disabilities Act of 1990

*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.

*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 |
| Notice of Intent to Establish Advisory Committee. | 06/25/07 | 72 FR 34653 |
| Establishment of Advisory Committee. | 08/13/07 | 72 FR 45200 |
| NPRM ..... | 06/25/13 | 78 FR 38102 |
| NPRM Comment Period Extended. | 08/13/13 | 78 FR 49248 |
| NPRM Comment Period End. | 01/24/14 | |
| Final Action ..... | 07/00/15 | |

*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–AA11

[FR Doc. 2013–29639 Filed 1–6–14; 8:45 am]

**BILLING CODE 8150–01–P**

# FEDERAL REGISTER

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Part XVI

## Environmental Protection Agency

Semiannual Regulatory Agenda

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Ch. I

**[EPA–HQ–OAR–2012–0313, EPA–HQ–OW–2012–0813, EPA–HQ–OAR–2013–0642; FRL 9900–64–OP]**

### Fall 2013 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 policymakings completed or canceled since 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 facilitated by the General Service Administration.

''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 H 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.caryn@epa.gov;* 202–564–2855).

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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 13563, ''Improving Regulation and Regulatory Review'' (76 FR 3821, Jan. 21, 2011); 12898, ''Environmental Justice'' (59 FR 7629, Feb. 16, 1994); 13045, ''Children's Health Protection'' (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 has begun reviewing its existing regulations under Executive Order (EO) 13563, ''Improving Regulation and Regulatory Review.'' 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 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 other type of 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. 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.

The Regulatory Flexibility Agenda includes:

- Actions likely to have a significant economic impact on a substantial number of small entities.
- Rules the Agency has identified for periodic review under section 610 of the RFA.

EPA is opening one 610 review and concluding one other in fall 2013. One 610 review remains ongoing during this time.

**E. How is the E-Agenda organized?**

You can choose how to organize the agenda entries online by specifying the characteristics of the entries of interest in the desired individual data fields for both the *www.reginfo.gov* and *www.regulations.gov* versions of the e-Agenda. You can sort based on the following characteristics: EPA sub agency; 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.

Each entry in the Agenda is associated with one of five rulemaking stages. The rulemaking stages are:

1. Prerule Stage—This section includes EPA actions generally intended to determine whether the agency should initiate rulemaking. Prerulemakings 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.
2. Proposed Rule Stage—This section includes EPA rulemaking actions that are within a year of proposal (publication of Notices of Proposed Rulemakings [NPRMs]).
3. Final Rule Stage—This section includes rules that will be issued as a final rule within a year.
4. Long-Term Actions—This section includes rulemakings for which the next scheduled regulatory action is after December 2012. 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.
5. Completed Actions—This section contains actions that have been promulgated and published in the **Federal Register** since publication of the spring 2013 Agenda. It also includes actions that EPA is no longer considering and has elected to ''withdraw.'' EPA also announces the results of any RFA section 610 review in this section of the agenda.

**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 (E-Agenda) has more extensive information on each of these actions.

E-Agenda entries include:

*Title:* a brief description of the subject of the regulation. 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.

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.

*Major:* a rule is ''major'' under 5 U.S.C. 801 (Pub. L. 104–121) 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.

*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.

*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 (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 06/00/14 means the agency is predicting the month and year the action will take place but not the day it will occur. 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.

*Energy Impacts:* Indicates whether the action is a significant energy action under Executive Order 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://www2.epa.gov/laws-regulations/actions-initiated-month* where you will also find information about how to get an email notification when a new list is posted.

**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

2. 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 search, display, and data transmission options. Subject Matter EPA Web sites

Some actions listed in the Agenda include a URL that provides additional information about the action.

3. Public Dockets

When EPA publishes either an Advance Notice of Proposed Rulemaking (ANPRM) or a Notice of Proposed Rulemaking (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.

**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. EPA is opening one 610 review and concluding one other in fall 2013. One 610 review remains ongoing during this time.

| Review Title | RIN | Docket ID No. |
|---|---|---|
| Section 610 Review of Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel ... | 2060–AR91 | EPA–HQ–OAR–2013–0642 |
| Section 610 Review of National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitations Guidelines Standards for Concentrated Animal Feeding Operations. | 2040–AF46 .. | EPA–HQ–OW–2012–0813 |
| Section 610 Review of Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements (Completed). | 2060–AR83 | EPA–HQ–OAR–2012–0313 |

EPA established an official public dockets for each 610 Review under the docket identification (ID) numbers indicated above. All documents in the dockets are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available; e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air or Water dockets, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744.

**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: August 28, 2013.

**Shannon Kenny,**

*Principal Deputy Associate Administrator, Office of Policy.*

## 10—PRERULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 385 ..... | Section 610 Review of Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel **(Section 610 Review)**. | 2060–AR91 |

## 10—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 386 ..... | SAN No. 5367 National Emission Standards for Hazardous Air Pollutants (NESHAP): Brick and Structural Clay Products Manufacturing and Clay Ceramics Manufacturing. | 2060–AP69 |
| 387 ..... | Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces, and New Residential Masonry Heaters. | 2060–AP93 |
| 388 ..... | General Permits and Permits by Rule for the Tribal Minor New Source Review Program ..... | 2060–AR98 |

## 10—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 389 ..... | Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards **(Reg Plan Seq No. 130)**. | 2060–AQ86 |

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

10—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 390 | Section 610 Review of Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements **(Completion of a Section 610 Review)**. | 2060–AR83 |

35—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 391 | Formaldehyde Emissions Standards for Composite Wood Products **(Reg Plan Seq No. 133)** | 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. |
|---|---|---|
| 392 | Financial Responsibility Requirements under CERCLA Section 108(b) for Classes of Facilities in the Hard Rock Mining Industry. | 2050–AG61 |

70—PRERULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 393 | Section 610 Review of National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitations Guidelines Standards for Concentrated Animal Feeding Operations **(Section 610 Review)**. | 2040–AF46 |

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

*10*

Prerule Stage

### 385. • Section 610 Review of Control of Emissions of Air Pollution From Nonroad Diesel Engines and Fuel (Section 610 Review)

*Legal Authority:* 5 U.S.C. 610

*Abstract:* The rulemaking ''Control of Emissions of Air Pollution From Nonroad Diesel Engines and Fuel'' was finalized by EPA in June 2004 (69 FR 38958, June 29, 2004). This program set new emission standards for nonroad diesel engines, and fuel standards requiring sulfur reductions in nonroad diesel fuel. EPA developed a Small Entity Compliance Guide, which provides descriptions of the regulations and small entity provisions, Q&As, and other helpful compliance information. This new entry in the regulatory agenda announces that EPA will review this action pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610) to determine if the provisions that could affect small entities should be continued without change, or should be rescinded or amended to minimize adverse economic impacts on small entities. As part of this review, EPA will consider and solicit comments on the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which the technology, economic conditions or other factors have changed in the area affected by the rule. Comments must be received within 60 days of this notice. In submitting comments, please reference Docket ID EPA–HQ–OAR–2013–0642 and follow the instructions provided in the preamble to this issue of the Regulatory Agenda. This docket can be accessed at *www.regulations.gov*.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Final Rule | 06/29/04 | 69 FR 38958 |
| Begin Review | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Tom Eagles, Environmental Protection Agency, Air and Radiation, 6103A, Washington, DC 20460, *Phone:* 202 564–1952, *Fax:* 202 564–1554, *Email: eagles.tom@epamail.epa.gov.*

*RIN:* 2060–AR91

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

*10*

Proposed Rule Stage

### 386. National Emission Standards for Hazardous Air Pollutants (NESHAP): Brick and Structural Clay Products Manufacturing and Clay Ceramics Manufacturing

*Legal Authority:* Clean Air Act

*Abstract:* This rulemaking will establish emission limits for hazardous air pollutants (hydrogen flouride (HF), hydrogen chloride (HCl) and metals) emitted from brick and clay ceramics kilns, as well as dryers and glazing operations at clay ceramics production facilities. The brick and structural clay products industry primarily includes facilities that manufacture brick, clay, pipe, roof tile, extruded floor and wall tile, and other extruded dimensional clay products from clay, shale, or a combination of the two. The manufacturing of brick and structural clay products involves mining, raw material processing (crushing, grinding, and screening), mixing, forming, cutting or shaping, drying, and firing. Ceramics are defined as a class of inorganic, nonmetallic solids that are subject to high temperature in manufacture and/or use. The clay ceramics manufacturing source category includes facilities that

manufacture traditional ceramics, which include ceramic tile, dinnerware, sanitary ware, pottery, and porcelain. The primary raw material used in the manufacture of these traditional ceramics is clay. The manufacturing of clay ceramics involves raw material processing (crushing, grinding, and screening), mixing, forming, shaping, drying, glazing, and firing.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 02/00/14 | |
| Final Rule | 12/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jeff Telander, Environmental Protection Agency, Air and Radiation, D243–02, Research Triangle Park, NC 27711, *Phone:* 919 541–5427, *Fax:* 919 541–5600, *Email: telander.jeff@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–AP69

**387. Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces, and New Residential Masonry Heaters**

*Legal Authority:* CAA Section 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, and 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 | 11/00/13 | |
| Final Rule | 11/00/14 | |

*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

**388. • General Permits and Permits by Rule for the Tribal Minor New Source Review Program**

*Legal Authority:* 42 U.S.C. 7401 *et seq.*

*Abstract:* The Tribal Minor New Source Review (NSR) program applies to new and modified minor sources and minor modifications at major sources of air pollution in Indian country. The program, established in 2011, is implemented through issuance of preconstruction permits that can include, among other requirements, pollutant emission limits for minor sources and emission limitations on the potential of sources to emit pollution that would otherwise be considered major sources. This minor source program for Indian country is similar to state minor NSR programs. State minor NSR programs often use general permits and permits by rule as streamlined permitting approaches for similar emission units or stationary sources. This action provides general permits and permits by rule for certain source categories of minor sources wishing to locate in Indian country. This action proposes general permits for boilers and engines; and permits by rule (and general permits in the alternative) for printing operations (including degreasing and solvent cleaning); stone quarrying and processing; concrete batch plants and saw mills.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 01/00/14 | |
| Final Rule | 09/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Chris Stoneman, Environmental Protection Agency, Air and Radiation, C304–01, Research Triangle Park, NC 27711, *Phone:* 919 541–0823, *Fax:* 919 541–0072, *Email: stoneman.chris@epa.gov.*

Mark Sendzik, Environmental Protection Agency, Air and Radiation, C–304.03, Research Triangle Park, NC 27711, *Phone:* 919 541–5534, *Fax:* 919 541–0942, *Email: sendzik.mark@epamail.epa.gov.*

*RIN:* 2060–AR98

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

*10*

Final Rule Stage

**389. Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards**

*Regulatory Plan:* This entry is Seq. No. 130 in part II of this issue of the **Federal Register**.

*RIN:* 2060–AQ86

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

*10*

Completed Actions

**390. Section 610 Review of Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements (Completion of a Section 610 Review)**

*Legal Authority:* 5 U.S.C. 610

*Abstract:* On January 18, 2001, EPA established new exhaust emission standards for heavy-duty highway engines and vehicles, and new quality standards for highway diesel fuel (66 FR 5002). Pursuant to section 610 of the Regulatory Flexibility Act, on October 31, 2012, EPA initiated a review of this rule to determine if the provisions as they relate to small entities should be continued without change, or should be rescinded or amended to minimize adverse economic impacts on small entities (77 FR 65840). EPA has solicited comments on the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps,

duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. The current heavy-duty engine and fuel standards program provided substantial flexibility for refiners, especially small refiners, and for manufacturers of engines and vehicles, and does not warrant revision at this time. See EPA's report summarizing the results of this review in the docket EPA–HQ–OAR–2012–0313. This docket can be accessed at www.regulations.gov.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Final Rule | 01/18/01 | 66 FR 5002 |
| Begin Review | 10/31/12 | 77 FR 65840 |
| End Review | 08/30/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Tad Wysor, Environmental Protection Agency, Air and Radiation, USEPA, Ann Arbor, MI 48105, *Phone:* 734 214–4332, *Fax:* 734 214–4816, *Email: wysor.tad@epamail.epa.gov.*

*RIN:* 2060–AR83

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

*35*

Final Rule Stage

### 391. Formaldehyde Emissions Standards for Composite Wood Products

*Regulatory Plan:* This entry is Seq. No. 133 in part II of this issue of the **Federal Register**.

*RIN:* 2070–AJ92

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

*60*

Long-Term Actions

### 392. 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. 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 | 08/00/16 | |

*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

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

*70*

Prerule Stage

### 393. Section 610 Review of National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitations Guidelines Standards for Concentrated Animal Feeding Operations (Section 610 Review)

*Legal Authority:* 5 U.S.C. 610

*Abstract:* The EPA promulgated revised regulations for Concentrated Animal Feeding Operations (CAFOs) on February 12, 2003 (68 FR 7175). The ''2003 CAFO Rule'' expanded the number of operations covered by the CAFO regulations and included requirements to address the land application of manure from CAFOs. The 2003 CAFO Rule required all CAFOs to seek NPDES permit coverage. The EPA developed a Final Regulatory Flexibility Analysis (FRFA) for the 2003 CAFO Rule. The EPA took several steps to minimize the impacts of the 2003 CAFO Rule on small businesses, including regulatory revisions designed to focus on the largest producers, eliminating the ''mixed'' animal calculation for operations with more than a single animal type for determining which Animal Feeding Operations (AFOs) are CAFOs, raising the duck threshold for dry manure handling duck operations, and adopting a dry-litter chicken threshold higher than proposed. There have been a number of changes to the 2003 regulations due to court decisions based on legal challenges to the rulemaking; however, this action only pertains to the 2003 rule. Pursuant to section 610 of the Regulatory Flexibility Act, on October 31, 2012, the EPA initiated a review of the 2003 CAFO rule to determine if the provisions as they relate to small entities should be continued without change, or should be rescinded or amended to minimize adverse economic impacts on small entities (77 FR 65840). The EPA has solicited comments on, and will consider, the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local Government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. After publication, the EPA received requests for additional time to submit comments and extended the public comment period until March 1, 2013 (78 FR 277). The results of the EPA's review will be summarized in a report and placed in the rulemaking docket at the conclusion of this review. This review's Docket ID number is EPA–HQ–OW–2012–0813; the docket can be accessed at *www.regulations.gov.*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Final Rule | 02/12/03 | 68 FR 7176 |
| Begin Review | 10/31/12 | 77 FR 65840 |
| Comment Period Extended. | 01/03/13 | 78 FR 277 |
| End Review | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Hema Subramanian, Environmental Protection Agency, Water, 4203M, Washington, DC 20460, *Phone:* 202 564–5041, *Fax:* 202 564–6384, *Email: subramanian.hema@epa.gov.*

*RIN:* 2040–AF46

[FR Doc. 2013–29640 Filed 1–6–14; 8:45 am]

**BILLING CODE 6560–50–P**

# FEDERAL REGISTER

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Part XVII

## General Services Administration

Semiannual Regulatory Agenda

## GENERAL SERVICES ADMINISTRATION

**41 CFR Chs. 102, 300, 301, 302 and 303**

**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 spring 2013 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 202–501–4755.

Dated: August 27, 2013.

**Laura Auletta,**

*Acting Senior Procurement Executive.*

GENERAL SERVICES ADMINISTRATION—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 394 ..... | General Services Administration Acquisition Regulation (GSAR); GSAR Case 2012–G501; Electronic Contracting Initiative. | 3090–AJ36 |

## GENERAL SERVICES ADMINISTRATION (GSA)

*Office of Acquisition Policy*

Final Rule Stage

### 394. General Services Administration Acquisition Regulation (GSAR); GSAR Case 2012–G501; Electronic Contracting Initiative

*Legal Authority:* 40 U.S.C. 121(c)

*Abstract:* The General Services Administration (GSA) issued a proposed rule to amend the General Services Administration Acquisition Regulation (GSAR) to add clause 552.238–81, Modifications (Federal Supply Schedule), and an Alternate I version of the clause that will require electronic submission of modifications under Federal Supply Schedule contracts managed by GSA. The public reporting burdens associated with both the basic and Alternate I clauses are also being updated.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/28/13 | 78 FR 31879 |
| NPRM Comment Period End. | 07/29/13 | |
| Final Rule ..... | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dana L Munson, Procurement Analyst, General Services Administration, 1800 F Street NW., Washington, DC 20405,*Phone:* 202 357–9652,*Email: dana.munson@gsa.gov.*

*RIN:* 3090–AJ36

[FR Doc. 2013–29641 Filed 1–6–14; 8:45 am]

**BILLING CODE 6820–34–P**

# FEDERAL REGISTER

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Part XVIII

## 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 August 7, 2013; ''Fall 2013 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: August 29, 2013.

**Nancy Anne Baugher,**

*Director, for Internal Controls and Management Systems.*

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 395 | Nondiscrimination on Basis of Handicap **(Section 610 Review)** | 2700–AD85 |

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Proposed Rule Stage

### 395. 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 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 | 01/00/14 | |

*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. 2013–29642 Filed 1–6–14; 8:45 am]

**BILLING CODE 7510–13–P**

# FEDERAL REGISTER

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Part XIX

## 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 includes 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 Imelda A. Kish, Law Librarian, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 205–6849, *imelda.kish@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 2013 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.

**Jeanne A. Hulit,**

*Acting Administrator.*

SMALL BUSINESS ADMINISTRATION—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 396 | Small Business Development Centers (SBDC) Program Revisions | 3245–AE05 |
| 397 | SBA Express Loan Program; Export Express Program | 3245–AF85 |
| 398 | Implementation of Small Business Disaster Response and Loan Improvement Act of 2008: Expedited Disaster Assistance Program. | 3245–AF88 |
| 399 | Implementation of Small Business Disaster Response and Loan Improvement Act of 2008: Private Loan Disaster Program. | 3245–AF99 |
| 400 | Women's Business Center Program | 3245–AG02 |
| 401 | Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs | 3245–AG16 |
| 402 | Small Business Mentor-Protege Programs **(Reg Plan Seq No. 141)** | 3245–AG24 |
| 403 | Small Business HUBZone Program | 3245–AG38 |
| 404 | Agent Revocation and Suspension Procedures | 3245–AG40 |
| 405 | Small Business Size Standards: Employee Based Size Standards for Wholesale Trade and Retail Trade | 3245–AG49 |
| 406 | Small Business Size Standards for Manufacturing | 3245–AG50 |
| 407 | Small Business Size Standards for Other Industries With Employee-Based Size Standards Not Part of Manufacturing Wholesale Trade or Retail Trade. | 3245–AG51 |
| 408 | National Defense Authorization Act Small Business Amendments | 3245–AG58 |
| 409 | Advisory Small Business Size Decisions | 3245–AG59 |

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. |
|---|---|---|
| 410 | Lender Oversight Program | 3245–AE14 |
| 411 | Small Business Technology Transfer (STTR) Policy Directive **(Reg Plan Seq No. 142)** | 3245–AF45 |
| 412 | Small Business Innovation Research (SBIR) Program Policy Directive **(Reg Plan Seq No. 143)** | 3245–AF84 |
| 413 | 504 and 7(a) Loan Programs Updates **(Reg Plan Seq No. 144)** | 3245–AG04 |
| 414 | Small Business Size Standards for Utilities | 3245–AG25 |
| 415 | Small Business Size Standards: Construction | 3245–AG37 |
| 416 | Small Business Size Standards; Adjust Monetary Size Standards for Inflation | 3245–AG60 |

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. |
|---|---|---|
| 417 | Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation | 3245–AG20 |
| 418 | Small Business Subcontracting | 3245–AG22 |
| 419 | Small Business Size and Status Integrity | 3245–AG23 |

## SMALL BUSINESS ADMINISTRATION (SBA)

*Proposed Rule Stage*

### 396. 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: (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 | 06/00/14 | |

*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

### 397. 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 | 05/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael A. Simmons, Acting Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7562, *Fax:* 202 481–0248, *Email: michael.simmons@sba.gov*.

*RIN:* 3245–AF85

### 398. 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 | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael A. Simmons, Acting Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7562, *Fax:* 202 481–0248, *Email: michael.simmons@sba.gov*.

*RIN:* 3245–AF88

### 399. 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 | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael A. Simmons, Acting Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7562, *Fax:* 202 481–0248, *Email: michael.simmons@sba.gov*.

*RIN:* 3245–AF99

### 400. 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 ..... | 06/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Bruce D. Purdy, Acting Assistant Administrator, Office of Women's Business Ownership, Small Business Administration, Washington, DC 20416, *Phone:* 202 205–7532, *Email: bruce.purdy@sba.gov*.

*RIN:* 3245–AG02

**401. Small Business Size Standards; Alternative Size Standard for 7(A), 504 and Disaster Loan Programs**

*Legal Authority:* Pub. L. 111–240, sec 1116

*Abstract:* SBA will amend its size eligibility criteria for Business Loans, development company loans under title V of the Small Business Investment Act (504), and economic injury disaster loans. 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. For the disaster 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. These alternative size standards do not affect other Federal Government programs, including Federal procurement.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/13 | |

*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

**402. Small Business Mentor–Protege Programs**

*Regulatory Plan:* This entry is Seq. No. 141 in part II of this issue of the **Federal Register**.

*RIN:* 3245–AG24

**403. 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. The amendments will make it easier for participants to comply with the program requirements and enable them to maximize the benefits afforded by participation. 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 ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Mariana Pardo, 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

**404. 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 ..... | 12/00/13 | |

*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

**405. Small Business Size Standards: Employee Based Size Standards for Wholesale Trade and Retail 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 Sector 44–45, Retail Trade and revised these employee-based size standards for certain industries in those sectors. 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.

**Note:** The title for this rule has been changed since the rule was first reported in the Regulatory Agenda on January 8, 2013, from ''Small Business Size Standards for Wholesale Trade'' to ''Small Business Size Standards: Employee Based Size Standards for Wholesale Trade and Retail Trade.'' The title was changed to make it clear that the rule also addresses industries with employee based size standards in Retail Trade.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/13 | |

*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

**406. 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 ..... | 03/00/14 | |

*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

**407. Small Business Size Standards for Other Industries With Employee-Based Size Standards Not Part of Manufacturing Wholesale Trade or Retail 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, Sector 42, Wholesale Trade, or Sector 44–45, Retail 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.

**Please Note:** The title for this rule has been changed since it was first announced in the Regulatory Agenda on January 8, 2013, to add the words ''or Retail Trade'' at the end of the previous title. This change makes it clear that industries in the retail trade with employee based size standards are also not addressed in the rule.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/14 | |

*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

**408. National Defense Authorization Act Small Business Amendments**

*Legal Authority:* 15 U.S.C. 631; Pub. L. 112–239

*Abstract:* The rule would propose various small business related amendments authorized by various sections of the NDAA. Section 1651, Limitations on Subcontracting, requires rules permitting subcontracts to small businesses that are ''similarly situated'' as the prime contractor to count toward the prime contractors compliance with the performance of work requirements that apply to set-aside contracts. It also requires rules that permit small businesses to ''team'' without entering into joint venture agreements, which will reduce litigation risk for small businesses and open larger, more complex acquisitions to small business participation. Section 1652, Penalties, requires rules establishing penalties for violations of subcontracting limitations and providing protection for small businesses that made a mistake on their subcontracting limitations in good faith. Section 1671, Contract Bundling, requires a definition for construction to be included under the definition for covered contracting. Section 1696, Conforming Amendments; Repeal of Redundant Provisions; Regulations, a definition for certain technical amendments to the existing rules and provides that a covered base closure area shall be treated as a HUBZone.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/00/14 | |

*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–AG58

**409. Advisory Small Business Size Decisions**

*Legal Authority:* 15 U.S.C. 645

*Abstract:* The purpose of the statute is to provide a ''safe harbor'' for firms that violate the prohibition against misrepresenting themselves as small businesses in cases where the firms first obtain advisory opinions concluding that they satisfy the relevant size standards from either Small Business Development Centers (SBDCs) (SBA grantees) or Procurement Technical Assistance Centers (PTACs) (DOD grantees). This rule would provide guidance to SBDCs and PTACs regarding the minimum requirements that small business status advisory opinions must meet in order to be deemed adequate by SBA. The rule would also require the SBDC or PTAC issuing the advisory opinion to remit a copy of the opinion to SBA for review, and establish a 10 day deadline by which SBA must either accept or reject the advisory opinion. If SBA rejects the advisory opinion, the Agency will notify the entity which issued the opinion and the firm to which it applies, after which time the firm is no longer entitled to rely upon the opinion or invoke the safe harbor provisions of the statute. If SBA accepts the advisory opinion, then the firm may rely on the SBDC or PTAC advisory opinion and is entitled to invoke the safe harbor provision as a defense to punishments imposed under 15 U.S.C. section 645, Offenses and Penalties, which prescribes fines and imprisonment for false statements. The rule would also make clear that SBA has the authority to initiate a formal size determination of a firm that is the subject of a small business status advisory opinion where the Agency concludes that opinion contains information that calls into question the firm's small business status.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Kevin Harber, Attorney Advisor, Office of General Counsel, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 619–1602, *Email: kevin.harber@sba.gov.*

*RIN:* 3245–AG59

## SMALL BUSINESS ADMINISTRATION (SBA)

Final Rule Stage

### 410. Lender Oversight Program

*Legal Authority:* 15 U.S.C. 634(b)(6),(b)(7),(b)(14),(h) and note; 687(f),697e(c)(8), and 650

*Abstract:* This rule implements the Small Business Administration's (SBA) statutory authority under the Small Business 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 ..... | 06/00/14 | |

*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

### 411. Small Business Technology Transfer (STTR) Policy Directive

*Regulatory Plan:* This entry is Seq. No. 142 in part II of this issue of the **Federal Register**.

*RIN:* 3245–AF45

### 412. Small Business Innovation Research (SBIR) Program Policy Directive

*Regulatory Plan:* This entry is Seq. No. 143 in part II of this issue of the **Federal Register**.

*RIN:* 3245–AF84

### 413. 504 and 7(A) Loan Programs Updates

*Regulatory Plan:* This entry is Seq. No. 144 in part II of this issue of the **Federal Register**.

*RIN:* 3245–AG04

### 414. Small Business Size Standards for Utilities

*Legal Authority:* 15 U.S.C. 632(a)

*Abstract:* On July 19, 2012, the U.S. Small Business Administration (SBA) proposed to revise the small business size standards for nine industries in North American Industry Classification System (NAICS) Sector 22, Utilities. For industries involved in electric power generation, transmission and distribution, SBA proposed 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 proposed to increase the small business size standards for three industries in NAICS Sector 22 that have receipt based size standards. As part of its effort to review all size standards as required by the Small Business Jobs Act of 2010, 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. The proposed rule is one of the rules that will examine 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 prepare the proposed rule. SBA expects to publish the final rule in the near future.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 07/19/12 | 77 FR 42441 |
| NPRM Comment Period End. | 09/17/12 | |
| Final Rule ..... | 12/00/13 | |

*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

### 415. Small Business Size Standards: Construction

*Legal Authority:* 15 U.S.C. 632(a)

*Abstract:* On July 18, 2012, the U.S. Small Business Administration (SBA) published a proposed rule to increase small business size standards for one industry and one sub-industry in North American Industry Classification System (NAICS) Sector 23, Construction. Specifically, SBA proposed to 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 evaluated all size standards in NAICS Sector 23 to determine whether they should be retained or revised. The proposed rule 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 prepare the proposed rule. SBA expects to publish the final rule in the near future.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 07/18/12 | 77 FR 42197 |
| NPRM Comment Period End. | 09/17/12 | |
| Final Rule ..... | 12/00/13 | |

*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

**416. • Small Business Size Standards; Adjust Monetary Size Standards for Inflation**

*Legal Authority:* 15 U.S.C. 632(a)

*Abstract:* SBA intends to issue an interim final rule with request for comments to adjust its monetary small business size standards (i.e., receipts, net income, net worth, and financial assets), for the effects of inflation that have occurred since the last inflation adjustment, which was effective August 18, 2008. This action will restore small business eligibility to businesses that have lost that status due to inflation. The Small Business Jobs Act of 2010 requires SBA to review and adjust (as necessary) all size standards within five years of its enactment. By the fourth quarter of FY 2014 SBA will have completed all monetary size standards to the point where it can examine the impact of inflation. In addition, SBA has required by its Small Business Size Regulations at 13 CFR 121.102(c) to review the effects of inflation on its monetary standards at least once every five years, and this interim final rule comply with that regulation.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 01/00/14 | |

*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–AG60

## SMALL BUSINESS ADMINISTRATION (SBA)

Completed Actions

**417. Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation**

*Legal Authority:* Pub. L. 111–240; sec 1311; 1312; 1313; 1331

*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.

*Completed:*

| Action | Date | FR Cite |
|---|---|---|
| Final Rule<br>Final Rule Effective. | 10/02/13<br>12/31/13 | 78 FR 61114 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dean R. Koppel, *Phone:* 202 205–7322, *Fax:* 202 481–1540, *Email: dean.koppel@sba.gov.*

*RIN:* 3245–AG20

**418. Small Business Subcontracting**

*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.

*Completed:*

| Action | Date | FR Cite |
|---|---|---|
| Final Rule<br>Final Rule Effective. | 07/16/13<br>08/15/13 | 78 FR 42391 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dean R. Koppel, *Phone:* 202 205–7322, *Fax:* 202 481–1540, *Email: dean.koppel@sba.gov.*

*RIN:* 3245–AG22

**419. 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.

*Completed:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM<br>Final Rule<br>Final Rule Effective. | 10/07/11<br>06/28/13<br>08/27/13 | 76 FR 62313<br>78 FR 38811 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dean R. Koppel, *Phone:* 202 205–7322, *Fax:* 202 481–1540, *Email: dean.koppel@sba.gov.*

*RIN:* 3245–AG23

[FR Doc. 2013–29643 Filed 1–6–14; 8:45 am]

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# FEDERAL REGISTER

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Part XX

## 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, 1800 F Street NW., Washington, DC 20405, 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: August 29, 2013.

**William Clark,**

*Acting Director, Office of Government-wideAcquisition PolicyOffice of Acquisition Policy,Office of Government-wide Policy.*

## DOD/GSA/NASA (FAR)—Proposed Rule Stage

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 420 | Federal Acquisition Regulation (FAR); FAR Case 2012–028; Contractor Comment Period-Past Performance Evaluations. | 9000–AM40 |
| 421 | Federal Acquisition Regulation (FAR); FAR Case 2012–001; Performance of Inherently Governmental Functions and Critical Functions. | 9000–AM41 |
| 422 | 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. |
|---|---|---|
| 423 | Federal Acquisition Regulation (FAR); FAR Case 2011–001; Organizational Conflicts of Interest | 9000–AL82 |
| 424 | Federal Acquisition Regulation (FAR); FAR Case 2010–013, Privacy Training | 9000–AM02 |
| 425 | Federal Acquisition Regulation (FAR); FAR Case 2010–010; Service Contracts Reporting Requirements | 9000–AM06 |
| 426 | Federal Acquisition Regulation (FAR); FAR Case 2011–024, Set-Asides for Small Business | 9000–AM12 |
| 427 | Federal Acquisition Regulation (FAR); FAR Case 2011–020; Basic Safeguarding of Contractor Information Systems. | 9000–AM19 |
| 428 | Federal Acquisition Regulation (FAR); FAR Case 2012–031; Accelerated Payments to Small Business Subcontractors. | 9000–AM37 |
| 429 | Federal Acquisition Regulation (FAR); FAR Case 2013–005, Terms of Service and Open-Ended Indemnification, and Unenforceability of Unauthorized Obligations. | 9000–AM45 |
| 430 | Federal Acquisition Regulation (FAR); FAR Case 2012–014; Small Business Protests and Appeals | 9000–AM46 |
| 431 | Federal Acquisition Regulation (FAR); FAR Case 2012–024; Commercial and Government Entity Code | 9000–AM49 |
| 432 | Federal Acquisition Regulation (FAR); FAR Case 2012–016; Defense Base Act | 9000–AM50 |
| 433 | Federal Acquisition Regulation (FAR); FAR Case 2011–023, Irrevocable Letters of Credit | 9000–AM53 |
| 434 | Federal Acquisition Regulation; FAR Case 2012–023, Uniform Procurement Identification | 9000–AM60 |
| 435 | Federal Acquisition Regulation: Allowability of Legal Costs for Whistleblower Proceedings (FAR Case 2013–017). | 9000–AM64 |

## DOD/GSA/NASA (FAR)—Completed Actions

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 436 | Federal Acquisition Regulation (FAR); FAR Case 2011–029; Contractors Performing Private Security Functions Outside the United States. | 9000–AM20 |
| 437 | Federal Acquisition Regulation (FAR); FAR Case 2013–003; Definition of Contingency Operation | 9000–AM48 |

## DEPARTMENT OF DEFENSE/ GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

*Proposed Rule Stage*

### 420. Federal Acquisition Regulation (FAR); FAR Case 2012–028; Contractor Comment Period—Past Performance Evaluations

*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 (FAR) to implement section 853 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239, enacted January 2, 2013) and section 806 of the NDAA for FY 2012 (Pub. L. 112–81, enacted December 31, 2011, 10 U.S.C. 2302 Note). Section 853, entitled ''Inclusion of Data on Contractor Performance in Past Performance Databases for Executive Agency Source Selection Decisions,'' and section 806, entitled ''Inclusion of Data on Contractor Performance in Past Performance Databases for Source Selection Decisions,'' require revisions to the acquisition regulations on past performance evaluations so that contractors are provided ''up to 14 calendar days . . . from the date of delivery'' of past performance evaluations ''to submit comments, rebuttals, or additional information pertaining to past performance'' for inclusion in the database. In addition, paragraph (c) of both sections 853 and 806 requires that agency evaluations of contractor performance, including any information submitted by contractors, be ''included in the relevant past performance database not later than the date that is 14 days after the date of delivery of the information'' (section 853(c)) to the contractor. The Governmentwide application of the statue will ensure that the Government has current performance information about contractors to help source selection officials make better award decisions. 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 (2013), available at: *https://www.acquisition.gov/*.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 08/07/13 | 78 FR 48123 |
| NPRM Comment Period End. | 10/07/13 | |
| Final Rule | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Curtis Glover, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–1448, *Email: curtis.glover@gsa.gov*.

*RIN:* 9000–AM40

### 421. 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 | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Patricia Corrigan, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 208–1963, *Email: patricia.corrigan@gsa.gov*.

*RIN:* 9000–AM41

### 422. Federal Acquisition Regulation (FAR); FAR Case 2012–029; Contractor Access to Protected Information

*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 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 | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Marissa Petrusek, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *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*

### 423. Federal Acquisition Regulation (FAR); FAR Case 2011–001; Organizational Conflicts of Interest

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA issued a proposed rule 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 (2013), 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 | 04/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Deborah Erwin, Attorney-Advisor in the Office of Governmentwide Policy, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–2164, *Email: deborah.erwin@gsa.gov*.

*RIN:* 9000–AL82

**424. Federal Acquisition Regulation (FAR); FAR Case 2010–013, Privacy Training**

*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 ensure that all contractors are required to complete training in the protection of privacy and the handling and safeguarding of Personally Identifiable Information (PII). 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 | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Karlos Morgan, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–2364, *Email: karlos.morgan@gsa.gov*.

*RIN:* 9000–AM02

**425. Federal Acquisition Regulation (FAR); FAR Case 2010–010; Service Contracts Reporting Requirements**

*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 issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the Consolidated Appropriations Act, 2010. This final rule amends the FAR to require service contractors for executive agencies, except where DoD has fully funded the contract or order, to submit information annually in support of agency-level inventories for service contracts.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Proposed Rule | 04/20/11 | 76 FR 22070 |
| NPRM Comment Period End. | 06/20/11 | |
| Correction | 05/02/11 | 76 FR 24443 |
| Final Rule | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Edward Loeb, Program Manager, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–0650, *Email: edward.loeb@gsa.gov*.

*RIN:* 9000–AM06

**426. Federal Acquisition Regulation (FAR); FAR Case 2011–024, Set-Asides for Small Business**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA issued an interim rule amending the Federal Acquisition Regulation to implement section 1331 of the Small Business Jobs Act of 2010 (Jobs Act). Section 1331 addresses set-asides of task and delivery orders under multiple-award contracts, partial set-asides under multiple-award contracts, and the reserving of one or more multiple-award contracts that are awarded using full and open competition. Within this same context, section 1331 also addresses the Federal Supply Schedules Program managed by the General Services Administration. DoD, GSA, and NASA are coordinating with the Small Business Administration (SBA) on the development of an SBA rule that will provide greater detail regarding implementation of section 1331 authorities. 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 (2013), available at: *https://www.acquisition.gov/*.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 11/02/11 | 76 FR 68032 |
| Interim Final Rule Comment Period End. | 01/03/12 | |
| Interim Final Rule Comment Period Extended. | 01/12/12 | 77 FR 1889 |
| Interim Final Rule Comment Period Extended End. | 02/03/12 | |
| Final Rule | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Karlos Morgan, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–2364, *Email: karlos.morgan@gsa.gov*.

*RIN:* 9000–AM12

**427. 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 | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Patricia Corrigan, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 208–1963, *Email: patricia.corrigan@gsa.gov.*

*RIN:* 9000–AM19

**428. 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. This temporary policy was extended another year by OMB Policy Memorandum M–13–15, dated July 11, 2013. 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 (2013), available at: *https://www.acquisition.gov/.*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 12/19/12 | 77 FR 75089 |
| NPRM Comment Period End. | 02/19/13 | |
| Final Rule | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Edward Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone*: 202 501–3221, *Email: edward.chambers@gsa.gov*.

*RIN:* 9000–AM37

**429. Federal Acquisition Regulation (FAR); FAR Case 2013–005, Terms of Service and Open-Ended Indemnification, and Unenforceability of Unauthorized Obligations**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA issued an interim rule amending the Federal Acquisition Regulation to address concerns raised in an opinion from the U.S. Department of Justice Office of Legal Counsel involving the use of unrestricted, open-ended indemnification clauses in acquisitions for social media applications. See March 27, 2012, Memorandum for Barbara S. Fredericks, Assistant General Counsel for Administration, United States Department of Commerce, available at *http://www.justice.gov/olc/2012/aag-ada-impls-of-consent-by-govt-empls.pdf.*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 06/21/13 | 78 FR 37686 |
| Interim Final Rule Comment Period End. | 08/20/13 | |
| Final Rule | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Marissa Petrusek, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–0136, *Email: marissa.petrusek@gsa.gov.*

*RIN:* 9000–AM45

**430. Federal Acquisition Regulation (FAR); FAR Case 2012–014; Small Business Protests and Appeals**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA issued a proposed rule to amend the Federal Acquisition Regulation (FAR) to implement the Small Business Administration's revision of the small business size and small business status protest and appeal procedures.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 03/07/13 | 78 FR 14746 |
| NPRM Comment Period End. | 05/06/13 | |
| Final Rule | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Karlos Morgan, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–2364, *Email: karlos.morgan@gsa.gov.*

*RIN:* 9000–AM46

**431. Federal Acquisition Regulation (FAR); FAR Case 2012–024; Commercial and Government Entity Code**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA issued a proposed rule to amend the Federal Acquisition Regulation (FAR) to require the use of Commercial and Government Entity (CAGE) codes, including North Atlantic Treaty Organization (NATO) CAGE (NCAGE) codes for foreign entities, for awards valued at greater than the micro-purchase threshold. The CAGE code is a five-character identification number used extensively within the Federal Government. The proposed rule will also require offerors, if owned or controlled by another business entity, to identify that entity during System For Award Management registration.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 04/18/13 | 78 FR 23194 |
| NPRM Comment Period End. | 06/17/13 | |
| Final Rule | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Edward Loeb, Program Manager, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–0650, *Email: edward.loeb@gsa.gov.*

*RIN:* 9000–AM49

**432. Federal Acquisition Regulation (FAR); FAR Case 2012–016; Defense Base Act**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA issued a proposed rule to amend the Federal Acquisition Regulation to clarify contractor and subcontractor responsibilities to obtain workers' compensation insurance or to qualify as a self-insurer, and other requirements, under the terms of the Longshore and Harbor Workers' Compensation Act as extended by the Defense Base Act.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 03/20/13 | 78 FR 17176 |
| NPRM Comment Period End. | 05/20/13 | |
| Final Rule | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Edward Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–3221, *Email: edward.chambers@gsa.gov.*

*RIN:* 9000–AM50

**433. Federal Acquisition Regulation (FAR); FAR Case 2011–023, Irrevocable Letters of Credit**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA issued a proposed rule to amend the Federal Acquisition Regulation to remove all references to Office of Federal Procurement Policy Pamphlet No. 7, Use of Irrevocable Letters of Credit, and also provide updated sources of data required to verify the credit worthiness of a financial entity issuing or confirming an irrevocable letter of credit.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/07/13 | 78 FR 26573 |
| NPRM Comment Period End. | 07/08/13 | |
| Final Action | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Cecelia Davis, Program Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington,

DC 20405, *Phone:* 202 219–0202, *Email: cecelia.davis@gsa.gov.*

*RIN:* 9000–AM53

**434. Federal Acquisition Regulation; FAR Case 2012–023, Uniform Procurement Identification**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA issued a proposed rule to amend the Federal Acquisition Regulation (FAR) to implement a uniform Procurement Instrument Identification numbering system, which will require the use of Activity Address Codes as the unique identifier for contracting offices and other offices, in order to standardize procurement transactions across the Federal Government. This proposed rule continues and strengthens efforts at standardization accomplished under a previous FAR case.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 06/06/13 | 78 FR 34020 |
| NPRM Comment Period End. | 08/05/13 | |
| Final Rule | 03/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Edward Loeb, Program Manager, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–0650, *Email: edward.loeb@gsa.gov.*

*RIN:* 9000–AM60

**435. • Federal Acquisition Regulation: Allowability of Legal Costs for Whistleblower Proceedings (FAR Case 2013–017)**

*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 issuing an interim rule amending the Federal Acquisition Regulation to implement a section of the National Defense Authorization Act for Fiscal Year 2013 that addresses the allowability of legal costs incurred by a contractor or subcontractor related to a whistleblower proceeding commenced by the submission of a complaint of reprisal by the contractor or subcontractor employee.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 09/30/13 | 78 FR 60173 |
| Interim Final Rule Comment Period End. | 11/29/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Edward Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–3221, *Email: edward.chambers@gsa.gov.*

*RIN:* 9000–AM64

## DEPARTMENT OF DEFENSE/ GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

*Completed Actions*

**436. 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 issued a final rule amending 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:*

| Reason | Date | FR Cite |
|---|---|---|
| Final Rule | 06/21/13 | 78 FR 37670 |
| Final Rule Effective. | 07/22/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael O Jackson, *Phone:* 202 208–4949, *Email: michaelo.jackson@gsa.gov.*

*RIN:* 9000–AM20

**437. Federal Acquisition Regulation (FAR); Far Case 2013–003; Definition of Contingency Operation**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20115

*Abstract:* DoD, GSA, and NASA issued a final rule amending the Federal Acquisition Regulation (FAR) to revise the definition of ''contingency operation'' to address the statutory change to the definition made by the National Defense Authorization Act for Fiscal Year 2012.

*Completed:*

| Reason | Date | FR Cite |
|---|---|---|
| Interim Final Rule Comment Period End. | 04/29/13 | |
| Final Rule | 08/01/13 | 78 FR 46781 |
| Final Rule Effective. | 08/01/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Patricia Corrigan, *Phone:* 202 208–1963, *Email: patricia.corrigan@gsa.gov.*

*RIN:* 9000–AM48

[FR Doc. 2013–29644 Filed 1–6–14; 8:45 am]

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# FEDERAL REGISTER

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Part XXI

## 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 November 1, 2013 to October 31, 2014. The next agenda will be published in the spring of 2014 and will update this agenda through the spring of 2014. 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 September 6, 2013.

**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 2013 agenda as part of the Fall 2013 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, Public Law 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 also 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 November 1, 2013 to October 31, 2014.[1] Among the Bureau's more significant regulatory efforts are the following.

#### Implementing Dodd-Frank Act Mortgage Protections

First, the CFPB is continuing its regulatory efforts to implement critical consumer protections under the Dodd-Frank Act. For instance, the Bureau expects to issue, in the near future, a final rule combining several disclosures that consumers receive in connection with applying for and closing on a mortgage loan under the Truth in Lending Act and the Real Estate Settlement Procedures Act, increasing consumer understanding of mortgage transactions and facilitating industry compliance.

The Bureau is also continuing rulemaking activities to assist in the full implementation of, and facilitate compliance with, various mortgage-related final rules issued by the Bureau in January 2013 strengthening consumer protections involving the origination and servicing of mortgages. Most of these rules, implementing requirements under the Dodd-Frank Act, will take effect in January 2014. Over the last several months, the Bureau has issued several clarifications and revisions to address interpretive issues and facilitate compliance with the new requirements. After the effective date, the Bureau is planning to engage in a further rulemaking to consider certain additional refinements to these rules.

The Bureau is also participating in a series of interagency rulemakings under the Dodd-Frank Act relating to mortgage appraisals.

In addition, the Bureau has begun work in preparation to implement Dodd-Frank Act amendments to the Home Mortgage Disclosure Act (HMDA) that require supplementation of existing data reporting requirements regarding housing-related loans and applications for such loans.

#### Bureau Regulatory Efforts in Other Consumer Markets

Second, the CFPB is working on and considering a number of rulemakings to address important consumer protection issues in other markets for consumer financial products and services. For instance, the Bureau is planning to issue an Advance Notice of Proposed Rulemaking on debt collection, and has been engaged in extensive research and analysis concerning payday loans, deposit advance products, and bank overdraft programs, building on Bureau white papers issued in April and June 2013.

The Bureau is also continuing work on a number of earlier initiatives concerning consumer payment services. For instance, following on an earlier Advance Notice of Proposed Rulemaking concerning general purpose reloadable prepaid cards, the Bureau expects to issue a Notice of Proposed Rulemaking concerning prepaid cards in mid-2014. The Bureau also expects early next year to begin work on an additional rulemaking to consider whether to extend the sunset of a provision of the Dodd-Frank Act allowing depository institutions to estimate certain items on disclosures concerning consumer remittance transfers to foreign countries.

Third, the Bureau is continuing rulemaking activities that will further establish the Bureau's nonbank supervisory authority by defining larger participants of certain markets for consumer financial products and services. Larger participants of such markets, as the Bureau defines by rule, are subject to the Bureau's supervisory authority.

#### Bureau Regulatory Streamlining Efforts

Fourth, the Bureau is continuing work to consider opportunities to modernize and streamline regulations that it inherited from other agencies pursuant to a transfer of rulemaking authority under the Dodd-Frank Act. This work includes completing the consolidation and streamlining of Federal mortgage disclosure forms discussed earlier, and exploring opportunities to reduce unwarranted regulatory burden as part of the HMDA rulemaking. The Bureau is also expecting to issue a Notice of Proposed Rulemaking in 2014 to explore whether to modify certain requirements under the Gramm-Leach-Bliley Act to provide annual notices regarding financial institutions' data sharing practices.

Finally, the Bureau is continuing to assess timelines for other rulemakings mandated by the Dodd-Frank Act or inherited from other agencies and to conduct outreach and research to assess issues in various other markets for consumer financial products and services. As this work continues, the Bureau will evaluate possible policy responses, including possible rulemaking actions, taking into account the critical need for and effectiveness of various policy tools. The Bureau will update its regulatory agenda in spring 2014 to reflect the results of this further prioritization and planning.

[1] The listing does not include certain routine, frequent, 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.

Dated: September 6, 2013.

**Meredith Fuchs,**

*General Counsel, Bureau of Consumer Financial Protection.*

CONSUMER FINANCIAL PROTECTION BUREAU—PRERULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 438 | Home Mortgage Disclosure Act (Regulation C) | 3170–AA10 |

CONSUMER FINANCIAL PROTECTION BUREAU—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 439 | Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z). | 3170–AA19 |
| 440 | The Expedited Funds Availability Act (Regulation CC) | 3170–AA31 |

CONSUMER FINANCIAL PROTECTION BUREAU—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 441 | Business Lending Data (Regulation B) | 3170–AA09 |

## CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Prerule Stage

### 438. Home Mortgage Disclosure Act (Regulation C)

*Legal Authority:* 12 U.S.C. 2801 to 2810

*Abstract:* Section 1094 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amends the Home Mortgage Disclosure Act (HMDA), which requires certain financial institutions to collect and report information in connection with housing-related loans and applications they receive for such loans. The amendments made by the Dodd-Frank Act expand the scope of information relating to mortgage applications and loans that must be compiled, maintained, and reported under HMDA, including the ages of loan applicants and mortgagors, information relating to the points and fees payable at origination, the difference between the annual percentage rate associated with the loan and benchmark rates for all loans, the term of any prepayment penalty, the value of real property to be pledged as collateral, the term of the loan and of any introductory interest rate for the loan, the presence of contract terms allowing non-amortizing payments, the origination channel, and the credit scores of applicants and mortgagors. The Dodd-Frank Act also provides authority for the CFPB to require other information, including identifiers for loans, parcels, and loan originators. The CFPB expects to begin developing proposed regulations concerning the data to be collected and appropriate format, procedures, information safeguards, and privacy protections for information compiled and reported under HMDA. The CFPB may consider additional revisions to its regulations to accomplish the purposes of HMDA.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Prerule Activities | 02/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Joan Kayagil, Office of Regulations, Consumer Financial Protection Bureau,*Phone:* 202 435–7700.

*RIN:* 3170–AA10

## CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Final Rule Stage

### 439. Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (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 (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 | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Richard Horn, Office of Regulations, Consumer Financial Protection Bureau,*Phone:* 202 435–7700.

*RIN:* 3170–AA19

**440. 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 issue jointly a final rule that includes provisions within the CFPB's authority.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 03/25/11 | 76 FR 16862 |
| NPRM Comment Period End. | 06/03/11 | |
| Final Rule | 06/00/14 | |

*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

**441. 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 of the application and date the application was received; the type and purpose of loan or credit 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. 2013–29701 Filed 1–6–14; 8:45 am]

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# FEDERAL REGISTER

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Part XXII

## Federal Communications Commission

Semiannual Regulatory Agenda

## FEDERAL COMMUNICATIONS COMMISSION

**47 CFR Ch. I**

## Unified Agenda of Federal Regulatory and Deregulatory Actions—Fall 2013

**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. |
|---|---|---|
| 442 | Implementation of the Telecommunications Act of 1996; Access to Telecommunications Service, Telecommunications Equipment, and Customer Premises Equipment by Persons With Disabilities. | 3060–AG58 |
| 443 | Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991 (CG Docket No. 02–278). | 3060–AI14 |
| 444 | Rules and Regulations Implementing Section 225 of the Communications Act (Telecommunications Relay Service) (CG Docket No. 03–123). | 3060–AI15 |
| 445 | Consumer Information and Disclosure and Truth in Billing and Billing Format | 3060–AI61 |
| 446 | Closed-Captioning of Video Programming (**Section 610 Review**) | 3060–AI72 |
| 447 | Accessibility of Programming Providing Emergency Information | 3060–AI75 |
| 448 | Empowering Consumers to Avoid Bill Shock (Docket No. 10–207) | 3060–AJ51 |
| 449 | Contributions to the Telecommunications Relay Services Fund (CG Docket No. 11–47) | 3060–AJ63 |
| 450 | Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (''Cramming'') | 3060–AJ72 |
| 451 | 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 |
| 452 | Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CG Docket No. 10–213). | 3060–AK00 |
| 453 | Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech. | 3060–AK01 |

OFFICE OF ENGINEERING AND TECHNOLOGY—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 454 | New Advanced Wireless Services (ET Docket No. 00–258) | 3060–AH65 |
| 455 | Exposure to Radiofrequency Electromagnetic Fields | 3060–AI17 |
| 456 | Unlicensed Operation in the TV Broadcast Bands (ET Docket No. 04–186) | 3060–AI52 |
| 457 | Fixed and Mobile Services in the Mobile Satellite Service (ET Docket No. 10–142) | 3060–AJ46 |

OFFICE OF ENGINEERING AND TECHNOLOGY—LONG-TERM ACTIONS—Continued

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 458 | Innovation in the Broadcast Television Bands (ET Docket No. 10–235) | 3060–AJ57 |
| 459 | 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 |
| 460 | Operation of Radar Systems in the 76–77 GHz Band (ET Docket No. 11–90) | 3060–AJ68 |
| 461 | WRC–07 Implementation (ET Docket No. 12–338) | 3060–AJ93 |
| 462 | Federal Earth Stations—Non Federal Fixed Satellite Service Space Stations; Spectrum for Non-Federal Space Launch Operations; ET Docket No. 13–115. | 3060–AK09 |
| 463 | Authorization of Radiofrequency Equipment; ET Docket No. 13–44 | 3060–AK10 |

INTERNATIONAL BUREAU—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 464 | 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 |
| 465 | Space Station Licensing Reform (IB Docket No. 02–34) | 3060–AH98 |
| 466 | Reporting Requirements for U.S. Providers of International Telecommunications Services (IB Docket No. 04–112). | 3060–AI42 |
| 467 | 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 |
| 468 | 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 |
| 469 | International Settlements Policy Reform (IB Docket No. 11–80) | 3060–AJ77 |
| 470 | Revisions to Parts 2 and 25 of the Commission's Rules to Govern the Use of Earth Stations Aboard Aircraft (IB Docket No. 12–376). | 3060–AJ96 |
| 471 | Reform of Rules and Policies on Foreign Carrier Entry Into the U.S. Telecommunications Market (IB Docket 12–299). | 3060–AJ97 |
| 472 | Comprehensive Review of Licensing and Operating Rules for Satellite Services (IB Docket No. 12–267) .. | 3060–AJ98 |

MEDIA BUREAU—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 473 | Competitive Availability of Navigation Devices (CS Docket No. 97–80) | 3060–AG28 |
| 474 | Broadcast Ownership Rules | 3060–AH97 |
| 475 | Establishment of Rules for Digital Low-Power Television, Television Translator, and Television Booster Stations (MB Docket No. 03–185). | 3060–AI38 |
| 476 | Joint Sales Agreements in Local Television Markets (MB Docket No. 04–256) | 3060–AI55 |
| 477 | Program Access Rules—Sunset of Exclusive Contracts Prohibition and Examination of Programming Tying Arrangements (MB Docket Nos. 12–68, 07–198). | 3060–AI87 |
| 478 | Broadcast Localism (MB Docket No. 04–233) | 3060–AJ04 |
| 479 | Creating a Low Power Radio Service (MM Docket No. 99–25) | 3060–AJ07 |
| 480 | Policies To Promote Rural Radio Service and To Streamline Allotment and Assignment Procedures (MB Docket No. 09–52). | 3060–AJ23 |
| 481 | Promoting Diversification of Ownership in the Broadcast Services (MB Docket No. 07–294) | 3060–AJ27 |
| 482 | Amendment of the Commission's Rules Related to Retransmission Consent (MB Docket No. 10–71) | 3060–AJ55 |
| 483 | Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010 (MB Docket No.11–43). | 3060–AJ56 |
| 484 | 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 |
| 485 | Noncommercial Educational Station Fundraising for Third-Party Nonprofit Organizations (MB Docket No. 12–106). | 3060–AJ79 |
| 486 | Accessibility of User Interfaces and Video Programming Guides and Menus (MB Docket No. 12–108) | 3060–AK11 |

OFFICE OF MANAGING DIRECTOR—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 487 | Assessment and Collection of Regulatory Fees | 3060–AI79 |
| 488 | 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. |
|---|---|---|
| 489 | Revision of the Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems | 3060–AG34 |
| 490 | Enhanced 911 Services for Wireline | 3060–AG60 |
| 491 | In the Matter of the Communications Assistance for Law Enforcement Act | 3060–AG74 |
| 492 | Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements. | 3060–AG85 |
| 493 | Implementation of 911 Act (CC Docket No. 92–105, WT Docket No. 00–110) | 3060–AH90 |
| 494 | Commission Rules Concerning Disruptions to Communications (PS Docket No. 11–82) | 3060–AI22 |
| 495 | E911 Requirements for IP-Enabled Service Providers (Dockets Nos. GN 11–117, PS 07–114, WC 05–196, WC 04–36). | 3060–AI62 |
| 496 | Stolen Vehicle Recovery System (SVRS) | 3060–AJ01 |
| 497 | Commercial Mobile Alert System | 3060–AJ03 |
| 498 | Wireless E911 Location Accuracy Requirements; PS Docket No. 07–114 | 3060–AJ52 |
| 499 | 911 Reliability (PS Docket No. 13–75) | 3060–AJ95 |
| 500 | Private Land Radio Services/Miscellaneous Wireless Communications Services | 3060–AJ99 |

## WIRELESS TELECOMMUNICATIONS BUREAU—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 501 | Service Rules for Advanced Wireless Services in the 2155–2175 MHz Band; WT Docket No. 13–185 | 3060–AJ19 |

## WIRELESS TELECOMMUNICATIONS BUREAU—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 502 | Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers | 3060–AH83 |
| 503 | Review of Part 87 of the Commission's Rules Concerning Aviation (WT Docket No. 01–289) | 3060–AI35 |
| 504 | 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 |
| 505 | 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 |
| 506 | Amendment of the Rules Regarding Maritime Automatic Identification Systems (WT Docket No. 04–344) | 3060–AJ16 |
| 507 | 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 |
| 508 | 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 |
| 509 | 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 |
| 510 | 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 |
| 511 | In the Matter of Service Rules for the 698 to 746, 747 to 762, and 777 to 792 MHz Bands | 3060–AJ35 |
| 512 | National Environmental Act Compliance for Proposed Tower Registrations; In the Matter of Effects on Migratory Birds. | 3060–AJ36 |
| 513 | Amendment of Part 90 of the Commission's Rules | 3060–AJ37 |
| 514 | Amendment of Part 101 of the Commission's Rules for Microwave Use and Broadcast Auxiliary Service Flexibility. | 3060–AJ47 |
| 515 | 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 |
| 516 | Universal Service Reform Mobility Fund (WT Docket No. 10–208) | 3060–AJ58 |
| 517 | 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 |
| 518 | 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 |
| 519 | Service Rules for Advanced Wireless Services in the 2000–2020 MHz and 2180–2200 MHz Bands | 3060–AJ73 |
| 520 | 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 |
| 521 | Service Rules for Advanced Wireless Services of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands (WT Docket No. 12—357). | 3060–AJ86 |
| 522 | Amendment of Parts 1, 2, 22, 24, 27, 90 and 95 of the Commission's Rules to Improve Wireless Coverage Through the Use of Signal Boosters (WT Docket No. 10–4). | 3060–AJ87 |
| 523 | Amendment of the Commission's Rules Governing Certain Aviation Ground Station Equipment (Squitter) (WT Docket Nos. 10–61 and 09–42). | 3060–AJ88 |
| 524 | Amendment of the Commission's Rules Concerning Commercial Radio Operators (WT Docket No. 10–177). | 3060–AJ91 |
| 525 | Radiolocation Operations in the 78–81 GHz Band; WT Docket No. 11–202 | 3060–AK04 |

WIRELESS TELECOMMUNICATIONS BUREAU—LONG-TERM ACTIONS—Continued

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 526 | Amendment of Part 90 of the Commission's Rules to Permit Terrestrial Trunked Radio (TETRA) Technology; WT Docket No. 11–6. | 3060–AK05 |
| 527 | Promoting Technological Solutions to Combat Wireless Device Use in Correctional Facilities | 3060–AK06 |

WIRELINE COMPETITION BUREAU—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 528 | Implementation of the Universal Service Portions of the 1996 Telecommunications Act | 3060–AF85 |
| 529 | 2000 Biennial Regulatory Review—Telecommunications Service Quality Reporting Requirements | 3060–AH72 |
| 530 | Access Charge Reform and Universal Service Reform | 3060–AH74 |
| 531 | National Exchange Carrier Association Petition | 3060–AI47 |
| 532 | IP-Enabled Services | 3060–AI48 |
| 533 | Establishing Just and Reasonable Rates for Local Exchange Carriers (WC Docket No. 07–135) | 3060–AJ02 |
| 534 | Jurisdictional Separations | 3060–AJ06 |
| 535 | Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering (WC Docket Nos. 08–190, 07–139, 07–204, 07–273, 07–21). | 3060–AJ14 |
| 536 | Form 477; Development of Nationwide Broadband Data To Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans. | 3060–AJ15 |
| 537 | Preserving the Open Internet; Broadband Industry Practices | 3060–AJ30 |
| 538 | Local Number Portability Porting Interval and Validation Requirements (WC Docket No. 07–244) | 3060–AJ32 |
| 539 | Electronic Tariff Filing System (WC Docket No. 10–141) | 3060–AJ41 |
| 540 | 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 Government Affairs Bureau*

Long-Term Actions

### 442. 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 |
| 2nd R&O | 05/22/13 | 78 FR 3022 |
| 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

### 443. 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.

Following a January 22, 2010 NPRM, the Commission released a Report and Order (on February 15, 2012) 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.

On November 29, 2012, the Commission released a Declaratory Ruling clarifying that sending a one-time text message confirming a consumer's request that no further text messages be sent does not violate the Telephone Consumer Protection Act (TCPA) or the Commission's rules as long as the confirmation text only confirms receipt of the consumer's opt-out request, and does not contain marketing, solicitations, or an attempt to convince the consumer to reconsider his or her opt-out decision. The ruling applies only when the sender of the text messages has obtained prior express consent, as required by the TCPA and Commission rules, from the consumer to be sent text messages using an automatic telephone dialing system.

On May 9, 2013, the Commission released a declaratory ruling clarifying that while a seller does not generally ''initiate'' calls made through a third-party telemarketer, within the meaning of the Telephone Consumer Protection Act (TCPA), it nonetheless may be held vicariously liable under federal common law principles of agency for violations of either section 227(b) or section 227(c) that are committed by third-party telemarketers.

*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 | |
| 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 | 06/11/12 | 77 FR 34233 |
| Public Notice | 06/30/10 | 75 FR 34244 |
| Public Notice (Recon Petitions Filed). | 10/03/12 | 77 FR 60343 |
| Announcement of Effective Date. | 10/16/12 | 77 FR 63240 |
| Opposition End Date. | 10/18/12 | |
| Rule Corrections | 11/08/12 | 77 FR 66935 |
| Declaratory Ruling (Release Date). | 11/29/12 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Kurt Schroeder, Chief, Consumer Policy Division, 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

**444. 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 |

| Action | Date | FR Cite |
|---|---|---|
| Order | 09/18/09 | 74 FR 47894 |
| Order | 10/26/09 | 74 FR 54913 |
| Public Notice | 05/12/10 | 75 FR 26701 |
| Order Denying 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 | 10/29/12 | 77 FR 65526 |
| Comment Period End. | 11/29/12 | |
| Order on Reconsideration. | 12/26/12 | 77 FR 75894 |
| Order | 02/05/13 | 78 FR 8030 |
| Order (Interim Rule). | 02/05/13 | 78 FR 8032 |
| NPRM | 02/05/13 | 78 FR 8090 |
| Announcement of Effective Date. | 03/07/13 | 78 FR 14701 |
| NPRM Comment Period End. | 03/13/13 | |
| FNPRM | 07/05/13 | 78 FR 40407 |
| FNPRM Comment Period End. | 09/18/13 | |
| R&O | 07/05/13 | 78 FR 40582 |
| R&O | 08/15/13 | 78 FR 49693 |
| FNPRM | 08/15/13 | 78 FR 49717 |
| FNPRM Comment Period End. | 09/30/13 | |
| 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

**445. 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 Further Notice of Proposed Rulemaking (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 that 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 (NPRM) 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 proposing rules 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 to protect wireline and wireless consumers from unauthorized charges.

*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 | |
| Order (Reply Comment Period Extended). | 11/30/11 | 76 FR 74017 |
| Reply Comment Period End. | 12/05/11 | |
| R&O | 05/24/12 | 77 FR 30915 |
| FNPRM | 05/24/12 | 77 FR 30972 |
| FNPRM Comment Period End. | 07/09/12 | |
| Order (Comment Period Extended). | 07/17/12 | 77 FR 41955 |
| Comment Period End. | 07/20/12 | |
| Announcement of Effective Dates. | 10/26/12 | 77 FR 65230 |
| Correction of Final Rule. | 11/30/12 | 77 FR 71353 |
| Correction of Final Rule. | 11/30/12 | 77 FR 71354 |
| Next Action Undetermined. | | |

*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

**446. 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 | 10/20/98 | 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 |
| Public Notice | 12/15/12 | 77 FR 72348 |
| 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

**447. 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 |
| Final Rule; Correction. | 09/20/00 | 65 FR 5680 |
| NPRM | 11/28/12 | 77 FR 70970 |
| NPRM Comment Period Extended. | 12/20/12 | 77 FR 75404 |
| NPRM Comment Period Extension End. | 01/07/13 | |
| R&O | 05/24/13 | 78 FR 31770 |
| FNPRM | 05/24/13 | 78 FR 31800 |
| 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

**448. 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 Division, 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

**449. Contributions to the Telecommunications Relay Services Fund (CG Docket No. 11–47)**

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225; 47 U.S.C. 616

*Abstract:* The Commission prescribes by regulation the obligations of each provider of interconnected and non-interconnected Voice over Internet Protocol (VoIP) service to participate in and contribute to the Interstate Telecommunications Relay Services Fund in a manner that is consistent with and comparable to such fund.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 04/04/11 | 76 FR 18490 |
| NPRM Comment Period End. | 05/04/11 | |
| Final Rule | 10/25/11 | 76 FR 65965 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Rosaline Crawford, Attorney, Disability Rights Office, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2075, *Email: rosaline.crawford@fcc.gov.*

*RIN:* 3060–AJ63

**450. 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 a Further Notice of Proposed Rulemaking seeking comment on additional measures to protect wireline and wireless consumers from unauthorized charges.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 08/23/11 | 76 FR 52625 |
| NPRM Comment Period End. | 11/21/11 | |
| Order (Extends Reply Comment Period). | 11/30/11 | 76 FR 74017 |
| NPRM Comment Period End. | 12/05/11 | |
| FNPRM | 05/24/12 | 77 FR 30972 |
| R&O | 05/24/12 | 77 FR 30915 |
| FNPRM Comment Period End. | 07/09/12 | |
| Order (Extends Reply Comment Period). | 07/17/12 | 77 FR 41955 |
| FNPRM Comment Period End. | 07/20/12 | |
| Announcement of Effective Dates. | 10/26/12 | 77 FR 65230 |
| Correction of Final Rule. | 11/30/12 | 77 FR 71354 |
| Correction of Final Rule. | 11/30/12 | 77 FR 71353 |
| Next Action Undetermined. | | |

*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

**451. 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 | 06/21/12 | 77 FR 37362 |
| R&O | 10/29/12 | 77 FR 71131 |
| Correction Amendments. | 02/13/13 | 78 FR 10099 |
| Announcement of Effective Date. | 03/26/13 | 78 FR 18246 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Richard D Smith, Special Counsel, Consumer Policy Division, 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

**452. Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CG Docket No. 10–213)**

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 255; 47 U.S.C. 617; 47 U.S.C. 618; 47 U.S.C. 619

*Abstract:* These proceedings implement sections 716, 717, and 718 of the Communications Act, which were added by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), related to the accessibility of advanced communications services and equipment (section 716), recordkeeping and enforcement requirements for entities subject to sections 255, 716, and 718 (section 717); and accessibility of Internet browsers built into mobile phones (section 718).

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 03/14/11 | 76 FR 13800 |
| NPRM Comment Period Extended. | 04/12/11 | 76 FR 20297 |
| NPRM Comment Period End. | 05/13/11 | |
| FNPRM | 12/30/11 | 76 FR 82240 |
| R&O | 12/30/11 | 76 FR 82354 |
| FNPRM Comment Period End. | 03/14/12 | |
| Announcement of Effective Date. | 04/25/12 | 77 FR 24632 |
| 2nd R&O | 05/22/13 | 78 FR 30226 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Rosaline Crawford, Attorney, Disability Rights Office, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2075, *Email: rosaline.crawford@fcc.gov.*

*RIN:* 3060–AK00

**453. Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech**

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225

*Abstract:* This FCC initiated this proceeding in its effort to ensure that IP CTS is available for eligible users only. In doing so, the FCC released an Interim Order and Notice of Proposed Rulemaking (NPRM) to address certain practices related to the provision and marketing of Internet Protocol Captioned Telephone Service (IP CTS). IP CTS is a form of relay service designed to allow people with hearing loss to speak directly to another party on a telephone call and to simultaneously listen to the other party and read captions of what that party is saying over an IP-enabled device. To ensure that IP CTS is provided efficiently to persons who need to use this service, this new Order establishes the several requirements on a temporary basis from March 7, 2013 to September 3, 2013.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 02/05/13 | 78 FR 8090 |
| Order (Interim Rule). | 02/05/13 | 78 FR 8032 |
| Order | 02/05/13 | 78 FR 8030 |
| Announcement of Effective Date. | 03/07/13 | 78 FR 14701 |
| NPRM Comment Period End. | 03/12/13 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Greg Hlibok, Chief, Disability Rights Office, Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 559–5158, *TDD Phone:* 202 418–0413, *Email: gregory.hlibok@fcc.gov.*

*RIN:* 3060–AK01

## FEDERAL COMMUNICATIONS COMMISSION (FCC)

*Office of Engineering and Technology*

Long-Term Actions

**454. 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

**455. 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:* In the Report and Order the Commission resolved several issues regarding compliance with the Federal Communications Commission's (FCC's) regulations for conducting environmental reviews under the National Environmental Policy Act (NEPA) as they relate to the guidelines for human exposure to RF electromagnetic fields. More specifically, the Commission clarifies evaluation procedures and references to determine compliance with its limits, including specific absorption rate (SAR) as a primary metric for compliance, consideration of the pinna (outer ear) as an extremity, and measurement of medical implant exposure. The Commission also elaborates on mitigation procedures to ensure compliances with its limits, including labeling and other requirements for occupational exposure classification, clarification of compliance responsibility at multiple transmitter sites, and labeling of fixed consumer transmitters.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 09/08/03 | 68 FR 52879 |
| NPRM Comment Period End. | 12/08/03 | |
| R&O | 06/04/13 | 78 FR 33634 |

| Action | Date | FR Cite |
|---|---|---|
| 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

**456. 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.

This Order addressed five petitions for reconsideration of the Commission's decisions in the Second Memorandum Opinion and Order (''Second MO&O'') in this proceeding and modified rules in certain respects. In particular, the Commission: (1) Increased the maximum height above average terrain (HAAT) for sites where fixed devices may operate; (2) modified the adjacent channel emission limits to specify fixed rather than relative levels; and (3) slightly increased the maximum permissible power spectral density (PSD) for each category of TV bands device. These changes will result in decreased operating costs for fixed TVBDs and allow them to provide greater coverage, thus increasing the availability of wireless broadband services in rural and underserved areas without increasing the risk of interference to incumbent services. The Commission also revised and amended several of its rules to better effectuate the Commission's earlier decisions in this docket and to remove ambiguities.

*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 |
| 3rd MO&O and Order. | 05/17/12 | 77 FR 28236 |
| 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

**457. 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 | |

| Action | Date | FR Cite |
|---|---|---|
| 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

**458. 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, 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

**459. 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 proposed 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.

In the Report and Order (R&O), the Commission revised and streamlined its rules to modernize the Experimental Radio Service (ERS). The rules adopted in the R&O updated the ERS to a more flexible framework to keep pace with the speed of modern technological change while continuing to provide an environment where creativity can thrive. To accomplish this transition, the Commission created three new types of ERS licenses—the program license, the medical testing license, and the compliance testing license—to benefit the development of new technologies, expedite their introduction to the marketplace, and unleash the full power of innovators to keep the United States at the forefront of the communications industry. The Commission's actions also modified the market trial rules to eliminate confusion and more clearly articulate its policies with respect to marketing products prior to equipment certification. The Commission believes that these actions will remove regulatory barriers to experimentation, thereby permitting institutions to move from concept to experimentation to finished product more rapidly and to more quickly implement creative problem-solving methodologies.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 02/08/11 | 76 FR 6928 |
| NPRM Comment Period End. | 03/10/11 | |
| R&O | 04/29/13 | 78 FR 25138 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Nnake Nweke, Chief, Experimental Licensing Branch, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0785, *Email: nnake.nweke@fcc.gov.*

*RIN:* 3060–AJ62

**460. 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 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'').

Petitions for Reconsideration were filed by Navtech Radar, Ltd. and Honeywell International Inc.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 06/16/11 | 76 FR 35176 |
| R&O | 08/13/12 | 77 FR 48097 |
| Petition for Recon | 11/11/12 | 77 FR 68722 |
| 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

**461. WRC–07 Implementation (ET Docket No. 12–338)**

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 301; 47 U.S.C. 302(a); 47 U.S.C. 303

*Abstract:* In the Notice of Proposed Rulemaking (NPRM), the Commission proposed to amend parts 1, 2, 74, 78, 87, 90, and 97 of its rules to implement allocation decisions from the World Radiocommunication Conference (Geneva, 2007) (WRC 07) concerning portions of the radio frequency (RF) spectrum between 108 MHz and 20.2 GHz and to make certain updates to its rules in this frequency range. The NPRM follows the Commission's July 2010 WRC–07 Table Clean-up Order, 75 FR 62924, October 13, 2010, which made certain nonsubstantive, editorial revisions to the Table of Frequency Allocations (Allocation Table) and to other related rules. The Commission also addressed the recommendations for implementation of the WRC–07 Final Acts that the National Telecommunications and Information Administration (NTIA) submitted to the Commission in August 2009. As part of its comprehensive review of the Allocation Table, the Commission also proposed to make allocation changes that are not related to the WRC–07 Final Acts and update certain service rules, and requested comment on other allocation issues that concern portions of the RF spectrum between 137.5 kHz and 54.25 GHz.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 12/27/12 | 77 FR 76250 |
| NPRM Comment Period End. | 02/25/13 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Tom Mooring, Electronics Engineer, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2450, *Fax:* 202 418–1944, *Email: tom.mooring@fcc.gov.*

*RIN:* 3060–AJ93

**462. • Federal Earth Stations—Non-Federal Fixed Satellite Service Space Stations; Spectrum for Non-Federal Space Launch Operations; ET Docket No. 13–115**

*Legal Authority:* 47 U.S.C. 154; 47 U.S.C. 302(a); 47 U.S.C. 303; 47 U.S.C. 336

*Abstract:* The Notice of Proposed Rulemaking proposes to make spectrum allocation proposals for three different space related purposes. The Commission makes two alternative proposals to modify the Allocation Table to provide interference protection for Fixed-Satellite Service (FSS) and Mobile-Satellite Service (MSS) earth stations operated by Federal agencies under authorizations granted by the National Telecommunications and Information Administration (NTIA) in certain frequency bands. The Commission also proposes to amend a footnote to the Allocation Table to permit a Federal MSS system to operate in the 399.9–400.05 MHz band; it also makes alternative proposals to modify the Allocation Table to provide access to spectrum on an interference protected basis to Commission licensees for use during the launch of launch vehicles (i.e. rockets). The Commission also seeks comment broadly on the future spectrum needs of the commercial space sector. The Commission expects that, if adopted, these proposals would advance the commercial space industry and the important role it will play in our nation's economy and technological innovation now and in the future.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/01/13 | 78 FR 39200 |
| 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–AK09

**463. • Authorization of Radiofrequency Equipment; ET Docket No. 13–44**

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 301; 47 U.S.C. 303(f); 47 U.S.C. 303(g); 47 U.S.C. 303(r); 47 U.S.C. 307(e); 47 U.S.C. 332

*Abstract:* The Commission is responsible for an equipment authorization program for radiofrequency (RF) devices under part 2 of its rules. This program is one of the primary means that the Commission uses to ensure that the multitude of RF devices used in the United States operate effectively without causing harmful interference and otherwise comply with the Commission rules. All RF devices subject to equipment authorization must comply with the Commission's technical requirement

before they can be imported or marketed. The Commission or a Telecommunication Certification Body (TCB) must approve some of these devices before they can be imported or marketed, while others do not require such approval. The Commission last comprehensively reviewed its equipment authorization program more than ten years ago. The rapid innovation in equipment design since that time has led to ever-accelerating growth in the number of parties applying for equipment approval. The Commission therefore believes that the time is now right for us to comprehensively review our equipment authorization processes to ensure that they continue to enable this growth and innovation in the wireless equipment market. In May of 2012, the Commission began this reform process by issuing an Order to increase the supply of available grantee codes. With this Notice of Proposed Rulemaking (NPRM), the Commission continues its work to review and reform the equipment authorization processes and rules.

This Notice of Proposed Rulemaking proposes certain changes to the Commission's part 2 equipment authorization processes to ensure that they continue to operate efficiently and effectively. In particular, it addresses the role of TCBs in certifying RF equipment and post-market surveillance, as well as the Commission's role in assessing TCB performance. The NPRM also addressed the role of test laboratories in the RF equipment approval process, including accreditation of test labs and the Commission's recognition of laboratory accreditation bodies, and measurement procedures used to determine RF equipment compliance. Finally, it proposes certain modifications to the rules regarding TCBs that approve terminal equipment under part 68 of the rules that are consistent with our proposed modifications to the rules for TCBs that approve RF equipment. Specifically the Commission proposes to recognize the National Institute for Standards and Technology (NIST) as the organization that designates TCBs in the United States and to modify the rules to reference the current International Organization for Standardization and International Electrotechnical Commission (ISO/IEC) guides used to accredit TCBs.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/03/13 | 78 FR 25916 |
| 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–AK10

## FEDERAL COMMUNICATIONS COMMISSION (FCC)

*International Bureau*

Long-Term Actions

### 464. 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.

On October 17, 2012, the Commission released an Order on Reconsideration that addressed various petitions for reconsideration of the 2010 Second Report and Order.

*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 |
| Order on Recon .. | 03/13/13 | 78 FR 2013 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jay Whaley, Attorney, Federal Communications Commission, International Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7184, *Fax:* 202 418–0748, *Email: jwhaley@fcc.gov.*

*RIN:* 3060–AF93

### 465. 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 applications 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:* Andrea Kelly, Associate Chief, Satellite Division, Federal Communications Commission, International Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7877, *Fax:* 202 418–0748, *Email: andrea.kelly@fcc.gov.*

*RIN:* 3060–AH98

**466. 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:* The FCC is reviewing the reporting requirements to which entities providing U.S.-international service 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 switch 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 the requirement to report separately for U.S. offshore points, 43.61(a), 48.82(a). The FCC adopted Second Report and Order that made additional reforms to streamline further and modernize the reporting requirements, including requiring that entities providing international calling service via Voice over Internet Protocol (VoIP) connected to the public switched telephone network (PSTN) to submit data regarding their provision of international telephone service. The Voice on the Net Coalition (VON Coalition) filed a petition requesting that they reconsider requiring VoIP providers from reporting their international traffic and revenues.

*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 | |
| Second R&O | 01/15/13 | 78 FR 15615 |
| Petition for Recon | 07/01/13 | 78 FR 39232 |
| 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

**467. 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 |
| Order on Recon | 02/11/13 | 78 FR 9602 |
| Proceeding Terminated. | 02/11/13 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Howard Griboff, Deputy Chief, Policy Division, Federal Communications Commission, International Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0657, *Fax:* 202 418–2824, *Email:howard.griboff@fcc.gov.*

*RIN:* 3060–AI90

**468. 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 R&O | 08/22/12 | 77 FR 50628 |
| Final Rule | 07/10/13 | 78 FR 41314 |
| Final Rule Effective. | 08/09/13 | |
| 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

**469. 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 | |
| Report and Order (release date). | 11/29/12 | |
| 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

**470. Revisions to Parts 2 and 25 of the Commission's Rules To Govern the Use of Earth Stations Aboard Aircraft (IB Docket No. 12–376)**

*Legal Authority:* 47 U.S.C. 154(i) and (j); 47 U.S.C. 157(a); 47 U.S.C. 302(a); 47 U.S.C. 303(c), (e), (f), (g), (j), (r) and (y)

*Abstract:* In this docket, the Commission provides for the efficient licensing of two-way in-flight broadband services, including Internet access, to passengers and flight crews aboard commercial airliners and private aircraft. The Report and Order establishes technical and licensing rules for Earth Stations Aboard Aircraft (ESAA), i.e., Earth stations on aircraft communicating with Fixed-Satellite Service (FSS) geostationary-orbit (GSO) space stations operating in the 10.95–11.2 GHz, 11.45–11.7 GHz, 11.7–12.2 GHz (space-to-Earth or downlink) and 14.0–14.5 GHz (Earth-to-space or uplink) frequency bands. The Notice of Proposed Rulemaking requests comment on a proposal to elevate the allocation status of ESAA in the 14.0–14.5 GHz band from secondary to primary, which would make the ESAA allocation equal to the allocations of Earth Stations on Vessels (ESV) and Vehicle-Mounted Earth Stations (VMES).

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 04/20/05 | 70 FR 20508 |
| R&O | 03/08/13 | 78 FR 14920 |
| NPRM | 03/18/13 | 78 FR 14952 |
| NPRM Comment Period End. | 06/21/13 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Howard Griboff, Deputy Chief, Policy Division, Federal Communications Commission, International Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0657, *Fax:* 202 418–2824, *Email: howard.griboff@fcc.gov.*

*RIN:* 3060–AJ96

**471. Reform of Rules and Policies on Foreign Carrier Entry Into the U.S. Telecommunications Market (IB Docket 12–299)**

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 152; 47 U.S.C. 154(i)–(j); 47 U.S.C. 201–205; * * *

*Abstract:* FCC is considering proposed changes in the criteria under which it considers certain applications from foreign carriers or affiliates of foreign carriers for entry into the U.S. market for international telecommunications services. It proposes to eliminate, or in the alternative, simplify the effective competitive opportunities test (ECO Text) adopted in 1995 for Commission review of foreign carrier applications.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 11/26/12 | 77 FR 70400 |
| NPRM Comment Period End. | 12/26/12 | |
| NPRM Reply Comment Period End. | 01/15/13 | |
| 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–AJ97

**472. Comprehensive Review of Licensing and Operating Rules for Satellite Services (IB Docket No. 12–267)**

*Legal Authority:* 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 161; 47 U.S.C. 303(c); 47 U.S.C. 303(g); 47 U.S.C. 303(r)

*Abstract:* The Commission adopted a Notice of Proposed Rulemaking (NPRM) as part of its ongoing efforts to update and streamline regulatory requirements. The NPRM initiated a comprehensive review of part 25 of the Commission's rules, which governs licensing and operation of space stations and Earth stations. The amendments proposed in the NPRM modernize the rules to better reflect evolving technology and reorganize and simplify existing requirements. Furthermore, the changes will remove unnecessary filing requirements for applicants requesting space and Earth station licenses, allowing applicants and licensees to save time, effort, and costs in preparing

applications. Other changes are designed to remove unnecessary technical restrictions, enabling applicants to submit fewer waiver requests, which will ease administrative burdens in submitting and processing applications and reduce the amount of time spent on applications by applicants, licensees, and the Commission.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 11/25/12 | 77 FR 67172 |
| NPRM Comment Period End. | 12/24/12 | |
| Reply Comment Period End. | 01/22/13 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Andrea Kelly, Associate Chief, Satellite Division, Federal Communications Commission, International Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7877, *Fax:* 202 418–0748, *Email: andrea.kelly@fcc.gov.*

*RIN:* 3060–AJ98

## FEDERAL COMMUNICATIONS COMMISSION (FCC)

*Media Bureau*

Long-Term Actions

### 473. 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

### 474. 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:* Hillary DeNigro, Chief, Industry Analysis Division, Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7334.

*RIN:* 3060–AH97

### 475. 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

**476. 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.; * * *

*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 |
| NPRM Comment Period End. | 09/27/04 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Hillary DeNigro, Chief, Industry Analysis Division, Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7334.

*RIN:* 3060–AI55

**477. 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 (section 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 October 2012, the Commission declined to extend the prohibition on exclusive contracts beyond the October 5, 2012, expiration date. The Commission also affirmed its expanded discovery procedures for program access complaints. In the accompanying FNPRM, the Commission sought comment on additional revisions to the program access rules.

*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 |
| R&O | 10/31/12 | 77 FR 66026 |
| FNPRM | 10/31/12 | 77 FR 66052 |
| Petition for Recon | 06/16/13 | 78 FR 34015 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Mary Beth Murphy, Chief, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2132, *Email: marybeth.murphy@fcc.gov.*

*RIN:* 3060–AI87

**478. 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, Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2132, *Email: marybeth.murphy@fcc.gov.*

*RIN:* 3060–AJ04

**479. 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 nonprofit 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 to 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.

In the sixth Report and Order, the Commission adopted an LPFM service standard for second and adjacent channel spacing waivers. The Commission also adopted procedures for third adjacent channel interference complaints and remediation requirements

*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 |
| 6th R&O | 01/19/13 | 78 FR 2078 |
| 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

**480. 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 |
| 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

**481. 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 nonattributable 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 |
| MO&O | 10/30/09 | 74 FR 56131 |
| NPRM | 01/19/12 | 77 FR 2868 |
| 5th NPRM | 01/15/13 | 78 FR 2934 |
| 6th FNPRM | 01/15/13 | 78 FR 2925 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Hillary DeNigro, Chief, Industry Analysis Division, Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7334.

*RIN:* 3060–AJ27

**482. 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

**483. 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:* Mary Beth Murphy, Chief, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2132, *Email: marybeth.murphy@fcc.gov.*

*RIN:* 3060–AJ56

**484. 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 |
| Order on Recon, FNPRM. | 07/02/13 | 78 FR 39691 |
| 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

**485. Noncommercial Educational Station Fundraising for Third-Party Nonprofit 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 longstanding policy prohibiting noncommercial educational broadcast stations from conducting on-air fundraising activities that interrupt regular programming for the benefit of third-party nonprofit organizations.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 06/22/12 | 77 FR 37638 |
| NPRM Comment Period End. | 07/23/12 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Mary Beth Murphy, Chief, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2132, *Email: marybeth.murphy@fcc.gov.*

*RIN:* 3060–AJ79

**486. • Accessibility of User Interfaces and Video Programming Guides and Menus (MB Docket No. 12–108)**

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 303(r); 47 U.S.C. 303(aa); 47 U.S.C. 303(bb)

*Abstract:* This proceeding was initiated to implement sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act. These sections generally require that user interfaces on digital apparatus and navigation devices used to view video programming be accessible to and usable by individuals who are blind or visibly impaired.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 06/18/13 | 78 FR 36478 |
| NPRM Comment Period End. | 07/15/13 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Adam Copeland, Attorney, Policy Divison Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2120, *Email: adam.copeland@fcc.gov.*

*RIN:* 3060–AK11

## FEDERAL COMMUNICATIONS COMMISSION (FCC)

*Office of Managing Director*

Long-Term Actions

**487. 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 |
| NPRM | 04/26/10 | 75 FR 21536 |
| R&O | 07/19/10 | 75 FR 41932 |
| NPRM | 05/26/11 | 76 FR 30605 |
| R&O | 08/10/11 | 76 FR 49333 |
| NPRM | 05/17/12 | 77 FR 29275 |
| R&O | 08/03/12 | 77 FR 46307 |
| NPRM | 08/17/12 | 77 FR 49749 |
| NPRM | 06/10/13 | 78 FR 34612 |
| R&O | 08/23/13 | 78 FR 52433 |
| 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

**488. 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 | |
| Public Notice | 02/15/11 | |
| 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

**489. 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

**490. 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 multiline telephone systems are compatible with the enhanced 911 network. The Public Notice seeks comment on whether the Commission, rather than States, should regulate multiline 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 |

| Action | Date | FR Cite |
|---|---|---|
| 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

**491. 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

**492. 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 |
| First 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 |
| Fourth MO&O | 09/27/02 | 67 FR 61002 |
| Sixth NPRM | 11/08/02 | 67 FR 68079 |
| Fifth R&O | 12/13/02 | 67 FR 76697 |
| Seventh NPRM | 04/27/05 | 70 FR 21726 |
| Sixth R&O | 04/27/05 | 70 FR 21671 |
| Eighth NPRM | 04/07/06 | 71 FR 17786 |
| NPRM | 09/21/06 | 71 FR 55149 |
| Ninth NPRM | 01/10/07 | 72 FR 1201 |
| R&O and FNPRM | 05/02/07 | 72 FR 24238 |
| 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 |
| R&O (release date). | 04/01/13 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Brian Marenco, Electronics Engineer, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0838, *Email: brian.marenco@fcc.gov.*

*RIN:* 3060–AG85

**493. 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 was separate from the Commission's proceeding on Enhanced 911 Emergency Systems (E911) in that it 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, the 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 was 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

**494. Commission Rules Concerning Disruptions to Communications (PS Docket No. 11–82)**

*Legal Authority:* 47 U.S.C. 155; 47 U.S.C. 154; 47 U.S.C. 201; 47 U.S.C. 251

*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 4 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 indicated that the technical issues involved in identifying and reporting significant outages of broadband Internet services requires further study.

*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 |
| Final Rule; Correction. | 01/30/13 | 78 FR 6216 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Lisa Fowlkes, Deputy Bureau Chief, 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

**495. E911 Requirements for IP-Enabled Service Providers (Dockets Nos. 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

**496. 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, Associate 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

**497. 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 |
| Order | 02/25/13 | 78 FR 16806 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Lisa Fowlkes, Deputy Bureau Chief, 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

**498. 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:* This is related to the proceedings in which the FCC has previously acted to improve the quality of all emergency services. Wireless carriers must provide specific automatic location information in connection with 911 emergency calls to Public Safety Answering Points (PSAPs). Wireless licensees must satisfy 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 |

| Action | Date | FR Cite |
|---|---|---|
| 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 |
| NPRM, 3rd R&O, and 2nd FNPRM. | 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

**499. 911 Reliability (PS Docket No. 13–75)**

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 154(j); 47 U.S.C. 154(o); 47 U.S.C. 201(b); 47 U.S.C. 214(d); 47 U.S.C. 218; * * *

*Abstract:* The Federal Communications Commission proposes a range of approaches to ensure that providers of 911 communications services implement best practices and other sound engineering principles to improve the reliability and resiliency of the nation's 911 networks. The NPRM also proposes amendments to the Commission's current rules to clarify and add specificity to service providers' obligations to notify 911 call centers of communications outages. This action follows an inquiry by the Public Safety and Homeland Security Bureau into widespread 911 service outages during the June 2012 Derecho storm.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/12/13 | 78 FR 21879 |
| NPRM Comment Period End. | 05/13/13 | |
| NPRM Reply Comment Period End. | 05/28/13 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Eric Schmidt, Attorney-Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1214, *Email: eric.schmidt@fcc.gov.*

*RIN:* 3060–AJ95

**500. Private Land Radio Services/ Miscellaneous Wireless Communications Services**

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 152; 47 U.S.C. 301–303; 47 U.S.C. 307–309; Pub. L. 112–96

*Abstract:* This action proposes technical rules to protect against harmful radio frequency interference in the spectrum designated for public safety services under the Middle Class Tax Relief and Job Creation Act of 2012.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/24/13 | 78 FR 24138 |
| NPRM Comment Period End. | 05/24/13 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Genaro Fullano, Legal Counsel, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1400, *Email: genaro.fullano@fcc.gov.*

*RIN:* 3060–AJ99

## FEDERAL COMMUNICATIONS COMMISSION (FCC)

*Wireless Telecommunications Bureau*

Proposed Rule Stage

**501. Service Rules for Advanced Wireless Services in the 2155–2175 MHz Band; WT Docket No. 13–185**

*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 | |
| FNPRM ..... | 08/20/13 | 78 FR 51559 |
| FNPRM Comment Period End. | 10/16/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Peter Daronco, Associate Division Chief, Broadband Division, 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

## FEDERAL COMMUNICATIONS COMMISSION (FCC)

*Wireless Telecommunications Bureau*

Long-Term Actions

**502. 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, Associate Division Chief SCPD, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7369, *Email: peter.trachtenberg@fcc.gov.*

Christina Clearwater, Assistant Division Chief, SCPD, 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

**503. 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 |
| 3rd FNPRM | 01/30/13 | 78 FR 6276 |
| 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

**504. 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 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

**505. 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 |

| Action | Date | FR Cite |
|---|---|---|
| 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, Federal Communications Commission, Wireless Telecommuncations Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0797, *Email: john.schauble@fcc.gov.*

*RIN:* 3060–AJ12

**506. 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

**507. 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**

*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 Division Chief, Broadband Division, 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

**508. 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

**509. 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 |
| Order on Recon | 07/17/13 | 78 FR 42701 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Joyce Jones, Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1327, *Email: joyce.jones@fcc.gov.*

*RIN:* 3060–AJ22

**510. 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, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0797, *Email: john.schauble@fcc.gov.*

*RIN:* 3060–AJ28

**511. 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 |
| Order on Recon | 03/01/13 | 78 FR 19424 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Paul D'Ari, Spectrum and Competition Policy Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1550, *Fax:* 202 418–7447, *Email: paul.dari@fcc.gov.*

*RIN:* 3060–AJ35

**512. 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 Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0896.

*RIN:* 3060–AJ36

**513. 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 | 05/27/10 | 75 FR 29677 |
| 5th R&O | 05/16/13 | 78 FR 28749 |
| Petition for Reconsideration. | 07/23/13 | 78 FR 44091 |
| 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

**514. 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, Federal Communications Commission, Wireless Telecommuncations Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0797, *Email: john.schauble@fcc.gov.*

*RIN:* 3060–AJ47

**515. 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:* Dan Abeyta, Attorney, Federal Communications Commission, Washington, DC 20554, *Phone:* 202 418–1538, *Email: dan.abeyta@fcc.gov.*

*RIN:* 3060–AJ50

**516. 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 establishes the Mobility Fund which provides 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

**517. 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 use 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 Required:* Yes.

*Agency Contact:* Jeremy Marcus, Assistant Chief, Broadband Division, 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

**518. 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:* Brian Regan, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2849, *Email: brian.regan@fcc.gov.*

*RIN:* 3060–AJ71

**519. Service Rules for Advaned 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 the Report and Order, the Commission increased 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 action carries 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 adopting service, technical, assignment, and licensing rules for this spectrum. These 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.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM Comment Period End. | 04/17/12 | |
| NPRM | 04/17/12 | 77 FR 22720 |
| R&O | 05/05/13 | 78 FR 8229 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jeremy Marcus, Assistant Chief, Broadband Division, 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

**520. 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

**521. Service Rules for Advanced Wireless Services of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands (WT Docket No. 12–357)**

*Legal Authority:* 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

*Abstract:* The Commission proposes rules for the Advanced Wireless Services (AWS) H Block that would make available tem megahertz of 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 services.

Today'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 licenses in the 1930–1985 MHz (PCS downlink) band. The potential for harmful interference to the PCS downlink band relates only to the Lower H Block transmissions, and may be addressed by appropriate technical rules, including reduced power limits on H Block devices. We therefore propose to pair and license the Lower H Block and the Upper H Block for flexible use, including mobile broadband, with an aim to assign the licenses through competitive bidding in 2013. In the event that we conclude that the Lower H Block cannot be used without causing harmful interference to PCS, we propose to license the Upper H Block for full power and seek comment on appropriate use for the Lower H Block, including Unlicensed PCS.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 01/08/13 | 78 FR 1166 |
| NPRM Comment Period End. | 03/06/13 | |
| R&O | 08/16/13 | 78 FR 50213 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* David Hu, Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7120, *Fax:* 202 418–1186, *Email: dhu@fcc.gov.*

*RIN:* 3060–AJ86

**522. Amendment of Parts 1, 2, 22, 24, 27, 90 and 95 of the Commission's Rules To Improve Wireless Coverage Through the Use of Signal Boosters (WT Docket No. 10–4)**

*Legal Authority:* 15 U.S.C. 79; 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 155; 47 U.S.C. 157; 47 U.S.C. 225; 47 U.S.C. 227; 47 U.S.C. 303(r)

*Abstract:* This action adopts new technical, operational, and registration requirements for signal boosters, and creates two classes of signal boosters—Consumer and Industrial—with distinct regulatory requirements for each, thereby establishing a two-step transition process for equipment certification for both consumer and industrial signal boosters sold and marketed in the United States.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/10/11 | 76 FR 26983 |
| R&O | 04/11/13 | 78 FR 21555 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Joyce Jones, Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1327, *Email: joyce.jones@fcc.gov.*

*RIN:* 3060–AJ87

**523. Amendment of the Commission's Rules Governing Certain Aviation Ground Station Equipment (Squitter) (WT DocketT Nos. 10–61 and 09–42)**

*Legal Authority:* 48 Stat 1066, 1082 as amended; 47 U.S.C. 154; 47 U.S.C. 303; 47 U.S.C. 307(e); 47 U.S.C. 151 to 156; 47 U.S.C. 301

*Abstract:* This action amends part 87 rules to authorize new ground station technologies to promote safety and allow use of frequency 1090 MHz by aeronautical utility mobile stations for airport surface detection equipment commonly referred to as ''squitters,'' to help reduce collisions between aircraft and airport ground vehicles.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 04/28/10 | 75 FR 22352 |
| R&O (Release Date). | 03/01/13 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Tim Maguire, Electronics Engineer, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2155, *Fax:* 202 418–7247, *Email: tim.maguire@fcc.gov.*

*RIN:* 3060–AJ88

**524. Amendment of the Commission's Rules Concerning Commercial Radio Operations (WT Docket No. 10–177)**

*Legal Authority:* 47 U.S.C. 154(i); 47 U.S.C. 303(r); 47 U.S.C. 332(a)2

*Abstract:* This action amends parts 0, 1, 13, 80, and 87 of the Commission's rules concerning commercial radio operator licenses for maritime and aviation radio stations in order to reduce administrative burdens on the telecom industry.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 10/29/10 | 75 FR 66709 |
| R&O | 05/29/13 | 78 FR 32165 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Stanislava Kimball, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1306, *Email: stanislava.kimball@fcc.gov.*

*RIN:* 3060–AJ91

**525. • Radiolocation Operations in the 78–81 GHz Band; WT Docket No. 11–202**

*Legal Authority:* 47 U.S.C. 154; 47 U.S.C. 303; 47 U.S.C. 307(e)

*Abstract:* We amend our rules to permit the certification, licensing, and use of foreign object debris (FOD) detection radar equipment in the 78–81 GHz band. The presence of FOD on airport runways, taxiways, aprons, and ramps poses a significant threat to the safety of air travel. FOD detection radar equipment will be authorized on a licensed basis under part 90 of our rules. Authorization of other potential radiolocation uses of the 78–81 GHz band will be considered in other proceedings.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 01/11/12 | 77 FR 1661 |
| R&O | 07/26/13 | 78 FR 45072 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes

*Agency Contact:* Tim Maguire, Electronics Engineer, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2155, *Fax:* 202 418–7247, *Email: tim.maguire@fcc.gov.*

*RIN:* 3060–AK04

**526. • Amendment of Part 90 of the Commission's Rules To Permit Terrestrial Trunked Radio (TETRA) Technology; WT Docket No. 11–6**

*Legal Authority:* 47 U.S.C. 154(i); 47 U.S.C. 161; 47 U.S.C. 303(g); 47 U.S.C. 303(r); 47 U.S.C. 332(c)(7)

*Abstract:* We modify our rules to permit the certification and use of Terrestrial Trunked Radio (TETRA) equipment under part 90 of our Rules. TETRA is a spectrally efficient digital technology with the potential to provide valuable benefits to land mobile radio users, such as higher security and lower latency than comparable technologies. It does not, however, conform to all of our current part 90 technical rules. In the Notice of Proposed Rule Making and Order (NPRM) in this proceeding, the Commission proposed to amend part 90 to accommodate TETRA technology. We conclude that modifying the part 90 rules to permit the certification and use of TETRA equipment in two bands—the 450–470 MHz portion of the UHF band (421–512 MHz) and Business/Industrial Land Transportation 800 MHz band channels (809–824/854–869 MHz) that are not in the National Public Safety Planning Advisory Committee (NPSPAC) portion of the band—will give private land mobile radio (PLMR) licensees additional equipment alternatives without increasing the potential for interference or other adverse effects on other licensees.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/11/11 | 76 FR 27296 |
| R&O | 10/10/12 | 77 FR 61535 |
| Order on Recon | 08/09/13 | 78 FR 48627 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Tim Maguire, Electronics Engineer, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2155, *Fax:* 202 418–7247, *Email: tim.maguire@fcc.gov.*

*RIN:* 3060–AK05

**527. • Promotig Technological Solutions To Combat Wireless Device Use in Correctional Facilities**

*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. 303(a); 47 U.S.C. 303(b); 47 U.S.C. 307; 47 U.S.C. 308; 47 U.S.C. 309; 47 U.S.C. 310; 47 U.S.C. 332

*Abstract:* In this proceeding, the Commission proposes rules to encourage development of multiple technological solutions to combat the use of contraband wireless devices in correctional facilities nationwide. The Commission proposes lease modifications between wireless providers and managed access system operators. It also proposes to allow wireless providers to terminate service to a contraband device.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 06/18/13 | 78 FR 36469 |
| NPRM Comment Period End. | 08/08/13 | |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Melissa Conway, Attorney Advisor, Wireless Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2887, *Email: melissa.conway@fcc.gov.*

*RIN:* 3060–AK06

## FEDERAL COMMUMICATIONS COMMISSION (FCC)

*Wireline Competition Bureau*

Long-Term Actions

**528. 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 nonoperating 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 on 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 nonrural 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 |
| 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 |
| Public Notice | 02/28/12 | 77 FR 76345 |
| Public Notice | 08/29/12 | 77 FR 52279 |
| Public Notice | 12/12/12 | 77 FR 74010 |
| 5th Order on Recon. | 01/17/13 | 78 FR 3837 |
| Public Notice | 02/07/13 | 78 FR 9020 |
| Public Notice | 02/21/13 | 78 FR 12006 |
| Public Notice | 02/22/13 | 78 FR 12269 |
| Public Notice | 03/15/13 | 78 FR 16456 |
| 6th Order on Recon and MO&O. | 03/19/13 | 78 FR 16808 |
| MO&O | 05/08/13 | 78 FR 26705 |
| R&O | 05/06/13 | 78 FR 26269 |
| R&O | 06/03/13 | 78 FR 32991 |
| Public Notice | 06/13/13 | 78 FR 35632 |
| R&O | 06/26/13 | 78 FR 38227 |
| Order on Recon | 08/08/13 | 78 FR 48622 |
| 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

**529. 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:* The NPRM proposed 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 proposed to reduce the reporting categories from more than 30 to 6, and addressed 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.

On September 6, 2008, the Commission adopted an MO&O granting conditional forbearance from the Armis

43–05 and 43–06 reporting requirements to all carriers that are required to file these reports.

*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 |
| MO&O | 10/15/08 | 73 FR 60997 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Cathy Zima, Deputy Chief, Industry Analysis Division, 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

**530. 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

**531. 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

**532. 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 |

| Action | Date | FR Cite |
|---|---|---|
| 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 |
| NPRM, Order, & NOI (Release Date). | 04/13/13 | |
| 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

**533. 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 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

**534. 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 on the part 36 category relationships and jurisdictional cost allocation factors for a period of 5 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 3 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. In 2012, the Commission adopted a Report and Order extending the separations freeze for an additional 2 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 |
| Report and Order | 05/23/12 | 77 FR 30410 |
| 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

**535. 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.

On June 27, 2013, the Commission adopted a Report and Order addressing collection of broadband deployment data from facilities-based providers.

*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 | |
| R&O | 08/13/13 | 78 FR 49126 |
| Next Action Undetermined. | | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Cathy Zima, Deputy Chief, Industry Analysis Division, 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

**536. 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 Report and Order streamlined and reformed 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 |
| Order | 06/27/13 | 78 FR 49126 |
| 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

**537. 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

**538. 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, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7958, *Fax:* 202 418–1413, *Email: melissa.kirkel@fcc.gov.*

*RIN:* 3060–AJ32

**539. Electronic Tariff Filing System (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 (EFTS), 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

**540. 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 that 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

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Part XXIII

## 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 2013 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:** Robert E. Feldman, Executive Secretary, 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**

*Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for Certain Bank Holding Companies and their Subsidiary Insured Depository Institutions (3064–AE01)*

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System (''Board''), and the Federal Deposit Insurance Corporation (''FDIC'') (collectively, ''the agencies'') are seeking comment on a notice of proposed rulemaking (''proposal'') that would strengthen the agencies' leverage ratio standards for large, interconnected U.S. banking organizations. The proposal would apply to any U.S. top-tier bank holding company (''BHC'') with at least $700 billion in total consolidated assets or at least $10 trillion in assets under custody (''covered BHC'') and any insured depository institution subsidiary of these BHCs. In the revised capital regulations adopted by the agencies (''2013 rule''), the agencies established a minimum supplementary leverage ratio of 3 percent (''supplementary leverage ratio''), consistent with the minimum leverage ratio adopted by the Basel Committee on Banking Supervision, for banking organizations subject to the advanced approaches risk-based capital rules. In this proposal, the agencies are proposing to establish a ''well capitalized'' threshold of 6 percent for the supplementary leverage ratio for any insured depository institution that is a subsidiary of a covered BHC, under the agencies' prompt corrective action framework. The Board also proposes to establish a new leverage buffer for covered BHCs above the minimum supplementary leverage ratio requirement of 3 percent (leverage buffer). The leverage buffer would function like the capital conservation buffer for the risk-based capital ratios in the 2013 rule. A covered BHC that maintains a leverage buffer of tier 1 capital in an amount greater than 2 percent of its total leverage exposure would not be subject to limitations on distributions and discretionary bonus payments. The proposal would take effect beginning on January 1, 2018. The agencies are seeking comment on all aspects of this proposal.

*Removal of Transferred OTS Regulations Regarding Prompt Corrective Action and Modifications to Existing Federal Deposit Insurance Regulations (3064–AE02)*

The Federal Deposit Insurance Corporation (''FDIC'') will be proposing to rescind and remove from the Code of Federal Regulations 12 CFR Part 390, Subpart Y, entitled Prompt Corrective Action (''PCA''). This subpart was included in the regulations that were transferred to the FDIC from the Office of Thrift Supervision (''OTS'') on July 21, 2011, in connection with the implementation of applicable provisions of Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Upon removal of 12 CFR Part 390, Subpart Y, the PCA regulations applicable for all insured depository institutions for which the FDIC has been designated the appropriate federal banking agency will be found at 12 CFR Part 325, Subpart B, entitled Prompt Corrective Action, 12 CFR 325.2, entitled Definitions, and 12 CFR Part 308, Subpart Q, entitled Issuance and Review of Orders Pursuant to the Prompt Corrective Action Provisions of the Federal Deposit Insurance Act Rules (''FDIC PCA Rules'').

*Loans in Areas Having Special Flood Hazards (3064–AE03)*

The Office of the Comptroller of the Currency (''OCC''), Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation (''FDIC''), the Farm Credit Administration, and the National Credit Union Administration (collectively, ''the Agencies'') will be proposing to amend their regulations regarding loans in areas having special flood hazards to implement provisions of the Biggert-Waters Flood Insurance Reform Act of 2012. Specifically, the proposal would establish requirements with respect to the escrow of flood insurance payments, the acceptance of private flood insurance coverage, and the force-placement of flood insurance. The proposal also would clarify the Agencies' flood insurance regulations with respect to other amendments made by the Act and make technical corrections. Furthermore, the OCC and the FDIC are proposing to integrate their flood insurance regulations for national banks and Federal savings associations and for State non-member banks and State savings associations, respectively.

*Liquidity Coverage Ratio: Liquidity Risk Standards, Minimums, Monitoring, and Transition Provisions (3064–AE04)*

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation will be requesting comment on proposed rules that would implement a quantitative liquidity requirement consistent with the liquidity coverage ratio standard established by the Basel Committee on Banking Supervision. The proposed rule would apply to all banking organizations that are subject to, or have elected to use, the agencies' advanced approaches risk-based capital rules (advanced approaches banking organizations) and subsidiary depository institutions of advanced approaches banking organizations with $10 billion or more in total consolidated assets. The requirement is designed to promote improvements in the measurement and management of asset- and funding-liquidity risk.

*Restrictions on Sales of Assets by the Federal Deposit Insurance Corporation as Receiver for a Covered Financial Company (3064–AE05)*

The Federal Deposit Insurance Corporation (''FDIC'' or the ''Corporation'') is proposing to issue a rule (''proposed rule'') implementing section 210(r) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Section 210(r)'' of the ''Dodd-Frank Act''), 12 U.S.C 5390(r). Under Section 210(r), individuals or entities that have, or may have contributed to the failure of a ''covered financial

company'' (as defined in section 201(a)(8) of the Dodd-Frank Act, 12 U.S.C. 5381(a)(8) and in 12 CFR 380.1) cannot buy a covered financial company's assets from the FDIC. This proposed rule establishes a self-certification process that is a prerequisite to the purchase of assets from the FDIC as receiver for a covered financial company.

**Final 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'') reopened the comment period on 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, allowed 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.

*Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds (3064–AD85)*

On November 7, 2011, 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 (collectively, the ''Agencies'') published in the **Federal Register** a joint notice of proposed rulemaking for public comment to 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. Due to the complexity of the issues involved and to facilitate coordination of the rulemaking among the responsible agencies as provided in section 619 of the Dodd-Frank Act, the Agencies have determined that an extension of the comment period was appropriate. This action allowed interested persons additional time to analyze the proposed rules and prepare their comments.

*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 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.

*Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardize Approach for Risk-Weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule (3064–AD95)*

The Federal Deposit Insurance Corporation (''FDIC'') is adopting an interim final rule that revises its risk-based and leverage capital requirements for FDIC-supervised institutions. This interim final rule is substantially identical to a joint final rule issued by the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System (together, with the FDIC, ''the agencies''). The interim final rule consolidates three separate notices of proposed rulemaking that the agencies jointly published in the **Federal Register** on August 30, 2012, with selected changes. The interim final rule implements a revised definition of regulatory capital, a new common equity tier 1 minimum capital requirement, higher minimum tier 1 capital requirement, and, for FDIC-supervised institutions subject to the advanced approaches risk-based capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator. The interim final rule incorporates these new requirements into the FDIC's prompt corrective action framework. In addition, the interim final rule establishes limits on FDIC-supervised institutions' capital distributions and certain discretionary bonus payments if the FDIC-supervised institution does not hold a specified amount of common equity tier 1 capital in addition to the amount necessary to meet its minimum risk-based capital requirements. The interim final rule amends the methodologies for determining risk-weighted assets for all FDIC-supervised institutions. The interim final rule also adopts changes to the FDIC's regulatory capital requirements that meet the requirements of section 171 and section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The interim final rule also codifies the FDIC's regulatory capital rules, which have previously resided in various appendices to their respective regulations, into a harmonized integrated regulatory framework.

*Restrictions on Post-Employment Activities of Senior Examiners (3064–AD98)*

The Federal Deposit Insurance Corporation (''FDIC'') proposed to rescind and remove from the Code of Federal Regulations 12 CFR Part 390, Subpart A, entitled Restrictions on Post-Employment Activities of Senior Examiners. This subpart was included in the regulations that were transferred to the FDIC from the Office of Thrift Supervision on July 21, 2011, in connection with the implementation of applicable provisions of Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Upon removal of 12 CFR Part 390 Subpart A, the restrictions for post-employment activities of senior examiners of all insured depository institutions for which the FDIC has been designated the appropriate federal banking agency will be found at 12 CFR Part 336, Subpart C, entitled One-Year Restriction on Post-Employment Activities of Senior Examiners. The rule would not change 12 CFR Part 336, Subpart C. This rule also proposed to revise 12 CFR Part 336, Subpart B by deleting a reference to the ''Office of Thrift Supervision'' in the definition of ''Federal banking agency'' described in Part 336.3(e) and adding the words ''predecessors or'' in front of the word ''successors''.

*Removal of Transferred OTS Regulations Regarding Recordkeeping and Confirmation Requirements for Securities Transactions Effected by State Savings Associations (3064–AE06)*

The Federal Deposit Insurance Corporation (''FDIC'') is proposing to rescind and remove from the Code of Federal Regulations 12 CFR part 390, subpart K (''Part 390, Subpart K''), entitled ''Recordkeeping and Confirmation Requirements for Securities Transactions.'' This subpart was included in the regulations that were transferred to the FDIC from the Office of Thrift Supervision on July 21, 2011, in connection with the implementation of applicable provisions of Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act. With few exceptions, the requirements for State savings associations in Part 390, Subpart K are substantively similar to those in FDIC's 12 CFR part 344 (''Part 344''), which also is entitled ''Recordkeeping and Confirmation Requirements for Securities Transactions'' and is applicable to State nonmember insured banks and foreign banks having an insured branch. The FDIC proposed to amend section 344.3 of Part 344 to remove the definition of ''bank,'' and add the definition of ''FDIC-supervised institution'' for purposes of clarifying that Part 344 applies to all insured depository institutions, including State savings associations, for which the FDIC is the appropriate Federal banking agency. This defined word and its plural form would replace ''bank,'' ''banks,'' ''state nonmember insured bank (except a District bank),'' and ''foreign bank having an insured branch'' throughout Part 344. The FDIC also proposed to amend section 344.2(a)(1) of Part 344 to increase the number of transactions, from 200 to 500, that all FDIC-supervised institutions may effect on behalf of customers under the small transaction exception from certain of the recordkeeping requirements (''Small Transaction Exception'').

**Long Term Actions**

*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 Federal Housing Finance Agency and the Department of Housing and Urban Development (collectively the ''agencies'') are seeking comment on a joint proposed rule to revise the proposed rule the agencies published in the **Federal Register** on April 29, 2011, and 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 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.

**Completed Actions**

*Regulatory Capital Rules (Part III): Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements (3064–AD96)*

On August 30, 2012, the FDIC, together with the Board of Governors of the Federal Reserve System and Office of the Comptroller of the Currency (together, ''the agencies'') published in the **Federal Register** a joint notice of proposed rulemaking, titled, Regulatory Capital Rules: Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements'' (Standardized Approach NPR or Proposed Rule). The Rule revised and harmonized 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 of the Basel Committee on Banking Supervision (''BCBS'') set forth in the standardized approach of the international accord titled, ''International Convergency of Capital Measurement and Capital Standards: A Revised Framework'', as revised by the BCBS in 2006 and 2009, as well as other proposals set forth in consultative papers of the BCBS. Section 3(a) of the Regulatory Flexibility Act directs all federal agencies to publish an initial regulatory flexibility analysis, or a summary thereof, describing the impact of a proposed rule on small entities anytime an agency is required to publish a notice of proposed rulemaking in the **Federal Register**. This Rule has now been merged into 3064–AD95: Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardize Approach for Risk-Weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule.

*Regulatory Capital Rules: Advanced Approaches Risk-Based Capital Rules; Market Risk Capital Rule (3064–AD97)*

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 (''NPRMs'') that would revise and replace the Agencies' current capital rules. In the 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. The 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. This Rule has now been merged into 3064–AD95: Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardize Approach for Risk-Weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule.

*Records of Failed Insured Depository Institutions (3064–AD99)*

The Federal Deposit Insurance Corporation adopted a final rule that implements section 11(d)(15)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(15)(D)). This statutory provision provides time frames for the retention of records of a failed insured depository institution. The final rule incorporates the statutory time frames and defines the term ''records.''

*Deposit Insurance Regulations; Definition of Insured Deposit (3064–AE00)*

The Federal Deposit Insurance Corporation (''FDIC'') adopted a final rule that amends its deposit insurance regulations, with respect to deposits in foreign branches of United States insured depository institutions (''United States bank'' or ''bank'') outside of the United States. The final rule clarifies that deposits in branches of U.S. banks located outside the United States banks are not FDIC insured deposits. This would be the case even if they are also payable at an office within the United States (''dual payability''). As discussed further, a pending proposal by the United Kingdom's Prudential Regulation Authority (''U.K. PRA''), formerly known as the Financial Services Authority, has made it more likely that large United States will change their United Kingdom foreign branch deposit agreements to make their U.K. deposits payable both in the United Kingdom and the United States. This action has the potential to expose the Deposit Insurance Fund (''DIF'') to expanded deposit insurance liability and create operational complexities if these types of deposits were treated as insured. The purpose of the final rule is to protect the DIF against the liability that it would otherwise face as a potential global deposit insurer, preserve confidence in the FDIC deposit insurance system, and ensure that the FDIC can effectively carry out its critical deposit insurance functions.

Federal Deposit Insurance Corporation.

**Valerie Best,**

*Assistant Executive Secretary.*

FEDERAL DEPOSIT INSURANCE CORPORATION—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 541 | 12 CFR 324 Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardize Approach for Risk-Weighted Assets. | 3064–AD95 |

FEDERAL DEPOSIT INSURANCE CORPORATION—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 542 | 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 |
| 543 | 12 CFR 324 Regulatory Capital Rules: Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements. | 3064–AD96 |
| 544 | 12 CFR 324 Regulatory Capital Rules: Advanced Approaches Risk-Based Capital Rules; Market Risk Capital Rule. | 3064–AD97 |

## FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

Final Rule Stage

### 541. Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardize Approach for Risk–Weighted Assets

*Legal Authority:* 12 U.S.C. 378; 12 U.S.C. 1813; 12 U.S.C. 1815; 12 U.S.C. 1817 to 1820

*Abstract:* The Federal Deposit Insurance Corporation (''FDIC'') is adopting an interim final rule that revises its risk-based and leverage capital requirements for FDIC-supervised institutions. This interim final rule is substantially identical to a joint final rule issued by the Office of the Comptroller of the Currency (''OCC'') and the Board of Governors of the Federal Reserve System (''Federal Reserve'') (together, with the FDIC, ''the agencies''). The interim final rule consolidates three separate notices of proposed rulemaking that the agencies jointly published in the **Federal Register** on August 30, 2012, with selected changes. The interim final rule implements a revised definition of regulatory capital, a new common equity tier 1 minimum capital requirement, higher minimum tier 1 capital requirement, and, for FDIC-supervised institutions subject to the advanced approaches risk-based capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator. The interim final rule incorporates these new requirements into the FDIC's prompt corrective action (''PCA'') framework. In addition, the interim final rule establishes limits on FDIC-supervised institutions' capital distributions on certain discretionary bonus payments if the FDIC-supervised institution does not hold a specified amount of common equity tier 1 capital in addition to the amount necessary to meet its minimum risk-based capital requirements. The interim final rule amends the methodologies for determining risk-weighted assets for all FDIC-supervised institutions. The interim final rule also adopts changes to the FDIC's regulatory capital requirements that meet the requirements of section 171 and section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The interim final rule also codifies the FDIC's regulatory capital rules, which have previously resided in various appendices to their respective regulations, into a harmonized integrated regulatory framework. In addition, the FDIC is amending the market risk capital rule (market risk rule) to apply to state savings associations. The FDIC is issuing these revisions to its capital regulations as an interim final rule. The FDIC invites comments on the interaction of this rule with other proposed leverage ratio requirements applicable to large, systemically important banking organizations. This interim final rule otherwise contains regulatory text that is identical to the common rule text adopted as final rule by the Federal Reserve and the OCC. This interim final rule enables the FDIC to proceed on a unified, expedited basis with the other Federal banking agencies pending consideration of other issues. Specifically, the FDIC intends to evaluate this interim final rule in the context of the proposed well-capitalized and buffer levels of the supplementary leverage ratio applicable to large, systemically important banking organizations, as described in a separate Notice of Proposed Rulemaking

(''NPRM''), titled, Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for Certain Bank Holding Companies and the Insured Depository Institutions They Control. The FDIC is seeking commenters' views on the interaction of this interim final rule with the proposed rule regarding the supplementary leverage ratio for large, systemically important banking organizations.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 08/30/12 | 77 FR 169 |
| NPRM Comment Period End. | 10/22/12 | |
| Interim Final Rule | 11/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Bobby R. Bean, Chief, Policy Section, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, *Phone:* 202 898–3575, *Email: bbean@fdic.gov*.

Ryan Billingsley, Senior Policy Analyst, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, *Phone:* 202 898–3797, *Email: rbillingsley@fdic.gov*.

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, 550 17th Street NW., Washington, DC 20429, *Phone:* 202 898–3900, *Email: mhandzlik@fdic.gov*.

Michael Phillips, Counsel, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, *Phone:* 202 898–3581, *Email: mphillips@fdic.gov*.

*RIN:* 3064–AD95

## FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

Completed Actions

### 542. 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 will be requesting 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 will be designed to facilitate and promote compliance with these exceptions and exemptions.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Withdrawn ..... | 10/18/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Julia E. Paris, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., MB–3064, Washington, DC 20429,*Phone:* 202 898–3821,*Email: jparis@fdic.gov*.

Anthony J. DiMilo, Examination Specialist, Federal Deposit Insurance Corporation, 550 17th Street NW., MB–5100, Washington, DC 20429,*Phone:* 202 898–7496,*Email: adimilo@fdic.gov*.

*RIN:* 3064–AD80

### 543. Regulatory Capital Rules: Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements

*Legal Authority:* Pub. L. 111–203

*Abstract:* On August 30, 2012, the FDIC, together with the Board of Governors of the Federal Reserve System and Office of the Comptroller of the Currency (together, ''the agencies'') published in the **Federal Register** a joint notice of proposed rulemaking, titled, ''Regulatory Capital Rules: Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements'' (Standardized Approach NPRM or Proposed Rule). The Proposed Rule 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 of the Basel Committee on Banking Supervision (''BCBS'') set forth in the standardized approach of the international accord titled, ''International Convergency of Capital Measurement and Capital Standards: A Revised Framework'', as revised by the BCBS in 2006 and 2009, as well as other proposals set forth in consultative papers of the BCBS. Section 3(a) of the Regulatory Flexibility Act (''RFA'') directs all Federal agencies to publish an initial regulatory flexibility analysis (''IRFA''), or a summary thereof, describing the impact of a proposed rule on small entities anytime an agency is required to publish a notice of proposed rulemaking in the **Federal Register**. As provided in the Standardized Approach NPRM, the agencies are separately publishing initial regulatory flexibility analyses for the Proposed Rule. Accordingly, the FDIC sought comment on the IRFA provided in this **Federal Register** document, which describes the economic impact of the Standardized Approach NPRM, in accordance with the requirements of the RFA.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 08/30/12 | 77 FR 52888 |
| Initial Regulatory Flexibility Analysis. | 10/17/12 | 77 FR 63763 |
| NPRM Comment Period End. | 10/22/12 | |
| Initial Regulatory Flexibility Analysis Comment Period End. | 11/16/12 | |
| Merged With 3064–AD95. | 08/26/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Bobby R. Bean, Chief, Policy Section, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429,*Phone:* 202 898–3575,*Email: bbean@fdic.gov*.

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, 550 17th Street NW., Washington, DC 20429,*Phone:* 202 898–3900,*Email: mhandzlik@fdic.gov*.

Michael Phillips, Counsel, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429,*Phone:* 202 898–3581,*Email: mphillips@fdic.gov*.

*RIN:* 3064–AD96

### 544. Regulatory Capital Rules: 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 (''OCC''), the Board of Governors of the Federal Reserve System (''Board''), and 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.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 08/30/12 | 77 FR 52977 |
| NPRM Comment Period End. | 10/22/12 | |
| Merged With 3064–AD95. | 08/26/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Bobby R. Bean, Chief, Policy Section, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429,*Phone:* 202 898–3575,*Email: bbean@fdic.gov*.

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, 550 17th Street NW., Washington, DC 20429,*Phone:* 202 898–3900,*Email: mhandzlik@fdic.gov*.

Michael Phillips, Counsel, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429,*Phone:* 202 898–3581,*Email: mphillips@fdic.gov*.

*RIN:* 3064–AD97

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# FEDERAL REGISTER

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Part XXIV

## 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, 2013, through April 30, 2014. The next agenda will be published in spring 2014.

**DATES:** Comments about the form or content of the agenda may be submitted any time during the next 6 months.

**ADDRESSES:** Comments should be addressed to Robert deV. 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 2013 agenda as part of the Fall 2013 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 6 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 under Board consideration, but a completion date has not been determined. And a forth 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,**
*Deputy Secretary of the Board.*

FEDERAL RESERVE SYSTEM—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 545 | Regulation CC—Availability of Funds and Collection of Checks (Docket No. R–1408) | 7100–AD68 |

FEDERAL RESERVE SYSTEM—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 546 | 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. |
|---|---|---|
| 547 | 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. |
|---|---|---|
| 548 | Regulations H, Q, & Y—Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action (Docket No. R–1442). | 7100–AD87 |

## FEDERAL RESERVE SYSTEM (FRS)

Proposed Rule Stage

### 545. 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. | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dena Milligan, Senior Attorney, Federal Reserve System, Legal Division, *Phone:* 202–452–3900.

*RIN:* 7100–AD68

## FEDERAL RESERVE SYSTEM (FRS)

Final Rule Stage

### 546. 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. | 01/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Claudia Von Pervieux, Counsel, Federal Reserve System, Legal Division,*Phone:* 202–452–2552.

*RIN:* 7100–AD80

## FEDERAL RESERVE SYSTEM (FRS)

Long-Term Actions

### 547. 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. 780–10

*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.

Anna Harrington, Senior Attorney, Federal Reserve System, Federal Reserve System, Legal Division,*Phone:* 202–452–6406.

Christopher Paridon, Counsel, Federal Reserve System, Legal Division,*Phone:* 202–452–3274.

*RIN:* 7100–AD74

## FEDERAL RESERVE SYSTEM (FRS)

Completed Actions

**548. Regulations H, Q, & Y—Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action (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:* The Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (the Board) (collectively, the Agencies) adopted a final rule that revises their risk-based and leverage capital requirements for banking organizations, substantially as originally proposed. The final rule consolidates three separate notices of proposed rulemaking that the OCC, the Board, and Federal Deposit Insurance Corporation (FDIC) published in the **Federal Register** on August 30, 2012, with selected changes. The final rule implements a revised definition of regulatory capital, a new common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for banking organizations subject to the advance approaches risk-based capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator. The final rule incorporates these new requirements into the agencies' prompt corrective action framework. In addition, the final rule establishes limits on a banking organization's capital distributions and certain discretionary bonus payments if the banking organization does not hold a specified amount of common equity tier 1 capital in addition to the amount necessary to meet its minimum risk-based capital requirements. Further, the final rule amends the methodologies for determining risk-weighted assets for all banking organizations, and introduces disclosure requirements that would apply to top-tier banking organizations domiciled in the United States with $50 billion or more in total assets. The final rule also adopts changes to the Agencies' regulatory capital requirements that meet the requirements of section 171 and section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The final rule also codifies the agencies' regulatory capital rules, which have previously resided in various appendices to their respective regulations, into a harmonized integrated regulatory framework. In addition, the OCC is amending the market risk capital rule (market risk rule) to apply to Federal savings associations, and the Board is amending the advanced approaches and market risk rules to apply to top-tier savings and loan holding companies domiciled in the United States, except for certain savings and loan holding companies that are substantially engaged in insurance underwriting or commercial activities.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Board Requested Comment. | 08/30/12 | 77 FR 53059 |
| Board Adopted Final Rule. | 07/02/13 | 78 FR 51101 |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Anna Lee Hewko, Deputy Associate Director, Federal Reserve System, Division of Banking Supervision and Regulation,*Phone:* 202–530–6260.

*RIN:* 7100–AD87

[FR Doc. 2013–29647 Filed 1–6–14; 8:45 am]

**BILLING CODE 6210–01–P**

# FEDERAL REGISTER

Vol. 79 Tuesday,
No. 4 January 7, 2014

Part XXV

## Nuclear Regulatory Commission

Semiannual Regulatory Agenda

## NUCLEAR REGULATORY COMMISSION

**[NRC–2013–0076]**

**10 CFR Chapter 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 (the 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 of the NRC's Agenda contains 53 rulemaking activities: three are Economically Significant; 12 represent Other Significant agency priorities; 37 are Substantive, Nonsignificant rulemaking activities; and one is an Administrative rulemaking activity. This issuance updates any action occurring on rules since publication of the last semiannual regulatory agenda on January 8, 2013 (78 FR 1704). The NRC is requesting comment on its rulemaking activities as identified in this Agenda.

**DATES:** Submit comments on this agenda by February 6, 2014.

**ADDRESSES:** Submit comments on any rule in the Agenda by the date and methods specified in the proposed rule notice. 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. You may submit comments on this Agenda through the Federal Rulemaking Web site by going to http://*www.regulations.gov* and searching for Docket ID NRC–2013–0076. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions on any rule listed in the Agenda, contact the individual listed under the heading ''Agency Contact'' for that rule.

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:** Cindy Bladey, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–287–0949; 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:**

### Accessing Information and Submitting Comments

*A. Accessing Information*

Please refer to Docket ID NRC–2013–0076 when contacting the NRC about the availability of information for this document. You may access publically available information related to this document by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0076.
- *NRC's Public Web site:* Go to *http://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/unified-agenda.html* and select fall 2013.
- NRC's Public Document Room: 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–2013–0076 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 in your comment submission. The NRC will post all comment submissions at http://www.regulations.gov as well as enter the comment submissions into ADAMS, and the NRC does not routinely 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 submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

### Introduction

The information contained in this semiannual publication is updated to reflect any action that has occurred on rules since publication of the last NRC Agenda on July 23, 2013 (78 FR 44404). Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this Agenda has been updated through August 29, 2013. 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.

The NRC Agenda lists all open rulemaking actions. Three rules impact small entities.

### Common Prioritization of Rulemaking

The NRC has a process for developing rulemaking budget estimates and determining the relative priorities of rulemaking projects during budget formulation. This process produces a ''Common Prioritization of Rulemaking'' (CPR). The NRC adds new rules and evaluates rule priorities annually. The CPR process considers four factors and assigns a score to each factor. Those factors include (1) support for the NRC's Strategic Plan goals; (2) support for the Strategic Plan organizational excellence objectives; (3) a governmental factor representing interest to the NRC, Congress, or other governmental bodies; and (4) an external factor representing interest to members of the public, non-governmental organizations, the nuclear industry, vendors, and suppliers.

The NRC's fall Agenda contains its annual regulatory plan, which includes a statement of the major rules that the Commission expects to publish in the coming fiscal year (FY) and a description of the other significant regulatory priorities from the CPR that the Commission expects to work on during the coming FY and beyond.

### Section 610 Periodic Reviews Under the Regulatory Flexibility Act

Section 610 of the Regulatory Flexibility Act (RFA) requires agencies to conduct a review within 10 years of promulgation of those regulations that have or will have a *significant* economic impact on a *substantial* number of small entities. The NRC undertakes these reviews to decide whether the rules

should be unchanged, amended, or withdrawn. At this time, the NRC does not have any rules that have a *significant* economic impact on a *substantial* number of small entities; therefore, the NRC has not included any RFA Section 610 periodic reviews in this edition of the Agenda. A complete listing of NRC regulations that impact small entities and related Small Entity Compliance Guides will be available from the NRC's Web site in the fall of 2013.

Dated at Rockville, Maryland, this 29th day of August 2013.

For the Nuclear Regulatory Commission.

**Cindy Bladey,**

*Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.*

NUCLEAR REGULATORY COMMISSION—LONG-TERM ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 549 | Controlling the Disposition of Solid Materials [NRC–1999–0002] | 3150–AH18 |

NUCLEAR REGULATORY COMMISSION—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 550 | Distribution of Source Material To Exempt Persons and General Licensees and Revision of General License and Exemptions [NRC–2009–0084]. | 3150–AH15 |
| 551 | Revision of Fee Schedules: Fee Recovery for FY 2013 [NRC–2012–0211] | 3150–AJ19 |

## NUCLEAR REGULATORY COMMISSION (NRC)

Long-Term Actions

### 549. 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

## NUCLEAR REGULATORY COMMISSION (NRC)

*Completed Actions*

### 550. Distribution of Source Material to Exempt Person and General Licenses and Revision of General License and Exemptions [NRC–2009–0084]

*Legal Authority:* 42 U.S.C. 2201; 42 U.S.C. 5841

*Abstract:* The final rule amends 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 final rule also governs 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 addresses Petition for Rulemaking, PRM–40–27 submitted by the State of Colorado and Organization of Agreement States.

*Completed:*

| Reason | Date | FR Cite |
|---|---|---|
| Final Rule | 05/29/13 | 78 FR 32310 |
| Final Rule Effective. | 08/27/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Gary C. Comfort, Jr., *Phone:* 301 415–8106, *Email: gary.comfort@nrc.gov.*

*RIN:* 3150–AH15

### 551. Revision of Fee Schedules: Fee Recovery for FY 2013 [NRC–2012–0211]

*Legal Authority:* 42 U.S.C. 2201; 42 U.S.C. 5841

*Abstract:* The final rule amends 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 $959.9 million. After accounting for carryover and billing adjustments, the total amount to be recovered through fees is approximately $859.6 million

*Completed:*

| Reason | Date | FR Cite |
|---|---|---|
| NPRM | 03/07/13 | 78 FR 14880 |
| Final Rule | 07/01/13 | 78 FR 39462 |
| Final Rule Effective. | 08/30/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Arlette P. Howard, *Phone:* 301 415–1481, *Email: arlette.howard@nrc.gov*.

*RIN:* 3150–AJ19

[FR Doc. 2013–29648 Filed 1–6–14; 8:45 am]

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# FEDERAL REGISTER

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Part XXVI

## Securities and Exchange Commission

Semiannual Regulatory Agenda

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Ch. II

**[Release Nos. 33–9475, 34–70819, IA–3711, IC–30775, File No. S7–10–13]**

### 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. No. 96–354, 94 Stat. 1164) (Sep. 19, 1980). Information in the agenda was accurate on November 5, 2013, the date 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 an RFA 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 6, 2014.

**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/other.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–10–13 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. S7–10–13. 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/other.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, twice 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)). The Commission may consider or act on any matter earlier or later than the estimated date provided on the agenda. While the agenda reflects the current intent to complete a number of rulemakings in the next year, the precise dates for each rulemaking at this point are uncertain. 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 6, 2013.

**Elizabeth M. Murphy,**

*Secretary.*

### 3 OOD—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 552 | Transitional Registration as a Municipal Advisor | 3235–AK69 |
| 553 | Registration of Municipal Advisers | 3235–AK86 |

### DIVISION OF CORPORATION FINANCE—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 554 | Rules Governing the Offer and Sale of Securities Through Crowdfunding Under Section 4(a)(6) of the Securities Act. | 3235–AL37 |
| 555 | Implementation of Titles V and VI of the JOBS Act | 3235–AL40 |
| 556 | Treatment of Certain Communications Involving Security-Based Swaps That May be Purchased Only by Eligible Contract Participants. | 3235–AL41 |

DIVISION OF CORPORATION FINANCE—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 557 | Amendments to Regulation D, Form D and Rule 156 under the Securities Act | 3235–AL46 |

DIVISION OF CORPORATION FINANCE—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 558 | Disqualification of Felons and Other "Bad Actors" From Rule 506 Offerings | 3235–AK97 |
| 559 | Elimination of Prohibition on General Solicitation in Rule 506 and Rule 144A Offerings | 3235–AL34 |

DIVISION OF INVESTMENT MANAGEMENT—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 560 | References to Credit Ratings in Certain Investment Company Act Rules and Forms | 3235–AL02 |

DIVISION OF TRADING AND MARKETS—FINAL RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 561 | Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934 | 3235–AL14 |
| 562 | Rules for Nationally Recognized Statistical Rating Organizations | 3235–AL15 |

DIVISION OF TRADING AND MARKETS—COMPLETED ACTIONS

| Sequence No. | Title | Regulation Identifier No. |
|---|---|---|
| 563 | Broker-Dealer Reports | 3235–AK56 |
| 564 | Publication or Submission of Quotations Without Specified Information | 3235–AH40 |

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*3 OOD*

Completed Actions

### 552. Transitional Registration as a Municipal Advisor

*Legal Authority:* Pub. L. 111–203, sec 975

*Abstract:* The Commission adopted an interim final temporary rule to establish a means for municipal advisors to satisfy temporarily the requirement that they register with the Commission by October 1, 2010, consistent with the Dodd Frank Act. The rule has been amended and is effective through December 31, 2014.

*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 Extended. | 09/26/12 | 77 FR 62185 |
| Interim Final Rule Extended. | 09/30/13 | 78 FR 59814 |
| Interim Final Rule Effective Through. | 12/31/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Ira Brandriss, Office of Municipal Securities, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–5681, *Email: brandrissi@sec.gov.*

*RIN:* 3235–AK69

### 553. Registration of Municipal Advisers

*Legal Authority:* 15 U.S.C. 78o–4; 15 U.S.C. 78q; 15 U.S.C. 78mm

*Abstract:* The Commission adopted new Rules 15Ba1–1 through 15Ba1–8 and new Forms MA, MA–1, MA–W, and MA–NR under the Exchange Act. The rules and forms are designed to give effect to provisions of Title IX of the Dodd Frank Act that, among other things, establish a permanent registration regime with the Commission for municipal advisors and impose certain recordkeeping requirements on such advisors.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 01/06/11 | 76 FR 824 |
| NPRM Comment Period End. | 02/22/11 | |
| Final Action | 11/12/13 | 78 FR 67468 |
| Final Rule Effective. | 01/13/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jennifer Dodd, Office of Municipal Securities, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–5653, *Email: doddj@sec.gov.*

*RIN:* 3235–AK86

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*Division of Corporation Finance*

Proposed Rule Stage

### 554. Rules Governing the Offer and Sale of Securities Through Crowdfunding Under Section 4(a)(6) of the Securities Act

*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 Commission proposed rules to implement title III of the JOBS Act by prescribing rules governing the offer and sale of securities through crowdfunding under new section 4(a)(6) of the Securities Act.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 11/05/13 | 78 FR 66428 |
| NPRM Comment Period End. | 02/03/14 | |
| Final Action | 10/00/14 | |

*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.*

Leila Bham, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–5532, *Email: bhaml@sec.gov.*

*RIN:* 3235–AL37

### 555. 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 | 12/00/13 | |

*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.

*RIN:* 3235–AL40

### 556. Treatment of Certain Communications Involving Security-Based Swaps That May Be Purchased Only by Eligible Contract Participants

*Legal Authority:* Not Yet Determined

*Abstract:* The Division is considering recommending that the Commission propose a rule under the Securities Act to address the treatment of certain communications involving security-based swaps that may be purchased only by eligible contract participants.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 10/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Andrew Schoeffler, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3860.

*RIN:* 3235–AL41

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*Division of Corporation Finance*

Final Rule Stage

### 557. • Amendments to Regulation D, Form D and Rule 156 Under the Securities Act

*Legal Authority:* 15 U.S.C. 77a *et seq.*

*Abstract:* The Commission proposed rule and form amendments to enhance the Commission's ability to evaluate the development of market practices in offerings under Rule 506 of Regulation D and address concerns that may arise in connection with permitting issuers to engage in general solicitation and general advertising under new paragraph (c) of Rule 506.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/24/13 | 78 FR 44806 |
| NPRM Comment Period End. | 09/23/13 | |
| NPRM Comment Period Re-opened. | 10/03/13 | 78 FR 61222 |
| NPRM Comment Period End. | 11/04/13 | |
| Final Action | 10/00/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Karen Wiedemann, 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.

Ted Yu, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549,*Phone:* 202 551–3500.

*RIN:* 3235–AL46

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*Division of Corporation Finance*

Completed Actions

### 558. 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 adopted 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 | 07/24/13 | 78 FR 44730 |
| Final Action Effective. | 09/23/13 | |

*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

### 559. 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 adopted rules to eliminate the prohibition against general solicitation and general advertising in securities offerings conducted pursuant to Rule 506 of Regulation D under the Securities Act and Rule 144A under the Securities Act, as mandated by section 201(a) of the JOBS Act.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 09/06/12 | 77 FR 54469 |

| Action | Date | FR Cite |
|---|---|---|
| NPRM Comment Period End. | 10/05/12 | |
| Final Action ..... | 07/24/13 | 78 FR 44771 |
| Final Action Effective. | 09/23/13 | |

*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

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*Division of Investment Management*

Final Rule Stage

### 560. References to Credit Ratings in Certain Investment Company Act Rules and Forms

*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 939A

*Abstract:* The Commission proposed amendments to 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. These proposals would give effect to section 939A of the Dodd Frank Act. The Commission adopted a new rule under the Act that sets 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.

*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 ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Adam Bolter, 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

### 561. 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 certain 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 Exchange Act applicable to broker-dealer financial responsibility, distributions of securities, and confirmations of transactions.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/06/11 | 76 FR 26550 |
| NPRM Comment Period End. | 07/05/11 | |
| Final Action ..... | 12/00/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Carrie O'Brien, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–5640, *Email: obrienca@sec.gov.*

*RIN:* 3235–AL14

### 562. 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 ..... | 10/00/14 | |

*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–AL15

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*Division of Trading and Markets*

Completed Actions

### 563. Broker-Dealer Reports

*Legal Authority:* 15 U.S.C. 78q

*Abstract:* The Commission adopted 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 ..... | 08/21/13 | 78 FR 51910 |
| Final Action Effective. | 07/01/14 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Kimberly Chehardy, Division of Trading and Markets, Securities and Exchange Commission, 10 F Street NE., Washington, DC 20549, *Phone:* 202 551–5791, *Email: chehardyk@sec.gov.*

*RIN:* 3235–AK56

### 564. Publication or Submission of Quotations Without Specified Information

*Legal Authority:* 15 U.S.C. 78c; 15 U.S.C. 78j(b); 15 U.S.C. 78o(c); 15 U.S.C. 78o(g); 15 U.S.C. 78q(a); 15 U.S.C. 78w(a)

*Abstract:* The Commission is withdrawing this item from the Unified Agenda, which currently covers the period from November 2013 through October 2014, because it does not expect to consider this item within the next 12 months, but the Commission may consider the item at a future date.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/25/98 | 63 FR 9661 |
| NPRM Comment Period End. | 04/27/98 | |
| Second NPRM .... | 03/08/99 | 64 FR 11124 |
| Second NPRM Comment Period End. | 04/07/99 | |

| Action | Date | FR Cite |
|---|---|---|
| Second NPRM Comment Period Extended. | 04/14/99 | 64 FR 18393 |
| Comment Period End. | 05/08/99 | |
| Withdrawn ..... | 11/01/13 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Carla Carriveau, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–5775.

*RIN:* 3235–AH40

[FR Doc. 2013–29708 Filed 1–6–14; 8:45 am]

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