REGULATORY INFORMATION SERVICE CENTER

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to the Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions.

SUMMARY: Publication of the Unified Agenda of Regulatory and Deregulatory Actions and the Regulatory Plan represent key components of the regulatory planning mechanism prescribed in Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735) and incorporated in Executive Order 13563, ''Improving Regulation and Regulatory Review'' issued on January 18, 2011 (76 FR 3821). The fall editions of the Unified Agenda include the agency regulatory plans required by E.O. 12866, which identify regulatory priorities and provide additional detail about the most important significant regulatory actions that agencies expect to take in the coming year.

In addition, the Regulatory Flexibility Act requires that agencies publish semiannual ''regulatory flexibility agendas'' describing regulatory actions they are developing that will have significant effects on small businesses and other small entities (5 U.S.C. 602).

The Unified Agenda of Regulatory and Deregulatory Actions (Unified Agenda), published in the fall and spring, helps agencies fulfill all of these requirements. All federal regulatory agencies have chosen to publish their regulatory agendas as part of this publication. The complete Unified Agenda and Regulatory Plan can be found online at *http://www.reginfo.gov* and a reduced print version can be found in the **Federal Register**. Information regarding obtaining printed copies can also be found on the Reginfo.gov Web site (or below, VI. How Can Users Get Copies of the Plan and the Agenda?).

The fall 2015 Unified Agenda publication appearing in the **Federal Register** consists of The Regulatory Plan and 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.

The complete fall 2015 Unified Agenda contains the Regulatory Plans of 30 Federal agencies and 59 Federal agency regulatory agendas.

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

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INTRODUCTION TO THE REGULATORY PLAN AND THE UNIFIED AGENDA OF FEDERAL REGULATORY AND DEREGULATORY ACTIONS

I. What are the Regulatory Plan and the Unified Agenda?

The Regulatory Plan serves as a defining statement of the Administration's regulatory and deregulatory policies and priorities. The Plan is part of the fall edition of the Unified Agenda. Each participating agency's regulatory plan contains: (1) A narrative statement of the agency's regulatory and deregulatory priorities, and, for the most part, (2) a description of the most important significant regulatory and deregulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. This edition includes the regulatory plans of 30 agencies.

The Unified Agenda provides information about regulations that the

Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** twice each year since 1983 and has been available online since 1995. The complete Unified Agenda is available to the public at *http://www.reginfo.gov*. The online Unified Agenda offers flexible search tools and access to the historic Unified Agenda database to1995. The complete online edition of the Unified Agenda includes regulatory agendas from 61 Federal agencies. Agencies of the United States Congress are not included.

The fall 2015 Unified Agenda publication appearing in the **Federal Register** consists of The Regulatory Plan and 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://www.reginfo.gov*.

The following agencies have no entries 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 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 National Drug Control Policy
Office of Personnel Management*
Peace Corps
Pension Benefit Guaranty Corporation*
Railroad Retirement Board
Social Security Administration*
Commodity Futures Trading Commission
Consumer Product Safety Commission*
Farm Credit Administration
Federal Deposit Insurance Corporation
Federal Energy Regulatory Commission
Federal Housing Finance Agency
Federal Maritime Commission
Federal Trade Commission*
Gulf Coast Ecosystem Restoration Council
National Council on Disability
National Credit Union Administration
National Indian Gaming Commission*
National Labor Relations Board
National Transportation Safety 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 (incorporated in Executive Order 13563). 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 Regulatory Plan and Unified Agenda do 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 are the Regulatory Plan and the Unified Agenda published?

The Regulatory Plan and 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, ''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, ''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 13563

Executive Order 13563, ''Improving Regulation and Regulatory Review,'' issued on 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.

Executive Order 13132

Executive Order 13132, ''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 non-statutory 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.

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, ''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 are the Regulatory Plan and the Unified Agenda organized?

The Regulatory Plan appears in part II in a daily edition of the **Federal Register**. The Plan is a single document beginning with an introduction, followed by a table of contents, followed by each agency's section of the Plan. Following the Plan in the **Federal Register**, as separate parts, are the regulatory flexibility agendas 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 sections of the Plan and the parts of the Unified Agenda are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority (Agenda only); and independent regulatory agencies. Agencies may in turn be divided into subagencies. Each printed agency agenda has a table of contents listing the agency's printed entries that follow. 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.

Each agency's section of the Plan contains a narrative statement of regulatory priorities and, for most agencies, a description of the agency's most important significant regulatory and deregulatory actions. Each agency's part of the Agenda contains a preamble providing information specific to that agency plus descriptions of the agency's regulatory and deregulatory actions.

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' 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 12/00/14 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 2014.

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.

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**.

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

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

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

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

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

Public Law (or Pub. L.)—A public law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, Pub. L. 112–4 is the fourth public law of the 112th Congress.

RFA—A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

RIN—The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Regulatory Plan and 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 Regulatory Plan and 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 Plan and the Agenda?

Copies of the **Federal Register** issue containing the printed edition of The Regulatory Plan and 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.

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 16, 2015.

John C. Thomas,

Executive Director.

INTRODUCTION TO THE 2015 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, reaffirms the requirements of Executive Order 12866. Consistent with these Executive Orders, the Office of Information and Regulatory Affairs (OIRA) is providing the 2015 Unified Regulatory Agenda (Agenda) and the Regulatory Plan (Plan) for public review. The Agenda and Plan are preliminary statements of regulatory and deregulatory policies and priorities under consideration. The Agenda and Plan include ''active rulemakings'' that agencies could possibly conclude over the next year.

The Plan provides a list of important regulatory actions that agencies are considering for issuance in proposed or final form during the 2016 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 but on which they are actively working.

A central purpose of the Agenda is to involve the public, including State, local, and tribal officials, in Federal regulatory planning. The public examination of the Agenda and Plan will facilitate public participation in 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.'' We emphasize that rules listed on the Agenda must still undergo significant development and review before they are issued. No regulatory action can become effective until it has gone through the legally required processes, which generally include public notice 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. Among other information, the Agenda also provides an initial classification of whether a rulemaking is ''significant'' or ''economically significant'' under the terms of Executive Orders 12866 and 13563. 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) can depend on several factors: Regulations may count as economically significant because they impose costs, confer large benefits, or remove significant burdens.

Executive Orders 13563 and 13610: Regulatory Development, and the Retrospective Review of Regulation

Executive Order 13563 reaffirmed the principles, structures, and definitions in Executive Order 12866, which has long governed regulatory review. Executive Order 13563 explicitly points to the need for predictability and certainty in the regulatory system, as well as for use of the least burdensome means to achieving regulatory ends. These Executive Orders include 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. They also establish public participation, integration and innovation, flexible approaches, scientific integrity, and retrospective review as areas of emphasis in regulation. In particular, Executive Order 13563 explicitly draws attention to the need to measure and improve ''the actual results of regulatory requirements''—a clear reference to the importance of the retrospective review of regulations.

Executive Order 13563 addresses new regulations that are under development, as well as retrospective review of existing regulations that are already in place. With respect to agencies' review of existing regulations, the Executive Order calls for careful reassessment based on empirical analysis. The prospective analysis required by Executive Order 13563 may depend on a degree of prediction and speculation about a rule's likely impacts, and the actual costs and benefits of a regulation may be lower or higher than what was anticipated when the rule was originally developed.

Executive Order 13610, *Identifying and Reducing Regulatory Burdens,* issued in 2012, institutionalizes the retrospective—or ''lookback''—mechanism set out in Executive Order 13563 by requiring agencies to report to the Office of Management and Budget and to the public twice each year (January and July) on the status of their retrospective review efforts. In these reports, agencies are to ''describe progress, anticipated accomplishments, and proposed timelines for relevant actions.''

Executive Orders 13563 and 13610 recognize that circumstances may change in a way that requires reconsideration of regulatory requirements. Lookback analysis allows agencies to reevaluate existing rules and to streamline, modify, or eliminate those regulations that do not make sense in their current form. The agencies' lookback efforts so far during this Administration have yielded approximately $22 billion in savings for the American public over the next five years.

The Administration is continuing to work with agencies to institutionalize retrospective review so that agencies regularly review existing rules on the books to ensure they remain effective, cost-justified, and based on the best available science. The Administration will continue to examine what is working and what is not, and eliminate unjustified and outdated regulations.

Regulatory lookback is an ongoing exercise, and continues to be a high priority for the Administration. In accordance with Executive Orders 13610 and 13563, in July 2015, agencies submitted to OIRA the latest updates of their retrospective review plans, which are publicly available at: *https://www.whitehouse.gov/omb/oira/regulation-reform*. Federal agencies will again update their retrospective review plans in January 2016. OIRA has asked agencies to continue to emphasize regulatory lookbacks in their latest Regulatory Plans.

Reflecting that focus, the current Agenda lists approximately seventy-five rules under active development that are characterized as retroactively reviewing existing programs. Below are some examples of agency plans to reevaluate current practices in accordance with Executive Orders 13563 and 13610:

—After extensive public engagement and in response to a recent court decision, the Environmental Protection Agency (EPA) is proposing revisions to the 2007 Exceptional Events rule. These revisions will streamline the process that states follow to decide whether air quality monitoring data associated with an ''exceptional event'' should be included when determining if an area is meeting national air quality standards. Exceptional events include natural events such as wildfires, stratospheric ozone intrusions, and volcanic and seismic activities. Given the possible influence of wildfires on ozone, EPA is also releasing draft guidance that provides states with additional information on preparing exceptional events demonstrations for wildfires as they relate to the ozone standards.

—The Department of Labor (DOL) has taken steps to include retrospective analysis requirements in new

regulations in order to facilitate evaluation of their impacts. For example, DOL's Mine Safety and Health Administration announced in its 2014 Respirable Dust final rule that it will conduct a retrospective review in 2017 to evaluate the data collected using continuous personal dust monitors. Additionally, the Occupational Safety and Health Administration's Recordkeeping and Reporting Requirements final rule—moving from the Standard Industrial Classification System to the North American Industry Classification System for determining which industries are low-hazard and potentially exempt from recordkeeping requirements—includes a commitment to conduct a retrospective review of the agency's recordkeeping regulations. Finally, in DOL's Wage and Hour Division's recent Notice of Proposed Rulemaking to modernize the Fair Labor Standards Act's Overtime Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees, the Division proposed to consider a future retrospective review of the rule after it is finalized and implemented.

—The Department of Housing and Urban Development (HUD) is working on a final rule to streamline, in several ways, the inspection and home warranty requirements for the Federal Housing Administration's (FHA) single family mortgage insurance. In doing so, FHA would increase choice and lower the costs for FHA borrowers. First, HUD is considering the removal of regulations that require the use of an inspector from the FHA Inspector Roster as a condition for FHA mortgage insurance. This change is based on the recognition of the sufficiency and quality of inspections carried out by local jurisdictions. Second, this rule would also remove the regulations requiring homeowners to purchase 10-year protection plans from FHA-approved warranty issuers to qualify for high loan-to-value FHA-insured mortgages. This change is based on the increased quality of construction materials and the standardization of building codes and building code enforcement. HUD expects the rule to increase flexibility for homeowners and reduce the regulatory burden on lenders.

Executive Order 13609: International Regulatory Cooperation

In addition to using regulatory lookback as a tool to make the regulatory system more efficient, the Administration has focused on promoting international regulatory cooperation. International regulatory cooperation supports economic growth, job creation, innovation, trade and investment, while also protecting public health, safety, and welfare. In May 2012, President Obama issued Executive Order 13609, *Promoting International Regulatory Cooperation,* which emphasizes the importance of these efforts as a key tool for eliminating unnecessary differences in regulation between the United States and its major trading partners. Additionally, as part of the regulatory lookback initiative, Executive Order 13609 requires agencies to ''consider reforms to existing significant regulations that address unnecessary differences in regulatory requirements between the United States and its major trading partners . . . when stakeholders provide adequate information to the agency establishing that the differences are unnecessary.''

Executive Order 13609 also directed each agency to submit a Regulatory Plan that includes ''a summary of its international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations.'' Further, Executive Order 13609 requires each agency to ''ensure that significant regulations that the agency identifies as having significant international impacts are designated as such'' in the Regulatory Agenda.

In furtherance of this focus on international regulatory cooperation, in the summer of 2014, the United States and Canada released the U.S.-Canada Regulatory Cooperation Council (RCC) Joint Forward Plan.[1] The Forward Plan identifies twenty-four areas of cooperation where the United States and Canada will work together over the next three to five years in order to modernize our thinking around international regulatory cooperation and develop a toolbox of strategies to address international regulatory issues as they arise. Building on the Forward Plan, in the Spring of 2015, agencies in the United States and Canada issued joint work plans to guide focused international regulatory cooperation efforts. The Forward Plan and related work represent a significant turning point in the Administration's regulatory cooperation relationship with Canada, and outline new Federal agency-level partnership arrangements to help institutionalize the ways in which our regulators work together. The Forward Plan will help remove unnecessary requirements, develop common standards, and identify potential areas where future regulation may unnecessarily differ. This kind of international cooperation on regulations between the United States and Canada will help eliminate barriers to doing business in the United States or with U.S. companies, grow the economy, and create jobs. The Administration also continues to work with other countries, including Mexico and Brazil, to identify opportunities for regulatory cooperation.

* * * * *

The Administration continues to foster a regulatory system that emphasizes the careful consideration of costs and benefits, public participation, integration, regulatory innovation, flexible regulatory approaches, and science. These considerations 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 21st Century.

DEPARTMENT OF AGRICULTURE

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
1	Payment Limitation and Payment Eligibility—Actively Engaged in Farming	0560–AI31	Final Rule Stage.
2	Importation, Interstate Movement, and Release Into the Environment of Certain Genetically Engineered Organisms.	0579–AE15	Prerule Stage.
3	General Administrative Regulations; Catastrophic Risk Protection Endorsement; Area Risk Protection Insurance Regulations; and the Common Crop Insurance Regulations, Basic Provisions.	0563–AC43	Final Rule Stage.

[1] Available at: *http://www.whitehouse.gov/sites/default/files/omb/oira/irc/us-canada-rcc-joint-forward-plan.pdf.*

DEPARTMENT OF AGRICULTURE—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
4	Enhancing Retailer Eligibility Standards in SNAP	0584–AE27	Proposed Rule Stage.
5	Supplemental Nutrition Assistance Program (SNAP) Photo Electronic Benefit Transfer (EBT) Card Implementation Requirements.	0584–AE45	Proposed Rule Stage.
6	National School Lunch and School Breakfast Programs: Nutrition Standards for All Foods Sold in School, as Required by the Healthy, Hunger-Free Kids Act of 2010.	0584–AE09	Final Rule Stage.
7	Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act of 2010.	0584–AE18	Final Rule Stage.
8	Requirements for the Disposition of Non-Ambulatory Disabled Veal Calves	0583–AD54	Final Rule Stage.
9	USDA Local and Regional Food Aid Procurement Program	0551–AA87	Final Rule Stage.
10	Program Measures and Metrics	0570–AA95	Final Rule Stage.
11	Rural Broadband Access Loans and Loan Guarantees	0572–AC34	Final Rule Stage.
12	Agricultural Conservation Easement Program	0578–AA61	Final Rule Stage.
13	Environmental Quality Incentives Program (EQIP)	0578–AA62	Final Rule Stage.
14	Conservation Stewardship Program	0578–AA63	Final Rule Stage.

DEPARTMENT OF DEFENSE

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
15	Sexual Assault Prevention and Response (SAPR) Program	0790–AJ40	Proposed Rule Stage.
16	Sexual Assault Prevention and Response Program Procedures	0790–AI36	Final Rule Stage.
17	Transition Assistance Program (TAP) for Military Personnel	0790–AJ17	Final Rule Stage.
18	Department of Defense (DoD)-Defense Industrial Base (DIB) Cybersecurity (CS) Activities.	0790–AJ29	Final Rule Stage.
19	Detection and Avoidance of Counterfeit Electronic Parts—Further Implementation (DFARS Case 2014–D005).	0750–AI58	Proposed Rule Stage.
20	Network Penetration Reporting and Contracting for Cloud Services (DFARS Case 2013–D018).	0750–AI61	Final Rule Stage.
21	TRICARE: Mental Health and Substance Use	0720–AB65	Proposed Rule Stage.

DEPARTMENT OF EDUCATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
22	REPAYE	1840–AD18	Final Rule Stage.
23	Workforce Innovation and Opportunity Act	1830–AA21	Final Rule Stage.

DEPARTMENT OF ENERGY

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
24	Coverage Determination for Computers and Battery Backup Systems	1904–AD04	Proposed Rule Stage.
25	Energy Conservation Standards for General Service Lamps	1904–AD09	Proposed Rule Stage.
26	Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces	1904–AD20	Proposed Rule Stage.
27	Energy Conservation Standards for Commercial Water Heating Equipment	1904–AD34	Proposed Rule Stage.
28	Energy Conservation Standards for Central Air Conditioners and Heat Pumps	1904–AD37	Proposed Rule Stage.
29	Energy Conservation Standards for Commercial and Industrial Pumps	1904–AC54	Final Rule Stage.
30	Energy Conservation Standards for Small, Large, and Very Large Commercial Package A/C and Heating Equipment.	1904–AC95	Final Rule Stage.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
31	Increase Number of Patients to which Drug Addiction Treatment Act (DATA)-Waived Physicians Can Prescribe Buprenorphine.	0930–AA22	Proposed Rule Stage.
32	Food Labeling: Revision of the Nutrition and Supplement Facts Labels	0910–AF22	Final Rule Stage.
33	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	Final Rule Stage.
34	Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption.	0910–AG35	Final Rule Stage.

DEPARTMENT OF HEALTH AND HUMAN SERVICES—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
35	"Tobacco Products" Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act.	0910–AG38	Final Rule Stage.
36	Reports of Distribution and Sales Information for Antimicrobial Active Ingredients Used in Food-Producing Animals.	0910–AG45	Final Rule Stage.
37	Focused Mitigation Strategies To Protect Food Against Intentional Adulteration	0910–AG63	Final Rule Stage.
38	Foreign Supplier Verification Program	0910–AG64	Final Rule Stage.
39	Accreditation of Third-Party Auditors/Certification Bodies to Conduct Food Safety Audits and to Issue Certifications.	0910–AG66	Final Rule Stage.
40	Supplemental Applications Proposing Labeling Changes for Approved Drugs and Biological Products.	0910–AG94	Final Rule Stage.
41	Sanitary Transportation of Human and Animal Food	0910–AG98	Final Rule Stage.
42	Programs of All-Inclusive Care for the Elderly (PACE) Update (CMS–4168–P)	0938–AR60	Proposed Rule Stage.
43	Expansion of the CMS Qualified Entity Program (CMS–5061–P)	0938–AS66	Proposed Rule Stage.
44	Merit-Based Incentive Payment System (MIPS) and Alternative Payment Models (APMs) in Medicare Fee-for-Service (CMS–5517–P).	0938–AS69	Proposed Rule Stage.
45	Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and FY 2017 Rates (CMS–1655–P).	0938–AS77	Proposed Rule Stage.
46	CY 2017 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1654–P).	0938–AS81	Proposed Rule Stage.
47	CY 2017 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1656–P).	0938–AS82	Proposed Rule Stage.
48	Medicaid Managed Care, CHIP Delivered in Managed Care, Medicaid and CHIP Comprehensive Quality Strategies, and Revisions related to Third Party Liability (CMS–2390–F).	0938–AS25	Final Rule Stage.

DEPARTMENT OF HOMELAND SECURITY

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
49	Chemical Facility Anti-Terrorism Standards (CFATS)	1601–AA69	Proposed Rule Stage.
50	Adjustment of Status to Lawful Permanent Resident for Aliens in T and U Nonimmigrant Status.	1615–AA60	Proposed Rule Stage.
51	New Classification for Victims of Criminal Activity; Eligibility for the U Nonimmigrant Status.	1615–AA67	Proposed Rule Stage.
52	Exception to the Persecution Bar for Asylum, Refugee, and Temporary Protected Status, and Withholding of Removal.	1615–AB89	Proposed Rule Stage.
53	Requirements for Filing Motions and Administrative Appeals	1615–AB98	Proposed Rule Stage.
54	Significant Public Benefit Parole for Entrepreneurs	1615–AC04	Proposed Rule Stage.
55	Retention of EB–1, EB–2, and EB–3 Immigrant Workers and Program Improvements Affecting Highly-Skilled H–1B Alien Workers.	1615–AC05	Proposed Rule Stage.
56	Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status.	1615–AA59	Final Rule Stage.
57	Application of Immigration Regulations to the Commonwealth of the Northern Mariana Islands.	1615–AB77	Final Rule Stage.
58	Special Immigrant Juvenile Petitions	1615–AB81	Final Rule Stage.
59	Enhancing Opportunities for H–1B1, CW–1, and E–3 Nonimmigrants and EB–1 Immigrants.	1615–AC00	Final Rule Stage.
60	Expansion of Provisional Unlawful Presence Waivers of Inadmissibility	1615–AC03	Final Rule Stage.
61	Inspection of Towing Vessels	1625–AB06	Final Rule Stage.
62	Transportation Worker Identification Credential (TWIC); Card Reader Requirements.	1625–AB21	Final Rule Stage.
63	Air Cargo Advance Screening (ACAS)	1651–AB04	Proposed Rule Stage.
64	Definition of Form I–94 to Include Electronic Format	1651–AA96	Final Rule Stage.
65	Security Training for Surface Mode Employees	1652–AA55	Proposed Rule Stage.
66	Passenger Screening Using Advanced Imaging Technology	1652–AA67	Final Rule Stage.
67	Improving and Expanding Training Opportunities for F–1 Nonimmigrant Students with STEM Degrees and Expanding Cap-Gap Relief for All F–1 Students With Pending H–1B Petitions.	1653–AA72	Proposed Rule Stage.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
68	Narrowing the Digital Divide through Broadband Installation in HUD-Funded New Construction and Substantial Rehabilitation (FR–5890).	2501–AD75	Proposed Rule Stage.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
69	Narrowing the Digital Divide Through Community Planning: Integrating Broadband Planning Into HUD's Consolidated Planning Process (FR–5891).	2506–AC41	Proposed Rule Stage.

DEPARTMENT OF JUSTICE

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
70	Implementation of the ADA Amendments Act of 2008 (Section 504 of the Rehabilitation Act of 1973).	1190–AA60	Proposed Rule Stage.
71	Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Governments.	1190–AA65	Proposed Rule Stage.
72	Revision of Standards and Procedures for the Enforcement of Section 274B of the Immigration and Nationality Act.	1190–AA71	Proposed Rule Stage.
73	Implementation of the ADA Amendments Act of 2008 (Title II and Title III of the ADA).	1190–AA59	Final Rule Stage.
74	Nondiscrimination on the Basis of Disability; Movie Captioning and Audio Description.	1190–AA63	Final Rule Stage.
75	Motions To Reopen Removal, Deportation, or Exclusion Proceedings Based Upon a Claim of Ineffective Assistance of Counsel.	1125–AA68	Proposed Rule Stage.
76	Recognition of Organizations and Accreditation of Non-Attorney Representatives	1125–AA72	Proposed Rule Stage.

DEPARTMENT OF LABOR

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
77	Establishing Paid Sick Leave for Contractors, Executive Order 13706	1235–AA13	Proposed Rule Stage.
78	Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees.	1235–AA11	Final Rule Stage.
79	Workforce Innovation and Opportunity Act	1205–AB73	Proposed Rule Stage.
80	Savings Arrangements Established by States for Non-Governmental Employees	1210–AB71	Proposed Rule Stage.
81	Respirable Crystalline Silica	1219–AB36	Proposed Rule Stage.
82	Proximity Detection Systems for Mobile Machines in Underground Mines	1219–AB78	Proposed Rule Stage.
83	Criteria and Procedures for Proposed Assessment of Civil Penalties	1219–AB72	Final Rule Stage.
84	Occupational Exposure to Crystalline Silica	1218–AB70	Final Rule Stage.
85	Improve Tracking of Workplace Injuries and Illnesses	1218–AC49	Final Rule Stage.

DEPARTMENT OF TRANSPORTATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
86	Use of Mobile Wireless Devices for Voice Calls on Aircraft	2105–AE30	Proposed Rule Stage.
87	Airport Safety Management System	2120–AJ38	Proposed Rule Stage.
88	Pilot Professional Development	2120–AJ87	Proposed Rule Stage.
89	Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes.	2120–AK65	Proposed Rule Stage.
90	Operation and Certification of Small Unmanned Aircraft Systems	2120–AJ60	Final Rule Stage.
91	National Goals and Performance Management Measures (MAP–21)	2125–AF54	Proposed Rule Stage.
92	National Goals and Performance Management Measures (MAP–21)	2125–AF49	Final Rule Stage.
93	National Goals and Performance Management Measures (MAP–21)	2125–AF53	Final Rule Stage.
94	Carrier Safety Fitness Determination	2126–AB11	Proposed Rule Stage.
95	Entry-Level Driver Training	2126–AB66	Proposed Rule Stage.
96	Commercial Driver's License Drug and Alcohol Clearinghouse (MAP–21)	2126–AB18	Final Rule Stage.
97	Rear Seat Belt Reminder System	2127–AL37	Proposed Rule Stage.
98	Fuel Efficiency Standards for Medium- and Heavy-Duty Vehicles and Work Trucks: Phase 2.	2127–AL52	Proposed Rule Stage.
99	Transit Asset Management	2132–AB07	Proposed Rule Stage.
100	Public Transportation Agency Safety Plans	2132–AB23	Proposed Rule Stage.
101	Pipeline Safety: Safety of On-Shore Liquid Hazardous Pipelines	2137–AE66	Proposed Rule Stage.
102	Pipeline Safety: Gas Transmission	2137–AE72	Proposed Rule Stage.
103	Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains.	2137–AF08	Proposed Rule Stage.

ENVIRONMENTAL PROTECTION AGENCY

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
104	Interstate Transport Rule for the 2008 Ozone NAAQS	2060–AS05	Proposed Rule Stage.
105	Oil and Natural Gas Sector: Emission Standards for New and Modified Sources	2060–AS30	Proposed Rule Stage.
106	Model Trading Rules for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014.	2060–AS47	Proposed Rule Stage.
107	Proposed Renewable Fuel Volume Standards for 2017 and Biomass Based Diesel Volume (BBD) for 2018.	2060–AS72	Proposed Rule Stage.
108	Polychlorinated Biphenyls (PCBs); Reassessment of Use Authorizations	2070–AJ38	Proposed Rule Stage.
109	Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a)	2070–AK03	Proposed Rule Stage.
110	N-Methylpyrrolidone (NMP) and Methylene Chloride; Rulemaking Under TSCA Section 6(a).	2070–AK07	Proposed Rule Stage.
111	Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hard Rock Mining Industry.	2050–AG61	Proposed Rule Stage.
112	User Fee Schedule for Electronic Hazardous Waste Manifest	2050–AG80	Proposed Rule Stage.
113	Modernization of the Accidental Release Prevention Regulations Under Clean Air Act.	2050–AG82	Proposed Rule Stage.
114	Review of the National Ambient Air Quality Standards for Lead	2060–AQ44	Final Rule Stage.
115	Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2.	2060–AS16	Final Rule Stage.
116	Renewable Fuel Volume Standards, 2014–2016 (Reg Plan)	2060–AS22	Final Rule Stage.
117	Findings That Greenhouse Gas Emissions From Aircraft Cause Or Contribute To Air Pollution That May Reasonably Be Anticipated to Endanger Public Health And Welfare Under CAA Section 231 (Reg Plan).	2060–AS31	Final Rule Stage.
118	Pesticides; Certification of Pesticide Applicators	2070–AJ20	Final Rule Stage.
119	Formaldehyde Emission Standards for Composite Wood Products	2070–AJ44	Final Rule Stage.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
120	The Federal Sector's Obligation To Be a Model Employer of Individuals With Disabilities.	3046–AA94	Proposed Rule Stage.
121	Federal Sector Equal Employment Opportunity Process	3046–AB00	Proposed Rule Stage.
122	Amendments to Regulations Under the Genetic Information Nondiscrimination Act of 2008.	3046–AB02	Proposed Rule Stage.
123	Amendments to Regulations Under the Americans With Disabilities Act	3046–AB01	Final Rule Stage.

SMALL BUSINESS ADMINISTRATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
124	Small Business Innovation Research Program and Small Business Technology Transfer Program Policy Directive.	3245–AG64	Proposed Rule Stage.
125	Small Business Investment Company (SBIC) Program; Impact SBICs	3245–AG66	Proposed Rule Stage.
126	Affiliation for Business Loan Programs and Surety Bond Guarantee Program	3245–AG73	Proposed Rule Stage.
127	Small Business Mentor-Protégé Programs	3245–AG24	Final Rule Stage.
128	Small Business Government Contracting and National Defense Authorization Act of 2013 Amendments.	3245–AG58	Final Rule Stage.

SOCIAL SECURITY ADMINISTRATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
129	Vocational Factors of Age, Education, and Work Experience in the Adult Disability Determination Process.	0960–AH74	Prerule Stage.
130	Revised Medical Criteria for Evaluating Musculoskeletal Disorders (3318P)	0960–AG38	Proposed Rule Stage.
131	Revised Medical Criteria for Evaluating Digestive Disorders (3441P)	0960–AG65	Proposed Rule Stage.
132	Acceptable Medical Sources, Evaluating Evidence, and Treating Sources (3787P).	0960–AH51	Proposed Rule Stage.
133	Returning Evidence at the Appeals Council Level (3844F)	0960–AH64	Proposed Rule Stage.
134	Removal of the Expiration Date for State Disability Examiner Authority to Make Fully Favorable Quick Disability Determinations and Compassionate Allowances.	0960–AH70	Proposed Rule Stage.
135	Anti-Harassment and Hostile Work Environment Case Tracking and Records System Revised.	0960–AH82	Proposed Rule Stage.

SOCIAL SECURITY ADMINISTRATION—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
136	Amendment to the Education Category, ''Illiterate or Unable to Communicate in English'' and Clarification of Previous Work Experience Criterion for Persons who are ''Illiterate''.	0960–AH86	Proposed Rule Stage.
137	Revised Medical Criteria for Evaluating Neurological Impairments (806F)	0960–AF35	Final Rule Stage.
138	Revised Medical Criteria for Evaluating Respiratory System Disorders (859F)	0960–AF58	Final Rule Stage.
139	Revised Medical Criteria for Evaluating Mental Disorders (886F)	0960–AF69	Final Rule Stage.

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U.S. DEPARTMENT OF AGRICULTURE

Fall 2015 Statement of Regulatory Priorities

The U.S. Department of Agriculture (USDA) provides leadership on food, agriculture, natural resources, rural development, nutrition, and related issues based on sound public policy, the best available science, and efficient management. The Department touches the lives of almost every American, every day. Our regulatory plan reflects that reality and reinforces our commitment to achieve results for everyone we serve.

The regulatory plan continues USDA efforts to implement several important pieces of legislation. The 2014 Farm Bill provides authorization for services and programs that impact every American and millions of people around the world. The new Farm Bill builds on historic economic gains in rural America over the past five years, while achieving meaningful reform and billions of dollars in savings for taxpayers. The Healthy, Hunger-Free Kids Act of 2010 (HHFKA) allows USDA, for the first time in over 30 years, opportunity to make real reforms to the school lunch and breakfast programs by improving the critical nutrition and hunger safety net for millions of children.

To assist the country in addressing today's challenges, USDA has developed a regulatory plan consistent with five strategic goals that articulate the Department's priorities.

1. Assist Rural Communities To Create Prosperity So They Are Self-Sustaining, Re-Populating, and Economically Thriving

Rural America is home to a vibrant economy supported by nearly 50 million Americans. These Americans come from diverse backgrounds and work in a variety of industries, including manufacturing, agriculture, services, government, and trade. Today, the country looks to rural America not only to provide food and fiber, but for crucial emerging economic opportunities such as renewable energy, broadband, and recreation. Many of the Nation's small businesses are located in rural communities and are the engine of job growth and an important source of innovation for the country. The economic vitality and quality of life in rural America depends on a healthy agricultural production system. Farmers and ranchers face a challenging global, technologically advanced, and competitive business environment. USDA works to ensure that producers are prosperous and competitive, have access to new markets, can manage their risks, and receive support in times of economic distress or weather-related disasters. Prosperous rural communities are those with adequate assets to fully support the well-being of community members. USDA helps to strengthen rural assets by building physical, human and social, financial, and natural capital.

Enhance rural prosperity, including leveraging capital markets to increase Government's investment in rural America.

USDA is committed to providing broadband to rural areas. Since 2009, USDA investments have delivered broadband service to 1.5 million households, businesses, schools, libraries and community facilities. These investments support the USDA goal to create thriving communities where people want to live and raise families. Consistent with these efforts, the Rural Utilities Service (RUS) published an interim rule on July 30, 2015, implementing Rural Broadband Access Loan and Loan Guarantee Program provisions included in section 6104 of the 2014 Farm Bill. The rule established two funding cycles to review and prioritize applications for the program. It also set a minimum level of acceptable broadband service at 4 megabits downstream and 1 megabit upstream. RUS is currently developing a final rule to implement changes to the administration of the Broadband program based on public comments received. For more information about this rule, see RIN 0572–AC34.

USDA also works to increase the effectiveness of the Government's investment in rural America. To this end, Rural Development will issue a final rule to establish program metrics to measure the economic activities created through grants and loans, including any technical assistance provided as a component of the grant or loan program, and to measure the short and long-term viability of award recipients, and any entities to whom recipients provide assistance using the awarded funds. The action is required by section 6209 of the 2014 Farm Bill, and will not change the underlying provisions of the included programs, such as eligibility, applications, scoring, and servicing provisions. For more information about this rule, see RIN 0570–AA95.

Increase agricultural opportunities by ensuring a robust safety net, creating new markets, and supporting a competitive agricultural system.

In another step to increase the effectiveness of the Government's investment in rural America, the Farm Service Agency (FSA) published a proposed rule on March 26, 2015, on behalf of the Commodity Credit Corporation (CCC) to specify the requirements for a person to be considered actively engaged in farming for the purpose of payment eligibility for certain FSA and CCC programs. These changes will ensure that farm program payments are going to the farmers and farm families that they are intended to help. Specifically, FSA is revising and clarifying the requirements for a significant contribution of active personnel management to a farming operation. These changes are required by the 2014 Farm Bill, and will not apply to persons or entities comprised solely of family members. FSA is currently developing a final rule to implement changes to the rule based on public comments received. For more information about this rule, see RIN 0560–AI31.

The Federal Crop Insurance Program mitigates production and revenue losses from yield or price fluctuations and

provides timely indemnity payments. The 2014 Farm Bill improved the Federal Crop Insurance Program by allowing producers to elect coverage for shallow losses, improved options for growers of organic commodities, and the ability for diversified operations to insure their whole-farm under a single policy. To strengthen further the farm financial safety net, the Risk Management Agency (RMA) published an interim rule on June 30, 2014, that amended the general administrative regulations governing Catastrophic Risk Protection Endorsement, Area Risk Protection Insurance, and the basic provisions for Common Crop Insurance consistent with the changes mandated by the 2014 Farm Bill. RMA is currently developing a final rule to implement changes based on public comments received. For more information about this rule, see RIN 0563–AC43.

2. Ensure Our National Forests and Private Working Lands Are Conserved, Restored, and Made More Resilient to Climate Change, While Enhancing Our Water Resources

National forests and private working lands provide clean air, clean and abundant water, and wildlife habitat. These lands sustain jobs and produce food, fiber, timber, and bio-based energy. Many of our landscapes are scenic and culturally important and provide Americans a chance to enjoy the outdoors. The 2014 Farm Bill delivered a strong conservation title that made robust investments to conserve and support America's working lands, and consolidated, and streamlined programs to improve efficiency and encourage participation. Farm Bill conservation programs provide America's farmers, ranchers and others with technical and financial assistance to enable conservation of natural resources, while protecting and improving agricultural operations. Seventy percent of the American landscape is privately owned, making private lands conservation critical to the health of our nation's environment and ability to ensure our working lands are productive. To sustain these many benefits, USDA has implemented the authorities provided by the 2014 Farm Bill to protect and enhance 1.3 billion acres of working lands. USDA also manages 193 million acres of national forests and grasslands. Our partners include Federal, Tribal, and State governments; industry; non-governmental organizations, community groups and producers. The Nation's lands face increasing threats that must be addressed. USDA's natural resource-focused regulatory strategies are designed to make substantial contributions in the areas of soil health, resiliency to climate change, and improved water quality.

Improve the health of the Nation's forests, grasslands and working lands by managing our natural resources.

The Natural Resources Conservation Service (NRCS) administers the Agricultural Conservation Easement Program (ACEP), which provides financial and technical assistance to help conserve agricultural lands and wetlands and their related benefits. The 2014 Farm Bill consolidated the Wetlands Reserve Program (WRP), the Farm and Ranch Lands Protection Program (FRPP), and the Grassland Reserve Program (GRP) into ACEP. In fiscal year 2014, an estimated 143,833 acres of farmland, grasslands, and wetlands were enrolled into ACEP. Through regulation, NRCS established a comprehensive framework to implement ACEP, and standardized criteria for implementing the program, provided program participants with predictability when they initiate an application and convey an easement. On February 27, 2015, NRCS published an interim rule to implement ACEP. NRCS is currently developing a final rule to implement changes to the administration of ACEP based on public comments received. For more information about this rule, see RIN 0578–AA61.

The Conservation Stewardship Program (CSP) also helps the Department ensure that our national forests and private working lands are conserved, restored, and made more resilient to climate change. Through CSP, NRCS provides financial and technical assistance to eligible producers to conserve and enhance soil, water, air, and related natural resources on their land. NRCS makes funding for CSP available nationwide on a continuous application basis. In fiscal year 2014, NRCS enrolled about 9.6 million acres and now CSP enrollment exceeds 60 million acres, about the size of Iowa and Indiana combined. On November 5, 2014, NRCS published an interim rule to implement provisions of the 2014 Farm bill that amended CSP. Key changes included: Limiting eligible land to that in production for at least 4 of the 6 years preceding February 7, 2014, the date of enactment of the 2014 Farm Bill; requiring contract offers to meet stewardship threshold for at least two priority resource concerns and meet or exceed one additional priority resource concern by the end of the stewardship contract; allowing enrollment of lands that are protected by an agricultural land easement under the newly authorized ACEP; and allowing enrollment of lands that are in the last year of the Conservation Reserve Program. NRCS is currently developing a final rule to implement changes to the administration of CSP based on public comments received. For more information about this rule, see RIN 0578–AA63.

The Environmental Quality Incentives Program (EQIP) is another voluntary conservation program that helps agricultural producers in a manner that promotes agricultural production and environmental quality as compatible goals. Through EQIP, agricultural producers receive financial and technical assistance to implement structural and management conservation practices that optimize environmental benefits on working agricultural land. Through EQIP, producers addressed their conservation needs on over 11 million acres in fiscal year 2014. EQIP has been instrumental in helping communities respond to drought. On December 12, 2014, NRCS published an interim rule that implemented changes mandated by 2014 Farm Bill and addressed a few key discretionary provisions, including, adding waiver authority to irrigation history requirements, incorporation of Tribal Conservation Advisory Councils where appropriate, and clarifying provisions related to Comprehensive Nutrient Management Plans (CNMP) associated with Animal Feeding Operations (AFO). NRCS is currently developing a final rule to implement changes to the administration of EQIP based on public comments received. For more information about this rule, see RIN 0578–AA62.

Contribute to clean and abundant water by protecting and enhancing water resources on national forests and working lands.

The 2014 Farm Bill relinked highly erodible land conservation and wetland conservation compliance with eligibility for premium support paid under the federal crop insurance program. The Farm Service Agency implemented these provisions through an interim rule published on April, 24, 2015. Since publication of the interim rule, more than 98.2 percent of producers met the requirement to certify conservation compliance to qualify for crop insurance premium support payments. Implementing these provisions for conservation compliance is expected to extend conservation provisions for an additional 1.5 million acres of highly erodible lands and 1.1 million acres of wetlands, which will reduce soil erosion, enhance water quality, and create wildlife habitat. Through this action, NRCS modified the existing

wetlands Mitigation Banking Program to remove the requirement that USDA hold easements in the mitigation program. This allows entities recognized by USDA to hold mitigation banking easements granted by a person who wishes to maintain payment eligibility under the wetland conservation provision. FSA is currently developing a final rule to implement changes to the interim rule based on public comments received. For more information about this rule, see RIN 0560–AI26.

3. Help America Promote Agricultural Production and Biotechnology Exports as America Works To Increase Food Security

Food security is important for sustainable economic growth of developing nations and the long-term economic prosperity and security of the United States. Unfortunately, global food insecurity is expected to rise in the next five years. Food security means having a reliable source of nutritious and safe food and sufficient resources to purchase it. USDA has a role in curbing this distressing trend through programs such as Food for Progress and President Obama's Feed the Future Initiative and through new technology-based solutions, such as the development of genetically engineered plants, that improves yields and reduces post-harvest loss.

Ensure U.S. agricultural resources contribute to enhanced global food security.

The Foreign Agriculture Service (FAS) will issue a final rule for the Local and Regional procurement (LRP) Program as authorized in section 3207 of the 2014 Farm Bill. USDA implemented a successful LRP pilot program under the authorities of the 2008 Farm Bill. LRP ties to the President's 2014 Trade Policy Agenda and works with developing nations to alleviate poverty and foster economic growth to provide better markets for U.S. exporters. LRP is expected to help alleviate hunger for millions of individuals in food insecure countries. LRP supports development activities that strengthen the capacity of food-insecure developing countries, and build resilience and address the causes of chronic food insecurity while also supporting USDA's other food assistance programs, including the McGovern Dole International Food for Education and Child Nutrition Program (McGovern-Dole). In addition, the program can be used to fill food availability gaps generated by unexpected emergencies. LRP complements ongoing activities under the McGovern-Dole Program, improves dietary diversity and nutrition, and supports the sustainability of school-feeding programs as they transition to full host-government ownership. The final rule will enable FAS and its partners to strengthen the capacity of host-governments to implement their own homegrown school feeding programs. For more information about this rule, see RIN 0551–AA87.

Enhance America's ability to develop and trade agricultural products derived from new and emerging technologies.

USDA uses science-based regulatory systems to allow for the safe development, use, and trade of products derived from new agricultural technologies. USDA continues to regulate the importation, interstate movement, and field-testing of newly developed genetically engineered (GE) organisms that qualify as ''regulated articles'' to ensure they do not pose a threat to plant health before they can be commercialized. These science-based evaluations facilitate the safe introduction of new agricultural production options and enhance public and international confidence in these products. As a part of this effort, the Animal and Plant Health Inspection Service (APHIS) will publish a proposed rule to revise its regulations and align them with current authorizations by incorporating the noxious weed authority and regulate GE organisms that pose plant pest or weed risks in a manner that balances oversight and risk, and that is based on the best available science. The regulatory framework being developed will enable more focused, risk-based regulation of GE organisms that pose plant pest or noxious weed risks and will implement regulatory requirements only to the extent necessary to achieve the APHIS protection goal. For more information about this rule, see RIN 0579–AE15.

4. 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. Science has established strong links between diet, health, and productivity. Even small improvements in the average diet, fostered by USDA, may yield significant health and economic benefits. However, foodborne illness is still a common, costly—yet largely preventable—public health problem, even though the U.S. food supply system is one of the safest in the world. USDA is committed to ensuring that Americans have access to safe food through a farm-to-table approach to reduce and prevent foodborne illness. To help ensure a plentiful supply of food, the Department detects and quickly responds to new invasive species and emerging agricultural and public health situations.

Improve access to nutritious food.

USDA's domestic nutrition assistance programs serve one in four Americans annually. The Department is committed to making benefits available to every eligible person who wishes to participate in the major nutrition assistance programs, including the Supplemental Nutrition Assistance Program (SNAP), the cornerstone of the nutrition assistance safety net, which helped over 46 million Americans—more than half of whom were children, the elderly, or individuals with disabilities—put food on the table in 2014. The Department will soon propose changes to eligibility requirements for SNAP retail food stores to ensure access to nutrition foods for home preparation and consumption for the families most vulnerable to food insecurity. While the ultimate objective is for economic opportunities to make nutrition assistance unnecessary for as many families as possible, we will ensure that these vital programs remain ready to serve all eligible people who need them.

The Department is also committed to helping ensure children have access to healthy, balanced meals throughout the day, as mandated by HHFKA, through the USDA child nutrition programs, including school, child care and summer meal programs. The summer meal programs have seen a historic increase in participation, with 11 million more meals served in 2015 compared to the previous summer, serving a total of more than 187 million meals at over 50,000 summer meal sites throughout the country.

Promote healthy diet and physical activity behaviors.

The Administration has set a goal to solve the problem of childhood obesity within a generation so that children born today will reach adulthood at a healthy weight. On school days, children who participate in both the breakfast and lunch programs consume as many as half of their calories at school. The Department must ensure that all foods served in school contribute to good health, and the HHFKA provided new authority to set common-sense nutrition standards for food sold throughout the school day. To help accomplish this goal, the Food and Nutrition Service (FNS) will publish three rules implementing provisions of the HHFKA.

FNS published an interim rule on June 28, 2013, for Nutrition Standards for All Foods Sold in School, as required by HHFKA. Section 208 requires the Secretary to promulgate regulations to establish science-based nutrition standards for all foods sold in schools, outside the school meal programs, on the school campus, and at any time during the school day. FNS is currently developing a final rule to implement changes to the interim rule based on public comments received. For more information about this rule, see RIN 0584–AE09.

FNS published the proposed rule, Meal Pattern Revisions Related to the Healthy Hunger-Free Kids Act of 2010, on January 15, 2015, to implement section 221 of the HHFKA. This section 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. FNS is currently developing a final rule to implement changes to the proposed rule based on public comments received. For more information about this rule, see RIN 0584–AE18.

FNS published the proposed rule, Local School Wellness Policy Implementation and School Nutrition Environment Information, on February 28, 2014, to implement section 204 of the HHFKA. As a result of meal pattern changes in the school meals programs, students are now eating 16 percent more vegetables and there was a 23 percent increase in the selection of fruit at lunch. This Act requires each local educational agency participating in Federal child nutrition programs to establish, for all schools under its jurisdiction, a local school wellness policy to maintain this momentum. The HHFKA requires that the wellness policy include goals for nutrition, nutrition education, physical activity, and other school-based activities that promote student wellness. In addition, the HHFKA requires that local educational agencies ensure stakeholder participation in development of local school wellness policies; periodically assess compliance with the policies; and disclose information about the policies to the public. FNS is currently developing a final rule to implement changes to the proposed rule based on public comments received. For more information about this rule, see RIN 0584–AE25.

Protect agricultural health by minimizing major diseases and pests to ensure access to safe, plentiful, and nutritious food.

The Food Safety and Inspection Service (FSIS) continue to enforce and improve compliance with the Humane Methods of Slaughter Act. FSIS published a proposed rule on May 13, 2015, that would require non-ambulatory disabled veal calves that are offered for slaughter to be condemned and promptly euthanized. Currently, FSIS allows veal calves that are unable to rise from a recumbent position to be set aside and warmed or rested, and presented for slaughter if they regain the ability to walk. FSIS has found that this practice may contribute to the inhumane treatment of the veal calves. This rule will improve compliance with the Humane Methods of Slaughter Act by encouraging improved treatment of veal calves, as well as improve inspection efficiency by allowing FSIS inspection program personnel to devote more time to activities related to food safety. FSIS is currently developing a final rule to implement these changes based on public comments received. For more information about this rule, see RIN 0583–AD54.

5. Create a USDA for the 21st Century That Is High Performing, Efficient, and Adaptable

USDA has been a leader in the Federal government at implementing innovative practices to rein in costs and increase efficiencies. By taking steps to find efficiencies and cut costs, USDA employees have achieved savings and cost avoidances of over $1.4 billion in recent years. Some of these results came from relatively smaller, common-sense initiatives such as the $1 million saved by streamlining the mail handling at one of the USDA mailrooms or the consolidation of the Department's cell phone contracts, which is saving taxpayers over $5 million per year. Other results have come from larger-scale activities, such as the focus on reducing non-essential travel that has yielded over $400 million in efficiencies. Overall, these results have allowed us to do more with less during a time when such stewardship of resources has been critical to meeting the needs of those that we serve.

While these proactive steps have given USDA the tools to carry out our mission-critical work, ensuring that USDA's millions of customers receive stronger service, they are matters relating to agency management, personnel, public property, and/or contracts, and as such they are not subject to the notice and comment requirements for rulemaking codified at 5 U.S.C. 553. Consequently, they are not included in the Department's regulatory agenda. For more information about the USDA efforts to cut costs and modernize operations via the Blueprint for Stronger Service Initiative, see *http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=blueprint_for_stronger_service.html*.

Retrospective Review of Existing Regulations

In accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' and Executive Order 13610, ''Identifying and Reducing Regulatory Burdens,'' USDA continues to review its existing regulations and information collections to evaluate the continued effectiveness in addressing the circumstances for which the regulations were implemented. As part of this ongoing review to maximize the cost-effectiveness of its regulatory programs, USDA will publish a **Federal Register** notice inviting public comment to assist in analyzing its existing significant regulations to determine whether any should be modified, streamlined, expanded, or repealed.

USDA has identified the following regulatory actions as associated with retrospective review and analysis. Some of the regulatory actions on the below list are completed actions, which do not appear in the Regulatory Agenda. 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*. Other entries on this list are still in development and have not yet appeared in the Regulatory Agenda. You can read more about these entries and the Department's strategy for regulation reform at *http://www.usda.gov/wps/portal/usda/usdahome?navid=USDA_OPEN*.

Agency	Title	RIN
Animal Plant Health & Inspection Service (APHIS).	Participation in the International Trade Data System (ITDS) via the Automated Commercial Environment (ACE).	TBD.
Food Safety & Inspection Service (FSIS)	Electronic Export Application and Certification Fee	0583–AD41.
Agricultural Marketing Service (AMS)	Input Export Form Numbers into the Automated Export System	TBD.

Agency	Title	RIN
AMS	Revisions to the Electronic Submission of the Import Request of Shell Eggs	0581–AD40.
APHIS	Forms for Declaration Mandated by 2008 Farm Bill (Lacey Act amendments)	0579–AD99.
Farm Service Agency (FSA) and Risk Management Agency.	Acreage and Crop Reporting Streamlining Initiative	0563–0084.
FSA	Environmental Policies and Procedures; Compliance with the National Environmental Policy Act and Related Authorities.	0560–AH02.
Natural Resources Conservation Service	Conservation Delivery Streamlining Initiative (CDSI)—Conservation Client Gateway (CCG).	TBD.
Rural Business Services (RBS)	Business and Industry Loan Guaranteed Program	0570–AA85.
Rural Housing Service	Community Facilities Loan and Grants	0575–AC91.
FSIS	Electronic Import Inspection and Certification of Imported Products and Foreign Establishments.	0583–AD39.
Forest Service (FS)	National Environmental Policy Act Efficiencies	0596–AD01.
FSA	Streamlined Farm Loan Programs Direct Loan Making	0560–0237.
Food and Nutrition Service (FNS)	Direct Certification for School Meals	0584–AE10.
FSIS	Prior Labeling Approval System: Generic Label Approval	0583–AC59.
FSIS	Modernization of Poultry Slaughter Inspection	0583–AD32.
FNS	Simplified Cost Accounting and Other Actions to Reduce Paperwork in the Summer Food Service Program.	0584–AD84.
Rural Business Services (RBS)	Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance.	0570–AA73, 0570–0065.
RBS	Rural Energy for America Program	0570–AA76.

USDA—FARM SERVICE AGENCY (FSA)

Final Rule Stage

1. Payment Limitation and Payment Eligibility—Actively Engaged in Farming

Priority: Other Significant.

Legal Authority: 7 U.S.C. 1308–1 note

CFR Citation: 7 CFR 1400.

Legal Deadline: None.

Abstract: The Farm Service Agency (FSA) is revising regulations on behalf of the Commodity Credit Corporation (CCC) to specify the requirements for a person to be considered actively engaged in farming for the purpose of payment eligibility for certain FSA and CCC programs. Specifically, FSA is revising and clarifying the requirements for a significant contribution of active personnel management to a farming operation. These changes are required by the Agricultural Act of 2014 (the 2014 Farm Bill). The provisions of the rule will not apply to persons or entities comprised solely of family members. The rule will not change the existing regulations as they relate to contributions of land, capital, equipment, labor, or the special rules related to landowners with a risk in the crop or spouses.

Statement of Need: This rule is needed to update the FSA regulations to implement a provision in the 2014 Farm Bill.

Summary of Legal Basis: The Agricultural Act of 2014 (Pub. L. 113–79).

Alternatives: There are alternatives about how many managers a farming operation may be able to have qualify for payments based on being actively engaged in farming.

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

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	03/26/15	80 FR 15916
NPRM Comment Period End.	05/26/15	
Final Action	12/00/15	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: None.

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–AI31

USDA—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)

Prerule Stage

2. • Importation, Interstate Movement, and Release Into the Environment of Certain Genetically Engineered Organisms

Priority: Other Significant.

Legal Authority: Not Yet Determined

CFR Citation: 7 CFR 340.

Legal Deadline: None.

Abstract: USDA uses science-based regulatory systems to allow for the safe development, use, and trade of products derived from new agricultural technologies. USDA continues to regulate the importation, interstate movement, and field-testing of newly developed genetically engineered (GE) organisms that qualify as regulated articles'' to ensure they do not pose a threat to plant health before they can be commercialized. These science-based evaluations facilitate the safe introduction of new agricultural production options and enhance public and international confidence in these products. As a part of this effort, the Animal and Plant Health Inspection Service (APHIS) will publish a proposed rule to revise its regulations and align them with current authorizations by incorporating the noxious weed authority and regulate GE organisms that pose plant pest or weed risks in a manner that balances oversight and risk, and that is based on the best available science. The regulatory framework being developed will enable more focused, risk-based regulation of GE organisms that pose plant pest or noxious weed risks and will implement regulatory requirements only to the extent necessary to achieve the APHIS protection goal.

Timetable:

Action	Date	FR Cite
Notice of Intent to Prepare an Environmental Impact Statement.	11/00/15	
NPRM	07/00/16	

Action	Date	FR Cite
NPRM Comment Period End.	09/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: Local, State.

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: Andrea Huberty, Branch Chief, Policy, Program, and Regulatory Consultation Branch, Policy Coordination Program, BRS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 147, Riverdale, MD 20737–1236, *Phone:* 301 851–3880.

RIN: 0579–AE15

USDA—FEDERAL CROP INSURANCE CORPORATION (FCIC)

Final Rule Stage

3. General Administrative Regulations; Catastrophic Risk Protection Endorsement; Area Risk Protection Insurance Regulations; and the Common Crop Insurance Regulations, Basic Provisions

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

Legal Authority: Pub. L. 113–79

CFR Citation: 7 CFR 400; 7 CFR 457.

Legal Deadline: Final, Statutory, June 30, 2014, 2015 Contract year.

Abstract: The Federal Crop Insurance Corporation amends the General Administrative Regulations—Ineligibility for Programs under the Federal Crop Insurance Act, the Catastrophic Risk Protection Endorsement, the Area Risk Protection Insurance Regulations, and the Common Crop Insurance Regulations, Basic Provisions, to revise those revisions affected by changes mandated by the Agricultural Act of 2014 (commonly referred to as the 2014 Farm Bill), enacted on February 7, 2014.

Statement of Need: This Final rule is needed complete the Interim Final Rule that updates FCIC regulations required to implement provisions of the Agricultural Act of 2014.

Summary of Legal Basis: The Agricultural Act of 2014.

Alternatives: N/A.

Anticipated Cost and Benefits: A benefit-cost analysis was prepared for the Interim Final Rule and no significant changes have been made to this Final Rule which would alter the initial analysis which will be made available when the rule is published.

Risks: None.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective.	06/30/14	79 FR 37155
Interim Final Rule Comment Period End.	09/02/14	
Final Action	03/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Timothy Hoffmann, Director, Product Administration and Standards Division, Department of Agriculture, Federal Crop Insurance Corporation, 6501 Beacon Drive, Kansas City, MO 64133, *Phone:* 816 926–7387.

RIN: 0563–AC43

USDA—FOOD AND NUTRITION SERVICE (FNS)

Proposed Rule Stage

4. Enhancing Retailer Eligibility Standards in SNAP

Priority: Other Significant.

Legal Authority: 3 U.S.C. 2012; 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: The 2014 Farm Bill amended the Food and Nutrition Act of 2008 to increase the requirement that certain SNAP authorized retail food stores have available on a continual basis at least three varieties of items in each of four staple food categories to a mandatory minimum of seven. The 2014 Farm Bill also amended the Act to increase for certain SNAP authorized retail food stores the minimum number of categories in which perishable foods are required from two to three. This rule would codify these mandatory requirements. Further, using existing authority in the Act and feedback from an expansive Request for Information, the rulemaking also proposes changes to address depth of stock, redefine staple and accessory foods, and amend the definition of retail food store to clarify when a retailer is a restaurant rather than a retail food store.

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	03/00/16	

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. Thomas, 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.thomas@fns.usda.gov*.

RIN: 0584–AE27

USDA—FNS

5. Supplemental Nutrition Assistance Program (SNAP) Photo Electronic Benefit Transfer (EBT) Card Implementation Requirements

Priority: Other Significant.

Legal Authority: Pub L. 104–193

CFR Citation: 7 CFR 273; 7 CFR 274; 7 CFR 278.

Legal Deadline: None.

Abstract: Under section 7(h)(9) of the Food and Nutrition Act of 2008 (the Act), as amended [7 U.S.C. 2016(h)(9)], States have the option to require that SNAP Electronic Benefit Transfer (EBT) card contain a photo of one or more household members. This rule would incorporate into regulation and provide additional clarity on the Food and Nutrition Service (FNS) guidance developed for State agencies wishing to implement the photo EBT card option.

Statement of Need: The regulation would create a clearer structure for those States wishing to exercise the option of placing a photo on EBT cards and ensure uniform accessibility for participants in all States.

Summary of Legal Basis: The Food and Nutrition Act of 2008 requires that any States choosing to issue a photo on the EBT card establish procedures to ensure that all other household members or any authorized representative of the household may utilize the card. Furthermore, applying this option must also preserve client rights and responsibilities afforded by the Act to ensure that all household members are able to maintain uninterrupted access to benefits, that non-applicants applying on behalf of eligible household members are not negatively impacted, and that SNAP recipients using photo EBT cards are treated equitably in accordance with Federal law when purchasing food at authorized retailers.

Alternatives: None.

Anticipated Cost and Benefits: The changes to be proposed are not expected to create serious inconsistencies or otherwise interfere with actions taken or planned by another agency or materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. The requirements will not raise novel or legal policy issues.

Budgetary impact on FNS is expected to be limited. Photo EBT card implementation in multiple States may require additional Federal staff for review and approval of implementation plans and for on-going monitoring via management evaluations.

As a result of this rule, States that exercise the option to implement photos on EBT cards would incur costs associated with development of an implementation plan, State staff training, client training, and retailer training. It is expected that providing guidance or oversight of these requirements would fall under the standard purview of these agencies and could be absorbed by existing staff. State Agencies are responsible for approximately 50% of SNAP administration costs, which would include the costs associated with implementing and maintaining photo EBT cards.

Risks: FNS recognizes the existence of violating retailers and others buying and using multiple cards and pins to stock their shelves and will propose an alternative to address possession of multiple cards and PINs to allow for additional verification at point-of-sale in some specific instances.

Recent attempts to implement photographs on the EBT card have proven difficult for some States. This rule will expand on current program regulations to provide clarification and more detailed guidance to States implementing the photo EBT option and ensure program access is protected.

Timetable:

Action	Date	FR Cite
NPRM	11/00/15	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: 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*.

RIN: 0584–AE45

USDA—FNS

Final Rule Stage

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

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

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: Pub. L. 111–296

CFR Citation: 7 CFR 210; 7 CFR 220.

Legal Deadline: None.

Abstract: This rule codifies the two provisions of the Healthy, Hunger-Free Kids Act (Pub. L. 111–296; the Act) under 7 CFR parts 210 and 220. Section 203 requires schools participating in the National School Lunch Program to make available to children free of charge, as nutritionally appropriate, potable water for consumption in the place where meals are served during meal service. Section 208 requires the Secretary to promulgate regulations to establish science-based nutrition standards for all foods sold in schools. The nutrition standards apply to all food sold outside the school meal programs, on the school campus, and at any time during the school day.

Statement of Need: This rule codifies the two provisions of the Healthy, Hunger-Free Kids Act (Pub. L. 111–296; the Act) under 7 CFR parts 210 and 220. Section 203 requires schools participating in the National School Lunch Program to make available to children free of charge, as nutritionally appropriate, potable water for consumption in the place where meals are served during meal service. Section 208 requires the Secretary to promulgate proposed regulations to establish science-based nutrition standards for all foods sold in schools not later than December 13, 2011. The nutrition standards apply to all food sold outside the school meal programs, on the school campus, and at any time during the school day.

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

Alternatives: None.

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

Although the complexity of factors that influence overall food consumption and obesity prevent us from defining a level of dietary change or disease or cost reduction that is attributable to the rule, there is evidence that standards like those in the rule will positively influence and perhaps directly improve

food choices and consumption patterns that contribute to students' long-term health and well-being, and reduce their risk for obesity.

Any rule-induced benefit of healthier eating by school children would be accompanied by costs, at least in the short term. Healthier food may be more expensive than unhealthy food either in raw materials, preparation, or both and this greater expense would be distributed among students, schools, and the food industry.

Risks: None known.

Timetable:

Action	Date	FR Cite
NPRM	02/08/13	78 FR 9530
NPRM Comment Period End.	04/09/13	
Interim Final Rule	06/28/13	78 FR 39067
Interim Final Rule Effective.	08/27/13	
Interim Final Rule Comment Period End.	10/28/13	
Final Action	03/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: Local, State.

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

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RIN: 0584–AE09

USDA—FNS

7. 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 210; 7 CFR 215; 7 CFR 220; 7 CFR 226.

Legal Deadline: None.

Abstract: This final rule will implement section 221 of the Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111–296, the Act). It 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 those 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 those 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 establishes 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: There are several instances throughout the proposed rule and its associated Regulatory Impact Analysis that offered alternatives for review and comment to the various criteria and procedures discussed.

Anticipated Cost and Benefits: This rule will 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. As described in the Regulatory Impact Analysis, the baseline is the current cost of food to CACFP providers. The rule more closely aligns the meals served in CACFP with the *Dietary Guidelines* in an essentially cost-neutral manner. USDA estimates that the rule will result in a very small decrease in the cost for CACFP providers to prepare and serve meals to program participants, and may result in a small, temporary increase in labor and administrative costs to implement the rule. Therefore, it is projected that no meaningful net change in cost will occur as a result of this rule.

Risks: None identified.

Timetable:

Action	Date	FR Cite
NPRM	01/15/15	80 FR 2037
NPRM Comment Period End.	04/15/15	
NPRM Comment Period Extended.	04/27/15	80 FR 23243
NPRM Comment Period Extended End.	05/27/15	
Final Action	03/00/16	

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*.

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RIN: 0584–AE18

USDA—FOOD SAFETY AND INSPECTION SERVICE (FSIS)

Final Rule Stage

8. Requirements for the Disposition of Non-Ambulatory Disabled Veal Calves

Priority: Other Significant.

Legal Authority: Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*)

CFR Citation: 9 CFR 309.

Legal Deadline: None.

Abstract: Food Safety and Inspection Service (FSIS) is developing final regulations to amend the ante-mortem inspection regulations to remove a provision that permits establishments to set apart and hold for treatment veal calves that are unable to rise from a recumbent position and walk because they are tired or cold (9 CFR 309.13(b)). The regulations permit such calves to proceed to slaughter if they are able to rise and walk after being warmed or rested. FSIS proposed to require that non-ambulatory disabled (NAD) veal calves that are offered for slaughter be condemned and promptly euthanized. The existing regulations require that NAD mature cattle be condemned on ante-mortem inspection and that they be promptly euthanized (9 CFR 309.3(e)). FSIS believes that prohibiting the slaughter of all NAD veal calves would improve compliance with the Humane Methods of Slaughter Act of 1978 (HMSA), and the humane slaughter implementing regulations. It also would improve the Agency's inspection efficiency by eliminating the time that FSIS inspection program personnel

(IPP) spend re-inspecting non-ambulatory disabled veal calves.

Statement of Need: Removing the provision from 9 CFR 309.13(b) would eliminate uncertainty as to what is to be done with veal calves that are non-ambulatory disabled because they are tired or cold, or because they are injured or sick, thereby ensuring the appropriate disposition of these animals. In addition, removing the provision in 9 CFR 309.13(b) would improve inspection efficiency by eliminating the time that FSIS IPP spend assessing the treatment of non-ambulatory disabled veal calves.

Summary of Legal Basis: 21 U.S.C. 603(a) and (b).

Alternatives: The Agency considered two alternatives to the proposed amendment: The status quo and prohibiting the slaughter of non-ambulatory disabled ''bob veal,'' which are calves generally less than one week old.

Anticipated Cost and Benefits: If the rule is adopted, non-ambulatory disabled veal calves will not be re-inspected during ante-mortem inspection. The veal calves that are condemned during ante-mortem inspection will be euthanized. The estimated annual cost to the veal industry would range between $2,368 and $161,405. The expected benefits of this proposed rule are not quantifiable. However, the rule would ensure the humane disposition of the non-ambulatory disabled veal calves. It also would increase the efficiency and effective implementation of inspection and humane handling requirements at official establishments.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	05/13/15	80 FR 27269
NPRM Comment Period End.	08/12/15	
Final Action	03/00/16	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Dr. Daniel L. Engeljohn, Assistant Administrator, Office of Policy and Program Development, Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW., 349–E JWB, Washington, DC 20250, *Phone:* 202 205–0495, *Fax:* 202 720–2025, *Email: daniel.engeljohn@fsis.usda.gov*.

RIN: 0583–AD54

USDA—FOREIGN AGRICULTURAL SERVICE (FAS)

Final Rule Stage

9. USDA Local and Regional Food Aid Procurement Program

Priority: Other Significant.

Legal Authority: Section 3207 of the Agriculture Act of 2014

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: FAS is issuing a final rule with comment for the USDA Local and Regional Food Aid Procurement Program (USDA LRP Program), authorized in section 3207 of the Agricultural Act of 2014. The USDA LRP Program funds may be used to support development activities that strengthen the capacity of food-insecure developing countries, and build resilience and address the causes of chronic food insecurity and support USDA's other food assistance programs, especially the McGovern Dole International Food for Education and Child Nutrition Program (McGovern-Dole). In addition, funds may be used to fill food availability gaps generated by unexpected emergencies. USDA LRP Program funding used to complement ongoing activities under the McGovern-Dole Program will improve dietary diversity and nutrition, and support the graduation and sustainability of school-feeding programs as they transition to full host-government ownership. LRP funding will enable FAS and its partners to build the capacity of host-governments to implement their own homegrown school feeding programs. A final rule is needed for FAS to begin implementing the program in FY 2016 and will establish awardee obligations regarding financial management and performance standards specifying applicable Departmental regulations and incorporating statutory requirements. The promulgation of a rule to administer the USDA LRP program will require the assignment of a new CFR number.

Statement of Need: It is necessary for Local and Regional Food Aid Procurement Program (LRP) regulations to be put in place before solicitations for application to the LRP program can be made for FY2016. The changes to Section 3207 in the 2014 Farm Bill require USDA to issue new regulations in order to enact the local and regional procurement provisions. The regulations will clarify: Program intent; application process; agreements process; payments; transport; recordkeeping and reporting; monitoring and evaluation; and noncompliance issues. The LRP regulations will be aligned with regulations for existing USDA food assistance programs, including Food for Progress Program and the McGovern-Dole International Food for Education and Child Nutrition Program.

Summary of Legal Basis: 7 U.S.C. 1726c and Sections 3207 of the Agricultural Act of 2014 (Pub. L. 113–79).

Alternatives: N/A.

Anticipated Cost and Benefits: It is anticipated that adopting a local and regional procurement program will bring about several benefits identified under the local and regional pilot project. Primarily, USDA LRP Program will result in cost savings in transport, shipping, and handling; better match between recipients needs and program commodity availability; and time savings between the procurement and delivery of food, which is especially important in emergency situations; and providing a means to strengthen or build local supply chains.

In addition, recipients under the LRP Pilot generally prefer locally and regionally sourced food over food sourced from other areas making it more suitable for food preparation and more accepted by school-aged children. This acceptability and availability would also impact the small scale producers who would experience an increase in demand and help them achieve economies of scale.

Risks: None.

Timetable:

Action	Date	FR Cite
Final Rule With Comments.	02/00/16	

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

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RIN: 0551–AA87

USDA—RURAL BUSINESS—COOPERATIVE SERVICE (RBS)

Final Rule Stage

10. Program Measures and Metrics

Priority: Other Significant.
Legal Authority: Pub. L. 113–79, sec 6209
CFR Citation: 7 CFR 4284, subpart J; 7 CFR 4280, subparts A and D; 7 CFR 4284, subparts E and F; 7 CFR 4279, subparts A and B; 7 CFR 4287, subpart B; 7 CFR 4274, subpart D; 7 CFR 1942, subpart A; 7 CFR 3575, subpart A; 7 CFR 3570, subpart B.
Legal Deadline: None.
Abstract: The Agency is proposing to publish an Interim Rule with request for comments that will codify certain program measures and metrics for included Agency programs and establish the process by which the Agency will collect the data. Section 6209 of the Agricultural Act of 2014 (2014 Farm Bill) (Pub. L. 113–79) requires the Secretary of Agriculture to collect data regarding economic activities created through grants and loans, including any technical assistance provided as a component of the grant or loan program, and measure the short- and long-term viability of award recipients and any entities to whom those recipients provide assistance using award funds. The proposed action will not change the underlying provisions of the included programs (*e.g.,* eligibility, applications, scoring, and servicing provisions).
Statement of Need: This interim rule implements section 6209, Program Measures and Metrics, under the Agricultural Act of 2014 (2014 Farm Bill). The proposed action will codify the measures and metrics identified in section 6209(c)(2)(B) through (D) for each included program and establish the process by which the Agency will collect the data. The proposed action will not change the underlying provisions of the included programs (*e.g.,* eligibility, applications, scoring, and servicing provisions).

To implement section 6209, the Agency plans to publish a single rule that will modify each of the included programs accordingly. While the specific provisions may vary from program to program, the rule will, at minimum, specify for each program:

- The performance measures required to be collected by the statute (*i.e.,* percentage of increase of employees, number of business starts and clients served, and any benefits such as an increase in revenue or customer base) and other measures in addition to these as determined by the Agency,
- Who is responsible for providing those metrics, and the time frame over which the metrics will be collected (this could vary depending on whether a grant or a loan/guaranteed loan is awarded).

Summary of Legal Basis:
Alternatives:
Anticipated Cost and Benefits:
Risks:
Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/16	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: No.
Government Levels Affected: None.
Agency Contact: MaryPat Dasal, Department of Agriculture, Rural Business–Cooperative Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720–7853, *Email: marypat.daskal@wdc.usda.gov.*
RIN: 0570–AA95

USDA—RURAL UTILITIES SERVICE (RUS)

Final Rule Stage

11. Rural Broadband Access Loans and Loan Guarantees

Priority: Other Significant.
Legal Authority: Pub. L. 107–171; 7 U.S.C. 901 *et seq.*
CFR Citation: 7 CFR 1738.
Legal Deadline: None.
Abstract: The Rural Utilities Service (RUS) is amending regulations for the Rural Broadband Access Loan and Loan Guarantee program to implement section 6104 of the Agriculture Act of 2014 (2014 Farm Bill), which made changes the Agency must adopt prior to accepting applications for future loans. RUS published this regulation as an interim rule, which took effect upon publication in the **Federal Register** on July 30, 2015. The rulemaking will allow the Agency to begin accepting applications once again.

In addition, the Agency is seeking comments regarding this interim rule to guide its efforts in drafting the final rule for the Broadband Loan Program. The Comment Date ends September 28, 2015.

Statement of Need: The Rural Utilities Service (RUS) is amending regulations for the Rural Broadband Access Loan and Loan Guarantee program to implement section 6104 of the Agriculture Act of 2014 (2014 Farm Bill) which made changes the Agency must adopt prior to accepting applications for future loans. RUS published this regulation as an interim rule, which took effect upon publication in the **Federal Register** on July 30, 2015. The rulemaking will allow the Agency to begin accepting applications once again.

Summary of Legal Basis: On May 13, 2002, the Farm Security and Rural Investment Act of 2002, Public Law 107–171 (2002 Farm Bill) was signed into law. The 2002 Farm Bill amended the Rural Electrification Act of 1936 to include title VI, the Rural Broadband Access Loan and Loan Guarantee Program (Broadband Loan Program), to be administered by the Agency. Title VI authorized the Agency to approve loans and loan guarantees for the costs of construction, improvement, and acquisition of facilities and equipment for broadband service in eligible rural communities. Under the 2002 Farm Bill, the Agency was directed to promulgate regulations without public comment. Implementing the program required a different lending approach for the Agency than it employed in its earlier telephone program because of the unregulated, highly competitive, and technologically diverse nature of the broadband market. Those regulations were published on January 30, 2003, at 68 FR 4684.

In an attempt to enhance the Broadband Loan Program and to acknowledge growing criticism of funding competitive areas, the Agency proposed to amend the program's regulations on May 11, 2007, at 72 FR 26742. As the Agency began analysis of the public comments it received on the proposed regulations, the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) was working its way through Congress. On March 14, 2011, the Agency published an interim rule implementing the requirements of the 2008 Farm Bill and started accepting applications. The Agency did not receive any significant comments to the interim rule and published a final rule on February 6, 2013. With the enactment of the Agricultural Act of 2014 (2014 Farm Bill) section 6104, Public Law 113–79 (Feb. 7, 2014), additional requirements were added to the Broadband Loan Program, including the prioritization of approving applications, a minimum benchmark of broadband service, a more transparent public notice requirement, and the first statutorily required reporting standards, all of which are implemented in the rule.

Alternatives: N/A.
Anticipated Cost and Benefits: Bringing broadband services to rural areas does present some challenges.

Because rural systems must contend with lower household density than urban systems, the cost to deploy fiber-to-the-home (FTTH) and 4G LTE systems in urban communities is considerably lower on a per household basis, making urban systems more economical to construct. Depending upon the technology deployed it can cost three times more, on average, to provide service to rural customers than to customers located in urban areas. Other associated rural issues, such as environmental challenges or providing wireless service through mountainous areas, also can add to the cost of deployment.

Areas with low population size, locations that have experienced persistent population loss and an aging population, or places where population is widely dispersed over demanding terrain generally have difficulty attracting broadband service providers. These characteristics can make the fixed cost of providing broadband access too high, or limit potential demand, thus depressing the profitability of providing service. Clusters of lower service exist in sparsely populated areas, such as the Dakotas, eastern Montana, northern Minnesota, and eastern Oregon. Other low-service areas, such as the Missouri-Iowa border and Appalachia, have aging and declining numbers of residents. Nonetheless, rural areas in some States (such as Nebraska, Kansas, and Vermont) have higher-than expected broadband service, given their population characteristics, suggesting that policy, economic, and social factors can overcome common barriers to broadband expansion.

Most employment growth in the U.S. over the last several decades has been in the service sector, a sector especially conducive for broadband applications. Broadband allows rural areas to compete for low- and high-end service jobs, from call centers to software development. Rural businesses have been adopting more e-commerce and Internet practices, improving efficiency and expanding market reach. Some rural retailers use the Internet to satisfy supplier requirements. The farm sector, a pioneer in rural Internet use, is increasingly comprised of farm businesses that purchase inputs and make sales online. Farm household characteristics such as age, education, presence of children, and household income are significant factors in adopting broadband Internet use, whereas distance from urban centers is not a factor. Larger farm businesses are more apt to use broadband in managing their operation; the more multifaceted the farm business, the more the farm used the Internet.

The 2015 subsidy rate is 18.69 percent. The available FY 2015 budget authority for this program is $4.5 million, which will provide a program level of $24.077 million in outlays at the current subsidy rate. Since the Interim Regulation for the Broadband Program was published in March of 2011, 27 applications have been received for an average of 7 loan applications per year. The applications range in size and may cover requests for funding for many communities. All of the pre-loan data collected by the applicant is generally submitted to RUS at the same time. The annual burden for preparation and submission per respondent for the pre-loan data is estimated to be 400 hours per response, response to the public notice filing requirement is 1.5 hours per response, and the preparation of loan documents is estimated at 24 hours per response.

The Agency estimates the cost to respondents will be at $108,325. The overall hours spent per application and cost to respondents did not change from the former regulation. The projected change in the overall cost to the government is minimal compared with the former projections, only $366. The burden of review breaks out into the following fashion: It is projected that there will be one more hour for the engineering analysis and financial analysis per application. The initial financial review and initial engineering review stay the same as it is under the previous regulation, as does the loan closing attorney and clerical assistance. Finally, it is estimated that the Loan Closing-Analyst time per application will increase by a half hour.

Risks: Without access to advanced telecommunications networks, rural areas suffer from declining educational opportunities, inadequate health care, depressed economies, and high unemployment. In contrast, access to broadband can play a vital role in offsetting the obstacles of distances and isolation that have traditionally stifled rural progress and living standards. With broadband infrastructure in place high volumes of data can be shared easily across distances great and small. This technology is not a luxury service but rather a lifeline to modern everyday transactions. Without this basic utility rural residents do not and will not have adequate medical or educational services; rural businesses unable to thrive; and local governments disorganized and unconnected. Broadband accessibility is as fundamental for the future viability of rural communities today as was the telephone in the 20th century, and as railroads and highways were more than a century ago.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/30/15	80 FR 45397
Interim Final Rule Effective.	07/30/15	
Interim Final Rule Comment Period End.	09/28/15	
Final Rule	07/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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RIN: 0572–AC34

USDA—NATURAL RESOURCES CONSERVATION SERVICE (NRCS)

Final Rule Stage

12. Agricultural Conservation Easement Program

Priority: Other Significant.

Legal Authority: Pub. L. 113–79

CFR Citation: 7 CFR 1468.

Legal Deadline: Other, Statutory, November 4, 2014, 270 days from enactment of Pub. L. 113–79.

Abstract: The Agricultural Act of 2014 (the 2014 Act) consolidated the Wetlands Reserve Program (WRP), the Farm and Ranch Lands Protection Program (FRPP), and the Grassland Reserve Program (GRP) into a single Agricultural Conservation Easement Program (ACEP). The consolidated easement program has two components: An agricultural land easement component and a wetland reserve easement component. The agricultural land easement component is patterned after the former FRPP with GRP's land eligibility components merged into it. The wetland reserve easement component is patterned after WRP. Land previously enrolled in the three contributing programs is considered enrolled in the new ACEP.

Statement of Need: The Agricultural Act of 2014 (2014 Act) consolidated several of the Title XII (of the Food Security Act of 1985) conservation easement programs and provided for the continued operations of former

programs. NRCS promulgated a consolidated conservation easement regulation to reflect the 2014 Act's consolidation of the WRP, FRPP, and GRP programs. This action is needed to respond to comments received.

Summary of Legal Basis: NRCS published an interim rule to implement the consolidated conservation easement program. This regulation action is pursuant to section 1246 of the Food Security Act of 1985, as amended by the 2014 Act, which requires regulations necessary to implement title II of the 2014 Act through an interim rule with request for comments.

Alternatives: NRCS determined that rulemaking was the appropriate mechanism through which to implement the 2014 Act consolidation of the three source conservation easement programs. Additionally, NRCS determined that the Agency needs standard criteria for implementing the program and program participants need predictability when initiating an application and conveying an easement. The regulation aims to establish a comprehensive framework for working with program participants to implement ACEP. Upon consideration of public comment, NRCS will promulgate final program regulations.

Anticipated Cost and Benefits: The 2014 Act has consolidated three conservation easement programs into a single conservation easement program with two components. The program will be implemented under the general supervision and direction of the Chief of NRCS, who is a Vice President of the Commodity Credit Corporation (CCC). Through ACEP, NRCS will continue to purchase wetland reserve easements directly and will contribute funds to eligible entities for their purchase of agricultural land easements that protect working farm and grazing lands. Participation in the program is voluntary.

The primary benefits associated with this rulemaking are the following:

- Provides an opportunity for public comment in program regulations.
- Provides a regulatory framework for NRCS to implement a consolidated conservation easement program.
- Provides transparency to the public potential applicants on NRCS program requirements.

The primary costs imposed by this regulation are the following:

- The costs incurred by private landowners are negative or zero, since this is a voluntary program, and they are compensated for the rights that they transfer.
- Other costs incurred by society through market changes are localized or negligible.

Risks: N/A.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/27/15	80 FR 11032
Interim Final Rule Comment Period End.	04/28/15	
Interim Final Rule Comment Period Reopened.	04/30/15	80 FR 24191
Interim Final Rule Comment Period Reopened End.	05/28/15	
Final Rule	04/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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RIN: 0578–AA61

USDA—NRCS

13. Environmental Quality Incentives Program (EQIP)

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

Legal Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3839AA—3839–8

CFR Citation: 7 CFR 1466.

Legal Deadline: Other, Statutory, November 4, 2014, 270 days from enactment of Pub. L. 113–79.

Abstract: The Natural Resources Conservation Service (NRCS) promulgated the current Environmental Quality Incentives Program (EQIP) regulation on January 15, 2009, through an interim rule. The interim rule incorporated programmatic changes authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Act). NRCS published a correction to the interim rule on March 12, 2009, and an amendment to the interim rule on May 29, 2009. NRCS has implemented EQIP in FY 2009 through FY 2013 under the current regulation. The Agricultural Act of 2014 (2014 Act) amended chapter 4 of subtitle D of title XII of the Food Security Act of 1985 by making the following changes to EQIP program requirements: (1) Eliminates requirement that contract must remain in place for a minimum of one year after last practice implemented, but keeps requirement that the contract term is not to exceed 10 years; (2) consolidates elements of Wildlife Habitat Incentives Program (WHIP) and repeals WHIP authority; (3) replaces rolling six-year payment limitation with payment limitation for FY 2014–FY 2018; (4) requires Conservation Innovation Grants (CIG) reporting no later than December 31, 2014, and every two years thereafter; (4) establishes payment limitation at $450,000 and eliminates waiver authority; (5) modifies the special rule for foregone income payments for certain associated management practices and resource concern priorities; (6) makes advance payments available up to 50 percent for eligible historically underserved participants to purchase material or contract services instead of the previous 30 percent; (7) provides flexibility for repayment of advance payment if not expended within 90 days; and (8) requires that for each fiscal year from of the FY 2014 to FY 2018, at least 5 percent of available EQIP funds shall be targeted for wildlife-related conservation practices. The 2014 Act further identifies EQIP as a contributing program authorized to accomplish the purposes of the Regional Conservation Partnership Program (RCPP) (subtitle I of title XII of the Food Security Act of 1985, as amended). RCPP replaces the Agricultural Water Enhancement Program (AWEP), Chesapeake Bay Watershed Program (CBWP), Cooperative Conservation Partnership Initiative (CCPI), and the Great Lakes Basin Program for soil erosion and sediment control. Like the programs it replaces, RCPP will operate through regulations in place for contributing programs. The other contributing programs include the Conservation Stewardship Program, the Healthy Forests Reserve Program, and the new Agricultural Conservation Easement Program (ACEP). NRCS published an interim rule to incorporate the 2014 Act changes to EQIP program administration. This regulation action is pursuant to section 1246 of the Food Security Act of 1985, as amended by section 2608 of the 2014 Act, which requires regulations necessary to implement title II of the 2014 Act be promulgated through the interim rule process.

Statement of Need: The Agricultural Act of 2014 (the 2014 Act) consolidated several of the title XII conservation programs and provided for the continued operations of former programs. NRCS updated the EQIP regulation to incorporate the 2014 Act changes, including consolidation of the

purposes formerly addressed through the Wildlife Habitat Incentives Program (WHIP). This action is needed to respond to comments received.

Summary of Legal Basis: The 2014 Act has reauthorized and amended the Environmental Quality Incentives Program (EQIP). EQIP was first added to the Food Security Act of 1985 (1985 Act) (16 U.S.C. 3801 *et seq.*) by the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act) (16 U.S.C. 3839aa). The program is implemented under the general supervision and direction of the Chief of NRCS, who is a Vice President of the Commodity Credit Corporation (CCC).

Alternatives: NRCS considered only making the changes mandated by the 2014 Farm Bill. This alternative would have missed opportunities to improve the implementation of the program.

Anticipated Cost and Benefits: Through EQIP, NRCS provides assistance to farmers and ranchers to conserve and enhance soil, water, air, and related natural resources on their land. Eligible lands include cropland, grassland, rangeland, pasture, wetlands, nonindustrial private forest land, and other agricultural land on which agricultural or forest-related products, or livestock are produced and natural resource concerns may be addressed. Participation in the program is voluntary.

The primary benefits associated with this rulemaking are the folowing:

- Provides continued consistency for the NRCS to implement EQIP.
- Provides transparency to potential applicants on NRCS program requirements.

The primary costs imposed by this regulation are the following:

- All program participants must follow the same requirements, even though they are very different types of agricultural operations in different resource contexts.
- Most program participants are required to contribute at least 25 percent of the resources needed to implement program practices. However, such costs are standard for such financial assistance programs.

Risks: N/A.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/12/14	79 FR 73953
Interim Final Rule Effective.	12/12/14	
Interim Final Rule Comment Period End.	02/10/15	
Final Rule	03/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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RIN: 0578–AA62

USDA—NRCS

14. Conservation Stewardship Program

Priority: Other Significant.

Legal Authority: 16 U.S.C. 3838d to 3838g

CFR Citation: 7 CFR 1470.

Legal Deadline: None.

Abstract: NRCS published an interim rule to incorporate the Agriculture Act of 2014 (the 2014 Act) changes to Conservation Stewardship Program (CSP) program administration. This regulatory action is pursuant to section 1246 of the Food Security Act of 1985 (1985 Act), as amended by the 2014 Act, which requires regulations necessary to implement title II of the 2014 Act through an interim rule with request for comments.

Background: The Food, Conservation, and Energy Act of 2008 Act (2008 Act) amended the 1985 Act to establish CSP and authorized the program in fiscal years 2009 through 2013. The 2014 Act re-authorized and revised CSP. The purpose of CSP is to encourage producers to address priority resource concerns and improve and conserve the quality and condition of the natural resources in a comprehensive manner by (1) undertaking additional conservation activities, and (2) improving, maintaining, and managing existing conservation activities. The Secretary of Agriculture delegated authority to the Chief, Natural Resources Conservation Service (NRCS), to administer CSP. Through CSP, NRCS provides financial and technical assistance to eligible producers to conserve and enhance soil, water, air, and related natural resources on their land. Eligible lands include private or tribal cropland, grassland, pastureland, rangeland, non-industrial private forest lands, and other land in agricultural areas (including cropped woodland, marshes, and agricultural land capable of being used for the production of livestock) on which resource concerns related to agricultural production could be addressed. Participation in the program is voluntary. CSP encourages land stewards to improve their conservation performance by installing and adopting additional activities, and improving, maintaining, and managing existing activities on eligible land. NRCS makes funding for CSP available nationwide on a continuous application basis.

Statement of Need: The Agricultural Act of 2014 (the 2014 Act) amended several of the title XII conservation programs and provided for the continued operations of former programs. NRCS updated the CSP regulation to incorporate the 2014 Act changes. This action is responds to comments received.

Summary of Legal Basis: The 2014 Act has reauthorized and amended the Conservation Stewardship Program (CSP). CSP was first added to the Food Security Act of 1985 (1985 Act) (16 U.S.C. 3801 *et seq.*) by the Food, Conservation, and Energy Act of 2008. The program is implemented under the general supervision and direction of the Chief of NRCS, who is a Vice President of the Commodity Credit Corporation (CCC).

Alternatives: NRCS considered only making the changes mandated by the 2014 Farm Bill. This alternative would have missed opportunities to improve the implementation of the program. NRCS would consider alternatives suggested during the public comment period.

Anticipated Cost and Benefits: CSP is a voluntary program that encourages agricultural and forestry producers to address priority resource concerns by (1) undertaking additional conservation activities and (2) improving and maintaining existing conservation systems. CSP provides financial and technical assistance to help land stewards conserve and enhance soil, water, air, and related natural resources on their land.

CSP is available to all producers, regardless of operation size or crops produced, in all 50 States, the District of Columbia, and the Caribbean and Pacific Island areas. Eligible lands include cropland, grassland, prairie land, improved pastureland, rangeland, nonindustrial private forest land, and agricultural land under the jurisdiction of an Indian tribe. Applicants may include individuals, legal entities, joint operations, or Indian tribes.

CSP pays participants for conservation performance, the higher the performance, the higher the payment. It provides two possible types of payments. An annual payment is available for installing new conservation activities and maintaining existing

practices. A supplemental payment is available to participants who also adopt a resource conserving crop rotation.

Through five-year contracts, NRCS makes payments as soon as practical after October 1 of each fiscal year for contract activities installed and maintained in the previous year. A person or legal entity may have more than one CSP contract but, for all CSP contracts combined, may not receive more than $40,000 in any year or more than $200,000 during any five-year period.

The primary benefits associated with this rulemaking are the following:

• Provides continued consistency for the NRCS to implement CSP.

• Provides transparency to potential applicants on NRCS program requirements.

The primary costs imposed by this regulation are that all program participants must follow the same basic programmatic requirements, even though they are very different types of agricultural operations in different resource contexts.

The 2014 Act further identifies CSP as a contributing program authorized to accomplish the purposes of the Regional Conservation Partnership Program (RCPP) (subtitle I of title XII of the Food Security Act of 1985, as amended). RCPP replaces the Agricultural Water Enhancement Program (AWEP), Chesapeake Bay Watershed Program (CBWP), Cooperative Conservation Partnership Initiative (CCPI), and the Great Lakes Basin Program for soil erosion and sediment control. Like the programs it replaces, RCPP will operate through regulations in place for contributing programs. The other contributing programs include the Environmental Quality Incentives Program, the Healthy Forests Reserve Program, and the new Agricultural Conservation Easement Program (ACEP).

Risks:

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/05/14	79 FR 65835
Interim Final Rule Effective.	11/05/14	
Interim Final Rule Comment Period End.	01/05/15	
Final Rule	03/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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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 2016. During the next year, NOAA plans to publish eight rulemaking actions that are designated as Regulatory Plan actions. The Bureau of Industry and Security (BIS) may 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 2016, 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 approximately 1,300 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 eight 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. A description of the eight regulatory plan actions is provided below.

1. Revisions to the General section and Standards 1, 3, and 7 of the National Standard Guidelines (0648–BB92): This action would propose revisions to the National Standard 1 (NS1) guidelines. National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act states that ''conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.'' The National Marine Fisheries Service (NMFS) last revised the NS1 Guidelines in 2009 to reflect the requirements enacted by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 for annual catch limits and accountability measures to end and prevent overfishing. Since 2007, NMFS and the Regional Fishery Management Councils have been implementing the new annual catch limit and accountability measures requirements. Based on experience gained from implementing annual catch limits and accountability measures, NMFS has developed new perspectives and identified issues regarding the application of the NS1 guidelines that may warrant them to be revised to more fully meet the intended goal of preventing overfishing while achieving, on a continuing basis, the optimum yield from each fishery. The focus of this action is to improve the NS1 guidelines.

2. Designation of Critical Habitat for North Atlantic Right Whale (0648–AY54): The National Marine Fisheries Service proposes to revise critical habitat for the North Atlantic right whale. This proposal would modify the critical habitat previously designated in 1994, based on improved knowledge derived from a variety of studies, internal analysis and surveys since 1994. The improved understanding of right whale ecology and habitat needs over the last 20 years supports the rule's proposed expansion of critical habitat in areas of the northeast important for feeding and in southern calving grounds along the coast from southern North Carolina to northern Florida.

3. Fishery Management Plan for Regulating Offshore Marine Aquaculture in the Gulf of Mexico (0648–AS65): 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.

4. Requirements for Importation of Fish and Fish Products under the U.S. Marine Mammal Protection Act (0648–AY15): With this action, the National Marine Fisheries Service is developing procedures to implement the provisions of section 101(a)(2) of the Marine Mammal Protection Act for imports of fish and fish products. Those provisions require the Secretary of Treasury to ban imports of fish and fish products from fisheries with bycatch of marine mammals in excess of U.S. standards. The provisions further require the Secretary of Commerce to insist on reasonable proof from exporting nations of the effects on marine mammals of bycatch incidental to fisheries that harvest the fish and fish products to be imported.

5. Revision to the Definition of Destruction or Adverse Modification of Critical Habitat (0648–BB80): The U.S. Fish and Wildlife Service's and the National Marine Fisheries Service's revision of the regulatory definition of ''destruction or adverse modification'' of critical habitat will establish a binding regulatory definition to replace the 1986 definition that was invalidated by Federal courts.

6. Implementing Changes to the Regulations for Designating Critical Habitat (0648–BB79): The U.S. Fish and Wildlife Service's and the National Marine Fisheries Service's rule will amend portions of 50 CFR 424 to clarify procedures for designating and revising critical habitat. The rule makes minor changes to the scope and purpose, alters some definitions, and clarifies the criteria for designating critical habitat.

7. Final Policy Regarding Implementation of Section 4(b)(2) of the Endangered Species Act (0648–BB82): This policy provides the U.S. Fish and Wildlife Service's and the National Marine Fisheries Service's position on how we consider partnerships and conservation plans, conservation plans permitted under section 10 of the ESA, tribal lands, military lands, Federal lands, national security and homeland security impacts, and economic impacts in the exclusion process. The policy will complement the amendment to the regulations regarding impact analyses of critical habitat designations and clarify

critical habitat exclusions under section 4(b)(2) of the ESA and provide for a credible and predictable critical habitat exclusion process.

8. Magnuson-Stevens Fishery Conservation and Management Act; Seafood Import Monitoring Program (0648–BF09): The Magnuson-Stevens Fishery Conservation and Management Act prohibits the importation and trade in interstate commerce of fishery products from fish caught in in violation of any foreign law or regulation.

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.

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 U.S. persons' participation in certain boycotts administered by foreign governments. The National Security 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, provide for surveys to assess the capabilities of the industrial base to support the national defense 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 nine offices covering 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

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, known as the Export Control Reform Initiative (ECRI), 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 are to apply the criteria and revise the lists of munitions and dual-use items that are controlled for export so that they:

- Distinguish the transactions that should be subject to stricter levels of control from those where more permissive levels of control are appropriate;
- 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.

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 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 began implementing the ECRI with 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. Additionally, BIS began publishing proposed rules to add to its Commerce Control List (CCL), military items the President determined no longer warranted control by the Department of State. BIS continued to publish such proposed rules in FY 2012.

In FY 2013, BIS crossed an important milestone with publication of two final rules that began to put ECRI policies into place. An Initial Implementation rule (78 FR 22660, April 16, 2013) set in place the structure under which items the President determines no longer warrant control on the United States Munitions List are controlled on the Commerce Control List. It also revised license exceptions and regulatory definitions, including the definition of ''specially designed'' to make those exceptions and definitions clearer and to more closely align them with the International Traffic in Arms Regulations, and added 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 continued its ECRI efforts and by the end of fiscal year 2015 had published final rules adding to the CCL additional items that the President determined no longer warrant control under rules administered by the State Department in the following categories: Military training equipment; Explosives and energetic materials; Personal protective equipment; Launch vehicles and rockets; Spacecraft; and Military Electronics. During fiscal year 2015, BIS published proposed rules that would add to the CCL items related to: Fire control, range finder, optical and guidance and control equipment; Toxicological Agents; and Directed energy weapons. BIS expects to continue with publication of proposed and final rules to add items to the CCL as part it the ECRI in fiscal year 2016.

During fiscal year 2015, BIS initiated a process of evaluating the effectiveness of its ECRI efforts. The first action in this process was publication of a notice seeking public comments on the treatment of military aircraft and gas turbine engines, the first two categories of items added to the CCL by this initiative. The notice sought public input on whether the regulations are clear, do not inadvertently control items in normal commercial use as military items, account for technological developments, and properly implement the national security and foreign policy objectives of the reform effort. BIS anticipates that this will be the first in a series of such notices that will be published after the public has had time to develop experience with each regulation that added categories of items to the CCL.

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 E.O. 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.'' E.O. 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. 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.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the Department has identified several rulemakings as being 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.

Two rulemakings that are the product of the Agency's retrospective review are from BIS and NOAA. BIS' rule streamlining the support documentation requirements in the Export Administration Regulations, published March 13, 2015, was the first comprehensive revision of these requirements in twenty years. The rule reduced the paperwork burden on U.S. exporters without compromising regulatory objectives and clarified the remaining requirements to aid compliance.

NOAA continues to demonstrate great success in fishery sustainability managed under the Magnuson-Stevens Act, with near-record landings and revenue accomplished while rebuilding stocks across the country and preventing overfishing. Since the Magnuson-Stevens Act reauthorization in 2007, NMFS and the Regional Fishery Management Councils have implemented annual catch limits and accountability measures in every fishery management plan under National Standard One of the act. Informed by a robust public process that gained input through a public summit (Managing our Nation's Fisheries), visits to each region and Council and multiple public hearings, NMFS took the experience gained from 8 years of implementation of National Standard One and has proposed multiple substantive, technical changes to the National Standard One rule that will improve implementation and continue to support healthy fisheries.

For more information, the most recent E.O. 13563 progress report for the Department can be found here: *http://open.commerce.gov/news/2015/03/20/commerce-plan-retrospective-analysis-existing-rules-0*.

BILLING CODE 3510–12–P

DEPARTMENT OF DEFENSE

Statement of Regulatory Priorities

Background

The Department of Defense (DoD) is the largest Federal department consisting of three Military departments (Army, Navy, and Air Force), nine Unified Combatant Commands, 17 Defense Agencies, and ten DoD Field Activities. It has 1,304,807 military personnel and 866,923 civilians assigned as of June 30, 2015, 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 Commerce, Energy, Health and Human Services, Housing

and Urban Development, Labor, State, 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.

Overall Priorities

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

International Regulatory Cooperation

As the President noted in E.O. 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 E.O. 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 Departments of State and Commerce, engages with other countries in the Wassenaar Arrangement, Nuclear Suppliers Group, Australia Group, and Missile Technology Control Regime through which the international community develops a common list of items that should be subject to export controls. DoD has been a key participant in the Administration's Export Control Reform effort that resulted in a complete overhaul of the U.S. Munitions List and fundamental changes to the Commerce Control List. New controls have facilitated transfers of goods and technologies to allies and partners while helping prevent transfers to countries of national security and proliferation concern. DoD will continue to assess new and emerging technologies to ensure items that provide critical military and intelligence capabilities are properly controlled on international export control regime lists.

Retrospective Review of Existing Regulations

Pursuant to section 6 of E.O. 13563 ''Improving Regulation and Regulatory Review (January 18, 2011), the following Regulatory Identification Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Several are of particular interest to small businesses. The entries on this list are 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 DoD. These rulemakings can also be found on Regulations.gov. We will continue to identify retrospective review regulations as they are published and report on the progress of the overall plan biannually. DoD's final agency plan and all updates to the plan can be found at: *http://www.regulations.gov/#!docketDetail;D=DOD-2011-OS-0036*

RIN	Rule title (*expected to significantly reduce burdens on small businesses)
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–AA92	Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General.
0710–AA66	Civil Monetary Penalty Inflation Adjustment Rule.
0710–AA60	Nationwide Permit Program Regulations.*
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 (DFARS Case 2011–D013).
0750–AH19	Accelerated Payments to Small Business (DFARS Case 2011–D008).
0750–AH54	Performance-Based Payments (DFARS Case 2011–D045).
0750–AH70	Defense Trade Cooperation Treaty With Australia and the United Kingdom (DFARS Case 2012–D034).
0750–AH86	Forward Pricing Rate Proposal Adequacy Checklist (DFARS Case 2012–D035).
0750–AH87	System for Award Management Name Changes, Phase 1 Implementation (DFARS Case 2012–D053).
0750–AH90	Clauses With Alternates—Transportation (DFARS Case 2012–D057).
0750–AH94	Clauses with Alternates—Foreign Acquisition (DFARS Case 2013–D005).
0750–AH95	Clauses with Alternates—Quality Assurance (DFARS Case 2013–D004).
0750–AI02	Clauses with Alternates—Contract Financing (DFARS Case 2013–D014).
0750–AI10	Clauses with Alternates—Research and Development Contracting (DFARS Case 2013–D026).
0750–AI19	Clauses with Alternates—Taxes (DFARS Case 2013–D025).
0750–AI27	Clauses with Alternates—Special Contracting Methods, Major System Acquisition, and Service Contracting (DFARS Case 2014–D004).
0750–AI03	Approval of Rental Waiver Requests (DFARS Case 2013–D006).
0750–AI07	Storage, Treatment, and Disposal of Toxic or Hazardous Materials—Statutory Update (DFARS Case 2013–D013).
0750–AI18	Photovoltaic Devices (DFARS Case 2014–D006).
0750–AI34	State Sponsors of Terrorism (DFARS Case 2014–D014).
0750–AI43	Inflation Adjustment of Acquisition-Related Thresholds.
0790–AI42	Personnel Security Program.
0790–AI54	Defense Support of Civilian Law Enforcement Agencies.
0790–AI77	Provision of Early Intervention and Special Education Services to Eligible DoD Dependents.
0790–AI86	Defense Logistics Agency Privacy Program.
0790–AI87	Defense Logistics Agency Freedom of Information Act Program.

RIN	Rule title (*expected to significantly reduce burdens on small businesses)
0790–AI88	Shelter for the Homeless.
0790–AJ03	DoD Privacy Program.
0790–AJ06	Voluntary Education Programs.
0790–AJ10	Enhancement of Protections on Consumer Credit for Members of the Armed Forces and Their Dependents.
	Pursuant to Executive Order 13563, 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 following Defense Federal Acquisition Regulation Supplement (DFARS) rules:

• Requirements Relating to Supply Chain Risk (DFARS case 2012–D050). This final rule implements 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 contracting officers to evaluate an offerors supply chain risk when purchasing information technology related to national security systems. This rule enables agencies to exclude sources identified as having a supply chain risk from consideration for award of a covered contract, in order to minimize the potential risk for supplies and services purchased by DoD to maliciously degrade the integrity and operation of sensitive information technology systems. The cost impact will vary by solicitation or contract, depending on the level of potential harm to DoD systems that may be avoided by excluding a source with an unacceptable supply chain risk. However, DoD anticipates significant savings to taxpayers by reducing the risk of unsafe products entering the supply chain, which pose a serious threat to sensitive government information technology systems and put in jeopardy the safety of our military forces.

• Network Penetration Reporting and Contracting for Cloud Services (DFARS case 2013–D018). This final rule implements section 941 of the NDAA for FY 2013 and section 1632 of the NDAA for FY 2015. Section 941 requires cleared defense contractors to report penetrations of networks and information systems and allows DoD personnel access to equipment and information to assess the impact of reported penetrations. Section 1632 requires that a contractor designated as operationally critical must report each time a cyber-incident occurs on that contractor's network or information systems. Ultimately, DoD anticipates significant savings to taxpayers as a result of this rule, by improving information security for DoD information that resides in or transits through contractor systems and a cloud environment. Recent high-profile breaches of Federal information show the need to ensure that information security protections are clearly, effectively, and consistently addressed in contracts. This rule will help protect covered defense information or other Government data from compromise and protect against the loss of operationally critical support capabilities, which could directly impact national security.

• Detection and Avoidance of Counterfeit Electronic Parts—Further Implementation (DFARS case 2014–D005). This final rule further implements section 818 of the NDAA for FY 2012, as modified by section 817 of the NDAA for FY 2015. Section 818, as modified by section 817, addresses required sources of electronic parts for defense contractors and subcontractors. This rule requires DoD and its contractors and subcontractors, except in limited circumstances, to acquire electronic parts from trusted suppliers. The rule also requires DoD contractors and subcontractors that are not the original component manufacturer, to notify the Government if it is not possible to obtain an electronic part from a trusted supplier and to be responsible for the inspection, test, and authentication of such parts in accordance with existing industry standards. Such validation of new parts and new suppliers are steps that a prudent contractor would take notwithstanding this rule. The benefits associated with avoiding the acquisition of counterfeit electronic parts, which could directly impact national security, far outweigh the minimal cost impact associated with the notification requirement imposed by this rule.

2. Rulemakings of particular interest to small businesses.

The Department plans to propose the following DFARS rule—

• Temporary Extension of Test Program for Comprehensive Small Business Subcontracting Plans (DFARS case 2015–D013). This proposed rule implements section 821 of the NDAA for FY 2015 regarding the Test Program for Comprehensive Small Business Subcontracting Plans. The Test Program was established under section 834 of the NDAAs for FYs 1990 and 1992 to determine whether the negotiation and administration of comprehensive small business subcontracting plans would result in an increase of opportunities provided for small business concerns under DoD contracts. A comprehensive subcontracting plan (CSP) can be negotiated on a corporate, division, or sector level, rather than contract by contract. This rule proposes to amend the DFARS to: (1) Extend the Test Program through December 31, 2017; (2) require contracting officers to consider an offerors failure to make a good faith effort to comply with its CSP in past performance evaluations; and (3) inform program participants that a CSP will not be negotiated with a contractor that did not meet the small business goals negotiated in its prior CSP. This rule is of particular interest to small businesses because it holds prime contractors that are participating in the program accountable for the small business goals established in their CSP, resulting in increased business opportunities for small business subcontractors.

3. Rulemakings that streamline regulations, reduce unjustified burdens, and minimize burdens on small businesses.

The Department plans to finalize the following DFARS rule—

• Warranty Tracking of Serialized Items (DFARS case 2014–D026). This final rule requires the use of the electronic contract attachments to record and track warranty data and source of repair information for serialized items in the Product Data Reporting and Evaluation Program (PDREP) system. While contracting officers are encouraged to use the electronic attachments, currently, it is not mandatory in the DFARS. As a result, offerors may propose warranty terms in paper form, which are later manually input into the PDREP system when a contract is awarded. On the other hand, the electronic contract attachments are designed to easily upload to the PDREP system, which reduces: (1) The potential burden of manually entering warranty terms in multiple places, and (2) inaccuracies in

the data reported. By making use of these attachments mandatory, the rule provides DoD the ability to more effectively track warranty data and source of repair information for serialized items in a single repository of warranty terms.

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.

The Department plans to finalize the following DFARS rule—

• Clauses with Alternates—Small Business Programs (DFARS case 2015–D017). This final rule amends those contract clauses associated with small business programs that are prescribed for use with an ''alternate.'' A contracting officer selects a basic clause for inclusion in a contract based on the clause prescription contained in the DFARS. Some clause prescriptions require the use of ''alternate'' text within a basic clause depending on the circumstances of the acquisition. In lieu of listing the basic clause and any alternate text separately, this rule proposes to include in the regulation the full text of both the basic clause with the alternate clause. This new convention will facilitate selection of clauses with alternates using automated contract writing systems and ensure paragraphs from the basic clause that should be superseded by alternate text are not inadvertently included in the solicitation or contract. As a result, the terms of a solicitation and contract are clearly communicated to offerors and contractors who consider such terms during proposal development and contract performance.

5. Rulemakings that have a significant international impact.

The Department plans to propose the following DFARS rule—

• Contractors Performing Private Security Functions (DFARS case 2015–D021). During contingency operations, humanitarian or peace operations, or other military operations or exercises, DoD employs private security contractors (PSCs) to guard personnel, facilities, designated sites, or property of Federal agencies, the contractor or subcontractor, or a third party. Requirements for DoD contractors performing private security functions outside the United States are currently contained in the Federal Acquisition Regulation, and supplemented by the DFARS. This rule proposes to streamline the regulation by consolidating all terms and conditions for DoD PSCs in a single DFARS clause, which can be updated by DoD in a more efficient and timely manner. This rule will also provide an alternative to the high-level quality assurance standard required by the DFARS for PSCs. Contract quality requirements fall into four general categories, depending on the extent of quality assurance needed by the Government for the acquisition involved. In the case of PSC's, the high-level quality standard, ''Management System for Quality of Private Security Company Operations—Requirements with Guidance, ANSI/ASIS PSC.1–2012'' is mandatory. The alternative proposed by this rule for PSCs (ISO 18788: Management System Private Security Operations—Requirements with Guidance) is substantially the same as ANSI/ASIS PSC.1–2012 and is more widely accepted on an international basis.

Specific DoD Priorities: For this regulatory plan, there are five specific DoD priorities, all of which reflect the established regulatory principles. DoD has focused its regulatory resources on the most serious 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, health affairs, transition assistance, and cyber security.

1. Acquisition, Technology, and Logistics/Defense Procurement and Acquisition Policy (DPAP), Department of Defense

DPAP continuously reviews the DFARS and continues to lead Government efforts to—

• Improve the presentation, clarity, and streamlining of the regulation by: (1) Implementing the new convention to construct clauses with alternates in a manner whereby the alternate clauses are included in full-text; (2) removing guidance that does not have a significant effect beyond the internal operating procedure of the Department or impose a significant cost or administrative impact on contractors or offerors, which is more appropriately addressed in the DFARS Procedures, Guidance, and Information; and (3) removing obsolete reporting or other requirements imposed on contractors. Such improvements ensure that the regulation contracting officers, contractors, and offerors have a clear understanding of the rules for doing business with the Department of Defense.

• Obtain early engagement with industry on procurement topics of high public interest by: (1) Utilizing the DPAP Defense Acquisition Regulation System Web site to obtain early public feedback on newly enacted legislation that impacts the Department's acquisition regulations, prior to initiating rulemaking to draft the implementing rules; and (2) holding public meetings to solicit industry feedback on proposed rulemakings.

• Employ methods to facilitate and improve efficiency of the contracting process such as: (1) Requiring the use of electronic forms; and (2) establishing that electronic contract documents contained in Electronic Data Access system are official contract documents. Use of electronic means to accomplish the contracting process: (1) Reduces the burden on both industry and the Department associated with manual and duplicative data entry, and (2) removes limitations on access to information.

2. Health Affairs, Department of Defense

The Department of Defense is able to meet its dual mission of wartime readiness and peacetime health care for those entitled to DoD medical care and benefits by operating an extensive network of military medical treatment facilities supplemented by services furnished by civilian health care providers and facilities through the TRICARE program as administered under DoD contracts. TRICARE is a major health care program designed to improve the management and integration of DoD's health care delivery system.

The Department of Defense's Military Health System (MHS) continues to meet the challenge of providing the world's finest combat medicine and aeromedical evacuation, while supporting peacetime health care for those entitled to DoD medical care and benefits at home and abroad. The MHS brings together the worldwide health care resources of the Uniformed Services (often referred to as ''direct care,'' usually within military treatment facilities) and supplements this capability with services furnished by network and non-network civilian health care professionals, institutions, pharmacies, and suppliers, through the TRICARE program as administered under DoD contracts, to provide access to high quality health care services while maintaining the capability to support military operations. The TRICARE program serves 9.5 million Active Duty Service Members, National Guard and Reserve members, retirees, their families, survivors, and certain former spouses worldwide. TRICARE continues to offer an increasingly integrated and comprehensive health care plan, refining and enhancing both benefits and programs in a manner consistent with the law, industry

standard of care, and best practices, to meet the changing needs of its beneficiaries. The program's goal is to increase access to health care services, improve health care quality, and control health care costs.

The Defense Health Agency plans to publish the following rule—

• Proposed Rule: TRICARE Mental Health and Substance Abuse. This rule proposes revisions to the TRICARE regulation to reduce administrative barriers to access to mental health benefit coverage and to improve access to substance use disorder (SUD) treatment for TRICARE beneficiaries, consistent with earlier Department of Defense and Institute of Medicine recommendations, current standards of practice in mental health and addition medicine, and governing laws. This proposed rule has four main objectives: (1) To eliminate of quantitative and qualitative treatment limitations on SUD and mental health benefit coverage and align beneficiary cost-sharing for mental health and SUD benefits with those applicable to medical/surgical benefits; (2) to expand covered mental health and SUD treatment under TRICARE, to include coverage of intensive outpatient programs and treatment of opioid dependence; (3) to streamline the requirements for institutional providers to become TRICARE authorized providers; and (4) to develop TRICARE reimbursement methodologies for newly recognized mental health and SUD intensive outpatient programs and opioid treatment programs. DoD anticipates publishing the proposed rule in the second quarter of FY 2016.

3. Personnel and Readiness, Department of Defense

The Department of Defense plans to publish rules regarding transition assistance for military personnel and sexual assault prevention—

• Interim Final Rule: Transition Assistance for Military Personnel (TAP). This rule establishes policy, assigns responsibilities, and prescribes procedures for administration of the DoD Transition Assistance Program (TAP). The goal of TAP is to prepare all eligible members of the Military Services for a transition to civilian life, including preparing them to meet Career Readiness Standards (CRS). The TAP provides information and training to ensure Service members leaving Active Duty and eligible Reserve Component Service members being released from active duty are prepared for their next step in life whether pursuing additional education, finding a job in the public or private sector, starting their own business or other form of self-employment, or returning to school or an existing job. Service members receive training to meet CRS through the Transition GPS (Goals, Plans, Success) curricula, including a core curricula and individual tracks focused on Accessing Higher Education, Career Technical Training, and Entrepreneurship. All Service members who are separating, retiring, or being released from a period of 180 days or more of continuous Active Duty must complete all mandatory requirements of the Veterans Opportunity to Work (VOW) Act, which includes pre-separation counseling to develop an Individual Transition Plan (ITP) and identify their career planning needs; attend the Department of Veterans Affairs (VA) Benefits Briefings I and II to understand what VA benefits the Service member earned, how to apply for them, and leverage them for a positive economic outcome; and attend the Department of Labor Employment Workshop (DOLEW), which focuses on the mechanics of resume writing, networking, job search skills, interview skills, and labor market research. DoD anticipates publishing the interim final rule in the first quarter of FY 2016.

• Interim Final Rule; Amendment: Sexual Assault Prevention and Response (SAPR) Program. The purpose of this rule is to implement DoD policy and assign responsibilities for the SAPR Program on prevention, response, and oversight of sexual assault. The goal is for DoD to establish a culture free of sexual assault through 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. DoD anticipates publishing the interim final rule in the second quarter of FY 2016.

• Interim Final Rule; Amendment: Sexual Assault Prevention and Response (SAPR) Program Procedures. This rule establishes policy, assigns responsibilities, and provides guidance and procedures for the SAPR Program. It establishes processes and procedures for the Sexual Assault Forensic Examination Kit, the multidisciplinary Case Management Group, and guidance 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. The DoD goal is a culture free of sexual assault through 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. DoD anticipates publishing the interim final rule in the second quarter of FY 2016.

4. Chief Information Officer, Department of Defense

The Department of Defense plans to publish the final rule for the Defense Industrial Base (DIB) Cybersecurity (CS) Activities that implements statutory requirements for mandatory cyber incident reporting while maintaining the voluntary cyber threat information sharing program.

• Interim Final Rule: Defense Industrial Base (DIB) Cyber Security (CS) Activities. DoD revised its DoD–DIB Cybersecurity (CS) Activities regulation to mandate reporting of cyber incidents that result in an actual or potentially adverse effect on a covered contractor information system or covered defense information residing therein, or on a contractor's ability to provide operationally critical support, and modify eligibility criteria to permit greater participation in the voluntary DoD-Defense Industrial Base (DIB) Cybersecurity (CS) information sharing program. DoD anticipates publishing the final rule in the fourth quarter of FY 2016.

DOD—OFFICE OF THE SECRETARY (OS)

Proposed Rule Stage

15. • Sexual Assault Prevention and Response (SAPR) Program

Priority: Other Significant.

Legal Authority: 10 U.S.C. 113; Pub. L. 109–364; Pub. L. 109–163; Pub. L. 108–375; Pub. L. 106–65; Pub. L. 110–417; Pub. L. 111–84; Pub. L. 112–81; Pub. L. 113–66; Pub. L. 113–291

CFR Citation: 32 CFR 103.

Legal Deadline: None.

Abstract: This part implements Department of Defense (DoD) policy and assigns responsibilities for the Sexual Assault Prevention and Response (SAPR) Program on prevention, response, and oversight to sexual assault. It is DoD policy to establish a culture free of sexual assault through an environment of prevention, education and training, response capability, victim support, reporting procedures, and appropriate accountability that enhances the safety and wellbeing of all persons covered by this regulation.

Statement of Need: The purpose of this rule is to implement DoD policy and assign responsibilities for the Sexual Assault Prevention and Response (SAPR) Program on prevention, response, and oversight to sexual assault.

Summary of Legal Basis: Establishes SAPR minimum program standards, SAPR training requirements, and SAPR requirements for the DoD Annual Report on Sexual Assault in the Military consistent with title 10, United States Code, the DoD Task Force Report on Care for Victims of Sexual Assault and pursuant to DoD Directive (DoDD) 5124.02, DoDD 6495.01, and Public Laws 106–65, 108–375, 109–163, 109–364, 110–417, 111–84, 111–383, 112–81, 112–239, 113–66, and 113–291.

Alternatives: The Department of Defense will lack comprehensive SAPR program policy guidance on the prevention and response to sexual assaults involving members of the U.S. Armed Forces. The DoD will not have guidance to establish a culture free of sexual assault through 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 part (32 CFR 103) and 32 CFR 105. DoD will lack the policy guidance to promulgate requirements mandated in the National Defense Authorization Acts.

Anticipated Cost and Benefits: The Fiscal Year 2014 Operation and Maintenance funding for DoD SAPRO was $26.798 million with an additional Congressional allocation of $25.3 million designated for the Special Victims' Counsel program and the Special Victims' Investigation and Prosecution capability that was reprogrammed to the Military Services and the National Guard Bureau. 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) A complete and up-to-date SAPR Policy consisting of this part and 32 CFR 105, to include comprehensive SAPR policy guidance on the prevention and response to sexual assaults involving members of the U.S. Armed Forces.

(2) Guidance and policy with which the DoD may establish a culture free of sexual assault, through 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 part and 32 CFR 105.

(3) Requirement to provide care that is gender-responsive, culturally competent, and recovery-oriented. Sexual assault patients shall be given priority, and treated as emergency cases. Emergency care shall consist of emergency healthcare and the offer of a Sexual Assault Forensic Examination (SAFE). The victim shall be advised that even if a SAFE is declined the victim is encouraged (but not mandated) to receive medical care, psychological care, and victim advocacy.

(4) Standardized SAPR requirements, terminology, guidelines, protocols, and guidelines for training materials shall focus on awareness, prevention, and response at all levels, as appropriate.

(5) An immediate, trained sexual assault response capability shall be available for each report of sexual assault in all locations, including in deployed locations.

(6) Victims of sexual assault shall be protected from coercion, retaliation, and reprisal.

Risks: The rule intends to enable military readiness by establishing a culture free of sexual assault. This rule aims to mitigate this risk to mission readiness.

Timetable:

Action	Date	FR Cite
NPRM	03/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: DoD Directive 6495.01, ''Sexual Assault Prevention and Response (SAPR) Program''.

Agency Contact: Diana Rangoussis, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301, *Phone:* 703 696–9422.

RIN: 0790–AJ40

DOD—OS

Final Rule Stage

16. Sexual Assault Prevention and Response Program Procedures

Priority: Other Significant.

Legal Authority: 10 U.S.C. ch 47; Pub. L. 106–65; Pub. L. 108–375; Pub. L. 109–163; Pub. L. 109–364; Pub. L. 110–417; Pub. L. 111–84; Pub. L. 111–383; Pub. L. 112–81; Pub. L. 112–239; Pub. L. 113–66; Pub. L. 113–291

CFR Citation: 32 CFR 105.

Legal Deadline: None.

Abstract: The procedures discussed establish a culture of prevention, response, and accountability that enhances the safety and well-being of all DoD members.

Statement of Need: The rule 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: In February of 2004, the former Secretary of Defense Donald H. Rumsfeld directed Dr. David S. C. Chu, the former Under Secretary of Defense for Personnel and Readiness, to review the DoD process for treatment and care of victims of sexual assault in the Military Services. One of the recommendations emphasized the need to establish a single point of accountability for sexual assault policy within the Department. This led to the establishment of the Joint Task Force for Sexual Assault Prevention and Response, and the naming of then Brigadier General K.C. McClain as its commander in October 2004. The Task Force focused its initial efforts on developing a new DoD-wide sexual assault policy that incorporated recommendations set forth in the Task Force Report on Care for Victims of Sexual Assault as well as in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375). This act directed the Department to have a sexual assault policy in place by January 1, 2005. Subsequent National Defense Authorization Acts provided additional requirements for the Department of Defense sexual assault prevention and response program in: Section 113 of title 10, United States Code; and Public Laws 109–364, 109–163, 108–375, 106–65, 110–417, 111–84, 112–81, 112–239, 113–66, and 113–291.

Alternatives: The Department of Defense will lack comprehensive Sexual Assault Prevention and Response (SAPR) procedures to implement the DoD Directive 6495.01, Sexual Assault Prevention and Response (SAPR) Program, which is the DoD policy on prevention and response to sexual assaults involving members of the U.S. Armed Forces. The DoD will not have guidance to establish a culture free of sexual assault through 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 part and 32 CFR 103. DoD will lack the implementing procedures to

promulgate requirements mandated in the National Defense Authorization Acts.

Anticipated Cost and Benefits: The preliminary estimate of the anticipated cost associated with this rule for the current fiscal year is approximately $15.010 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) A complete SAPR Policy consisting of this part and 32 CFR 103, to include comprehensive SAPR procedures to implement the DoD Directive 6495.01, Sexual Assault Prevention and Response (SAPR) Program, which is the DoD policy on prevention and response to sexual assaults involving members of the U.S. Armed Forces.

(2) Guidance and procedures with which the DoD may establish a culture free of sexual assault, through 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 part (32 CFR 105) and 32 CFR 103.

(3) Requirement that medical care and SAPR services are gender-responsive, culturally competent, and recovery-oriented. A 24 hour, 7 day per week sexual assault response capability for all locations, including deployed areas, shall be established for persons covered in this part. An immediate, trained sexual assault response capability shall be available for each report of sexual assault in all locations, including in deployed locations. Sexual assault victims shall be given priority, and treated as emergency cases. Emergency care shall consist of emergency medical care and the offer of a SAFE. The victim shall be advised that even if a SAFE is declined the victim shall be encouraged (but not mandated) to receive medical care, psychological care, and victim advocacy.

(4) Command sexual assault awareness and prevention programs and DoD law enforcement and criminal justice procedures that enable persons to be held appropriately accountable for their actions, shall be supported by all commanders.

(5) Standardized SAPR requirements, terminology, guidelines, protocols, and guidelines for training materials shall focus on awareness, prevention, and response at all levels, as appropriate.

(6) Sexual Assault Response Coordinators (SARC), SAPR Victim Advocates (VA), and other responders will assist sexual assault victims regardless of Service affiliation.

(7) Service member and adult military dependent victims of sexual assault shall receive timely access to comprehensive medical and psychological treatment, including emergency care treatment and services, as described in this part and 32 CFR 103.

(8) Military Service members who file Unrestricted and Restricted Reports of sexual assault shall be protected from reprisal, or threat of reprisal, for filing a report.

(9) Service members and military dependents 18 years and older who have been sexually assaulted have two reporting options: Unrestricted or Restricted Reporting. Unrestricted Reporting of sexual assault is favored by the DoD. However, Unrestricted Reporting may represent a barrier for victims to access services, when the victim desires no command or DoD law enforcement involvement. Consequently, the DoD recognizes a fundamental need to provide a confidential disclosure vehicle via the Restricted Reporting option. Regardless of whether the victim elects Restricted or Unrestricted Reporting, confidentiality of medical information shall be maintained in accordance with DoD 6025.18–R.

(10) Service members who are on active duty but were victims of sexual assault prior to enlistment or commissioning are eligible to receive SAPR services under either reporting option. The DoD shall provide support to an active duty Military Service member regardless of when or where the sexual assault took place.

(11) Requirement to establish a DoD-wide certification program with a national accreditor to ensure all sexual assault victims are offered the assistance of a SARC or SAPR VA who has obtained this certification.

(12) Implementing training standards that cover general SAPR training for Service members, and contain specific standards for: Accessions, annual, professional military education and leadership development training, pre- and post-deployment, pre-command, General and Field Officers and SES, military recruiters, civilians who supervise military, and responders trainings.

(13) Requires Military Departments to establish procedures for supporting the DoD Safe Helpline in accordance with Guidelines for the DoD Safe Helpline for the referral database provide timely response to victim feedback, publicize the DoD Safe Helpline to SARCs and Service members and at military confinement facilities.

(14) Added additional responsibilities for the DoD SAPRO Director (develop metrics for measuring effectiveness, act as liaison between DoD and other agencies with regard to SAPR, oversee development of strategic program guidance and joint planning objectives, quarterly include Military Service Academies as a SAPR IPT standard agenda item, semi-annually meet with the Superintendents of the Military Service Academies, and develop and administer standardized and voluntary surveys for survivors of sexual assault to comply with section 1726 of the National Defense Authorization Act For Fiscal Year 2014, Public Law 113–66.

(15) Updates text throughout the issuance to reflect Defense Sexual Assault Incident Database (DSAID) interface with MCIO case management systems (rather than Military Service sexual assault case management systems) and procedures for entering final case disposition information into the database.

Risks: The rule intends to enable military readiness by establishing a culture free of sexual assault. 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	
Interim Final Rule	03/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: DoD Instruction 6495.02, ''Sexual Assault Prevention and Response (SAPR) Program Procedures''.

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

17. Transition Assistance Program (TAP) for Military Personnel

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

Legal Authority: 10 U.S.C. 1141; 10 U.S.C. 1142

CFR Citation: 32 CFR 88.

Legal Deadline: None.

Abstract: The DoD is committed to providing military personnel from across the Services access to the TAP. The TAP prepares all eligible members of the Military Services for a transition to civilian life; enables eligible Service members to meet the CRS as required by this rule; and is the overarching program that provides transition assistance, information, training, and services to eligible transitioning Service members to prepare them to be career ready when they transition back to civilian life. Spouses of eligible Service members are entitled to the DOLEW, job placement counseling, DoD/VA-administered survivor information, financial planning assistance, transition plan assistance, VA-administered home loan services, housing assistance benefits information, and counseling on responsible borrowing practices.

Dependents of eligible Service members are entitled to career change counseling and information on suicide prevention.

These revisions will: Institutionalize the implementation of the VOW Act of 2011; require mandatory participation in the Department of Labor (DOL) Employment Workshop (EW); implement the Transition GPS (Goals, Plans, Success) curriculum; require development of an Individual Transition Plan (ITP); enhance tracking of attendance at TAP events; implement of mandatory Career Readiness Standards (CRS) for separating Service members; and, incorporate a CAPSTONE event to document transition readiness and reinforce Commanding Officer accountability and support for the needs of individual Service members. This rule improves the process of conducting transition services for eligible separating Service members across the Military Services and establishes the data collection foundation to build short-, medium-, and long-term program outcomes.

Statement of Need: In August 2011, President Obama announced his comprehensive plan to ensure America's Post 9/11 Veterans have the support they need and deserve when they leave the military, look for a job, and enter the civilian workforce. A key part of the President's plan was his call for a career-ready military. Specifically, he directed DoD and Department of Veterans Affairs (VA) to work closely with other federal agencies and the President's economic and domestic policy teams to lead a Veterans Employment Initiative Task Force to develop a new training and services delivery model to help strengthen the transition readiness of Service members from military to civilian life. Shortly thereafter, Congress passed and the President signed the VOW to Hire Heroes Act of 2011, Public Law 112–56, sections 201–265, 125 Stat. 715 (VOW Act), which included steps to improve the existing TAP for Service members. Among other things, the VOW Act made participation in several components of TAP mandatory for all Service members (except in certain limited circumstances).

The task force delivered its initial recommendations to the President in December 2011 which required implementation of procedures to document Service member participation, and to demonstrate Military Service compliance with 10 U.S.C. chapter 58 requirements. The Veterans Opportunity to Work (VOW) Act of 2011 mandated transitioning Service member's participation in receiving counseling and training on VA Benefits. VA developed VA Benefits I and II Briefings to meet this mandate. The VOW Act also mandated transitioning Service members to received counseling and informed of services regarding employment assistance. The Department of Labor revised its curriculum to meet this mandate with the Department of Labor Employment Workshop. The VOW requirements have been codified in 10 U.S.C. chapter 58 and attendance to all Transition GPS curricula is now documented.

The redesigned TAP was developed around four core recommendations:

Adopt standards of career readiness for transitioning Service members: Service members should leave the military having met clearly defined standards of career readiness.

Implement a revamped TAP curriculum: Service members should be provided with a set of value-added, individually tailored training programs and services to equip them with the set of tools they need to pursue their post-military goals successfully.

Implement a CAPSTONE: Service members should be afforded the opportunity, shortly before they depart the military, to review and verify that they have met the CRS and received the services they desire and to be steered to the resources and benefits available to them as Veterans.

Implement a Military Life Cycle (MLC) transition model: Transition preparation for Service members should occur over the entire span of their military careers not just in the last few months of their military service.

Implementation of these recommendations transforms a Service member' experience during separating, retiring, demobilizing, or deactivating to make the most informed career decisions by equipping them with the tools they need to make a successful transition.

The rule discusses a redesigned program which implements, the transition-related provisions of the VOW Act and recommendations of the Task Force to offer a tailored curriculum providing Service members with useful and quality instruction with connections to the benefits and resources available to them as Veterans. At the heart of the redesign is the new set of CRS. Just as Service members must meet military mission readiness standards while on Active Duty, Service members will meet CRS before their transition to civilian life.

Spouses of eligible Service members are entitled to the DOLEW, job placement counseling, DoD/VA-administered survivor information, financial planning assistance, transition plan assistance, VA-administered home loan services, housing assistance benefits information, and counseling on responsible borrowing practices. Dependents of eligible service members are entitled to career change counseling and information on suicide prevention.

Summary of Legal Basis: This regulation is proposed under the authority of title 10, U.S.C., chapter 58. Title 10, U.S.C., section 1141 defines involuntary separation; section 1142 provides the time period the Secretary concerned shall provide for individual pre-separation counseling for each member of the armed forces whose discharge or release from active duty is anticipated as of a specific date; section 1143 requires the Secretary of Defense to provide to members of the armed forces a certification or verification of any job skills and experience acquired while on active duty, that may have application to employment in the civilian sector; section 1143a. requires the Secretary of Defense to encourage members and former members of the armed forces to enter into public and community service jobs; section 1144 requires the Secretary of Labor, in conjunction with the Secretaries of Defense, Homeland Security, and Veterans Affairs to establish and maintain a program to furnish counseling, assistance in identifying employment and training opportunities, help in obtaining such employment and training, and other related information and services to members of the armed forces and the spouses of such members who are transitioning; section 1145

prescribes transitional health benefits; section 1146 describes commissary and exchange benefits for members involuntarily separated from active duty; section 1147 prescribes guidance that may permit individuals who are involuntarily separated to continue, not more than 180 days after the date of separation, to reside (along with other members of the individual's household) in military housing provided or leased by the DoD; section 1148 addresses relocation assistance for personnel overseas; section 1149 provides guidance regarding excess leave and permissive temporary duty; section 1150 prescribes guidance for affiliation with Guard and Reserve units; section 1151 prescribes guidance for retention of assistive technology and services provided before separation; section 1152 allows the Secretary of Defense to enter into an agreement with the Attorney General to establish or participate in a program to assist eligible members and former members to obtain employment with law enforcement agencies; section 1153 allows the Secretary of Defense to provide assistance to separated Service members to obtain employment with health care providers; and section 1154 allows the Secretary of Defense to provide assistance to eligible Service members and former members to obtain employment as teachers (Troops-to-Teachers Program).

Alternatives: The DoD considered several alternatives:

In President Obama's speech in August of 2011 at the Washington Navy Yard, he used the term ''Reverse Boot Camp'' to demonstrate his vision for a redesigned TAP to increase the preparedness of Service members to successfully transition from military service to civilian communities. The President's use of language initiated an interagency discussion on an approach to mirror the Military Services' basic or initial entry training programs. This approach would require the Military Services to devote approximately 9 to 13 weeks, depending on curriculum development, outcome measures, assessments and individual military readiness and cultural differences, to afford Service members the opportunity to use all aspects of a rigorous transition preparation program.

While no cost estimates were conducted, this approach was deemed both expensive and would jeopardize DoD's ability to maintain mission readiness. Approximately 200,000–250,000 Service members leave DOD each year. To concentrate on transition preparation during the last 9 to 13 weeks of an individual's military career would not be workable since mission readiness could not absorb the impact of the void. Additionally, there would be an increased expense required to activate or mobilize Reserve Component or National Guard personnel for the 9 to 13 weeks prior to transition. Finally, logistical challenges could result from Service members dealing with TAP requirements while deployed. For example, units scheduled to mobilize would be delayed because a returning unit could occupy facilities (such as billeting, classrooms, and training areas) that the deploying units needed to train and prepare for mobilization.

A second alternative considered was establishment of regional residential transition centers staffed by personnel from all Military Services, the Departments of VA, Labor (DOL), and Homeland Security (U.S. Coast Guard), the U.S. Small Business Administration (SBA), and the OPM. Transitioning Service members would be sent on temporary duty for a period of four to six weeks, 12 months prior to their separation or retirement date to receive transition services. Eligible Reserve Component Service members would be assigned to the centers as a continuation of their demobilization out-processing. The potential costs to build or modify existing facilities, or rent facilities that would meet regional residential transition center requirements, as well as costs for Service member travel to and from the regional centers, reduced the viability of this approach.

A third, less expensive option would have left the existing TAP program intact without increasing counselor and curriculum facilitation resources. This option would not have accountability systems and procedures to demonstrate compliance with the VOW Act that mandates pre-separation counseling, attendance at the DOL's three day Employment Workshop (DOLEW), and attendance at two VA briefings. Due to increasing Veteran unemployment and homeless percentages at the time of the decision, and the rebalancing of the military force, this cost neutral approach would not have the outcome based capability intended to develop career ready skills in transitioning Service members. This option, which would not have met the requirements of the law, would cost the Military Services approximately $70M versus the fiscal year 2013 (FY13) $122M for the implementation of the re-designed TAP.

Anticipated Cost and Benefits: The VOW Act mandated pre-separation counseling, VA Benefits Briefings I and II, and the DOLEW and these components were implemented in November 2012. On the same day the VOW Act requirements became mandatory, DoD published a policy to make CRS and Commanding Officer verification that Service members are meeting CRS, mandatory. Vow Act compliance and CRS must be met by all Service members after they have served 180 days in active duty status. Service members must attend Transition GPS (Goals, Plans, Success) curriculum modules that build career readiness if they cannot meet the CRS on their own. In cases where Service members receive a punitive or Under Other Than Honorable Conditions discharge, Commanding Officers have the discretion of determining participation in the other than mandatory Transition GPS curricula. By policy, all Service members who do not meet the CRS will receive a warm handover to DOL, VA, or other resources targeted at improving career readiness in the area where the standard was not met.

The entire Transition GPS curriculum is now available online through Joint Knowledge Online (JKO); however, Service members must attend pre-separation counseling, VA briefings, and the DOLEW in person. All other curriculum can be accessed through the JKO virtual platform. The virtual curriculum (VC) was launched at the beginning of FY14. DoD expected a cost savings in FY14 due to use of the VC but the cost avoidance cannot be calculated as VC utilization is appropriate on a Service member-by-Service member basis.

Further, resource requirements for DoD become more predictable when transition assistance is provided at pre-determined points throughout the MLC TAP model, mitigating the impacts of surge periods when large numbers of Service members separate, demobilize or deactivate.

The FY13 cost to DoD to implement the TAP redesign was $122M and in FY14 DoD costs were $85M. The difference is attributed to both implementation costs of the updated program in FY13, and to efficiencies discovered as implementation was completed throughout FY14. These costs represent only the portion of the interagency program that is paid by the DoD. The cost covers Defense civilian and contracted staff (FTEs) salaries and benefits at 206 world-wide locations. Civilian and contract labor account for approximately 88% of total program costs in both fiscal years. The remaining costs include equipment, computers (purchase, maintenance and operations), Information Technology (IT) and architecture, data collection and sharing, Web site development, performance evaluation and assessments, curriculum development

and modifications, materials (audio-visual, CDs, eNotebooks, handouts, interactive brick and mortar classroom sessions, virtual curriculum, etc.), facilitation training, research, studies, and surveys. Within DoD, the re-designed TAP capitalized upon existing resources, *e.g.,* use of certified financial planners housed in the Military Services' family centers to conduct financial planning or military education counselors used to conduct the Accessing Higher Education (AHE) track. Other efficiencies include reuse or upgrades to current facilities and classrooms used to deliver legacy TAP. Implementation costs in FY13 included equipping classrooms to allow for individual internet access and train-the-trainer workshops to deliver the DoD portions of the Transition GPS curriculum. Examples of efficiencies discovered in FY14 include providing train-the-trainer courses through webinars and savings associated with Service members using the VC.

The DoD provides military spouses the statutory requirements of TAP as prescribed in Title 10, United States Code. Other elements of TAP, prescribed by DoD policy, are available to spouses if resources and space permits. Military spouses can attend the brick and mortar Transition GPS curriculum at no cost on a nearby military installation. They can also take the entire Transition GPS curriculum online, virtually, at any time, from anywhere with a computer or laptop for free.

Many of our Veteran and Military Service Organizations, employers and local communities provide transition support services to local installations. Installation Commanders are strongly encouraged to permit access to Veteran Service Organizations (VSOs) and Military Service Organizations (MSOs) to provide transition assistance-related events and activities in the United States and abroad at no cost to the government. Two memos signed by Secretary of Defense Chuck Hagel reinforce such access. The memos are effective within 60 days of the December 23 signing, and will remain in effect until the changes are codified within DoD. Access to installations is for the purpose of assisting Service members with their post-military disability process and transition resources and services. The costs to VSOs and MSOs would be any costs associated with salaries for paid VSO and MSO personnel. These organizations will pay for any costs associated with travel to and from military installations, as well as any materials they provide to separating Service members and their spouses. Costs to employers and community organizations supporting transition-related events and activities would be similar to those for VSOs and MSOs.

The DoD is dependent upon other federal agencies to deliver the redesigned TAP to transitioning Service members. The VA, DOL, SBA, Department of Education (ED), and Office of Personnel Management (OPM) have proven to be invaluable partners in supporting the Transition GPS curriculum development and delivery, and in providing follow-on services required by a warm handover due to unmet CRS. These interagency partners strongly support TAP governance and performance measurement.

Although DoD cannot estimate the costs for its interagency partners, TAP provides the Service members with resources through the contributions of its interagency partners that should be identified as factors of total program cost. Transition assistance is a comprehensive interagency effort with contributions from every partner leveraged to provide support to the All-Volunteer Force as the Service members prepare to become Veterans. The interagency partners deliver the Transition GPS curriculum and one-on-one services across 206 military installations across the globe. DoD can only speak to TAP costs within the Defense fence line, but can discuss the value provided by interagency partners.

The DOL provides skilled facilitators that deliver the DOLEW, a mandatory element of the Transition GPS standardized curriculum. DOL's American Jobs Centers (AJCs) provide integral employment support to transitioning Service members and transitioned Veterans. The AJCs are identified as resources for the Service members during TAP which may increase visits from the informed Service members. The AJCs also support warm handovers of Service members who have identified employment as a transition goal on their ITP but do not meet the CRS for employment. DOL also provides input to the TAP interagency working groups and governance boards, and is involved in the data collection, performance measurement, and standardization efforts, all of which represent costs to the organization.

The SBA provides the Transition GPS entrepreneurship track, Boots to Business, to educate transitioning Service members interested in starting their own business about the challenges small businesses face. Upon completing the Boots to Business track, the SBA allows Service members to access the SBA on-line entrepreneurship course, free of charge. The SBA then provides Service members the opportunity to be matched to a successful business person as a mentor. This is a tremendous commitment that must create additional costs for the SBA. The SBA offices continue to provide support to Veterans as they pursue business plan development or start up loans; provision of this support is in their charter, but the increased awareness provided through the Transition GPS curriculum is likely to increase the patronage and represent a cost to SBA. The SBA also provides input to the TAP interagency working groups and governance boards. The SBA is engaged with data collection and sharing efforts to determine program outcomes.

VA provides facilitators who deliver the mandatory VA Benefits Briefings I and II as part of the Transition GPS standardized curriculum required to meet VOW Act requirements. The VA facilitators also deliver the two-day track for Career Technical Training that provides instruction to Service members to discern the best choices of career technical training institutions, financial aid, best use of the Post 9/11 GI Bill, etc. Benefits counselors deliver one-on-one benefits counseling on installations, as space permits. As a primary resource for Veterans, VA ensures benefits counselors are able to accept warm handovers of transitioning Service members who do not meet CRS and require VA assistance post separation. The VA hosts the interagency single web portal for connectivity between employers and transitioning Service members, Veterans and military spouses the Veterans Employment Center (VEC). VA provides input to the TAP interagency working groups and governance boards, and is involved in the data collection and sharing efforts to determine program outcomes, all of which represent costs to the organization.

ED serves a unique and highly valued role in the interagency partnership by ensuring the entire curriculum, both in classroom and virtual platform delivery, is based on adult learning principles. Their consultative role, tapped daily by the interagency partners, is critical to a quality TAP. ED also provides input to the TAP interagency working groups and governance boards and keeps a keen eye toward meaningful TAP outcomes, all of which represent costs to the organization.

The OPM contributes federal employment information and resources to the DOLEW, and enables the connectivity between the VEC and USA Jobs Web sites. The OPM also provides input to the TAP interagency working

groups and governance boards and contributes to performance measures.

The costs to DoD's interagency partners were not calculated; implementation of this rule was mandated by the Vow Act and costs for all parties are already incurred. The calculated costs to DoD and unmeasured costs to DoD's interagency partners provide significant resources to Service members resulting in benefits to the Nation.

The benefits of the redesigned TAP to the Service members are increased career readiness to obtain employment, start their own business or enter career technical training or an institution of higher learning at the point of separation from military service. The legacy, end-of-career TAP is replaced by pre-determined opportunities across the MLC for many transition-related activities to be completed during the normal course of business.

Since a direct economic estimate of the value of TAP is difficult for DoD to demonstrate as it would require collection of information from military personnel after they become private citizens, the value of the TAP can be derived by demonstrating qualitatively how Service members value the program and then displaying some changes in economic variables that can be differentiated between Veterans who have access to TAP and non-Veterans who do not have access to the program.

—According to one independent evaluation of the TAP, Service members who had participated in the TAP had, on average, found their first post-military job three weeks sooner than those who did not participate in the TAP.

—An independent survey asked Soldiers who had used the TAP their opinions about the curriculum. The Soldiers reported positive opinions about the usefulness of the TAP.

90% of the Soldiers felt that it was a useful resource in searching for employment and 88% of them would recommend the TAP to a colleague.

According to a curriculum assessment completed at the end of each TAP module, transitioning Service members gave the TAP positive reviews on its usefulness for their job search:

—92% of reported that they found the learning resources useful, including notes, handouts, and audio-visuals.

—83% reported that the modules enhanced their confidence in their own transition planning.

—81% reported that they now know how to access the necessary resources to find answers to transition questions that may arise in the next several months.

—79% said that the TAP was beneficial in helping them gain the information and skills they needed better to plan their transition.

—79% said that they will use what they learned from the TAP in their own transition planning.

—A comparison of unemployment insurance usage suggests that recently separated members of the military (2013 & 2014) were more likely to apply what they learned in the re-designed TAP and were more involved earlier in job training programs than unemployed claimants who did not have military experience (8.5% of UCX claimants versus 5.1% of Military service claimants).

—According to the Bureau of Labor Statistics, the unemployment rate for Veterans of the current conflict declined by 1.8 percentage points from August 2013 to August 2014 coinciding with the time period when all Service members were required to take the re-designed TAP.

The TAP also helps mitigate the adjustment costs associated with labor market transition. Military members must prepare for the adjustments associated with losing military benefits (*e.g.* housing, health care, child care) to the benefits afforded in private sector or nonmilitary public sector jobs. The TAP addresses this very important aspect based on a regulatory mandate that they attend both the DOLEW and the VA's Veterans Benefits Briefings, and complete a 12 month post-separation financial plan to meet CRS.

The early alignment of military skills with civilian workforce demands and deliberate planning for transition throughout a Service member's career sets the stage for a well-timed flow of Service members to our Nation's labor force. Employers state that transitioning Service members have critical job-related skills, competencies, and qualities including the ability to learn new skills, strong leadership qualities, and flexibility to work well in teams or independently, ability to set and achieve goals, recognition of problems and implementation of solutions, and ability to persevere in the face of obstacles. However, application of these skills and attributes must be translated into employer friendly language. These issues are addressed by the TAP. The rule supports providing private and public sector employers with a direct link to profiles and resumes of separating Service members through the Veterans Employment Center (VEC), where employers can recruit from this talent pipeline.

The rule benefits communities across the country. Civilian communities receive more educated, better trained and more prepared citizens when separating Service members return to communities as Veterans. Service members learn to align their military skills with civilian employment opportunities, which enables the pool of highly trained, adaptable, transitioning Service members a more timely integration into the civilian workforce and local economies.

Service members also learn through TAP about the rich suite of resources available to them from the interagency partners and have, for the asking, one-on-one appointments with interagency partner staff, who can provide assistance to Service members and their families both before and after the Service member leaves active duty. More specifically, the components of the mandatory CRS target deliberate planning for financial preparedness as well as employment, education, housing and transportation plans and, for those Service members with families, child care, schools, and spouse employment. The DoD and interagency partners incorporated the warm handover requirement for any transitioning Service member who does not meet the CRS. The warm handover is meant to serve as an immediate bridge from DoD to the federal partners' staffs, which are committed to providing needed support, resources and services to Service members post separation in the communities to which the Service members are returning. The intention is to provide early intervention before Veterans encounter the challenges currently identified by some communities, *e.g.,* financial struggles, unemployment, lack of social supports that can spiral down into homelessness, risk taking behaviors, etc. Families and communities benefit.

Risks: If this rule is not put into effect, approximately 200,000 Service members per year will return to their local communities ill prepared to assimilate into the civilian workforce, effectively use the Post 9/11 GI Bill benefits and other VA benefits that they have earned, minimize risks to starting small businesses, and will be unaware of community resources to assist them with their reintegration. More specifically, transitioning Service members will be uninformed as to how to best use their Post-9/11 GI Bill benefit—how to apply to a degree completion institution, how to choose the best school for degree completion, or how to choose a technical training program that leads to obtaining a credential—with a negative return on

their investment such as non-graduation, inability to transfer credits, or falling victim to predatory institutions, with an end result of wasting valuable taxpayer dollars. Service members, a most entrepreneurial population, would be poorly prepared to launch small businesses successfully, becoming part of the > 80% statistic of failed start-ups within the first year. Service members will be unprepared to capitalize upon health care benefits due to them, as well as health care mandated by and available through the Affordable Care Act. These avoidable information, education and training gaps could produce negative outcomes such as increased unemployment, financial uncertainty, business bankruptcy, family disruption, and even a possible increase in homelessness. These risks would be felt by local communities to which transitioning Service members return as communities deal with the long term economic and social fallout.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/15	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: DoD Instruction 1332.35, ''Transition Assistance Program (TAP) for Military Personnel.''

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RIN: 0790–AJ17

DOD—OS

18. Department of Defense (DOD)—Defense Industrial Base (DIB) Cybersecurity (CS) Activities

Priority: Other Significant.

Legal Authority: 10 U.S.C. 391; 10 U.S.C. 2224; 44 U.S.C. 3506; 44 U.S.C. 3544; and sec 941; Pub. L. 112–239, 126 Stat. 1632

CFR Citation: 32 CFR 236.

Legal Deadline: None.

Abstract: DoD is revising its DoD–DIB Cybersecurity (CS) Activities regulation to mandate reporting of cyber incidents that result in an actual or potentially adverse effect on a covered contractor information system or covered defense information residing therein, or on a contractor's ability to provide operationally critical support, and modify eligibility criteria to permit greater participation in the voluntary DoD-Defense Industrial Base (DIB) Cybersecurity (CS) information sharing program.

Statement of Need: This rule complies with statutory guidance under section 941 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013, and section 391 of Title 10, United States Code (U.S.C.), requiring defense contractors to rapidly report cyber incidents on their unclassified networks or information systems that may affect unclassified defense information, or that affect their ability to provide operationally critical support to the Department. This rule underscores the importance of better protecting unclassified defense information against the immediate cyber threat, while preserving the intellectual property and competitive capabilities of our national defense industrial base. The rule enables DoD to better assess, in the near term, when mission critical capabilities and services are affected by cyber incidents and reinforces DoD's overall efforts to defend DoD information, protect U.S. national interests against cyber-attacks, and support military operations and contingency plans worldwide. Cybersecurity is a Congressional priority and this rule supports the Administration's national cybersecurity strategy emphasizing public-private information sharing.

Summary of Legal Basis: The activities in this rule implement DoD statutory authorities to establish programs and activities to protect sensitive DoD information, including when such information resides on or transits information systems operated by contractors or others in support of DoD activities (*e.g.,* 10 U.S.C. 391 and 2224, the Federal Information Security Modernization Act (FISMA), codified at 44 U.S.C. 3551 *et seq.,* section 941 of the NDAA for FY 2013 (Pub. L. 112–239)). Activities under this rule also fulfill important elements of DoD's critical infrastructure protection responsibilities, as the sector specific agency for the DIB sector (see Presidential Policy Directive 21 (PPD–21), Critical Infrastructure Security and Resilience, available at *https://www.whitehouse.gov/the-press-office/2013/02/12/presidential-policy-directive-critical-infrastructure-security-and-resil*).

Alternatives: None. This is revision to an existing regulation (32 CFR part 236).

Anticipated Cost and Benefits: Under this rule, contractors will incur costs associated with requirements for reporting cyber incidents of covered defense information on their covered contractor information system(s) or those affecting the contractor's ability to provide operationally critical support. Costs for contractors include identifying and analyzing cyber incidents and their impact on covered defense information, or a contractor's ability to provide operationally critical support, as well as obtaining DoD-approved medium assurance certificates to ensure authentication and identification when reporting cyber incidents to DoD. Government costs include onboarding new companies under the voluntary DoD–DIB CS information sharing program, and collecting and analyzing cyber incident reports, malicious software, and media.

Risks: Cyber threats to DIB unclassified information systems represent an unacceptable risk of compromise of DoD information and mission and pose an imminent threat to U.S. national security and economic security interests. The combination of the mandatory DoD contractor cyber incident reporting, combined with the voluntary participation in the DIB CS program, will enhance and supplement DoD contractor capabilities to safeguard DoD information that resides on, or transits, DoD contractor unclassified network or information systems.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/02/15	80 FR 59581
Interim Final Rule Effective.	10/02/15	
Interim Final Rule Comment Period End.	12/01/15	
Final Action	08/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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RIN: 0790–AJ29

DOD—DEFENSE ACQUISITION REGULATIONS COUNCIL (DARC)

Proposed Rule Stage

19. • Detection and Avoidance of Counterfeit Electronic Parts—Further Implementation (DFARS Case 2014–D005)

Priority: Other Significant.

Legal Authority: 41 U.S.C. 1303; Pub. L. 112–81, sec 818; Pub. L. 113–291, sec 817

CFR Citation: 48 CFR 202; 48 CFR 212; 48 CFR 246; 48 CFR 252.

Legal Deadline: None.

Abstract: The Department of Defense (DoD) is issuing a proposed rule to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to further implement section 818 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012, as modified by section 817 of the NDAA for FY 2015, which requires DoD to issue regulations establishing requirements that DoD and DoD contractors and subcontractors, except in limited circumstances, shall acquire electronic parts from trusted suppliers in order to further address the avoidance of counterfeit electronic parts. On May 6, 2014, DoD published a final rule under DFARS Case 2012–D055, entitled Detection and Avoidance of Counterfeit Electronic Parts (78 FR 26092). That final rule constituted the initial partial implementation of section 818. Revisions to this rule will be reported in future status updates as part of DoD's retrospective plan under Executive Order 13563, completed in August 2011. DoD's full plan can be accessed at: *http://www.regulations.gov/#!docketDetail;D=DOD-2011-OS-0036*.

Statement of Need: DoD is required to implement in the DFARS the requirement for defense contractors and subcontractors, whenever possible, to acquire electronic parts from trusted suppliers, in order to avoid acquisition of counterfeit electronic parts.

Summary of Legal Basis: This regulation is proposed under the authorities of section 818 of the NDAA for FY 2012 (Pub. L. 112–81), as modified by section 817 of the NDAA for FY 2015 (Pub. L. 113–291).

Alternatives: No viable alternatives were identified, as this rule implements section 818 of the NDAA for FY 2012, as modified by section 817 of the NDAA for FY 2015.

Anticipated Cost and Benefits: Cost benefits or burdens associated with this rule are not available. The law requires DoD to issue regulations establishing requirements that DoD and DoD contractors and subcontractors, except in limited circumstances, shall acquire electronic parts from trusted suppliers in order to further address the avoidance of counterfeit electronic parts. DoD contractors and subcontractors that are not the original component manufacturer are required by the rule to notify the contracting officer if it is not possible to obtain an electronic part from a trusted supplier. For those instances where the contractor obtains electronic parts from sources other than a trusted supplier, the contractor is responsible for inspection, test, and authentication in accordance with existing applicable industry standards. Such validation of new parts and new suppliers are steps that a prudent contractor would take notwithstanding this rule. The additional burden imposed is the notification requirement, which should have a minimal cost impact. The rule applies only to contractors subject to the Cost Accounting Standards. This rule enhances DoD's ability to strengthen the integrity of the process for acquisition of electronic parts and benefits both the Government and contractors.

Risks: Failure to implement this rule may cause harm to the Government by resulting in the acquisition of counterfeit electronic parts which could directly impact national security.

Timetable:

Action	Date	FR Cite
NPRM	11/00/15	
NPRM Comment Period End.	01/00/16	
Final Action	09/00/16	
Final Action Effective.	09/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

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Related RIN: Related to 0750–AH89

RIN: 0750–AI58

DOD—DARC

Final Rule Stage

20. • Network Penetration Reporting and Contracting for Cloud Services (DFARS Case 2013–D018)

Priority: Other Significant.

Legal Authority: 41 U.S.C. 1303; 41 U.S.C. 1707; Pub. L. 112–239, sec 941; Pub. L. 113–291, sec 1632

CFR Citation: 48 CFR 202; 48 CFR 204; 48 CFR 212; 48 CFR 239; 48 CFR 252.

Legal Deadline: None.

Abstract: The Department of Defense (DoD) is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 941 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 and section 1632 of the NDAA for FY 2015, both of which require contractor reporting on network penetrations. Section 941 requires cleared defense contractors to report penetrations of networks and information systems and allows DoD personnel access to equipment and information to assess the impact of reported penetrations. Section 1632 requires that a contractor designated as operationally critical must report each time a cyber-incident occurs on that contractor's network or information systems. The rule requires contractors and subcontractors to report cyber incidents that result in an actual or potentially adverse effect on a covered contractor information system or covered defense information residing therein, or on a contractor's ability to provide operationally critical support. This rule also implements policy on the purchase of cloud computing services. The revisions to this rule will be reported in future status updates as part of DoD's retrospective plan under Executive Order 13563, completed in August 2011. DoD's full plan can be accessed at: *http://www.regulations.gov/#!docketDetail;D=DOD-2011-OS-0036*.

Statement of Need: DoD is required to implement in the DFARS a requirement for contractors to report network penetrations. Additionally, the DoD Chief Information Officer (CIO) released a Cloud Computing Security Requirements Guide on January 13, 2015, which cloud service providers must comply with when providing cloud services to DoD.

Summary of Legal Basis: This rule is required under the authorities of section 941 of the NDAA for FY 2013 (Pub. L. 112–239) and section 1632 of the NDAA for FY 2015 (Pub. L. 113–291).

Alternatives: No viable alternatives were identified, as this rule implements section 941 of the NDAA for FY 2013 and section 1632 of the NDAA for FY 2015, as well as the guidance established by the DoD CIO on security requirements for cloud computing.

Anticipated Cost and Benefits: Cost benefits or burdens associated with this rule are not available. The objective of

the rule is to improve information security for DoD information stored on or transiting through contractor systems as well as in a cloud environment. The rule will reduce the vulnerability of DoD information via attacks on its systems and networks and those of DoD contractors. This rule improves national security benefiting both the Government and contractors. This rule is likely to have a cost impact on all contractors that have covered defense information on their information systems. The cost impact of the rule will vary in relation to the capabilities of each affected contractor to adapt their systems to meet the new security controls. The benefits of the rule would be the potential decrease in the loss or compromise of covered defense information; however, this benefit across DoD is not susceptible to being quantified or measured. Ultimately, DoD anticipates significant savings to taxpayers by improving information security for DoD information that resides in or transits through contractor systems and a cloud environment.

Risks: Recent high-profile breaches of Federal information show the need to ensure that information security protections are clearly, effectively, and consistently addressed in contracts. Failure to implement this rule may cause harm to the Government through the compromise of covered defense information or other Government data, or the loss of operationally critical support capabilities, which could directly impact national security.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/26/15	80 FR 51739
Interim Final Rule Effective.	08/26/15	
Interim Final Rule Comment Period End.	10/26/15	
Interim Final Rule Comment Period Extended.	10/22/15	80 FR 63928
Interim Final Rule Comment Period Extended End.	11/20/15	
Final Action	08/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Agency Contact: Jennifer Hawes, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060, *Phone:* 571 372–6115, *Email: jennifer.l.hawes2.civ@mail.mil.*

RIN: 0750–AI61

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

Proposed Rule Stage

21. • TRICARE: Mental Health and Substance Use

Priority: Other Significant.

Legal Authority: 10 U.S.C. 1073

CFR Citation: 32 CFR 199.

Legal Deadline: None.

Abstract: This rule proposes revisions to the TRICARE regulation to reduce administrative barriers to access to mental health benefit coverage and to improve access to substance use disorder (SUD) treatment for TRICARE beneficiaries, consistent with earlier Department of Defense and Institute of Medicine recommendations, current standards of practice in mental health and addition medicine, and governing laws. This proposed rule has four main objectives: (1) To eliminate of quantitative and qualitative treatment limitations on SUD and mental health benefit coverage and align beneficiary cost-sharing for mental health and SUD benefits with those applicable to medical/surgical benefits; (2) to expand covered mental health and SUD treatment under TRICARE, to include coverage of intensive outpatient programs and treatment of opioid dependence; (3) to streamline the requirements for institutional providers to become TRICARE authorized providers; and (4) to develop TRICARE reimbursement methodologies for newly recognized mental health and SUD intensive outpatient programs and opioid treatment programs.

Statement of Need: This rule is necessary to comply with the statutory provisions in section 703 of the National Defense Authorization Act for FY 2015 which removed TRICARE statutory day limitations on inpatient mental health services. It is also necessary to adopt the four main objectives listed above. In general, the DoD, pursuant to chapter 55 of title 10 U.S.C., covers health care, including mental health care, services and supplies, which are medically or psychologically necessary to prevent, diagnose, and/or treat a mental or physical illness, injury, or bodily malfunction. In 1996, Congress enacted the Mental Health Parity Act of 1996 (MHPA 1996) which required employment-related health insurance coverage offered in connection with group health plans to provide parity in aggregate lifetime and annual dollar limits for mental health benefits and medical and surgical benefits. In October 2008, the Mental Health Parity and Addictions Equity Act (MHPAEA) was signed into law as part of the Emergency Economic Stabilization Act of 2008. The changes made by MHPAEA consists of new standards, including parity for substance use disorder benefits, as well as amendments to the existing mental health parity provisions exacted in MHPA. This law requires group health insurance plans that provide both medical/surgical and mental health benefits to provide those benefits at parity. Specifically, financial requirements (*e.g.,* deductibles, co-payments, or coinsurance) and treatment limitations (*e.g.,* days of coverage and number of visits) cannot be more restrictive for mental health benefits than they are for medical/surgical benefits. The MHPAEA was amended by the Patient Protection and Affordable Care Act, as amended by the Health Care and Reconciliation Act of 2010, to also apply to individual health insurance coverage. TRICARE is not a group health plan subject to the MHPA 1996, the MHPAEA of 2008, or the Health Care and Reconciliation Act. However, the provisions of these acts serve as a model for TRICARE in proposing changes to existing benefit coverage so as to reduce administrative barriers to treatment and increase access to medically or psychologically necessary mental health care consistent with TRICARE statutory authority.

Summary of Legal Basis: This regulation is proposed under the authorities of 10 U.S.C., section 1073, which authorizes the Secretary of Defense to administer the medical and dental benefits provided in chapter 55 of title 10 U.S.C. The Department is authorized to provide medically necessary and appropriate medical care for mental and physical illnesses, injuries and bodily malfunctions, including hospitalization, outpatient care, drugs, and treatment of mental conditions under 10 U.S.C. 1077(a)(1)–(3) and (5). Although section 1077 identifies the types of health care to be provided in military treatment facilities, these types of health care are incorporated by reference as the types of health care benefits authorized for coverage within the civilian health care sector for active duty family members and retirees and their dependents through sections 1079 and 1086, respectively. In general, the scope of TRICARE benefits covered within the civilian health care sector and the TRICARE authorized providers of those benefits are found at 32 CFR part 199.4

and 199.6, respectively. Reimbursement is addressed in 32 CFR 199.14.

Alternatives: To the extent this rule implements statutorily required provisions, no alternatives are applicable. Further, any alternative that fails to address administrative barriers to mental health and SUD treatment and increasing access to medically or psychologically necessary mental health care consistent with TRICARE statutory authority is inconsistent with principles of mental health parity and ignores well-validated evidence and current standards of practice in mental health and SUD treatment.

Anticipated Cost and Benefits: This rule is not anticipated to have an annual effect on the economy of $100 million or more. Thus, economically, it is not a substantive, significant rule under the Executive Order and the Congressional Review Act. All services and supplies authorized under the TRICARE Basic Program must be determined to be medically necessary in the treatment of an illness, injury or bodily malfunction before the care can be cost shared by TRICARE. For this reason, DoD anticipates that TRICARE will have a marginal increase in cost associated with increased access to authorized mental health and SUD treatment within the TRICARE Basic Program. Failure to prevent or treat these conditions results in severe and widespread consequences, including increased risk of suicide and exacerbation of mental and physical health disorders. Short-term treatments usually are followed by relapses. These proposed revisions will increase access to mental health and SUD treatment, including long-term outpatient care and other systemic supports, resulting in more comprehensive care and hopefully a greater incentive for beneficiaries to seek the care they need.

Risks: This proposed rule implements statutorily required provisions for adoption and implementation. No risk to the public is applicable as this proposed rule expands access to care, and streamlines requirements for TRICARE authorized provider approval.

Timetable:

Action	Date	FR Cite
NPRM	01/00/16	

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–AB65

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 and other services nationwide in order to ensure that all Americans, including those with disabilities, receive a high-quality education and are prepared for high-quality employment. We provide leadership and financial assistance pertaining to education and related services at all levels to a wide range of stakeholders and individuals, including State educational and other 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 or employment, and that students attending postsecondary institutions are prepared for a profession or career.

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

Overall, the laws, regulations, and programs that the Department administers will affect nearly every American during his or her life. Indeed, in the 2015–2016 school year, about 55 million students will attend an estimated 130,000 elementary and secondary schools in approximately 13,500 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; other Federal agencies; 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 Government-wide 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. Elementary and Secondary Education Act of 1965, as Amended

We are working with Congress to reauthorize the ESEA. As we do so, we continue to provide flexibility on certain provisions of current law for States that are embracing reform. The mechanisms we are using will ensure continued accountability and commitment to high-quality education for all students while providing States with increased flexibility to implement State and local reforms to improve student achievement. The ESEA, when enacted, will likely require the Department to promulgate conforming regulations.

B. Workforce Innovation and Opportunity Act

President Obama signed the Workforce Innovation and Opportunity Act (WIOA) into law on July 22, 2014. WIOA replaced the Workforce Investment Act of 1998 (WIA), including the Adult Education and Family Literacy Act (AEFLA), and amended the Wagner-Peyser Act and the Rehabilitation Act of 1973 (Rehabilitation Act). WIOA promotes the integration of the workforce development system's six ''core programs'', including AEFLA and the vocational rehabilitation program under Title I of the Rehabilitation Act, into the revamped workforce development system under Title I of WIOA. The Department issued four NPRMs in April, 2015, one joint rule with the Department of Labor (DOL) and three ED-specific packages. We plan to issue final rules for each of the four packages in April, 2016.

C. Borrower Defense Issues

In August 2015, the Department announced its intent to convene a committee to develop proposed regulations for determining which acts or omissions of an institution of higher education (''institution'') a borrower may assert as a defense to repayment of a loan made under the William D. Ford Federal Direct Loan (Federal Direct Loan) Program (''borrower defenses'') and the consequences of such borrower defenses for borrowers, institutions, and the Secretary. Specifically, the Department intends to address: (1) The procedures to be used for a borrower to establish a defense to repayment; (2) the criteria that the Department will use to identify acts or omissions of an institution that constitute defenses to repayment of Federal Direct Loans to the Secretary; (3) the standards and procedures that the Department will use to determine the liability of the institution participating in the Federal Direct Loan Program for amounts based on borrower defenses; and (4) the effect of borrower defenses on institutional capability assessments. The Department is holding public hearings for interested parties to discuss the rulemaking agenda during September 2015, and anticipates that any committee established after the public hearings will begin negotiations in January 2016.

D. Higher Education Act of 1965, as Amended

The Higher Education Act expired at the end of 2013, and its reauthorization, when enacted, will likely require the Department to promulgate conforming regulations. In the meantime, we are continuing to work on several regulatory activities under the Title IV Federal Student Aid programs to improve protections for students and safeguard Federal dollars invested in postsecondary education.

IV. Principles for Regulating

Over the next year, we may need to issue other regulations because of new legislation or programmatic changes. In doing so, we will follow the Principles for Regulating, which determine when and how we will regulate. Through consistent application of those 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)

Final Rule Stage

22. Repaye

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

Legal Authority: 20 U.S.C. 1078; 20 U.S.C. 1087e

CFR Citation: 34 CFR 682.202; 34 CFR 685.202; 34 CFR 685.208; 34 CFR 685.209.

Legal Deadline: None.

Abstract: On June 9, 2014, the President issued a memorandum (79 FR 33843) directing the Secretary to propose regulations by June 9, 2015, that will allow additional students who borrowed Federal Direct Loans to cap their Federal student loan payments at 10 percent of their income. The memorandum further directed the Secretary to issue final regulations after considering all public comments with the goal of making the repayment option available to borrowers by December 31, 2015.

Statement of Need: The President has issued a memorandum directing the Secretary to propose regulations by June 9, 2015, that will allow additional student borrowers Federal Direct Loans to cap their Federal student loan payments at 10 percent of their income. The memorandum further directed the Secretary to issue final regulations after considering all public comments with the goal of making the repayment option available to borrowers by December 31, 2015.

In addition, the notice of proposed rulemaking will propose the establishment of procedures for Federal Family Education Loan (FFEL) Program loan holders to use the Department of Defense's Defense Manpower Data Center (DDMC) database to identify U.S. military servicemembers who may be eligible for a lower rate on their FFEL Program loans under the Servicemembers Civil Relief Act (SCRA).

Summary of Legal Basis: The President directed the Secretary to propose regulations that will allow additional student borrowers Federal Direct Loans to cap their Federal student loan payments at 10 percent of their income.

These final regulations will amend the Student Assistance General Provisions regulations governing Direct Loan cohort default rates (CDRs) to expand the circumstances under which an institution may challenge or appeal the potential consequences of a draft or final CDR based on the institution's participation rate index (PRI).

Alternatives: These will be discussed in the final regulations.

Anticipated Cost and Benefits: These will be discussed in the final regulations.

Risks: These will be discussed in the final regulations.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Negotiated Rulemaking Committee.	09/03/14	79 FR 52273
NPRM	07/09/15	80 FR 39608
NPRM Comment Period End.	08/10/15	
Final Action	11/00/15	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Federal, Local, State.

URL for Public Comments: www.regulations.gov.

Agency Contact: Barbara Hoblitzell, Department of Education, Office of Postsecondary Education, Room 8019, 1990 K Street NW., Washington, DC 20006, *Phone:* 202 502–7649, *Email: barbara.hoblitzell@ed.gov.*

RIN: 1840–AD18

ED—OFFICE OF CAREER, TECHNICAL, AND ADULT EDUCATION (OCTAE)

Final Rule Stage

23. Workforce Innovation and Opportunity Act

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

Legal Authority: Pub. L. 113–128; 29 U.S.C. 3101

CFR Citation: 34 CFR 361; 34 CFR 463.

Legal Deadline: Final, Statutory, January 22, 2016.

Abstract: The Departments of Education (ED) and Labor (DOL) are implementing, through final regulations, jointly-administered activities authorized by title I of the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113–128). Through these regulations, the Departments will implement job training system reforms and strengthen the nation's workforce development system to put Americans back to work and make the United States more competitive in the 21st century. This joint rule provides guidance for State and local workforce development systems that increase the skill and credential attainment, employment, retention, and earnings of participants, especially those with significant barriers to employment, thereby improving the quality of the workforce, reducing welfare dependency, and enhancing the productivity and competitiveness of the nation.

WIOA strengthened the alignment of the workforce development system's six core programs by imposing unified strategic planning requirements, common performance accountability measures, and requirements governing the one-stop delivery system. In so doing, WIOA placed heightened emphasis on coordination and collaboration at the Federal, State, and local levels to ensure a streamlined and coordinated service delivery system for job seekers, including those with disabilities, and employers. To that end, ED and DOL are issuing final regulations to implement jointly-administered activities under title I of WIOA. These regulations lay the foundation, through coordination and collaboration at the Federal level, for implementing the vision and goals of WIOA.

Statement of Need: WIOA mandates that the Department issue final regulations by January 2016.

Summary of Legal Basis: WIOA mandates that the Department issue final regulations by January 2016.

Alternatives: These will be discussed in the final regulations.

Anticipated Cost and Benefits: These will be discussed in the final regulations.

Risks: These will be discussed in the final regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/16/15	80 FR 20573
NPRM Comment Period End.	06/15/15	
Final Action	04/00/16	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

URL for Public Comments: www.regulations.gov.

Agency Contact: Mary Louise Dirrigl, Department of Education, Office of Special Education and Rehabilitative Services, Room 5156, 400 Maryland Avenue SW., Washington, DC 20202, *Phone:* 202 245–7324, *Email: mary.louise.dirrigl@ed.gov.*

Cheryl Keenan, Department of Education, Office of Career, Technical, and Adult Education, Room 11–151, PCP, 550 12th Street SW., Washington, DC 20202, *Phone:* 202 245–7810, *Email: cheryl.keenan@ed.gov.*

RIN: 1830–AA21

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

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), several regulations have been identified as associated with retrospective review and analysis in the Department's 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 *www.Reginfo.gov* in the Completed Actions section. These rulemakings can also be found on *www.Regulations.gov.* The final agency plan can be found at

http://www.whitehouse.gov/sites/default/files/other/2011-regulatory-action-plans/departmentofenergyregulatoryreformplanaugust2011.pdf.

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 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.

Estimate of Combined Aggregate Costs and Benefits

In 2014, the Department published final rules that adopted new or amended energy conservation standards for ten different products, including furnace fans, motors, commercial refrigeration equipment, metal halide lamp fixtures, external power supplies, commercial clothes washers; general service fluorescent lamps, and automatic commercial ice makers. The ten standards finalized in 2014 are estimated to reduce carbon dioxide emissions by over 400 million metric tons and save American families and businesses $78 billion in electricity bills through 2030.

Since 2009, the Energy Department has finalized new efficiency standards for more than 30 household and commercial products, including dishwashers, refrigerators and water heaters, which are estimated to save consumers several hundred billion dollars through 2030. To build on this momentum, the Department is committed to continuing to establish new efficiency standards that—when combined with the progress already made through previously finalized standards—will reduce carbon pollution by approximately 3 billion metric tons in total by 2030, equal to more than a year's carbon pollution from the entire U.S. electricity system.

As part of the President's Climate Action Plan, the Energy Department has committed to an ambitious goal of finalizing at least 20 additional energy efficiency standards by the end of 2016. The overall plan for implementing the schedule is contained in the Report to Congress pursuant to section 141 of EPACT 2005, which was released on January 31, 2006. This plan was last updated in the August 2015 report to Congress and now includes the requirements of the Energy Independence and Security Act of 2007 (EISA 2007), the American Energy Manufacturing Technical Corrections Act (AEMTCA), and the Energy Efficiency Improvement Act of 2015. The reports to Congress are posted at: *http://energy.gov/eere/buildings/reports-and-publications.* While each of these high priority rules will build on the progress made to date, and will continue to move the U.S. closer to a low carbon future, DOE believes that seven rulemakings are the most important of its significant regulatory actions and, therefore, comprise the Department's Regulatory Plan. However, because of the current stage of four of the rulemakings, DOE has not yet proposed candidate standard levels for these products and 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 improvement in energy efficiency that is technologically feasible and economically justified. Estimates of energy savings will be provided when DOE issues the notice of proposed rulemakings for central air conditioners and heat pumps, computers and battery backup systems, commercial water heaters, and general service fluorescent lamps. For small, large, and very large commercial package air conditioning and heating equipment, DOE estimates that energy savings from electricity will be 11.7 quads over 30 years and the benefit to the Nation will be between $16.5 billion to $50.8 billion. For non-weatherized gas furnaces, DOE estimates that energy savings from electricity will be 2.78 quads over 30 years and the benefit to the Nation will be between $3.1 billion and $16.1 billion. For commercial and industrial pumps, DOE estimates that the energy savings from electricity will be 0.28 quads over 30 years and the benefit to the Nation will be between $0.41 billion and $1.11 billion.

DOE—ENERGY EFFICIENCY AND RENEWABLE ENERGY (EE)

Proposed Rule Stage

24. Coverage Determination for Computers and Battery Backup Systems

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

Unfunded Mandates: Undetermined

Legal Authority: 42 U.S.C. 6292(a)(20) and (b)

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: DOE has tentatively determined that computer and battery backup systems (computer systems) qualify as covered products under Part A of Title III of EPCA, as amended. DOE has not previously conducted an energy conservation standard rulemaking for computers systems. If, after public comment, DOE issues a final determination of coverage for computer systems, DOE may prescribe both test procedures and energy conservation standards for computer systems.

Statement of Need: EPCA authorizes DOE to establish minimum energy efficiency standards for certain appliances and commercial equipment, including computer systems. EPCA further requires that DOE review such standards and determine whether to amend them within six years after promulgation.

Summary of Legal Basis: Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Pub. L. 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances (collectively referred to as covered products). In addition to specifying a list of covered products, EPCA contains provisions that enable the Secretary to classify additional types of consumer products as covered products. (42 U.S.C. 6292(a)(20)). For a given product to be classified as a covered product, the Secretary must determine that certain criteria are met. (42 U.S.C. 6292(b)(1). For the Secretary to prescribe an energy conservation standard pursuant to 42 U.S.C. 6295(o) and (p) for covered products added pursuant to 42 U.S.C. 6295(b)(1), he must also determine that certain additional criteria are met. (42 U.S.C. 6295(l)(1).

Alternatives: The statute requires DOE to conduct rulemakings to establish 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 amended energy efficiency standards, DOE cannot provide an estimate of combined aggregate costs and benefits. DOE will, however, in compliance with all applicable laws, 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.

Risks:

Timetable:

Action	Date	FR Cite
Notice of Proposed Determination.	02/28/14	79 FR 11345
NOPD Comment Period End.	03/31/14	
NOPD Comment Period Extended.	04/03/14	79 FR 18661
NOPD Comment Period Extended End.	04/15/14	
Framework Document.	07/17/14	79 FR 41656
Framework Document Comment Period End.	09/02/14	
Framework Document Comment Period Extended.	08/05/14	79 FR 45377
Framework Document Comment Period Extended End.	10/02/14	
NPRM	11/00/15	
Final Determination.	07/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Local, State.

Federalism: Undetermined.

URL for More Information: www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/78.

URL for Public Comments: www.regulations.gov/#!docketDetail;D=EERE-2013-BT-DET-0035.

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.*

RIN: 1904–AD04

DOE—EE

25. Energy Conservation Standards for General Service Lamps

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

Unfunded Mandates: Undetermined

Legal Authority: 42 U.S.C. 6295(i)(6)(A) and (B)

CFR Citation: 10 CFR 430.

Legal Deadline: Final, Statutory, January 1, 2017.

Abstract: Amendments to Energy Policy and Conservation Act (EPCA) in the Energy Independence and Security Act of 2007 direct DOE to conduct two rulemaking cycles to evaluate energy conservation standards for GSLs, the first of which must be initiated no later than January 1, 2014. EPCA specifically states that the scope of the rulemaking is not limited to incandescent lamp technologies. EPCA also states that DOE must consider in the first rulemaking cycle the minimum backstop requirement of 45 lumens per watt for general service lamps (GSLs) effective January 1, 2020. This rulemaking constitutes DOE's first rulemaking cycle.

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

Summary of Legal Basis: Title III of the Energy Policy and Conservation Act of 1975 (EPCA or the Act) Public Law 94163 (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 general service lamps 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 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 action.

Risks:

Timetable:

Action	Date	FR Cite
Framework Document Availability; Public Meeting.	12/09/13	78 FR 73737
Framework Document Comment Period End.	01/23/14	
Framework Document Comment Period Extended.	01/23/14	79 FR 3742
Framework Document Comment Period Extended End.	02/07/14	
Preliminary Analysis; Notice of Public Meeting; Date 01/20/15.	12/11/14	79 FR 73503
Preliminary Analysis Comment Period End.	02/09/15	
Preliminary Analysis Comment Period Extended.	01/30/15	80 FR 5052
Preliminary Analysis Comment Period Extended End.	02/23/15	
NPRM	11/00/15	
Final Action	10/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

URL for More Information: www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=83.

URL for Public Comments: www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0051.

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RIN: 1904–AD09

DOE—EE

26. Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces

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)(e); 42 U.S.C. 6295(m)(1); 42 U.S.C. 6295(gg)(3)

CFR Citation: 10 CFR 430.

Legal Deadline: NPRM, Judicial, April 24, 2015. Final, Judicial, April 24, 2016, One year after issuance of the proposed rule.

Abstract: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including residential furnaces. EPCA also requires the DOE to periodically determine whether more-stringent amended standards would be technologically feasible and economically justified and would save a significant amount of energy. DOE is amending its energy conservation standards for residential non-weatherized gas furnaces and mobile home gas furnaces in partial fulfillment of a court-ordered remand of DOE's 2011 rulemaking for these products.

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

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 furnaces, 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 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 laws, 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.

Risks:

Timetable:

Action	Date	FR Cite
Notice of Public Meeting.	10/30/14	79 FR 64517
NPRM and Public Meeting Date 03/27/15.	03/12/15	80 FR 13120
NPRM Comment Period Extended.	05/20/15	80 FR 28851
NPRM Extended Comment Period End.	07/10/15	
Notice of Data Availability (NODA).	09/14/15	80 FR 55038
NODA Comment Period End.	10/14/15	
NODA Comment Period Reopened.	10/23/15	80 FR 64370
NODA Comment Period Reopened End.	11/06/15	
Final Action	01/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Local, State.

URL for More Information: www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/72.

URL for Public Comments: www.regulations.gov/#!docketDetail;D=EERE-2014-BT-STD-0031.

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RIN: 1904–AD20

DOE—EE

27. Energy Conservation Standards for Commercial Water Heating Equipment

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

Unfunded Mandates: Undetermined.

Legal Authority: 412 U.S.C. 6313(a)(6)(C)(i) and (vi)

CFR Citation: 10 CFR 431.

Legal Deadline: NPRM, Statutory, December 31, 2013, Either proposed rule or determination not to amend standards.

Abstract: Once completed, this rulemaking will fulfill DOE's statutory obligation to either propose amended energy conservation standards for commercial water heaters, hot water supply boilers, and unfired hot water storage tanks or determine that the existing standards do not need to be amended. DOE must determine whether national standards more stringent than those that are currently in place would result in a significant additional amount of energy savings and whether such amended national standards would be technologically feasible and economically justified.

Statement of Need: EPCA requires minimum energy efficiency standards for certain appliances and commercial equipment, including commercial water heating equipment. EPCA further requires that DOE review such standards and determine whether to amend them within six years after promulgation.

Summary of Legal Basis: Title III, Part C of EPCA, Public Law 94163, (42 U.S.C. 62916309, as codified) sets forth a variety of provisions designed to improve energy efficiency and established the Energy Conservation Program for Certain Industrial Equipment, a program covering commercial and industrial equipment, including commercial water heating (CWH) equipment that is the subject of this rulemaking. (42 U.S.C. 6311(1)(K)).

EPCA requires DOE to evaluate and consider amending its energy conservation standards for certain commercial and industrial equipment (*i.e.,* specified heating, air-conditioning, and water heating equipment) each time ASHRAE Standard 90.1 is updated with respect to such equipment. (42 U.S.C. 6313(a)(6)(A)) Pursuant to 42 U.S.C. 6313(a)(6)(A), for CWH equipment, EPCA directs that if ASHRAE Standard 90.1 is amended, DOE must publish in the **Federal Register** an analysis of the energy savings potential of amended energy conservation standards within 180 days of the amendment of ASHRAE Standard 90.1. (42 U.S.C. 6313(a)(6)(A)(i)) EPCA further directs that DOE must adopt amended standards at the new efficiency level in ASHRAE Standard 90.1, unless clear and convincing evidence supports a determination that adoption of a more-stringent level would produce significant additional energy savings and be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)) If DOE decides to adopt as a national standard the efficiency levels specified in the amended ASHRAE Standard 90.1, DOE must establish such standard not later than 18 months after publication of the amended industry standard. (42 U.S.C.

6313(a)(6)(A)(ii)(I)) If DOE determines that a more-stringent standard is appropriate under the statutory criteria, DOE must establish such more-stringent standard not later than 30 months after publication of the revised ASHRAE Standard 90.1. (42 U.S.C. 6313(a)(6)(B)(i)).

In addition, EPCA requires DOE to periodically review its already-established energy conservation standards for covered ASHRAE equipment and publish either a notice of proposed rulemaking with amended standards or a determination that the standards do not need to be amended. (42 U.S.C. 6313(a)(6)(C)(i)) DOE's periodic review of ASHRAE equipment must occur [e]very six years. (42 U.S.C. 6313(a)(6)(C)(i)) EPCA also specifies that any amendments to the design requirements with respect to the ASHRAE equipment would trigger DOE review of the potential energy savings under 42 U.S.C. 6313(a)(6)(A)(i). EPCA also requires DOE to initiate a rulemaking to consider amending the energy conservation standards for any covered equipment for which more than 6 years has elapsed since the issuance of the most recent final rule establishing or amending a standard for the product as of December 18, 2012, in which case DOE must publish either: (1) A notice of determination that the current standards do not need to be amended, or (2) a notice of proposed rulemaking containing proposed standards. (42 U.S.C. 6313(a)(6)(C)(vi)).

Alternatives: The statute requires DOE to conduct rule makings 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 amended 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 laws, 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.

Risks:

Timetable:

Action	Date	FR Cite
Request for Information.	10/21/14	79 FR 62899
RFI Comment Period End.	11/20/14	
NPRM	11/00/15	
Final Action	07/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

URL for More Information:www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/51.

URL for Public Comments: www.regulations.gov/#!docketDetail;D=EERE-2014-BT-STD-0042.

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RIN: 1904–AD34

DOE—EE

28. Energy Conservation Standards for Central Air Conditioners and Heat Pumps

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

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 6295(m)(1)

CFR Citation: 10 CFR 430.

Legal Deadline: Final, Statutory, June 6, 2017, Final rule or final determination.

Abstract: DOE must determine whether to amend the current energy conservation standards for residential central air conditioner and heat pump products. According to the Energy Policy and Conservation Act's six-year review requirement (42 U.S.C. 6295(m)(1)), DOE must publish a notice of proposed rulemaking to propose new standards for residential central air conditioner and heat pump products, or a notice of determination that the existing standards do not need to be amended, by June 6, 2017. This rulemaking is to determine whether amended standards for residential central air conditioner and heat pump products would result in a significant amount of additional energy savings, and whether those standards would be technologically feasible and economically justified. On July 14, 2015, DOE announced its intention to establish a negotiated rulemaking working group to negotiate proposed federal standards for the energy efficiency requirements of central air conditioners and heat pumps.

Statement of Need: EPCA requires minimum energy efficiency standards for certain appliances and commercial equipment, including residential central air conditioner and heat pump products. EPCA further requires that DOE review such standards and determine whether to amend them six years after promulgation.

Summary of Legal Basis: Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94163, (42 U.S.C. 62916309, as codified) sets forth a variety of provisions designed to improve energy efficiency and established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering major household appliances (collectively referred to as ''covered products''), including residential central air conditioners and heat pumps that are the subject of this rulemaking. (42 U.S.C. 6292(a)(3)) Further, EPCA requires that, not later than six years after the issuance of a final rule establishing or amending a standard, DOE publish a NOPR proposing new standards or a notice of determination that the existing standards do not need to be amended. (42 U.S.C. 6295(m)(1)).

Alternatives: The statute requires DOE to conduct rule makings 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 amended 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 laws, 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.

Risks:

Timetable:

Action	Date	FR Cite
Request for Information.	11/05/14	79 FR 65603

Action	Date	FR Cite
RFI Comment Period End.	12/05/14	
Notice of Public Meeting of Working Group.	07/14/15	80 FR 40938
NODA Provisional Analysis Tools.	08/28/15	80 FR 52206
Notice of Public Meeting.	09/10/15	80 FR 54444
NPRM	11/00/15	
NODA Comment Period End.	12/31/15	
Final Action	05/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

URL for More Information: www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=104.

URL for Public Comments: www.regulations.gov/#!docketDetail;D=EERE-2014-BT-STD-0048.

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RIN: 1904–AD37

DOE—EE

Final Rule Stage

29. Energy Conservation Standards for Commercial and Industrial Pumps

Priority: Economically Significant.

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 6311(1)(A)

CFR Citation: 10 CFR 431.

Legal Deadline: None.

Abstract: EPCA, as amended, authorizes the Secretary to determine whether establishing energy conservation standards for commercial and industrial pumps is technically feasible and economically justified and would save a significant amount of energy. On June 13, 2013, DOE published a notice of intent to establish a negotiated rulemaking working group for the commercial and industrial pumps rulemaking under the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) in accordance with the Federal Advisory Committee Act (FACA) and the Negotiated Rulemaking Act (NRA) to negotiate proposed Federal standards for the energy efficiency of commercial and industrial pumps (78 FR 44036). The purpose of the working group was to discuss and, if possible, reach consensus on a proposed rule for the energy efficiency of commercial and industrial pumps. The working group negotiated standard levels that were accepted by ASRAC on July 7, 2014. As a result, DOE has proposed to adopt the working groups' recommendations.

Statement of Need: EPCA authorizes DOE to establish minimum energy efficiency standards for certain appliances and commercial equipment, including Commercial and Industrial Pumps.

Summary of Legal Basis: Title III, Part C of EPCA, Public Law 94–163 (42 U.S.C. 6311–6317), established the Energy Conservation Program Certain Industrial Equipment. Pursuant to EPCA, any new or amended energy conservation standard that DOE prescribes for certain equipment, such as commercial and industrial pumps, shall be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)(II)). Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6313(a)(6)(A)(ii)(II)).

Alternatives: EPCA requires DOE, in conducting a rulemaking to consider standards for commercial and industrial equipment, including pumps, to establish standards that 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 finds that the benefits to the Nation of the proposed energy standards for Commercial and Industrial Pumps (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 0.28 quads over 30 years and the benefit to the Nation will be between $0.41 billion to $1.11 billion.

Risks:

Timetable:

Action	Date	FR Cite
Request for Information.	06/13/11	76 FR 34192
Availability of Framework Document.	02/01/13	78 FR 7304
NPRM	04/02/15	80 FR 17826
NPRM Comment Period End.	06/01/15	
Final Action	11/00/15	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

URL for More Information: www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/14.

URL for Public Comments: www.regulations.gov/#!docketDetail;D=EERE-2011-BT-STD-0031.

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RIN: 1904–AC54

DOE—EE

30. Energy Conservation Standards for Small, Large, and Very Large Commercial Package A/C and Heating Equipment

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

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

CFR Citation: 10 CFR 431.

Legal Deadline: NPRM, Statutory, December 31, 2013, Either proposed rule or determination.

Abstract: The Energy Policy and Conservation Act of 1975, as amended, requires DOE to periodically review its standards for small, large, and very large commercial package air conditioners and heating equipment (which includes commercial unitary air conditioners and heat pumps—or CUACs). Under recent amendments to EPCA made by the American Efficient Manufacturing Technical Corrections Act of 2012 Pub. L. 112–210 (Dec. 18, 2012), DOE must review its standards for this equipment every six years and determine whether they need amending. It also requires that, for those equipment types for which more than six years have elapsed since the most recent final rules establishing or amending a standard for that equipment, DOE must publish a proposal to amend the applicable standard. More than six years has elapsed since the standards for this

equipment were last amended. After reviewing these standards and the available data, DOE has determined that amending the current energy conservation standards for this equipment would be technologically feasible and economically justified. Accordingly, DOE proposed amending the current standards for this equipment. On April 1, 2015, DOE published a notice announcing that a working group was created to potentially develop negotiated standards. 80 FR 17363.

Statement of Need: EPCA requires minimum energy efficiency standards for certain appliances and commercial equipment, including Small, Large, and Very Large Commercial Package A/C and Heating Equipment.

Summary of Legal Basis: Title III, Part B 1 of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94163 (42 U.S.C. 62916309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. Pursuant to EPCA, any new or amended energy conservation standard that DOE prescribes for certain equipment, such as small, large, and very large air-cooled commercial package air conditioning and heating equipment (also known as commercial unitary air conditioners and heat pumps), shall be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)(II)). Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6313(a)(6)(A)(ii)(II)).

Alternatives: The statute requires DOE to conduct rulemakings to review and 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 finds that the benefits to the Nation of the proposed energy standards for Small, Large, and Very Large Commercial Package A/C and Heating 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 11.7 quads over 30 years and the benefit to the Nation will be between $16.5 billion to $50.8 billion.

Risks:

Timetable:

Action	Date	FR Cite
Request for Information (RFI); Document Availability.	02/01/13	78 FR 7296
RFI Comment Period End.	03/04/13	
NPRM and Public Meeting.	09/09/14	79 FR 58948
NPRM Comment Period End.	12/01/14	
NPRM Comment Period Reopened.	12/03/14	79 FR 71710
NPRM Comment Period Reopened End.	12/22/14	
Notice of Public Meeting for Working Group.	05/07/15	80 FR 26199
Final Action	12/00/15	

Regulatory Flexibility Analysis Required: Undetermined.

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.

URL for More Information: www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/59.

URL for Public Comments: www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0007.

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RIN: 1904–AC95

BILLING CODE 6450–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Statement of Regulatory Priorities for Fiscal Year 2016

As the federal agency with principal responsibility for protecting the health of all Americans and for providing essential human services, especially to those most vulnerable, the Department of Health and Human Services (HHS) implements programs that strengthen the health care system; advance scientific knowledge and innovation; and improve the health, safety, and well-being of the American people.

The Department's regulatory priorities for Fiscal Year 2016 reflect this complex mission through planned rulemakings structured to implement the Department's six arcs for implementation of its strategic plan: Leaving the Department Stronger; Keeping People Healthy and Safe; Reducing the Number of Uninsured and Providing Access to Affordable Quality Care; Leading in Science and Innovation; Delivering High Quality Care and Spending Our Health Care Dollars More Wisely; and, Ensuring the Building Blocks for Success at Every Stage of Life. This overview highlights forthcoming rulemakings exemplifying these priorities.

I. Leaving the Department Stronger

The Department's work to improve the efficiency and accountability includes its innovation agenda, program integrity and key human resources initiatives. In particular, the Department plans to issue a regulation revising administrative appeal procedures for Medicare claim appeals to increase efficiency in the Medicare claims review and appeals process. Additionally, 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 entities by updating current rules to align them with emerging health and safety standards, and by eliminating outdated procedural provisions. A full listing of HHS's retrospective review initiatives can be found at *http://www.hhs.gov/retrospectivereview.*

II. Keeping People Healthy and Safe

This HHS strategic priority encompasses the Department's work to enhance health, wellness and prevention; detect and respond to a potential disease outbreak or public health emergency; and prevent the spread of disease across borders. Since 1980, the prevalence of obesity among children and adolescents has almost tripled. 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, HHS has mobilized skills and expertise from across the Department to address this epidemic with research, public education, and public health strategies. Other representative regulations include:

Labeling and Nutrition Information

The Food and Drug Administration (FDA) plans to issue two final 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. These rules, each benefiting from input received in extended public comment periods, include:

▪ *Food Labeling—Nutrition Information:* FDA plans a rule, which, if finalized, revises the nutrition and supplement facts labels on packaged food, which has not been updated since 1993 (when mandatory nutrition labeling of food was first required). The aim of the proposed revision is to provide updated and easier to read nutrition information on the label to help consumers maintain healthy dietary practices; and

▪ *Food Labeling—Serving Sizes:* FDA plans a rule, which, if finalized, requires serving-size information provided within the food label, providing current nutrition information based on the amount of food that is typically eaten as a serving, to assist consumers in maintaining healthy dietary practices.

Food Safety

FDA will maintain HHS's ongoing effort to promulgate rules required under the Food Safety Modernization Act (FSMA), working with public and private partners to build a new system of food safety oversight. Recently, FDA finalized its preventive controls in the manufacture and distribution of human foods and of animal feeds. This additional suite of regulations, if finalized, constitutes the heart of the FSMA 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, including, Sanitary Transportation of Human and Animal Food and Focused Mitigation Strategies to Protect Food Against Intentional Adulteration.

Preventing Death and Disease From Tobacco Use

In 2009, Congress enacted the Family Smoking Prevention and Tobacco Control Act, authorizing FDA to regulate the manufacture, marketing, and distribution of tobacco products, to protect the public health and to reduce tobacco use by minors. Over the next fiscal year, FDA's planned tobacco regulations include proposing requirements that govern the methods used in the pre-production design manufacture, packing, and storage of tobacco products, a proposed rule that would establish a process for the submission of applications for new tobacco products, and finalizing the regulation deeming other tobacco products that meet the statutory definition of ''tobacco product'' to also be subject to the FD&C Act. This final regulation, known as the ''deeming rule,'' is necessary to afford FDA the authority to regulate additional products which include hookah, electronic cigarettes, cigars, pipe tobacco, other novel tobacco products, and future tobacco products.

Addressing Substance Use Disorders and Opioid Misuse, Abuse, and Overdose Death Prevention

HHS plans to undertake a number of regulations designed to fight misuse and abuse of prescription opioids and heroin and encourage individuals to seek needed treatment for substance use disorders. These initiatives include an update to the regulation regarding confidentiality of substance abuse treatment records to align with advances in health information technology while maintaining appropriate patient privacy protections. HHS also will undertake an update of the current regulation around prescribing for buprenorphine to increase access to this Food and Drug Administration-approved, evidence-based treatment for opioid dependence and help more people get the treatment necessary for their recovery.

Drugs and Medical Devices

In 2012, Congress provided new authorities under the Food and Drug Administration Safety and Innovation Act to support its mission of safeguarding the quality of medical products available to the public while ensuring the availability of innovative products. FDA is implementing this new authority with a focus on 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. HHS is updating FDA's regulations to reflect the increased use of generic drugs in the current marketplace, and will describe approaches for brand name and generic drug manufacturers to update product labeling. This rule, if finalized, will revise and clarify procedures for updates to product labeling to reflect certain types of newly acquired safety information through submission of a ''changes being effected'' supplement.

III. Reducing the Number of Uninsured and Providing Access to Affordable Quality Care

The Affordable Care Act expands access to health insurance through improvements in Medicaid, the establishment of Affordable Insurance Exchanges, and coordination between Medicaid, the Children's Health Insurance Program, and the Exchanges. In implementing the Affordable Care Act over the next fiscal year, HHS will pursue regulations transforming the way our nation delivers care. This includes creating better ways to pay providers, incentivize quality of care and distribute information to build a health care system that is better, smarter and healthier with an engaged, educated, and empowered consumer at the center.

Streamlining Medicaid Eligibility Determinations

A forthcoming final rule will bring to completion regulatory provisions that support our efforts to assist States in implementing Medicaid eligibility determinations, appeals, enrollment changes, and other State health subsidy programs stemming from the Affordable Care Act. The intent of the rule is to afford each State substantial discretion in the design and operation of that State's exchange, with standardization provided only where directed by the Act, or where there are compelling practical, efficiency or consumer-protection reasons.

Parity for Mental Health Treatment

The Mental Health Parity and Addiction Equity Act (MHPAEA) 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. Finalization of this rule will implement MHPAEA by proposing standards for Medicaid alternative benefit plans, Medicaid managed care organizations, and the Children's Health Insurance Program.

Equitable and Non-Discriminatory Treatment

Finalization of the rule implementing the Affordable Care Act's Section 1557 nondiscrimination provisions will ensure access to affordable, quality health care for all Americans—regardless of race, color, national origin, sex, age and ability.

IV. Leading in Science and Innovation

HHS continues to expand on early successes of more precise approaches in a few areas of medicine with the Precision Medicine Initiative (PMI), and work on 21st Century Cures. In particular, HHS, in collaboration with the President's Office of Science and Technology Policy will finalize revisions to existing rules governing research on human subjects, often referred to as the Common Rule. This rule would apply to institutions and researchers supported by HHS as well as researchers throughout much of the federal government who are conducting research involving human subjects. The proposed revisions codified in the final rule will aim to better protect human subjects while facilitating research, and also reducing burden, delay, and ambiguity for investigators.

V. Delivering High Quality Care and Spending Our Health Care Dollars More Wisely

HHS continues work to build a health care delivery system that results in better care, smarter spending, and healthier people by finding better ways to pay providers, deliver care, and distribute information all while keeping the individual patient at the center. In the coming fiscal year, the department will complete a number of regulations to accomplish this strategic objective:

Medicare Payment Rules

Nine Medicare payment rules will be updated to better reflect the current state of medical practice and to respond to feedback from providers seeking financial predictability and flexibility to better serve patients.

Medicaid Managed Care

This final rule modernizes the Medicaid managed care regulations to reflect changes in the usage of managed care delivery systems. The rule aligns the rules governing Medicaid managed care with those of other major sources of coverage, including coverage through Qualified Health Plans and Medicare Advantage plans, implements statutory provision; strengthens actuarial soundness payment provisions to promote the accountability of Medicaid managed care program rates; ensures appropriate beneficiary protections and enhances expectations for program integrity. The rule also implements provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) and addresses third party liability for trauma codes.

Improvements to Long-Term Care

This final rule would revise the requirements that long-term care facilities must meet to participate in the Medicare and Medicaid programs. The changes are necessary to reflect advances in the theory and practice of service delivery and safety for patients in long-term care settings. The rule is also an integral part of our efforts to achieve broad-based improvements both in the quality of health care furnished through federal programs, and in patient safety, while at the same time reducing procedural burdens on providers.

VI. Ensuring the Building Blocks for Success at Every Stage of Life

Over the coming year, the Department will continue its support at critical stages of people's lives, from infancy to old age, and topics including early learning, Alzheimer's and dementia. A forthcoming rule from the Administration for Children and Families (ACF) will provide the first comprehensive update of Child Care and Development Fund (CCDF) regulations since 1998. 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 child care for all families, including those who receive no direct assistance through CCDF. Another ACF rule, when finalized, would modify existing Head Start performance standards to take into account increased knowledge in the early childhood field since the standards were last updated more than 15 years ago. Changes would strengthen requirements on curriculum and assessment, supervision, health and safety, and governance. The rule would also streamline existing regulations to eliminate unnecessary or duplicative requirements.

Both rules are part of the Department's retrospective review initiative and highlight HHS's commitment to protecting the public health and effective human services while pursuing smarter, more efficient regulation over the next fiscal year.

HHS—SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION (SAMHSA)

Proposed Rule Stage

31. • Increase Number of Patients to Which Drug Addiction Treatment Act (DATA)—Waived Physicians Can Prescribe Buprenorphine

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

Legal Authority: 21 U.S.C. 823(g)(2)

CFR Citation: 42 CFR 8.

Legal Deadline: None.

Abstract: This rule is needed to improve the national response to the rise in prescribed opioid misuse and heroin use and related morbidity and mortality by proposing an approach to increasing access to buprenorphine treatment while protecting against diversion. Medication assisted treatment (MAT) using buprenorphine, in combination with counseling and other support services, is one important tool for treating opioid addiction. To address this need and help close the gap in treatment services, SAMHSA would propose to address restrictions in the use of buprenorphine imposed by the Drug Addiction Treatment Act (DATA 2000).

Statement of Need: The Drug Addiction Treatment Act of 2000 (DATA) provided the means for physicians to obtain a waiver from the Controlled Substances Act in order to treat opioid use disorders with buprenorphine, an opioid partial opioid-agonist, without certification from SAMHSA as an Opioid Treatment Program (OTP). However, since the implementation of this act, the nation finds itself in the midst of a public health crisis of prescribed opioid misuse and heroin use and related morbidity and mortality. Every day in the United States 105 people die as a result of drug overdose and another 6,748 are treated in emergency departments for the misuse or abuse of drugs.

Responses to this public health problem include: Education of physicians in the appropriate management of pain and the role of opioid analgesics; implementation of effective prescription drug monitoring programs and other strategies to promote patient safety while reducing fraud and abuse; and promoting access to effective treatment for opioid use disorders. Medical and clinical evidence indicates medication-assisted treatment with pharmacotherapies approved for the treatment of substance use disorders are most effective for the treatment of opioid use disorders in particular. The medication-assisted treatment of opioid

use disorders reduces all-cause mortality and reduces the morbidity, social dysfunction and criminality often associated with this condition. However, access to effective treatment has always encountered significant concrete obstacles such as: Lack of awareness of substance use disorders, lack of coverage for needed services, and inadequate treatment capacity. To help close this gap, SAMHSA would like to address restrictions in the use of buprenorphine imposed by the Drug Addiction Treatment Act (DATA 2000).

Summary of Legal Basis: 21 U.S.C. 823(g)(2).

Alternatives: OTPs expansion of buprenorphine, use of naltrexone, expansion of methadone; dose limitations, formulation limitations.

Anticipated Cost and Benefits: As we move toward publication, estimates of the cost and benefits of these provisions will be included in the rule.

Risks: As we move toward publication, risks of these provisions will be included in the rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/16	
NPRM Comment Period End.	06/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

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

Agency Contact: Brian Altman, Legislative Director, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 1 Choke Cherry Road, Rockville, MD 02857, *Phone:* 240 276–2009, *Email: brian.altman@samhsa.gov*.

RIN: 0930–AA22

HHS—FOOD AND DRUG ADMINISTRATION (FDA)

Final Rule Stage

32. 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 amending 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. The rule would modernize the nutrition information found on the Nutrition Facts label, as well as the format and appearance of the label. On July 27, 2015, FDA issued a supplemental notice of proposed rulemaking accepting comments on limited additional provisions until October 13, 2015. Also on July 27, 2015, FDA reopened the comment period on the proposed rule as to specific documents until September 25, 2015.

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 since 1993 that can be used to update the content and appearance of information on the Nutrition Facts and Supplement Facts labels. Consumers can use the updated information 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: 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 changes would provide more current information to assist consumers in constructing a healthful diet. The potential economic benefit from the final 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 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 not having information necessary to assist them in maintaining healthy dietary practices.

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	03/03/14	79 FR 11879
NPRM Comment Period End.	06/02/14	
Reopening of Comment Period as to Specific Documents.	07/27/15	80 FR 44302
NPRM Comment Period End as to Specific Documents.	09/25/15	
Supplemental NPRM to Solicit Comment on Limited Additional Provisions.	07/27/15	80 FR 44303
Supplemental NPRM to Solicit Comment on Limited Additional Provisions Comment Period End.	10/13/15	
Administrative Docket Update; Extension of Comment Period.	09/10/15	80 FR 54446
Administrative Docket Update; Comment Period End.	10/13/15	
NPRM Reopening of Comment Period for Certain Documents.	10/20/15	80 FR 63477
NPRM Reopening of Comment Period for Certain Documents Comment Period End.	10/23/15	
Final Action	03/00/16	

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 E.O. 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 E.O. 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:* 240 402–5429, *Email: nutritionprogramstaff@fda.hhs.gov*.

RIN: 0910–AF22

HHS—FDA

33. 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; Pub. L. 101–535, sec 2(b)(1)(A)

CFR Citation: 21 CFR 101.9; 21 CFR 101.12.

Legal Deadline: None.

Abstract: FDA is amending its labeling regulations for foods to provide updated Reference Amounts Customarily Consumed (RACCs) for certain food categories. 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 amending the definition of single-serving containers; amending the label serving size for breath mints; and providing for dual-column labeling, which would provide nutrition information per serving and per container or unit, as applicable, under certain circumstances.

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

Summary of Legal Basis: FDA's legal basis is derived from sections 201, 403 and 701(a) of the Federal Food, Drug and Cosmetic Act and section 2(b)(1) of the Nutrition Labeling and Education Act of 1990.

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, 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 the economic burden on manufacturers.

Anticipated Cost and Benefits: 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. These changes would provide more current information to assist consumers in constructing a healthful diet.

Risks: If the RACCs are not updated, RACCs that serve as the basis for serving sizes will continue to be based on old consumption data. These updates to the RACCs will be based, in part, 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/Comment Period Extended.	03/03/14	79 FR 11989
NPRM Comment Period End.	06/02/14	
NPRM Comment Period Extended.	05/27/14	79 FR 29699
NPRM Comment Period End.	08/01/14	
Final Action	03/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal, State.

Federalism: This action may have federalism implications as defined in E.O. 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:* 240 402–5429, *Fax:* 301 436–1191, *Email: nutritionprogramstaff@fda.hhs.gov*.

RIN: 0910–AF23

HHS—FDA

34. Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption

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

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

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

CFR Citation: 21 CFR 112.

Legal Deadline: Final, Judicial, October 31, 2015, To the Office of the Federal Register for publication.

Abstract: This rule will 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 rule is to reduce the risk of illness associated with fresh produce.

Statement of Need: FDA is taking this action to meet the requirements of the Food Safety Moderhnization Act (FSMA) and to address the food safety challenges associated with fresh produce and, thereby, protect the public health. Data indicate that between 1973 and 1997, outbreaks of foodborne illness in the U.S. associated with fresh produce increased in absolute numbers and as a proportion of all reported foodborne illness outbreaks. The Agency issued general good agricultural practice guidelines for fresh fruits and vegetables over a decade ago.

Incorporating prevention-oriented public health principles, and incorporating what we have learned in the past decade into a regulation is a critical step in establishing standards for the production and harvesting of produce, and reducing the foodborne illness attributed to fresh produce.

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

Alternatives: Section 105 of the FSMA requires FDA to conduct this rulemaking.

Anticipated Cost and Benefits: FDA estimates that the costs to more than 300,000 domestic and foreign producers and packers of fresh produce from the proposal would include one-time costs (*e.g.,* new tools and equipment) and recurring costs (*e.g.,* monitoring, training, recordkeeping). FDA anticipates that the benefits would be a reduction in foodborne illness and deaths associated with fresh produce. The monetized annual benefits of this rule are estimated to be $1 billion, and the monetized annual costs are estimated to be $460 million, domestically.

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

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.	03/11/14	79 FR 13593
Environmental Impact Statement for the Proposed Rule; Comment Period Extended End.	04/18/14	
Supplemental NPRM.	09/29/14	79 FR 58433
Supplemental NPRM Comment Period End.	12/15/14	
Draft Environmental Impact Statement.	01/14/15	80 FR 1852
Draft Environmental Impact Statement Comment Period End.	03/13/15	
Final Rule	11/00/15	

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

RIN: 0910–AG35

HHS—FDA

35. ''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 rule would deem additional 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 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 FD&C Act. This regulation is necessary to afford FDA the authority to regulate additional products which include hookah, electronic cigarettes, cigars, pipe tobacco, other novel tobacco products, and future tobacco products.

Summary of Legal Basis: 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: In addition to the benefits and costs of both options for the proposed rule, FDA assessed the benefits and costs of several alternatives to the proposed rule: *e.g.,* 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: The proposed rule consists of two co-proposals, option 1 and option 2. The proposed option 1 deems all products meeting the statutory definition of ''tobacco product'' except accessories of a proposed deemed tobacco product to be subject to chapter IX of the FD&C Act. Option 1 also proposes additional provisions that would apply to proposed deemed products as well as to certain other tobacco products. Option 2 is the same as option 1 except that it exempts premium cigars. We expect that asserting our authority over these tobacco products will enable us to take further regulatory action in the future as appropriate; those actions will have their own costs and benefits. The proposed rule would generate some direct benefits by providing information to consumers about the risks and characteristics of tobacco products which may result in consumers reducing their use of cigars and other tobacco products. Other potential benefits follow from premarket requirements which could prevent more harmful products from appearing on the market and worsening the health effects of tobacco product use. The proposed rule would impose costs in the form of registration submission labeling and other requirements; other likely costs are not quantifiable based on current data.

Risks: 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 additonal restrictions that FDA seeks to promulgate for the proposed deemed products will protect youth by restricting minors' access to these products and will increase consumer understanding of the impact of these products on public health. 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	04/25/14	79 FR 23142
NPRM Comment Period End.	07/09/14	
NPRM Comment Period Extended.	06/24/14	79 FR 35711
NPRM Comment Period End.	08/08/14	
Final Action	11/00/15	

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: Gerie Voss, Senior Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, Document Control Center, Building 71, Room G335, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 877 287–1373, *Fax:* 301 595–1426, *Email: ctpregulations@fda.hhs.gov*.

RIN: 0910–AG38

HHS—FDA

36. 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); 21 U.S.C. 371

CFR Citation: 21 CFR 514.80.

Legal Deadline: None.

Abstract: This final rule would require that the sponsor of each approved or conditionally approved antimicrobial new animal drug product submit an annual report to the Food and Drug Administration (FDA or 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 any distributor-labeled product. In addition to codifying these requirements, FDA is exploring other requirements for the collection of additional drug distribution data.

Statement of Need: Section 105 of the Animal Drug User Fee Amendments of 2008 (ADUFA) amended section 512 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) to require that the sponsor of each approved or conditionally appoved new animal drug product that contains an antimicrobial active ingredient submit an annual report to FDA 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 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 (Pub. L. 110–316; 122 Stat. 3509) amended section 512 of the FD&C Act (21 U.S.C. 360b) to require that sponsors of approved or conditionally approved 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 section 105 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 in FDA's regulations a current statutory requirement. There may be a minimal additional labor cost if any other reporting requirement is included. 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 Congressional Record H7534.

Timetable:

Action	Date	FR Cite
ANPRM	07/27/12	77 FR 44177
ANPRM Comment Period End.	09/25/12	
ANPRM Comment Period Extended.	09/26/12	77 FR 59156
ANPRM Comment Period End.	11/26/12	
Final Rule	05/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Sujaya Dessai, Supervisory Veterinary Medical Officer, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine, Room 2620, HFV–212, 7519 Standish Place, Rockville, MD 20855, *Phone:* 240 402–5761, *Email: sujaya.dessai@fda.hhs.gov*.

RIN: 0910–AG45

HHS—FDA

37. Focused Mitigation Strategies to Protect Food Against Intentional Adulteration

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. 331; 21 U.S.C. 342; 21 U.S.C. 350g; 21 U.S.C. 350i; 21 U.S.C. 371; 21 U.S.C. 374; Pub. L. 111–353

CFR Citation: 21 CFR 121.

Legal Deadline: Final, Judicial, May 31, 2016, To the Office of the Federal Register for publication.

Abstract: This rule would require domestic and foreign food facilities that are required to register under the Federal Food, Drug, and Cosmetic Act to address hazards that may be intentionally introduced by acts of terrorism. These food facilities would be required to identify and implement focused mitigation strategies to significantly minimize or prevent significant vulnerabilities identified at actionable process steps in a food operation.

Statement of Need: FDA is taking this action to meet the requirements of the FSMA and to protect food from intentional adulteration when the intent is to cause large-scale public harm.

Summary of Legal Basis: FDA's authority for issuing this rule is provided by the Federal Food, Drug, and Cosmetic Act (the FD&C Act) as amended by sections 103, 105, and 106 of the Food Safety Modernization Act (FSMA). Section 418 of the FD&C Act addresses intentional adulteration in the context of facilities that manufacture, process, pack, or hold food and are required to register under section 415 of the FD&C Act (21 U.S.C. 350g). Section 419 of the FD&C Act (21 U.S.C. 350h) addresses intentional adulteration in the context of fruits and vegetables that are raw agricultural commodities. Section 420 of the FD&C Act (21 U.S.C. 350i) addresses intentional adulteration in the context of high risk foods and exempts farms except for farms that produce milk. FDA is implementing the intentional adulteration provisions in sections 418, 419, and 420 of the FD&C Act in this rulemaking.

Alternatives: Section 103, 105 and 106 of the FDA, Food Safety Modernization Act require FDA to conduct this rulemaking.

Anticipated Cost and Benefits: FDA estimates that the costs from the proposal to domestic and foreign producers and packers of processed foods would include new one-time costs (*e.g.,* adoption of written food defense plans, setting up training programs, etc.) and recurring costs (*e.g.,* training employees, and completing and maintaining records used throughout the facility). FDA anticipates that the benefits would be a reduction in the possibility of illness, death, and economic disruption resulting from intentional adulteration of food.

Risks: This regulation will directly and materially advance the Federal Government's substantial interest in reducing the risk for illness and death associated with intentional adulteration of food.

Timetable:

Action	Date	FR Cite
NPRM	12/24/13	78 FR 78014
NPRM Comment Period Extended.	03/25/14	79 FR 16251
NPRM Comment Period End.	03/31/14	
NPRM Comment Period Extended End.	06/30/14	
Final Rule	06/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

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: Jody Menikheim, Supervisory General Health Scientist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS–005), 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–1864, *Fax:* 301 436–2633, *Email: fooddefense@fda.hhs.gov*.

RIN: 0910–AG63

HHS—FDA

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

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Judicial, October 31, 2015, To the Office of the Federal Register for publication.

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

Statement of Need: The rule is needed to help improve the safety of food that is imported into the United States.

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

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

Alternatives: We are considering a range of alternative approaches to the requirements for foreign supplier verification activities. These might include: (1) Establishing a general requirement that importers determine and conduct whatever verification activity would adequately address the risks associated with the foods they import; (2) allowing importers to choose from a list of possible verification mechanisms, such as the activities listed in section 805(c)(4) of the FD&C Act; (3) requiring importers to conduct particular verification activities for certain types of foods or risks (*e.g.,* for high-risk foods), but allowing flexibility in verification activities for other types of foods or risks; and (4) specifying use of a particular verification activity for each particular kind of food or risk. To the extent possible while still ensuring that verification activities are adequate to ensure that foreign suppliers are producing food in accordance with applicable U.S. requirements, we will seek to give importers the flexibility to choose verification procedures that are appropriate to adequately address the risks associated with the importation of a particular food.

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

Risks: As stated above, about 15 percent of the U.S. food supply is imported, and many of these imported foods are high-risk commodities. According to recent data from the Centers for Disease Control and Prevention, each year, about 48 million Americans get sick, 128,000 are hospitalized, and 3,000 die from foodborne diseases. We expect that the adoption of FSVPs by food importers will benefit the public health by helping to ensure that imported food is produced in compliance with other applicable food safety regulations.

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	
Supplemental NPRM.	09/29/14	79 FR 58573
Supplemental NPRM Comment Period End.	12/15/14	
Final Rule	11/00/15	

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

RIN: 0910–AG64

HHS—FDA

39. Accreditation of Third-Party Auditors/Certification Bodies to Conduct Food Safety Audits and to Issue Certifications

Priority: Other Significant.

Legal Authority: 21 U.S.C. 384d; Pub. L. 111–353; sec 307 FDA Food Safety Modernization Act; 21 U.S.C. 371; 21 U.S.C. 381; 21 U.S.C. 384b; . . .

CFR Citation: 21 CFR 1.

Legal Deadline: Final, Judicial, October 31, 2015, To the Office of the Federal Register for publication.

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

Statement of Need: The use of accredited third-party auditors to certify food imports will assist in ensuring the safety of food from foreign origin entering U.S. commerce. Accredited third-party auditors auditing foreign facilities can increase FDA's information about foreign facilities that FDA may not have adequate resources

to inspect in a particular year. FDA will establish identified standards creating overall uniformity to complete the task. Audits that result in issuance of facility or food certification will provide FDA information about the compliance status of the facility. Additionally, auditors will be required to submit audit reports that may be reviewed by FDA for purposes of compliance assessment and work planning.

Summary of Legal Basis: Section 808 of the FD&C Act directs FDA to establish, not later than two years after the date of enactment, a system for the recognition of accreditation bodies that accredit third-party auditors, who, in turn, certify that eligible entities are in compliance with the provisions of the FD&C Act. If within two years after the date of the establishment of the system, FDA has not identified and recognized an accreditation body, FDA may directly accredit third party auditors.

Alternatives: FSMA described in detail the framework for, and requirements of, the accredited third-party auditor program. Alternatives include the degree to which the standards in the requirements are prescriptive or flexible.

Anticipated Cost and Benefits: The benefits of the proposed rule would be less unsafe or misbranded food entering U.S. commerce. Additional benefits include the increased flow of credible information to FDA regarding the compliance status of foreign firms and their foods that are ultimately offered for import into the United States, which information, in turn, would inform FDA's work planning for inspection of foreign food facilities and might result in a signal of possible problems with a particular firm or its products, and with sufficient signals, might raise questions about the rigor of the food safety regulatory system of the country of origin. The compliance costs of the proposed rule would result from the additional labor and capital required of accreditation bodies seeking FDA recognition and of third-party auditors seeking accreditation to the extent that will involve the assembling of information for an application unique to the FDA third-party auditor program, as well as assembling renewal applications and required reports and notifications. The compliance costs associated with certification will be accounted for separately under the costs associated with participation in the Voluntary Qualified Importer Program. The third-party program is funded through revenue neutral-user fees, which will be developed by FDA through rulemaking.

Risks: FDA is proposing this rule to provide greater assurance that the food offered for import into the United States is safe and will not cause injury or illness to animals or humans. The rule would implement a program for accrediting third-party auditors to conduct food safety audits of foreign food entities, including registered foreign food facilities, and based on the findings of the regulatory audit, to issue food or facility certifications. The certifications could be used by importers seeking to participate in the Voluntary Qualified Importer Program for expedited review and entry of product, and would be a means to provide assurance of compliance with the FD&C Act as a food risk-related consideration. The food certifications could be used when FDA makes decisions regarding the importation of foods with safety risks. The rule would apply to any foreign or domestic accreditation body seeking FDA recognition, any foreign or domestic third-party auditor seeking accreditation, any foreign food entity, that chooses to be audited by an accredited third party auditor and any importer seeking to participate in the Voluntary Qualified Importer Program. Fewer instances of unsafe or misbranded food entering U.S. commerce would reduce the risk of serious illness and death to humans and animals.

Timetable:

Action	Date	FR Cite
NPRM	07/29/13	78 FR 45781
NPRM Comment Period End.	11/26/13	
NPRM Comment Period Extended.	11/20/13	78 FR 69603
NPRM Comment Period Extended End.	01/27/14	
Final Action	11/00/15	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Undetermined.

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

Agency Contact: Charlotte A. Christin, Acting Director, Division of Enforcement, Office of Compliance, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, 5100 Paint Branch Parkway, Room 2C019, College Park, MD 20740, *Phone:* 240 402–3708, *Email: charlotte.christin@fda.hhs.gov.*

RIN: 0910–AG66

HHS—FDA

40. 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 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.

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 changes being effected (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.

Summary of Legal Basis: The Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) and the Public Health Service 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 is considering several alternatives described in comments submitted to the public docket established for the proposed rule.

Anticipated Cost and Benefits: FDA is reviewing comments submitted to the public docket and evaluating the anticipated costs and benefits that would be associated with a final rule.

Risks: This 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 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 Extended.	12/27/13	78 FR 78796
NPRM Comment Period End.	01/13/14	
NPRM Comment Period Extended End.	03/13/14	
NPRM Comment Period Reopened.	02/18/15	80 FR 8577
NPRM Comment Period Reopened End.	04/27/15	
Final Rule	07/00/16	

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, 10903 New Hampshire Avenue, Building 51, Room 6268, Silver Spring, MD 20993–0002, *Phone:* 301 796–3601, *Fax:* 301 847–8440, *Email: janice.weiner@fda.hhs.gov*.

RIN: 0910–AG94

HHS—FDA

41. Sanitary Transportation of Human and Animal Food

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. 350e; 21 U.S.C. 373; 21 U.S.C. 331; 21 U.S.C. 342; 21 U.S.C. 371; . . .

CFR Citation: 21 CFR 1.

Legal Deadline: Final, Judicial, March 31, 2016, To the Office of the Federal Register for publication.

Abstract: This rule would establish requirements for parties including shippers, carriers by motor vehicle or rail vehicle, and receivers engaged in the transportation of food, including food for animals, to use sanitary transportation practices to ensure that food is not transported under conditions that may render the food adulterated.

Statement of Need: There have been concerns over the past few decades about the need to ensure that food is transported in the United States in a sanitary manner. Congress responded to these concerns by passing the Sanitary Food Transportation Act of 1990 (1990 SFTA) which directed the Department of Transportation (DOT) to establish regulations to prevent food or food additives transported in certain types of bulk vehicles from being contaminated by nonfood products that were simultaneously or previously transported in those vehicles. Following the passage of the 1990 SFTA it became clear that potential sources of food contamination during transport were not just limited to nonfood products. Most notably, a 1994 outbreak of salmonellosis occurred in which ice cream mix became contaminated during transport in tanker trucks that had previously hauled raw liquid eggs. That outbreak affected an estimated 224,000 persons nationwide. In 2005, Congress reallocated authority for food transportation safety to the Food and Drug Administration, Department of Transportation and the United States Department of Agriculture by passing the 2005 Sanitary Food Transportation Act (2005 SFTA), a broader food transportation safety law than the 1990 SFTA in that its focus was not limited only to preventing food contamination from nonfood sources during transportation. The 2005 SFTA amended the Food, Drug, and Cosmetic Act (the FD&C Act), in part, by creating a new section, 416 of the FD&C Act (21 U.S.C. 350e). Section 416(b) of the FD&C Act directed us to issue regulations to require shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the transportation of food to use prescribed sanitary transportation practices to ensure that food is not transported under conditions that may render the food adulterated. In addition, section 111(a) of Food Safety Modernization Act (FSMA), directed us to issue these sanitary transportation regulations not later than 18 months after the date of enactment of FSMA. This action is part of FDA's larger effort to focus on prevention of food safety problems throughout the food chain.

Summary of Legal Basis: FDA's authority for issuing this rule is provided in the Sanitary Food Transportation Act (Pub. L. 109–59) which amended the FD&C Act by establishing section 416 which directed FDA to issue regulations to require shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the transportation of food to use prescribed sanitary transportation practices to ensure that food is not transported under conditions that may render the food adulterated. FDA is also issuing this rule under section 111(a) of the Food Safety Modernization Act (Pub. L. 111–353), which directed FDA to promulgate these sanitary transportation regulations. In addition, section 701(a) of the FD&C Act (21 U.S.C. 371(a)) authorizes the Agency to issue regulations for the efficient enforcement of the Act.

Alternatives: FSMA requires FDA to promulgate regulations to establish sanitary transportation practices under the authority of the 2005 SFTA.

Anticipated Cost and Benefits: Because no complete data exist to precisely quantify the likelihood of food becoming adulterated during its transport, we are unable to estimate the effectiveness of the requirements of the proposed rule to reduce potential adverse health effects in humans or animals. Furthermore, while we expect small changes in behavior (in the form of safer practices), we do not anticipate large scale changes in practices as a result of the requirements of this proposed rule. Nevertheless, improving food transportation systems could reduce the number of recalls, reduce the risk of adverse health effects related to such contaminated human and animal food and feed, and reduce the losses of contaminated human and animal food and feed ingredients and products. The

compliance costs of the proposed rule would result from the additional labor and capital required to carry out sanitary transportation practices during transportation operations and the costs to train personnel and keep the required records.

Risks: FDA is proposing this rule to establish sanitary transportation practices to provide greater assurance that food will not become adulterated during transportation and will not cause illness or injury to humans or animals. The rule would apply to food transported in the United States by motor vehicle or rail vehicle.

Timetable:

Action	Date	FR Cite
ANPRM	04/30/10	75 FR 22713
ANPRM Comment Period End.	08/30/10	
NPRM	02/05/14	79 FR 7005
NPRM Comment Period Extended.	05/23/14	79 FR 29699
NPRM Comment Period End.	05/31/14	
NPRM Comment Period Extended End.	07/30/14	
Final Rule	04/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: State.

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

Agency Contact: Michael E. Kashtock, 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:* 240 402–2022, *Fax:* 301 346–2632, *Email: michael.kashtock@fda.hhs.gov.*

RIN: 0910–AG98

HHS—CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS)

Proposed Rule Stage

42. Programs of All-Inclusive Care for the Elderly (PACE) Update (CMS–4168–P)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395; 42 U.S.C. 1395eee(f); 42 U.S.C. 1396u–4(f)

CFR Citation: 42 CFR 460.

Legal Deadline: None.

Abstract: This proposed rule would update the PACE regulations published on December 8, 2006. The rule would improve the quality of the existing regulations, provide operational flexibility and modifications, and remove redundancies and outdated information. These updates are intended to ensure the health and safety of PACE participants.

Statement of Need: We are proposing to revise and update policies to reflect subsequent changes in the practice of caring for PACE participants and changes in technology based on our experience implementing and overseeing the PACE program. PACE has proven successful in keeping frail elderly individuals, some of whom are eligible for both Medicare and Medicaid benefits (dual eligibles), in the community. However, we believe that we should revise certain regulatory provisions to afford more flexibility as a means to encourage the expansion of the PACE program to more states, increasing access for participants, and further enhancing the program's effectiveness at providing care while reducing costs.

Summary of Legal Basis: Sections 1894(f)(2) and 1934(f)(2) of the Act state that the Secretary shall incorporate the requirements applied to PACE demonstration waiver programs under the PACE Protocol when issuing interim final or final regulations, to the extent consistent with the provisions of sections 1894 and 1934 of the Act, but allow the Secretary to modify or waive these provisions under certain circumstances. Sections 1894(a)(6) and 1934(a)(6) of the Act define the PACE Protocol as the Protocol for PACE as published by On Lok, Inc., as of April 14, 1995, or any successor protocol that may be agreed upon between the Secretary and On Lok, Inc. We issued the 1999 and 2002 interim final rules and the 2006 final rule under this authority.

Alternatives: The requirements for the PACE program have not been comprehensively updated in many years, but the effective and efficient delivery of health care services has changed substantially in that time. We could choose not to make any regulatory changes; however, we believe the changes we are proposing are necessary to ensure the requirements are consistent with current standards of practice and continue to meet statutory obligations. They will ensure that participants receive care that maintains or enhances quality of life and enable them to remain in the community.

Anticipated Cost and Benefits: As we move toward publication, estimates of the cost and benefits of these provisions will be included in the rule.

Risks: None. The proposals in this rule would update the existing requirements to reflect current standards of practice. In addition, proposed changes would provide added flexibility to providers, improve efficiency and effectiveness, and enhance participant quality of care and life.

Timetable:

Action	Date	FR Cite
NPRM	02/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Organizations.

Government Levels Affected: Federal, State.

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

Agency Contact: Martha Hennessy, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Centers for Medicare, MS: C4–21–26, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–0575, *Email: martha.hennessy@cms.hhs.gov.*

RIN: 0938–AR60

HHS—CMS

43. • Expansion of the CMS Qualified Entity Program (CMS–5061–P)

Priority: Other Significant.

Legal Authority: Pub. L. 114–10, sec 105

CFR Citation: 42 CFR 401.

Legal Deadline: Final, Statutory, July 1, 2016, MACRA requires rule be effective by July 1, 2016.

Abstract: Under the Medicare Access and CHIP Reauthorization Act (MACRA), this proposed rule would implement statutory requirements that expand the permissible uses of Medicare claims data that is obtained by qualified entities in accordance with applicable information, privacy, security and disclosure laws. In doing so, this rule would explain how qualified entities may create non-public analyses and provide or sell such analyses to authorized users, as well as how qualified entities may provide or sell combined data, or provide Medicare claims data alone at no cost, to certain authorized users. This rule would also implement certain privacy and security requirements and impose assessments on qualified entities in the case of a violation of a data use agreement.

Statement of Need: The Qualified Entity Program, established by Section 10332 of the Affordable Care Act,

authorizes the disclosure of Medicare claims data to qualified entities for use in public provider performance reporting. New legislation in MACRA expands the use of Medicare data by qualified entities to include additional analyses and access to certain data. Effective July 1, 2016, qualified entities may use the combined Medicare and other claims data to conduct non-public analyses and provide or sell these analyses to select users for non-public use. In addition, qualified entities may sell the combined data or provide the Medicare data at no cost to providers, suppliers, hospital associations, and medical societies for non-public use. While qualified entities are allowed to use the CMS data for other purposes than public reporting, the legislation also includes an assessment on the qualified entity for a breach of a data use agreement and new requirements for annual reporting by the qualified entities. These changes to the qualified entity program are important in driving higher quality, lower cost care in Medicare and the health system in general. Additionally, these changes are expected to drive renewed interest in the qualified entity program, leading to more transparency of provider and supplier performance while ensuring beneficiary privacy.

Summary of Legal Basis: Section 105 of MACRA requires proposed and final rules to be published and effective by July 1, 2016. This legislation expands both the uses of Medicare data by Qualified Entities as well as the data made available to them.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: As we move toward publication, estimates of the cost and benefits of these provisions will be included in the rule.

Risks: The rule would require qualified entities to provide sufficient evidence of data privacy and security protection capabilities in order to avoid increased risks related to the protection of beneficiary identifiable data.

Timetable:

Action	Date	FR Cite
NPRM	11/00/15	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: None.

Agency Contact: Allison Oelschlaeger, Special Assistant, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Office of Enterprise Data and Analytics, MS: 339D, 7500 Security Blvd., Baltimore, MD 21244, *Phone:* 202 690–8257, *Email: allison.oelschlaeger@cms.hhs.gov.*

RIN: 0938–AS66

HHS—CMS

44. • Merit–Based Incentive Payment System (MIPS) and Alternative Payment Models (APMS) in Medicare Fee-for-Service (CMS–5517–P) (Section 610 Review)

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

Legal Authority: Pub. L. 114–10, sec 101

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Statutory, November 1, 2016, MACRA deadline for establishing physician–focused payment model criteria. Final, Statutory, January 1, 2017, MACRA deadline for requirements and policies for MIPS.

Abstract: This proposed rule would implement provisions of the Medicare Access and CHIP Reauthorization Act (MACRA) related to MIPS and APMs. Section 101 of MACRA authorizes a new MIPS, which repeals the Medicare sustainable growth rate and improves Medicare payments for physician services. MACRA consolidates the current programs of the Physician Quality Reporting System, the Value-Based Modifier, and the Electronic Health Records Incentive Program into one program, MIPS, that streamlines and improves on the three distinct incentive programs. Additionally, MACRA authorizes incentive payments for providers who participate in eligible APMs.

Statement of Need: Under MACRA, payment adjustments to eligible professional (EP) payments through MIPS and incentive payments for qualifying APM participants will be applied beginning January 1, 2019. EPs under MIPS will be assessed a payment adjustment using four performance categories: quality, resource use, clinical practice improvement activities, and meaningful use of certified electronic health record (EHR) technology. Qualifying APM participants must have a specified amount of their Medicare expenditures or patients through an eligible APM that meets legislative criteria that include quality measures comparable to those in MIPS, required use of certified EHR technology, and either more than nominal financial risk or a structure as a medical home model. Additionally, specific to physician-focused APMs, the legislation creates a Technical Advisory Committee whose role is to receive and evaluate proposed APMs from the public and requires that the Secretary establish criteria for physician-focused payment models, including models for specialist physicians, by November 1, 2016.

Summary of Legal Basis: Section 101 of MACRA requires proposed and final rules be published by November 1, 2016, for release of criteria for publicly submitted physician-focused payment models and for the release of the MIPS quality measure list.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: As we move toward publication, estimates of the cost and benefits of these provisions will be included in the rule.

Risks: If this regulation is not published timely, physicians would not have adequate time to prepare for the MIPS.

Timetable:

Action	Date	FR Cite
NPRM	03/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

Government Levels Affected: Federal, Tribal.

Agency Contact: James Sharp, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare & Medicaid Innovation Center, MS: WB–06–05, 7500 Security Blvd., Baltimore, MD 21244, *Phone:* 410 786–7388, *Email: james.sharp@cms.hhs.gov.*

RIN: 0938–AS69

HHS—CMS

45. • Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and FY 2017 Rates (CMS–1655–P) (Section 610 Review)

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

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

CFR Citation: 42 CFR 412.

Legal Deadline: NPRM, Statutory, April 1, 2016. Final, Statutory, August 1, 2016.

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 rule would implement changes arising

from our continuing experience with these systems.

Statement of Need: Centers for Medicare & Medicaid Services (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 2017 IPPS and LTCHs at least 60 days before October 1, 2016.

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, 2016.

Alternatives: None. This implements a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for FY 2017.

Risks: If this regulation is not published timely, inpatient hospital and LTCH services will not be paid appropriately beginning October 1, 2016.

Timetable:

Action	Date	FR Cite
NPRM	04/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Agency Contact: Donald Thompson, Deputy Director, Division of Acute Care, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4–01–26, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–6504, *Email: donald.thompson@cms.hhs.gov.*

RIN: 0938–AS77

HHS—CMS

46. • CY 2017 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1654–P) (Section 610 Review)

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

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh; Pub. L. 114–10

CFR Citation: 42 CFR 409; 42 CFR 410; 42 CFR 414.

Legal Deadline: Final, Statutory, November 1, 2016.

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, 2017.

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, 2016, and an implementation date of January 1, 2017.

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 an annual deadline of no later than November 1 for publication of the final rule or final physician fee schedule.

Alternatives: None. This rule implements a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for CY 2017.

Risks: If this regulation is not published timely, physician services will not be paid appropriately, beginning January 1, 2017.

Timetable:

Action	Date	FR Cite
NPRM	06/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Agency Contact: Ryan Howe, Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4–01–15, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–3355, *Email: ryan.howe@cms.hhs.gov.*

RIN: 0938–AS81

HHS—CMS

47. • CY 2017 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1656–P) (Section 610 Review)

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

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

CFR Citation: 42 CFR 416; 42 CFR 419.

Legal Deadline: Final, Statutory, November 1, 2016.

Abstract: This annual proposed rule would revise the Medicare hospital outpatient prospective payment system to implement statutory requirements and changes arising from our continuing experience with this system. The rule describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule would change 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 enters (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 2017 OPPS and ASC payment system at least 60 days before January 1, 2017.

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, 2017.

Alternatives: None. This rule is a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for CY 2017.

Risks: If this regulation is not published timely, outpatient hospital and ASC services will not be paid appropriately beginning January 1, 2017.

Timetable:

Action	Date	FR Cite
NPRM	06/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Agency Contact: Marjorie Baldo, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4–03–06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–4617, *Email: marjorie.baldo@cms.hhs.gov.*

RIN: 0938–AS82

HHS—CMS

Final Rule Stage

48. Medicaid Managed Care, CHIP Delivered in Managed Care, Medicaid and CHIP Comprehensive Quality Strategies, and Revisions Related to Third Party Liability (CMS–2390–F)

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

Legal Authority: 42 U.S.C. 1302

CFR Citation: 42 CFR 430; 42 CFR 431; 42 CFR 438.

Legal Deadline: None.

Abstract: This final rule modernizes the Medicaid managed care regulations to reflect changes in the usage of managed care delivery systems. The rule aligns the rules governing Medicaid managed care with those of other major sources of coverage, including coverage through Qualified Health Plans and Medicare Advantage plans; implements statutory provisions; strengthens actuarial soundness payment provisions to promote the accountability of Medicaid managed care program rates; ensures appropriate beneficiary protections; and, enhances expectations for program integrity. This rule also implements provisions of the Children's Health Insurance Program Reauthorization Act (CHIPRA) and addresses third party liability for trauma codes.

Statement of Need: This rule modernizes the Medicaid managed care regulations recognizing changes in the usage of managed care delivery systems since the release of the final rule in 2002. As Medicaid managed care programs have developed and matured in the intervening years, States have taken various approaches to implementation. This has resulted in inconsistencies and, in some cases, less than optimal results. To improve consistency and adopt policies and practices from States that have proven the most successful, we include revisions in this rule to strengthen beneficiary protections, support alignment with rules governing managed care in other public and private sector programs, strengthen actuarial soundness and the accountability of rates paid in the Medicaid managed care program, improve quality of care, and implement statutory provisions issued since 2002. The rule also applies some of the Medicaid managed care regulations to the Children's Health Insurance Program (CHIP).

Summary of Legal Basis: Congress enacted specific standards for Medicaid managed care programs in sections 4701 through 4709 of the Balanced Budget Act of 1997 (BBA). The BBA represented the first comprehensive revision to Federal statutes governing Medicaid managed care since the early 1980s. These standards are codified in sections 1903 and 1932 of the Act and implemented in a final rule published June 14, 2002 (67 FR 40989). The Children's Health Insurance Reauthorization Act of 2009 and the Affordable Care Act applied some of the Medicaid managed care statutory provisions to CHIP.

Alternatives: We could choose not to make any regulatory changes; however, while the 2002 final rule has been the guiding regulation for Medicaid managed care, many questions and issues have arisen in the intervening years due to the current version's lack of clarity or detail in some areas. With no guidance in these areas, States have created various standards, leading to inconsistency and, in some cases, less than optimal program performance. Additionally, many issues have arisen from the evolution of managed care that have rendered some provisions nearly obsolete. For example, the existing version gives little acknowledgement to the use of electronic means of communication and no recognition to the recently created health care coverage options offered through the Federal and State marketplaces. This creates gaps that leave States and managed care plans with unclear, non-existent, or confusing guidance and standards for program operation. We believe that with consistent standards and clearly defined flexibilities for States, programs can develop in ways that not only transform the healthcare delivery system and fulfill the mission of the Medicaid program, but can improve the health and wellness of Medicaid enrollees.

Anticipated Cost and Benefits: The overall economic impact for this rule is estimated to be $112 million in the first year of implementation. Additionally, non-quantifiable benefits include improved health outcomes, reduced unnecessary services, improved beneficiary experience, improved access, and improved program transparency which facilitates better decisionmaking.

Risks: None. It is necessary to modernize the Medicaid and CHIP managed care and quality regulations to support health care delivery system reform, improve population health outcomes, and improve the beneficiary experience in a cost effective and consistent manner in all states.

Timetable:

Action	Date	FR Cite
NPRM	06/01/15	80 FR 31097
NPRM Comment Period End.	07/27/15	
Final Action	04/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

Government Levels Affected: Federal, State, Tribal.

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

Agency Contact: Nicole Kaufman, Technical Director, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicaid and CHIP Services, MS: S2–14–16, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–6604, *Email: nicole.kaufman@cms.hhs.gov.*

RIN: 0938–AS25

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DEPARTMENT OF HOMELAND SECURITY (DHS)

Fall 2015 Statement of Regulatory Priorities

The Department of Homeland Security (DHS or Department) was created in 2003 pursuant to the Homeland Security Act of 2002, Public Law 107–296. DHS has a vital mission: To secure the Nation from the many threats we face. This requires the dedication of more than 225,000 employees in jobs that range from aviation and border security to emergency response, from cybersecurity analyst to chemical facility inspector. Our duties are wide-ranging, but our goal is clear—keeping America safe.

Our mission gives us six main areas of responsibility:

1. Prevent Terrorism and Enhance Security,
2. Secure and Manage Our Borders,
3. Enforce and Administer Our Immigration Laws,
4. Safeguard and Secure Cyberspace,
5. Ensure Resilience to Disasters, and
6. Mature and Strengthen DHS

In achieving these goals, we are continually strengthening our partnerships with communities, first responders, law enforcement, and government agencies—at the State, local, tribal, Federal, and international levels. We are accelerating the deployment of science, technology, and innovation in order to make America more secure, and we are becoming leaner, smarter, and more efficient, ensuring that every security resource is used as effectively as possible. For a further discussion of our main areas of responsibility, see the DHS Web site at *http://www.dhs.gov/our-mission*.

The regulations we have summarized below in the Department's fall 2015 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 2007 (9/11 Act), Public Law 110–53 (Aug. 3, 2007); the Consolidated Natural Resources Act of 2008 (CNRA), Public Law 110–229 (May 8, 2008); the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109–347 (Oct. 13, 2006); and the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Public Law 110–329 (Sep. 30, 2008).

DHS strives for organizational excellence and uses a centralized and unified approach in managing its regulatory resources. The Office of the General Counsel manages the Department's regulatory program, including the agenda and regulatory plan. In addition, DHS senior leadership reviews each significant regulatory project to ensure that the project fosters and supports the Department's mission. The Department is committed to ensuring that all of its regulatory initiatives are aligned with its guiding principles to protect civil rights and civil liberties, integrate our actions, build coalitions and partnerships, develop human resources, innovate, and be accountable to the American public.

DHS is also committed to the principles described in Executive Orders 13563 and 12866 (as amended). Both Executive Orders direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

Finally, the Department values public involvement in the development of its regulatory plan, agenda, and regulations, and takes particular concern with the impact its rules have on small businesses. DHS and each of its components continue to emphasize the use of plain language in our notices and rulemaking documents to promote a better understanding of regulations and increased public participation in the Department's rulemakings.

Retrospective Review of Existing Regulations

Pursuant to Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), DHS identified the following regulatory actions as associated with retrospective review and analysis. Some of the regulatory actions on the below list may be completed actions, which do not appear in The Regulatory Plan. You can find more information about these completed rulemakings in past publications of the Unified Agenda (search the Completed Actions sections) on *www.reginfo.gov*. Some of the entries on this list, however, are active rulemakings. You can find entries for these rulemakings on *www.regulations.gov*.

RIN	Rule
1601–AA58	Professional Conduct for Practitioners Rules and Procedures, and Representation and Appearances
1615–AB95	Immigration Benefits Business Transformation, Increment II; Nonimmigrants Classes.
1615–AC00	Enhancing Opportunities for H–1B1, CW–1, and E–3 Nonimmigrants and EB–1 Immigrants.
1625–AB38	Updates to Maritime Security.
1625–AB80	Revision to Transportation Worker Identification Credential (TWIC) Requirements for Mariners.
1625–AC15	Seafarers' Access to Maritime Facilities.
1651–AA96	Definition of Form I–94 to Include Electronic Format.
1651–AB05	Freedom of Information Act (FOIA) Procedures.
1653–AA63	Adjustments to Limitations on Designated School Official Assignment and Study By F–2 and M–2 Nonimmigrants.

Promoting International Regulatory Cooperation

Pursuant to sections 3 and 4(b) of Executive Order 13609 ''Promoting International Regulatory Cooperation'' (May 1, 2012), DHS has identified the following regulatory actions that have significant international impacts. Some of the regulatory actions on the below list may be completed actions. You can find more information about these completed rulemakings in past publications of the Unified Agenda (search the Completed Actions sections) on *www.reginfo.gov*. Some of the entries on this list, however, are active rulemakings. You can find entries for these rulemakings on *www.regulations.gov*.

RIN	Rule
1625–AB38	Updates to Maritime Security.
1651–AA70	Importer Security Filing and Additional Carrier Requirements.
1651–AA72	Changes to the Visa Waiver Program To Implement the Electronic System for Travel Authorization (ESTA) Program.
1651–AA98	Amendments to Importer Security Filing and Additional Carrier Requirements.
1651–AA96	Definition of Form I–94 to Include Electronic Format.

DHS participates in some international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations. For example, the 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 2015 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 2015 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 and Entrepreneurs

Employment-Based Immigration Modernization. USCIS will propose to implement certain provisions of the American Competitiveness and Workforce Improvement Act of 1998 and the American Competitiveness in the Twenty-First Century Act of 2000, Public Law 106–313, as amended by the Twenty-First Century Department of Justice Appropriations Authorization Act of 2002, Public Law 107–273. USCIS will seek public feedback in codifying its interpretation of these statutes. Additionally, USCIS will propose to amend its regulations to provide greater stability and job flexibility to certain beneficiaries of approved employment-based immigrant petitions during their transition from nonimmigrant to lawful permanent residence status and to enable U.S. businesses to hire and retain highly-skilled foreign-born workers.

Significant Public Benefit Parole for Entrepreneurs. USCIS will propose to establish conditions for paroling foreign entrepreneurs into the United States based on case-by-case discretionary determinations that their entrepreneurial activities in the United States will provide the United States with a significant public benefit. Parole under these conditions would allow individuals who have been awarded substantial U.S. investor financing or otherwise hold the promise of innovation and job creation through the development of new technologies or the pursuit of cutting edge research to pursue development of startup businesses in the United States. This would provide an opportunity for much needed innovation and job creation in the United States.

Enhancing Opportunities for High-Skilled Workers. DHS will issue a final rule following its May 2014, proposed rule designed to encourage and facilitate the employment and retention of certain high-skilled and transitional workers. As proposed, the rule would amend 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. The rule would also 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, the rule would amend regulations 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 would encourage and facilitate the employment and retention of these high-skilled workers.

Improvements to the Immigration System

Provisional Unlawful Presence Waivers. DHS will issue a final rule following its July 2015, proposed rule regarding the provisional unlawful presence waiver process. As proposed,

this rule would expand access to the provisional unlawful presence waiver program to additional aliens for whom an immigrant visa is immediately available and who can show extreme hardship to a qualifying U.S. citizen or lawful permanent resident spouse or parent.

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

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.

Special Immigrant Juvenile Petitions. This final rule makes procedural changes and resolves interpretive issues following the amendments mandated by Congress. It will enable child aliens who have been abused, neglected, or abandoned and placed under the jurisdiction of a juvenile court or placed with an individual or entity, to obtain classification as Special Immigrant Juvenile. Such classification can regularize immigration status for these aliens and allow for adjustment of status to lawful permanent resident.

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 2015 Regulatory Plan below, contribute to the fulfillment of those responsibilities and reflect our regulatory policies.

Inspection of Towing Vessels. The Coast Guard has proposed regulations governing the inspection of towing vessels, including an optional safety management system. The regulations for this large class of vessels would establish operations, lifesaving, fire protection, machinery and electrical systems and equipment, and construction and arrangement standards for towing vessels. This rulemaking also sets standards for the optional towing safety management system (TSMS) and related third-party organizations, as well as procedures for obtaining a certificate of inspection under either the TSMS or Coast Guard annual-inspection option. This rulemaking would implement section 415 of the Coast Guard and Maritime Transportation Act of 2004. The intent of this rulemaking, which would create 46 CFR, subchapter M, is to promote safer work practices and reduce towing vessel casualties.

Transportation Worker Identification Credential (TWIC)—Reader Requirements. In accordance with the Maritime Transportation Safety Act of 2002 (MTSA) and the Security and Accountability For Every Port Act of 2006 (SAFE Port Act), the Coast Guard is establishing rules requiring electronic TWIC readers at high-risk vessels and facilities. These rules would ensure that prior to being granted unescorted access to a designated secure area at a high-risk vessel or facility: (1) The individual will have his or her TWIC electronically authenticated; (2) the status of the individual's credential will be electronically validated against an up-to-date list maintained by the TSA; and (3) the individual's identity will be electronically confirmed by comparing his or her fingerprint or other biometric sample with a biometric template stored on the credential. By promulgating these rules, the Coast Guard is complying with the statutory requirement in the SAFE Port Act, improving security at the highest risk vessels and facilities, and making full use of the electronic and biometric security features integrated into the TWIC and mandated by Congress in MTSA.

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 issue 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 two of these rules below.

Air Cargo Advance Screening (ACAS). The Trade Act of 2002, as amended, authorizes the Secretary of Homeland Security to promulgate regulations providing for the transmission to CBP through an electronic data interchange system, of information pertaining to cargo to be brought into the United States or to be sent from the United States, prior to the arrival or departure of the cargo. The cargo information required is that which the Secretary determines to be reasonably necessary to ensure cargo safety and security. CBP's current Trade Act regulations pertaining to air cargo require the electronic submission of various advance data to CBP no later than either the time of departure of the aircraft for the United States (from specified locations) or four hours prior to arrival in the United States for all other locations. CBP intends to propose amendments to these regulations to implement the Air Cargo Advance Screening (ACAS) program. To improve CBP's risk assessment and targeting capabilities and to enable CBP to target and identify risky cargo prior to departure of the aircraft to the United States, ACAS would require the submission of certain of the advance electronic information for air cargo earlier in the process. In most cases, the information would have to be submitted as early as practicable but no later than prior to the loading of cargo onto an aircraft at the last foreign port of departure to the United States. CBP, in conjunction with TSA, has been operating ACAS as a voluntary pilot program since 2010 and would like to implement ACAS as a regulatory program.

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. On March 27, 2013, CBP published an interim final rule amending existing regulations to add a new definition of the term ''Form I–94.'' The new definition 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 enabled DHS to transition to an automated process whereby DHS creates a Form I–94 in an electronic format based on passenger, passport and visa information that DHS 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 addition to the regulations that CBP issues to promote 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 2016, expects to continue to issue regulatory documents that will facilitate legitimate trade and implement trade benefit programs. 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 2016.

Federal Law Enforcement Training Center

The Federal Law Enforcement Training Center (FLETC) does not have any significant regulatory actions planned for fiscal year 2016.

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 2016, ICE will focus rulemaking efforts on improvements in the area of student and exchange visitor programs and to advance initiatives related to F–1 nonimmigrant students:

Improving and Expanding Training Opportunities for F–1 Nonimmigrant Students with STEM Degrees and Expanding Cap-Gap Relief for All F–1

Students With Pending H–1B Petitions. The Department of Homeland Security will propose a rule to enhance opportunities for F–1 nonimmigrant students graduating with a science, technology, engineering, or mathematics (STEM) degree to further their courses of study through an extension of optional practical training (OPT) with employers enrolled in USCIS's E-Verify employment verification program. DHS anticipates that the rule would replace a 2008 interim final rule (IFR) that was recently held to be procedurally invalid, and that is the subject of a temporarily stayed vacatur. The proposed rule would enhance the academic benefit of the STEM extension and would help ensure that the nation's colleges and universities remain globally competitive in attracting international STEM students to study in the United States prior to returning to their home countries.

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.

Chemical Facility Anti-Terrorism Standards. Recognizing both the importance of the nation's chemical facilities to the American way of life and the need to secure high-risk chemical facilities against terrorist attacks, in December 2014 Congress passed and the President signed into law the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014, Pub. L. 113–254. This legislation provides the Department continuing authority to implement the Chemical Facility Anti-Terrorism Standards (CFATS) regulatory program, a unique regulatory program mandating that high-risk chemical facilities in the United States draft and implement security plans satisfying risk-based performance standards established by DHS.

CFATS has been in effect since 2007, and on August 18, 2014, the Department published an Advance Notice of Proposed Rulemaking (ANPRM) in order to seek public comment on ways to make the program more effective. The Department will continue the rulemaking effort that commenced with the publication of that ANPRM, and intends to publish a Notice of Proposed Rulemaking (NPRM) proposing a number of changes to the CFATS program. The NPRM will propose substantive modifications to CFATS based on public comments received on the ANPRM and based on program implementation experience the Department has gained since 2007. The NPRM will also propose modifications to CFATS in order to align its regulatory text with the requirements of the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014. Accordingly, the Department anticipates that the NPRM will propose both discretionary and non-discretionary modifications to CFATS, with the goals of harmonizing the regulation with its statutory authority and of making the CFATS program more efficient and effective.

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 2016, TSA will promote the DHS mission by emphasizing regulatory efforts that will 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, 2013, 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.

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 (Over-the-Road Buses) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Public Law 110–53, August 3, 2007. In compliance with the definitions of frontline employees in the pertinent provisions of the 9/11 Act, the Notice of Proposed Rulemaking (NPRM) would propose to 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.

Standardized Vetting, Adjudication, and Redress Process and Fees. TSA is developing a proposed rule to establish and update fees, and revise and standardize the procedures and adjudication criteria for most of the security threat assessments (STAs) of individuals that TSA conducts. The proposal would improve 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 consistent and equitable fees to cover the cost of the STAs. 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 IFR for the AFSP 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 2016.

DHS Regulatory Plan for Fiscal Year 2016

A more detailed description of the priority regulations that comprise DHS's fall 2015 regulatory plan follows.

DHS—OFFICE OF THE SECRETARY (OS)

Proposed Rule Stage

49. Chemical Facility Anti-Terrorism Standards (CFATS)

Priority: Other Significant.

Legal Authority: sec 550 of the Department of Homeland Security Appropriations Act of 2007 Pub. L. 109–295, as amended

CFR Citation: 6 CFR 27.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) previously invited public comment on an advance notice of proposed rulemaking (ANPRM) for potential revisions to the Chemical Facility Anti-Terrorism Standards (CFATS) regulations. The ANPRM provided an opportunity for the public to provide recommendations for possible program changes. DHS is reviewing the public comments received in response to the ANPRM, after which DHS intends to publish a Notice of Proposed Rulemaking.

Statement of Need: DHS intends to propose several potential program changes to the CFATS regulation. These changes have been identified in the five years since program implementation.

In addition, in December 2014, a new law (the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014) was enacted which provides DHS continuing authority to implement CFATS. DHS must make several modifications and additions to conform the CFATS regulation with the new law.

Summary of Legal Basis: The Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014 (Pub. L. 113–254) added Title XXI to the Homeland Security Act of 2002 (HSA) to authorize in permanent law a Chemical Facility Anti-terrorism Standards (CFATS) program. *See* 6 U.S.C. 621 *et seq.* Title XXI supersedes section 550 of the Department of Homeland Security Appropriations Act of 2007, Pub. L. 109–295, under which the CFATS program was originally established in April 2007. Section 2107(a) of the HSA specifically authorizes DHS to ''promulgate regulations or amend existing CFATS regulations to implement the provisions under [Title XXI]. 6 U.S.C. 627(a). In addition, section 2107(b)(2) of the HSA requires DHS to repeal any existing CFATS regulation that [DHS] determines is duplicative of, or conflicts with, [Title XXI]. 6 U.S.C. 627(b)(2).

Alternatives:

Anticipated Cost and Benefits: The ANPRM provided an opportunity for the public to provide recommendations for possible program changes. DHS is reviewing the public comments received in response to the ANPRM, after which DHS intends to publish a Notice of Proposed Rulemaking (NPRM).

Risks:

Timetable:

Action	Date	FR Cite
ANPRM	08/18/14	79 FR 48693
ANPRM Comment Period End.	10/17/14	
NPRM	07/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal, Local, State.

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, National Protection and Programs Directorate, Infrastructure Security Compliance Division (NPPD/ISCD), 245 Murray Lane, Mail Stop 0610, Arlington, VA 20528–0610, *Phone:* 703 235–5263, *Fax:* 703 603–4935, *Email: jon.m.maclaren@hq.dhs.gov*.

RIN: 1601–AA69

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

Proposed Rule Stage

50. Adjustment of Status to Lawful Permanent Resident for Aliens in T and U Nonimmigrant Status

Priority: Other Significant.

Legal Authority: 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101 to 1104; 8 U.S.C. 1182; 8 U.S.C. 1184; 8 U.S.C. 1187; 8 U.S.C. 1201; 8 U.S.C. 1224 to 1227; 8 U.S.C. 1252 to 1252a; 8 U.S.C. 1255; 22 U.S.C. 7101; 22 U.S.C. 7105; Pub. L. 113–4

CFR Citation: 8 CFR 204; 8 CFR 214; 8 CFR 245.

Legal Deadline: None.

Abstract: This rule sets forth measures by which certain victims of severe forms of trafficking who have been granted T nonimmigrant status and victims of certain qualifying criminal activity who have been granted U nonimmigrant status may apply for adjustment of status to lawful permanent resident in accordance with Public Law 106–386, Victims of Trafficking and Violence Protection Act of 2000; and Public Law 109–162, Violence Against Women and Department of Justice Reauthorization Act of 2005. The Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110–457, made amendments to the T nonimmigrant status provisions of the Immigration and Nationality Act (INA). The Violence Against Women's Reauthorization Act of 2013, Public Law 113–4, made amendments to the T and U nonimmigrant status and the T and U adjustment of status provisions of the Immigration and Nationality Act. The Department of Homeland Security (DHS) will issue a proposed rule to propose the changes required by recent legislation.

Statement of Need: This regulation is necessary to permit aliens in lawful T or U nonimmigrant status, including derivatives, to apply for adjustment of status to that of lawful permanent residents.

Summary of Legal Basis: This regulation is necessary to permit aliens in lawful T or U nonimmigrant status to apply for adjustment of status to that of lawful permanent residents. T nonimmigrant status is available to aliens who are victims of a severe form of trafficking in persons and who have assisted or are assisting law enforcement in the investigation or prosecution of the acts of trafficking.

U nonimmigrant status is available to aliens who are victims of certain qualifying criminal activity crimes and have been, are being, or are likely to be helpful to the investigation or prosecution of those crimes.

Alternatives: DHS did not consider alternatives to managing T and U applications for adjustment of status. Ease of administration dictates that adjustment of status applications from T and U nonimmigrants would be best handled on a first in, first out basis, because that is the way applications for T and U status are currently handled.

Anticipated Cost and Benefits: DHS uses fees to fund the cost of processing applications and associated support benefits. In the 2008 interim final rule, DHS estimated the fee collection resulting from this rule at approximately $3 million in the first year, $1.9 million in the second year, and an average about $32 million in the third and subsequent years. DHS is in the process of updating these cost estimates.

The anticipated benefits of these expenditures include: Continued assistance to trafficked and other qualifying crime victims and their families, increased investigation and prosecution of traffickers in persons and other qualifying crimes, and the elimination of abuses caused by trafficking and criminal activities.

Risks: While there is a limit of 5,000 adjustments based on T nonimmigrant status per fiscal year, there is no such limit on those applying for adjustment based on U nonimmigrant status. Eligible applicants for adjustment of status based on T nonimmigrant status will be placed on a waiting list maintained by U.S. Citizenship and Immigration Services (USCIS).

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/12/08	73 FR 75540
Interim Final Rule Effective.	01/12/09	
Interim Final Rule Comment Period End.	02/10/09	
NPRM	10/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Additional Information: CIS No. 2134–01 Transferred from RIN 1115–AG21.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Maureen A. Dunn, Chief, Family Immigration and Victim Protection Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW., Suite 1200, Washington, DC 20529, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email: maureen.a.dunn@uscis.dhs.gov.*

RIN: 1615–AA60

DHS—USCIS

51. 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 proposes new 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 would propose to establish new procedures to be followed to petition for the U nonimmigrant classifications. Specifically, the rule would address 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 would 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 Reauthorization 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.

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) Have 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 the 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 8 U.S.C. 1184(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	
NPRM	10/00/16	

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.

Agency Contact: Maureen A. Dunn, Chief, Family Immigration and Victim Protection Division, Department of

Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW., Suite 1200, Washington, DC 20529, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email: maureen.a.dunn@uscis.dhs.gov*.

RIN: 1615–AA67

DHS—USCIS

52. 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. 1254a; 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 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 when 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	10/00/16	

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:* 415 293–1269, *Email: ronald.w.whitney@uscis.dhs.gov*.

RIN: 1615–AB89

DHS—USCIS

53. Requirements for Filing Motions and Administrative Appeals

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 proposes to revise the requirements and procedures for the filing of motions and appeals before the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), and its Administrative Appeals Office (AAO). 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. The proposed changes are intended to promote simplicity, accessibility, and efficiency in the administration of USCIS appeals. The Department also solicits public comment on proposed changes to the AAO's appellate jurisdiction.

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; Executive Order 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.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	10/00/16	

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: Charles ''Locky'' Nimick, Deputy Chief, Department of Homeland Security, U.S. Citizenship and Immigration Services, Administrative Appeals Office, 20 Massachusetts Avenue NW., Washington, DC 20529–2090, *Phone:* 703 224–4501, *Email: charles.nimick@usics.dhs.gov*.

Related RIN: Duplicate of 1615–AB29

RIN: 1615–AB98

DHS—USCIS

54. Significant Public Benefit Parole for Entrepreneurs

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

Legal Authority: 8 U.S.C. 1182(d)(5)(A)

CFR Citation: 8 CFR 212.5.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) is proposing to establish a program that would allow for consideration of parole into the United States, on a case-by-case basis, of certain inventors, researchers, and entrepreneurs who will establish a U.S. start-up entity, and who have been awarded substantial U.S. investor financing or otherwise hold the promise of innovation and job creation through the development of new technologies or the pursuit of cutting edge research. Based on investment, job-creation, and other factors, the entrepreneur may be eligible for temporary parole.

Statement of Need: The Immigration and Nationality Act (INA) authorizes the Secretary, in the exercise of discretion, to parole arriving aliens into the United States on a case-by-case basis for urgent humanitarian reasons or significant public benefit. INA section 212(d)(5), 8 U.S.C. 1182(d)(5). No existing regulation explains how DHS determines what provides a significant public benefit to the U.S. economy. This regulation clarifies this standard with respect to entrepreneur parolees.

This regulation focuses specifically on the significant economic public benefit provided by foreign entrepreneurs because of the particular benefit they bring to the U.S. economy. However, the full potential of foreign entrepreneurs to benefit the U.S. economy is limited by the fact that many foreign entrepreneurs do not qualify under existing nonimmigrant and immigrant classifications. Given the technical nature of entrepreneurship, and the limited guidance to date on what constitutes a significant public benefit, DHS believes that it is necessary to establish the conditions of such an economically-based significant public benefit parole by regulation. Combined with a unique application process, the goal is to ensure that the high standard set by the statute authorizing significant public benefit parole is uniformly met across adjudications.

In this rule, DHS is proposing to establish the conditions for significant public benefit parole with respect to certain entrepreneurs and start-up founders backed by U.S. investors or grants. DHS believes that this proposal, once implemented, would encourage entrepreneurs to create and develop start-up entities in the United States with high growth potential to create jobs for U.S. workers and benefit the U.S. economy. U.S. competitiveness would increase by attracting more entrepreneurs to the United States. This proposal provides a fair, transparent, and predictable framework by which DHS will exercise its discretion to adjudicate, on a case-by-case basis, such parole requests under the existing statutory authority at INA section 212(d)(5), 8 U.S.C. 1182(d)(5).

Lastly, this proposed rule provides a pathway, based on authority currently provided to the Secretary, for entrepreneurs to develop businesses in the United States, create jobs for U.S. workers, and, at the same time, establish a track record of experience and/or accomplishments. Such a track record may lead to meeting eligibility requirements for existing nonimmigrant or immigrant classifications.

Summary of Legal Basis: The Secretary's authority for this proposed regulatory amendment can be found in the Homeland Security Act of 2002, Public Law 107–296, section 102, 116 Stat. 2135, 6 U.S.C. 112, and INA section 103, 8 U.S.C. 1103, which give the Secretary the authority to administer and enforce the immigration and nationality laws, as well as INA section 212(d)(5), 8 U.S.C. 1182(d)(5), which refers to the Secretary's discretionary authority to grant parole and provides DHS with regulatory authority to establish terms and conditions for parole once authorized.

Alternatives:

Anticipated Cost and Benefits: DHS estimates the costs of the rule are directly linked to the application fee and opportunity costs associated with requesting significant public benefit parole. DHS does not estimate there will be any negative impacts to the U.S. economy as a result of this rule. Economic benefits can be expected from this rule, because some number of new ventures and research endeavors will be conducted in the United States that otherwise would not. It is reasonable to assume that investment and research spending on new firms associated with this proposed rule will directly and indirectly benefit the U.S. economy and job creation. In addition, innovation and research and development spending are likely to generate new patents and new technologies, further enhancing innovation. Some portion of the immigrant entrepreneurs likely to be attracted to this parole program may develop high impact firms that can be expected to contribute disproportionately to job creation.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	12/00/15	

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: 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:* 202 272–8377, *Fax:* 202 272–1480, *Email: kevin.j.cummings@uscis.dhs.gov*.

RIN: 1615–AC04

DHS—USCIS

55. Retention of EB–1, EB–2, and EB–3 Immigrant Workers and Program Improvements Affecting Highly-Skilled H–1B Alien Workers

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

Legal Authority: 6 U.S.C. 112; 8 U.S.C. 1154 and 1155; 8 U.S.C. 1184; 8 U.S.C. 1255; 8 U.S.C. 1324a

CFR Citation: 8 CFR 204 to 205; 8 U.S.C. 214; 8 CFR 245; 8 CFR 274a.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) is proposing to amend its regulations affecting certain employment-based immigrant and nonimmigrant classifications. This rule proposes to amend current regulations to provide stability and job flexibility for the beneficiaries of approved employment-based immigrant visa petitions while they wait to become lawful permanent residents. DHS is also proposing to conform its regulations with the American Competitiveness in the Twenty-First Century Act of 2000 (AC21) as amended by the Twenty-First Century Department of Justice Appropriations Authorization Act (the 21st Century DOJ Appropriations Act), as well as the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA). The rule also seeks to clarify several interpretive questions raised by ACWIA and AC21 regarding H–1B petitions, and incorporate relevant AC21 policy memoranda and an Administrative Appeals Office precedent decision, and would ensure that DHS practice is consistent with them.

Statement of Need: This rule provides needed stability and flexibility to certain employment-based immigrants while they wait to become lawful permanent residents. These amendments would support U.S. employers by better enabling them to hire and retain highly skilled and other foreign workers. DHS proposes to accomplish this, in part, by implementing certain provisions of ACWIA and AC21, as amended by the 21st Century DOJ Appropriations Act. The 21st Century DOJ Appropriations Authorization Act, which will impact certain foreign nationals seeking permanent residency in the United States, as well as H–1B workers. Further, by clarifying interpretive questions related to these provisions, this rulemaking would ensure that DHS practice is consistent with statute.

Summary of Legal Basis: The authority of the Secretary of Homeland Security (Secretary) for these regulatory amendments can be found in section 102 of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 112, and section 103(a) of the Immigration and Nationality Act (INA), 8 U.S.C. 1103(a), which authorize the Secretary to administer and enforce the immigration and nationality laws. In pertinent part, ACWIA authorized the Secretary to impose a fee on certain H–1B petitioners which would be used to train American workers, and AC21 provides authority to increase access to foreign workers as well as to train U.S. workers. In addition, section 274A(h)(3)(B) of the INA, 8 U.S.C. 1324a(h)(3)(B), recognizes the Secretary's authority to extend employment to noncitizens in the United States, and section 205 of the INA, 8 U.S.C. 1155, recognizes the Secretary's authority to exercise discretion in determining the revocability of any petition approved by him under section 204 of the INA.

Alternatives: The alternative would be to continue under current procedures without change.

Anticipated Cost and Benefits: The proposed amendments would increase the incentive of highly-skilled and other foreign workers who have begun the immigration process to remain in and contribute to the U.S. economy as they complete the process to adjust status to or otherwise acquire lawful permanent resident status, thereby minimizing disruptions to petitioning U.S. employers. Attracting and retaining highly-skilled persons 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.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	12/00/15	

Regulatory Flexibility Analysis Required: Undetermined.

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: 1615–AB97 will be merged under this rule, 1615–AC05.

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Related RIN: Related to 1615–AB97

RIN: 1615–AC05

DHS—USCIS

Final Rule Stage

56. 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: The T nonimmigrant classification was created by the Victims of Trafficking and Violence Protection Act of 2000, Public Law 106–386. The 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 Reauthorization Act of 2013, Public Law 113–4, have made amendments to the T nonimmigrant status provisions in the Immigration and Nationality Act. This rule implements those amendments.

Statement of Need: 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 provides evidentiary guidance to assist in the application process.

Summary of Legal Basis: Section 107(e) of the Victims of Trafficking and Violence Protection Act of 2000 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 to also serve 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 to the 2002 interim final rule, as well as from over 10 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 this rule include: Assistance to trafficked victims and their families; an increase in the number of cases brought forward for investigation and/or prosecution of traffickers in persons; heightened awareness by the law enforcement community of trafficking in persons; and 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, in cooperation with other DHS components.

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	06/00/16	

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

57. Application of Immigration Regulations to the Commonwealth of the Northern Mariana Islands

Priority: Other Significant.

Legal Authority: Pub. L. 110–229; 8 U.S.C. 1101 and note; 8 U.S.C. 1102; 8 U.S.C. 1103; 8 U.S.C. 1182 and note; 8 U.S.C. 1184; 8 U.S.C. 1187; 8 U.S.C. 1223; 8 U.S.C. 1225; 8 U.S.C. 1226; 8 U.S.C. 1227; 8 U.S.C. 1255; 8 U.S.C. 1185 note; 8 U.S.C. 48; U.S.C. 1806; 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 and 1372; Pub. L. 104–208; Pub. L. 106–386; Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, sec 141; 48 U.S.C. 1901 note and 1931 note; Pub. L. 105–100; Pub. L. 105–277; 8 U.S.C. 1324a

CFR Citation: 8 CFR 212.4(k)(1) and (2); 8 CFR 214.16(a), (b), (c) and (d); 8 CFR 245.1(d)(1)(v) and (vi); 8 CFR 274a.12(b)(24); 8 CFR 1245.1(d)(1)(v), (vi), and (vii); 8 CFR 2.

Legal Deadline: Final, Statutory, November 28, 2009, Consolidated Natural Resources Act (CNRA) of 2008.

Public Law 110–229, the Consolidated Natural Resources Act of 2008 (CNRA), was enacted on May 8, 2008. Title VII of this statute extended the provisions of the Immigration and Nationality Act (INA) to the Commonwealth of the Northern Mariana Islands (CNMI).

Abstract: This final rule amends the Department of Homeland Security (DHS) and the Department of Justice (DOJ) regulations to comply with the CNRA. The CNRA extends the immigration laws of the United States to the 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.

Alternatives:

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 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.

Risks:

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	10/00/16	

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—USCIS

58. Special Immigrant Juvenile Petitions

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

CFR Citation: 8 CFR 204; 8 CFR 205; 8 CFR 245.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) is amending its regulations governing the Special Immigrant Juvenile (SIJ) classification and related applications for adjustment of status to permanent resident. Special Immigrant Juvenile classification is a humanitarian-based immigration protection for children who cannot be reunified with one or both parents because of abuse, neglect, abandonment, or a similar basis found under State law. This final rule implements updates to eligibility requirements and other changes made by the Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. 110–457. DHS received comments on the proposed rule in 2011 and intends to issue a final rule in the coming year.

Statement of Need: This rule would address the eligibility requirements that must be met for SIJ classification and related adjustment of status, implement statutory amendments to these requirements, and provide procedural and evidentiary guidance to assist in the petition process.

Summary of Legal Basis: Congress established the SIJ classification in the Immigration Act of 1990 (IMMACT). The 1998 Appropriations Act amended the SIJ classification by limiting eligibility to children declared dependent on a juvenile court because of abuse, abandonment, or neglect and creating consent functions. The Trafficking Victims Protection Reauthorization Act of 2008 made many changes to the SIJ classification including: (1) Creating a requirement that the petitioner's reunification with one or both parents not be viable due to abuse, abandonment, neglect, or a similar basis under State law; (2) expanding the population of children who may be eligible to include those placed by a juvenile court with an individual or entity; (3) modifying the consent functions; (4) providing age-out protection; and (5) creating a timeframe for adjudications.

Alternatives: DHS is considering and using suggestions from stakeholders to keep in mind the vulnerable nature of abused, abandoned and neglected children in developing this regulation. These suggestions came in the form of public comment from the 2011 proposed rule.

Anticipated Cost and Benefits: In the 2011 proposed rule, DHS estimated there would be no additional regulatory compliance costs for petitioning individuals or any program costs for the Government as a result of the proposed amendments. Qualitatively, DHS estimated that the proposed rule would codify the practices and procedures currently implemented via internal policy directives issued by USCIS, thereby establishing clear guidance for petitioners. DHS is currently in the process of updating our final cost and benefit estimates.

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	09/06/11	76 FR 54978
NPRM Comment Period End.	11/07/11	
Final Rule	10/00/16	

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*.

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RIN: 1615–AB81

DHS—USCIS

59. 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; 8 U.S.C. 1187; 8 U.S.C. 1221; 8 U.S.C. 1281; 8 U.S.C. 1282; 8 U.S.C. 1301–1305 and 1372; Pub. L. 104–208, sec 643; Pub. L. 106–386; Compacts of Free Association with the Federated States of Micronesia and the Republic of Marshall Islands, and with the Government of Palau, sec 141; 48 U.S.C. 1901 note and 1931 note; Pub. L. 110–229; 8 U.S.C. 1258; 8 U.S.C. 1324a; 48 U.S.C. 1806; 8 U.S.C. 1102

CFR Citation: 8 CFR 204.5(i)(3)(ii)–(iv); 8 CFR 214.1(c)(1); 8 CFR 248.3(a); 8 CFR 274a.12(b)(9), (b)(20), (b)(23)–(25); 8 CFR 2.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) is updating the regulations to include nonimmigrant high-skilled specialty occupation professionals from Chile and Singapore (H–1B1) and from Australia (E–3) in the list of classes of aliens authorized for employment incident to status with a specific employer, to clarify that H–1B1 and principal E–3 nonimmigrants are allowed to work without having to separately apply to DHS for employment authorization. DHS is also amending the regulations to provide authorization for continued employment with the same employer if the employer has timely filed for an extension of the nonimmigrant's stay. DHS is also providing for this same continued work authorization for Commonwealth of the Northern Mariana Islands (CNMI)—Only Transitional Worker (CW–1) nonimmigrants if a Petition for a CNMI-Only Nonimmigrant Transitional Worker, Form I–129CW, is timely filed to apply for an extension of stay. In addition, DHS is updating the regulations describing the filing procedures for extensions of stay and change of status requests to include the principal E–3 and H–1B1 nonimmigrant classifications. These changes harmonize the regulations for E–3, H–1B1, and CW–1 nonimmigrant classifications with existing regulations for other, similarly situated nonimmigrant classifications. Finally, DHS is expanding the current list of evidentiary criteria for employment-based first preference (EB–1) outstanding professors and researchers to allow the submission of evidence comparable to the other forms of evidence already listed in the regulations. This harmonizes the regulations for EB–1 outstanding professors and researchers with other employment-based immigrant categories that already allow for submission of

comparable evidence. DHS is amending 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: As proposed, this rule would improve the programs serving the E–3, H–1B1, and CW–1 nonimmigrant classifications and the EB–1 immigrant classification for outstanding professors and researchers. The proposed changes harmonize the regulations governing these classifications with regulations governing similar visa classifications by removing unnecessary hurdles that place E–3, H–1B1, CW–1 and certain EB–1 workers at a disadvantage.

Summary of Legal Basis: The Homeland Security Act of 2002, Public Law 107–296, section 102, 116 Stat. 2135 (Nov. 25, 2002), 6 U.S.C. 112, and the Immigration and Nationality Act of 1952 (INA), charge the Secretary of Homeland Security (Secretary) with administration and enforcement of the immigration and nationality laws. See INA section 103, 8 U.S.C. 1103.

Alternatives: A number of the changes are part of DHS's Retrospective Review Plan for Existing Regulations. During development of DHS's Retrospective Review Plan, DHS received a comment from the public requesting specific changes to the DHS regulations that govern continued work authorization for E–3 and H–1B1 nonimmigrants when an extension of status petition is timely filed, and to expand the types of evidence allowable in support of immigrant petitions for outstanding researchers or professors. This rule is responsive to that comment, and with the retrospective review principles of Executive Order 13563.

Anticipated Cost and Benefits: The E–3 and H–1B1 provisions do not impose any additional costs on petitioning employers, individuals or Government entities, including the Federal government. The regulatory amendments provide equity for E–3 and H–1B1 nonimmigrants relative to other employment-based nonimmigrants listed in 8 CFR 274a.12.(b)(20). This provision may also allow employers of E–3 or H–1B1 nonimmigrant workers to avoid the cost of lost productivity resulting from interruptions of work while an extension of stay petition is pending. The regulatory changes that clarify principal E–3 and H–1B1 nonimmigrant classifications are employment authorized incident to status with a specific employer and that these nonimmigrant classifications must file a petition with USCIS to make an extension of stay or change of status request, simply codify current practice and impose no additional costs. Likewise, the regulatory amendments governing CW–1 nonimmigrants would not impose any additional costs for petitioning employers or for CW–1 nonimmigrant workers. The benefits of the rule are to provide equity for CW–1 nonimmigrant workers whose extension of stay request is filed by the same employer relative to other CW–1 nonimmigrant workers. Additionally, this provision mitigates any potential distortion in the labor market for employers of CW–1 nonimmigrant workers created by current inconsistent regulatory provisions which currently offer an incentive to file for extensions of stay with new employers rather than current employers. The portion of the rule addressing the evidentiary requirements for the EB–1 outstanding professor and researcher employment-based immigrant classification allows 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. Harmonizing the evidentiary requirements for EB–1 outstanding professors and researchers with other comparable employment-based immigrant classifications provides equity for EB–1 outstanding professors and researchers relative to those other employment-based visa categories.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	05/12/14	79 FR 26870
NPRM Comment Period End.	07/11/14	
Final Action	01/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Organizations.

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 Executive Order 13563.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

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RIN: 1615–AC00

DHS—USCIS

60. Expansion of Provisional Unlawful Presence Waivers of Inadmissibility

Priority: Other Significant.

Legal Authority: 8 U.S.C. 1103; 8 U.S.C. 1182

CFR Citation: 8 CFR 212.7.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) is amending its regulations to expand eligibility for the provisional unlawful presence waiver of certain grounds of inadmissibility based on the accrual of unlawful presence to all aliens who are statutorily eligible for a waiver of such grounds, are seeking such a waiver in connection with an immigrant visa application, and meet other conditions. In relation to the statutory requirement that a waiver applicant must demonstrate that the denial of the waiver would result in extreme hardship to a qualifying relative, DHS is eliminating the restrictions currently contained in the provisional unlawful presence regulation that limits the qualifying relative to U.S. citizen spouses and parents. This rule permits an applicant for a provisional waiver to establish the eligibility requirement of showing extreme hardship to any qualifying relative named in the statutory waiver provision namely a U.S. citizen or lawful permanent resident spouses and parents.

Statement of Need: Currently, DHS allows certain immediate relatives who are in the United States to request a provisional unlawful presence waiver before departing for consular processing of their immigrant visas. Currently, this waiver process is only available to those immediate relatives whose sole ground of inadmissibility would be unlawful presence under section 212(a)(9)(B)(i) of the Immigration and Nationality Act (INA) and who can demonstrate that the denial of the waiver would result in extreme hardship to their U.S. citizen spouse or parent.

All other aliens seeking an immigrant visa through consular process who require a waiver of inadmissibility to

overcome the bars in INA section 212(a)(9)(B)(i) must file the waiver at the end of the consular processing and after the consular immigrant visa interview. Obtaining the waiver through this process can be lengthy. These aliens typically have to wait abroad for at least several months for a decision on their waiver applications and until a visa can be issued. During this period, applicants must endure separation from the U.S. citizen and lawful permanent resident family members in the United States, which, in turn, often results in emotional and financial hardships to some U.S. citizens, lawful permanent residents, and their families. Inefficiencies in this waiver process also create costs for the Federal Government.

As proposed, USCIS may grant a provisional unlawful presence waiver to aliens if they are statutorily eligible for an immigrant visa and for a waiver of inadmissibility based on unlawful presence. As proposed, this rule also would expand who may be considered a qualifying relative for purposes of the extreme hardship determination to include lawful permanent resident spouses and parents. The changes are made in the interest of family unity and customer service. This rule also removes from the affected regulations all unnecessary procedural instructions regarding office names and locations, position titles and responsibilities, and form numbers. These instructions are often unnecessary, and unrestricted USCIS' ability to better utilize its resources and serve its customers.

Summary of Legal Basis: 5 U.S.C. 301; 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; Public Law 107296, 116 Stat. 2135; 6 U.S.C. 1 *et seq.;* E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2; Public Law 11254. 8 U.S.C. 1101 and note, 1102, 1103, 1182 and note, 1184, 1187, 1223, 1225, 1226, 1227, 1255, 1359; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108458); 8 CFR part 2. Section 212.1(q) also issued under section 702, Public Law 110229, 122 Stat. 754, 854.

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

Anticipated Cost and Benefits: As a result of expanding the population of aliens who would benefit from a streamlined immigrant visa process, DHS believes that both the affected population and the Federal Government will benefit. In addition to reducing the emotional hardship that U.S. citizen and lawful permanent resident families experience as a result of separation from their alien relatives, DHS anticipates these families would experience fewer financial burdens associated with traveling abroad. Finally, this rule would increase USCIS and DOS efficiencies by streamlining the waiver process for unlawful presence for the expanded group.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	07/22/15	80 FR 43338
NPRM Comment Period End.	09/21/15	
Final Action	04/00/16	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

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Related RIN: Related to 1615–AB99

RIN: 1615–AC03

DHS—U.S. COAST GUARD (USCG)

Final Rule Stage

61. Inspection of Towing Vessels

Priority: Other Significant.

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

CFR Citation: 46 CFR 2; 46 CFR 15; 46 CFR 136 to 144.

Legal Deadline: NPRM, Statutory, January 13, 2011. Final, Statutory, October 15, 2011. On October 15, 2010, the Coast Guard Authorization Act of 2010 was enacted as Public Law 111–281. It requires that a proposed rule be issued within 90 days after enactment and that a final rule be issued within 1 year of enactment.

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.

Statement of Need: This rulemaking would implement section 415 of the Coast Guard and Maritime Transportation Act of 2004. The intent of the proposed rule is to promote safer work practices and reduce casualties on towing vessels by ensuring that towing vessels adhere to prescribed safety standards. This proposed rule was developed in cooperation with the Towing Vessel Safety Advisory Committee. It would establish a new subchapter dedicated to towing vessels, covering vessel equipment, systems, operational standards, and inspection requirements.

Summary of Legal Basis: Proposed new subchapter authority: 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; DHS Delegation 0170.1. The Coast Guard and Maritime Transportation Act of 2004 (CGMTA 2004), Public Law 108–293, 118 Stat. 1028, (Aug. 9, 2004), established new authorities for towing vessels as follows: section 415 added towing vessels, as defined in section 2101 of title 46, United States Code (U.S.C.), as a class of vessels that are subject to safety inspections under chapter 33 of that title (Id. at 1047). Section 415 also added new section 3306(j) of title 46, authorizing the Secretary of Homeland Security to establish, by regulation, a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels (Id.). Section 409 added new section 8904(c) of title 46, U.S.C., authorizing the Secretary to establish, by regulation, ''maximum hours of service (including recording and recordkeeping of that service) of individuals engaged on a towing vessel that is at least 26 feet in length measured from end to end over the deck (excluding the sheer).'' (Id. at 1044–45.)

Alternatives: We considered the following alternatives for the notice of proposed rulemaking (NPRM): One regulatory alternative would be the addition of towing vessels to one or more existing subchapters that deal with other inspected vessels, such as cargo and miscellaneous vessels (subchapter I), offshore supply vessels (subchapter L), or small passenger vessels (subchapter T). We do not believe, however, that this approach would recognize the often ''unique'' nature and characteristics of the towing industry in general and towing vessels in particular. The same approach could be adopted for use of a safety management system by requiring compliance with title 33, Code of Federal Regulations, part 96 (Rules for the Safe Operation of Vessels and Safety Management Systems). Adoption of these requirements, without an alternative safety management system, would also not be ''appropriate for the characteristics, methods of operation, and nature of service of towing vessels.'' The Coast Guard has had extensive public

involvement (four public meetings, over 100 separate comments submitted to the docket, as well as extensive ongoing dialogue with members of the Towing Safety Advisory Committee (TSAC)) regarding development of these regulations. Adoption of one of the alternatives discussed above would likely receive little public or industry support, especially considering the TSAC efforts toward development of standards to be incorporated into a separate subchapter dealing specifically with the inspection of towing vessels. An approach that would seem to be more in keeping with the intent of Congress would be the adoption of certain existing standards from those applied to other inspected vessels. In some cases, these existing standards would be appropriately modified and tailored to the nature and operation of certain categories of towing vessels. The adopted standards would come from inspected vessels that have demonstrated ''good marine practice'' within the maritime community. These regulations would be incorporated into a subchapter specifically addressing the inspection for certification of towing vessels. The law requiring the inspection for certification of towing vessels is a statutory mandate, compelling the Coast Guard to develop regulations appropriate for the nature of towing vessels and their specific industry.

Anticipated Cost and Benefits: We estimate that, as a result of this rulemaking, owners and operators of towing vessels would incur additional annualized costs, discounted at 7 percent, in the range of $14.3 million to $17.1 million. The cost of this rulemaking would involve provisions for safety management systems, standards for construction, operation, vessel systems, safety equipment, and recordkeeping. Our cost assessment includes existing and new vessels. The Coast Guard developed the requirements in the proposed rule by researching both the human factors and equipment failures that caused towing vessel accidents. We believe that the proposed rule would address a wide range of causes of towing vessel accidents and supports the main goal of improving safety in the towing industry. The primary benefit of the proposed rule is an increase in vessel safety and a resulting decrease in the risk of towing vessel accidents and their consequences. We estimate an annualized benefit of $28.5 million from this rule.

Risks: This regulatory action would reduce the risk of towing vessel accidents and their consequences. Towing vessel accidents result in fatalities, injuries, property damage, pollution, and delays.

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	02/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

Government Levels Affected: State.

Additional Information: Docket ID USCG–2006–24412.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: LCDR William Nabach, Project Manager, Office of Operating & Environmental Standards, CG–OES–2, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., STOP 7509, Washington, DC 20593–7509, *Phone:* 202 372–1386, *Email: william.a.nabach@uscg.mil*.

RIN: 1625–AB06

DHS—USCG

62. 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. 701; 50 U.S.C. 191; 50 U.S.C. 192; E.O. 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 two years after the commencement of the pilot program.

The final rule is required two 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 (TWIC). 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 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 2009, and a NPRM, published in March 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. We estimate the annualized cost of this rule to industry to be $26.5 million at a 7 percent discount rate. The benefits of the rulemaking include the enhancement of the security of vessel ports and other facilities by ensuring that only individuals who hold valid TWICs are granted unescorted access to secure areas at those locations.

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	02/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: None.

Additional Information: Docket ID USCG–2007–28915.

URL for More Information: *www.regulations.gov*.

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

Agency Contact: LT Mason Wilcox, 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:* 202 372–1123, *Email: mason.c.wilcox@uscg.mil*.

Related RIN: Related to 1625–AB02

RIN: 1625–AB21

DHS—U.S. CUSTOMS AND BORDER PROTECTION (USCBP)

Proposed Rule Stage

63. Air Cargo Advance Screening (ACAS)

Priority: Other Significant.

Legal Authority: 19 U.S.C. 2071 note

CFR Citation: 19 CFR 122.

Legal Deadline: None.

Abstract: U.S. Customs and Border Protection (CBP) is proposing to amend the implementing regulations of the Trade Act of 2002 regarding the submission of advance electronic information for air cargo and other provisions to provide for the Air Cargo Advance Screening (ACAS) program. ACAS would require the submission of certain advance electronic information for air cargo. This will allow CBP to better target and identify dangerous cargo and ensure that any risk associated with such cargo is mitigated before the aircraft departs for the United States. CBP, in conjunction with Transportation Security Administration, has been operating ACAS as a voluntary pilot program since 2010 and would like to implement ACAS as a regulatory program.

Statement of Need: DHS has identified an elevated risk associated with cargo being transported to the United States by air. This rule will help address this risk by giving DHS the data it needs to improve targeting of the cargo prior to takeoff.

Summary of Legal Basis:

Alternatives: In addition to the proposed rule, CBP analyzed two alternatives—Requiring the data elements to be transmitted to CBP further in advance than the proposed rule requires; and requiring fewer data elements. CBP concluded that the proposal rule provides the most favorable balance between security outcomes and impacts to air transportation.

Anticipated Cost and Benefits: To improve CBP's risk assessment and targeting capabilities and to enable CBP to target and identify risk cargo prior to departure of the aircraft to the United States, ACAS would require the submission of certain of the advance electronic information for air cargo earlier in the process. In most cases, the information would have to be submitted as early as practicable, but no later than prior to the loading of cargo onto an aircraft at the last foreign port of departure to the United States. CBP, in conjunction with TSA, has been operating ACAS as a voluntary pilot program since 2010. CBP believes this pilot program has proven successful by not only mitigating risks to the United States, but also minimizing costs to the private sector. As such, CBP is proposing to transition the ACAS pilot program into a permanent program. Costs of this program to carriers include one-time costs to upgrade systems to facilitate transmission of these data to CBP and recurring per transmission costs. Benefits of the program include improved security that will result from having these data further in advance.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	03/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

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: 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–AB04

DHS—USCBP

Final Rule Stage

64. 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: The Form I–94 is issued 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. Customs and Border Protection (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. 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. More information on costs and benefits can be found in the interim final rule.

Risks: N/A.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/27/13	78 FR 18457

Action	Date	FR Cite
Interim Final Rule Comment Period End.	04/26/13	
Interim Final Rule Effective.	04/26/13	
Final Action	02/00/16	

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

65. Security Training for Surface Mode Employees

Priority: Other Significant.

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, August 3, 2008, Rule for public transportation agencies is due one year after date of enactment.

Final, Statutory, February 3, 2008, Rule for railroads and over-the-road buses is due six months after date of enactment.

According to sec 1408 of Pub. L. 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: This rule would require security awareness training for front-line employees for potential terrorism-related security threats and conditions pursuant to the 9/11 Act. This rule would apply to higher-risk public transportation, freight rail, and over-the-road bus owner/operators and take into consideration the many actions higher-risk owner/operators have already taken since 9/11 to enhance the baseline of security through training of their employees. 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.

Statement of Need: Employee training is an important and effective tool for averting or mitigating potential attacks by those 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 is in the process of determining the costs and benefits of this rulemaking.

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	09/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Local.

Agency Contact: Chandru (Jack) Kalro, Deputy Director, Surface Division, Office of Security Policy and Industry Engagement, Department of Homeland Security, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–1145, *Fax:* 571 227–2935, *Email:* *surfacefrontoffice@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

Final Rule Stage

66. 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 notice of proposed rulemaking (NPRM) was published on March 26, 2013, 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 this rulemaking 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 impact analysis.

Anticipated Cost and Benefits: TSA reports in the NPRM 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 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. More information about costs and benefits can be found in the Notice of Proposed Rulemaking. TSA is in the process of determining the costs and benefits of the final rule.

Risks: DHS aims to prevent terrorist attacks and to reduce the vulnerability of the United States to terrorism. By screening passengers with AIT, TSA will reduce the risk that a terrorist will smuggle a non-metallic threat on board an aircraft.

Timetable:

Action	Date	FR Cite
NPRM	03/26/13	78 FR 18287
NPRM Comment Period End.	06/24/13	
Final Rule	01/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

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

67. Improving and Expanding Training Opportunities for F–1 Nonimmigrant Students With STEM Degrees and Expanding CAP–GAP Relief for All F–1 Students With Pending H–1B Petitions

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

Legal Authority: 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1182; 8 U.S.C. 1184; 8 U.S.C. 1221; 8 U.S.C. 1281 and 1282; 8 U.S.C. 1302 to 1305

CFR Citation: 8 CFR 214; 8 CFR 274a.

Legal Deadline: None.

Abstract: The Department of Homeland Security is proposing a new rule to enhance opportunities for F–1 nonimmigrant students graduating with a science, technology, engineering, or mathematics (STEM) degree from an accredited school certified by U.S. Immigration and Custom Enforcement (ICE) Student and Exchange Visitor Program (SEVP), and to further their courses of study through optional practical training (OPT) with employers enrolled in the U.S. Citizenship and Immigration Services' (USCIS') E-Verify employment verification program. The proposed rule would replace a 2008 interim final rule (IFR) that was invalidated and will be vacated on February 12, 2016, per a ruling by the U.S. District Court for the District of Columbia on August 12, 2015, in the *Washington Alliance of Technology Workers* v. *U.S. Department of Homeland Security* litigation.

Statement of Need: This proposed rule would enhance the academic experience of STEM OPT students, increase the overall competitiveness of U.S. educational institutions, and provide important benefits to the U.S. economy.

Summary of Legal Basis:

Alternatives:

Anticipated Cost and Benefits: Not yet determined.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	10/19/15	80 FR 63375
NPRM Comment Period End.	11/18/15	
Final Rule	01/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

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

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Molly Stubbs, ICE Regulatory Coordinator, Department of Homeland Security, U.S. Immigration and Customs Enforcement, Office of the Director, PTN—Potomac Center North, 500 12th Street SW., Washington, DC 20536, *Phone:* 202 732–6202, *Email: molly.stubbs@ice.dhs.gov.*

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Fall 2015 Statement of Regulatory Priorities

Introduction—HUD's Mission

Secretary Julián Castro has called the Department of Housing and Urban Development (HUD) the Department of Opportunity because of the unique impact it can make on the lives of Americans. As Secretary Castro has noted, where people live shapes how they live—the types and number of available jobs, the quality of the education their children receive, and the overall quality of life.[1] Although one of HUD's core objectives is to help families secure quality, affordable housing, its mission is much broader. HUD celebrated the 50th anniversary of its establishment in September 2015. President Lyndon Johnson, in his remarks on the passage of the legislation in 1965 establishing HUD, provided a clear and succinct statement of the objectives for the new Department: ''to make sure that every family in America lives in a home of dignity and a neighborhood of pride, a community of opportunity, and a city of promise and hope.'' [2]

In brief, HUD's mission is to provide families and communities with the tools to build a brighter future. Consistent with this vision, HUD programs impact small towns, big cities, rural communities, and tribal communities across the country. 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.

Statement of Regulatory Priorities

This Statement of Regulatory Priorities, together with HUD's Fall Semiannual Agenda of Regulations, highlights the most significant regulatory and deregulatory initiatives that HUD seeks to complete during the upcoming fiscal year.

As noted in the Introduction, a central feature of HUD's mission is to use housing as a platform for improving quality of life. HUD housing serves at least two broad populations: people who are in a position to markedly increase their self-sufficiency and people who will need long-term support (for example, the frail elderly and people with severe disabilities). For those individuals who are able, increasing self-sufficiency requires access to life-skills training, wealth-creation and asset-building opportunities, job training, and career services.

Knowledge is one pillar to achieving self-sufficiency and the American Dream—a catalyst for upward mobility, as well as an investment that ensures each generation is, at least, as successful as the last. The adoption, associated programming, and use of broadband technology are powerful tools to increase access to knowledge; however, there is a ''digital divide'' in this nation between those with broadband Internet access and those without it.

This Statement of Regulatory Priorities highlights two rules that will focus on narrowing the digital divide in low-income communities served by HUD.

Regulatory Priority: Narrowing the Digital Divide in HUD Communities

On March 23, 2015, President Obama issued a Presidential Memorandum on ''Expanding Broadband Deployment and Adoption by Addressing Regulatory Barriers and Encouraging Investment and Training.'' [3] In this memorandum, the President noted that access to high-speed broadband is no longer a luxury, but a necessity for American families, businesses, and consumers. Mobile wireless access to the Internet, such as provided through smartphone, is an insufficient alternative to broadband connectivity. Such wireless access provides lower connection speeds and lesser functionality for the full range of household uses (such as word processing and other software) compared to place-based broadband Internet connection. The President further noted that the Federal government has an important role to play in developing coordinated policies to promote broadband deployment and adoption, including promoting best practices, breaking down regulatory barriers, and encouraging further investment.

On July 15, 2015, HUD launched its Digital Opportunity Demonstration, known as ''ConnectHome,'' in which HUD provided a platform for collaboration among local governments, public housing agencies, Internet service providers, philanthropic foundations, nonprofit organizations, and other relevant stakeholders to work together to produce local solutions for narrowing the digital divide in communities served by HUD across the nation. The demonstration, or pilot as it is also called, commenced with the participation of 28 communities. Through contributions made by the Internet service providers and other participating organizations, these 28 communities will benefit from the ConnectHome collaboration by receiving, for the residents living in HUD public and assisted housing in these communities, broadband infrastructure, literacy training, related content, and devices that provide for accessing high-speed Internet.[4]

The importance of all Americans having access to the Internet cannot be overstated. As HUD stated in its announcement of the Digital Opportunity Demonstration, published in the **Federal Register** on April 3, 2015, at 80 FR 18248, many low-income Americans do not have broadband Internet at home, contributing to the estimated 66 million Americans who are without the most basic digital literacy skills. It is for these reasons that HUD is exploring ways beyond ConnectHome, to narrow the digital divide for the low-income individuals and families served by HUD multifamily rental housing programs.

The following two rules featured in this Regulatory Plan are part of this effort.

- Narrowing the Digital Divide through Broadband Installation in HUD-Funded New Construction and Substantial Rehabilitation
- Narrowing the Digital Divide through Community Planning: Integrating Broadband Access Planning into HUD's Consolidated Planning Process

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 pursued in FY 2016. HUD expects that the neither the total economic costs nor the total efficiency gains will exceed $100 million.

[1] Secretary Julián Castro, Remarks to the Department of Housing and Urban Development, ''A Year of Progress: Building a Stronger HUD for the Next 50 Years'' (July 27, 2015). See *http://portal.hud.gov/hudportal/HUD?src=/press/speeches_remarks_statements/2015/Remarks_072715.*

[2] President Lyndon Baines Johnson, Remarks upon Enactment of the Housing and Urban Development Act of 1965 (April 10, 1965). *http://www.lbjlibrary.org/mediakits/hud/p6.html.*

[3] *https://www.whitehouse.gov/the-press-office/2015/03/23/presidential-memorandum-expanding-broadband-deployment-and-adoption-addr.*

[4] *http://connecthome.hud.gov/.*

Narrowing the Digital Divide Through Broadband Installation in HUD-Funded New Construction and Substantial Rehabilitation

HUD Office: Office of the Secretary.
Rulemaking Stage: Proposed Rule.
Priority: Significant.
Legal Authority: 12 U.S.C. 1701q and 4568; 42 U.S.C. 1437a, 1437c, 1437d, 1437f, 1437g, 1437n, 1437z–2, 1437z–7, 3535(d), 5301–5320, 8013, 11371 *et seq.,* 12701–12839, 12901–12912, 13611–13619; sec 327, Pub. L. 109–115, 119 Stat. 2936, and sec 607, Pub. L. 109–162, 119 Stat. 3051
CFR Citation: 24 CFR 5, 92, 93, 570, 574, 578, 880, 891, 905, and 983.
Legal Deadline: None.
Abstract: Through this proposed rule, HUD continues its efforts to narrow the digital divide in low-income communities served by HUD by providing broadband access to communities in need of such access, where feasible and under HUD programs that authorize use of HUD funds for such purpose. Broadband is the common term used to refer to a very fast connection to the Internet. Such connection is also referred to as high-speed broadband or high-speed Internet. In this rule, HUD proposes to require installation of broadband infrastructure at the time of new construction or substantial rehabilitation of multifamily rental housing that is funded by HUD. Installation of broadband infrastructure at the time of new construction or substantial rehabilitation is generally easier and less costly than when such installation is undertaken as a stand-alone effort. The proposed rule, however, recognizes that installation of broadband infrastructure may not be feasible for all new construction or substantial rehabilitation, and therefore the proposed rule allows limited exceptions to the installation requirements. Installing unit-based high-speed Internet in multifamily rental housing that is newly constructed or substantially rehabilitated with HUD funding will not only expand affordable housing for low-income families but will provide a platform for individuals and families residing in such housing to participate in the digital economy and increase their access to economic opportunities.

Statement of Need

The proposed rule is part of several mutually supportive efforts being taken by the Administration to close the digital divide for low-income communities. As noted above, many low-income Americans do not have broadband Internet at home. Given the populations impacted by the digital divide, HUD is at the forefront of implementing these Administration efforts. The digital divide in broadband access, connectivity, and use disproportionately affects certain Americans: Those who earn less than $25,000 annually; individuals who did not finish high school; and African Americans and Hispanics. Eighty-four percent of households with HUD assistance make less than $20,000 per year, and 63 percent are African American or Hispanic (46 percent and 17 percent, respectively). Of these HUD-assisted household, 38 percent have children who are 18 years or younger. The proposed rule will build on the success of ConnectHome by ensuring that when construction or significant rehabilitation is done using HUD funds, the infrastructure needed for broadband access is included in the work.

Alternatives: Construction and rehabilitation standards are regulatory in nature, so amending them to require the installation of broadband infrastructure requires rulemaking. Without amending the construction and rehabilitation standards, there is no way to require grantees to install broadband infrastructure in multifamily housing.

Anticipated Costs and Benefits: The proposed rule would provide that for new construction or substantial rehabilitation of multifamily rental housing funded by HUD that, as part of the new construction or substantial rehabilitation to be undertaken, such activity must include installation of broadband infrastructure. Installing broadband infrastructure will be an additional cost when doing HUD-funded new construction/substantial rehabilitation. However, HUD notes that none of the HUD covered programs listed in this rule require a grantee to undertake new construction or substantial rehabilitation. New construction and substantial rehabilitation are eligible activities that grantees may undertake under HUD-funded programs. Therefore, entities will not incur any costs than they otherwise would incur by using their HUD funds to voluntarily undertake new construction or substantial rehabilitation under HUD funded-programs that authorize such activities.

Further, HUD is seeking to minimize the costs of installation by pairing the installation requirements with new construction or rehabilitation work when costs are lower than installation broadband infrastructure when no other work is being done. Additionally, HUD is proposing to define ''substantial rehabilitation'' as significant work (50 percent or more of full system replacement) on one or more of the following systems: Electrical, mechanical, or plumbing. This further minimizes the costs of the rule by ensuring that only significant work that would lower the burden of installing broadband infrastructure triggers the proposed requirements.

HUD also recognizes that there may be some communities or buildings where installing broadband infrastructure is infeasible or impractical due to a variety of circumstances (*e.g.,* no broadband access is available near the community, the building itself may have some difficulties in supporting the infrastructure). In these instances, HUD is reserving the right to determine that installation of broadband infrastructure is not feasible and excusing the grantee from the installation requirement.

Risks: This rule poses no risk to public health, safety, or the environment.
Timetable:

Action	Date	FR Cite
NPRM	01/00/16	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: No.
Government Levels Affected: State, Local.
Federalism Affected: No.
Energy Affected: No.
International Impacts: No.
Agency Contact: Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, *Phone:* 202 708–3055.
RIN: 2501–AD75

Narrowing the Digital Divide Through Community Planning: Integrating Broadband Planning Into HUD's Consolidated Planning Process

HUD Office: Office of the Assistant Secretary for Community Planning and Development.
Rulemaking Stage: Proposed Rule.
Priority: Significant.
Legal Authority: 42 U.S.C. 3535(d), 3601–3619, 5301–5315, 11331–11388, 12701–12711, 12741–12756, and 12901–12912
CFR Citation: 24 CFR 91.
Legal Deadline: None.
Abstract: For communities to survive in this digital era, planning for broadband access must be a basic component of their community planning process. HUD's Consolidated Plan is a planning mechanism designed to help States and local governments

assess their affordable housing and community development needs and make data-driven, place-based investment decisions. The consolidated planning process serves as the framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding from HUD's formula block grant programs.

This proposed rule would amend HUD's Consolidated Plan regulations to require that jurisdictions, in their planning efforts, consider the needs of broadband access for low-income residents in the communities they serve. Broadband is the common term used to refer to a very fast connection to the Internet. Such connection is also referred to as high-speed broadband or high-speed Internet. Specifically, the rule would require that States and localities that submit a consolidated plan evaluate whether residents of HUD-funded housing have access to high-speed Internet and, if so, in what ways is such access made available to these residents. If low-income residents in the communities do not have access to high-speed Internet, States and jurisdictions must consider whether such access can be made available to their communities as part of their investment of HUD funds. The proposed regulatory amendments build upon other HUD efforts to close the digital divide and help ensure that the benefits of high-speed Internet reach every American household, regardless of their economic backgrounds.

Statement of Need: The proposed rule is part of several mutually supportive efforts being taken by the Administration to close the digital divide for low-income communities. As noted above, many low-income Americans do not have broadband Internet at home. Given the populations impacted by the digital divide, HUD is at the forefront of implementing these Administration efforts. The digital divide in broadband access, connectivity, and use disproportionately affects certain Americans: Those who earn less than $25,000 annually; individuals who did not finish high school; and African Americans and Hispanics. Eighty-four percent of households with HUD assistance make less than $20,000 per year, and 63 percent are African American or Hispanic (46 percent and 17 percent, respectively). Of these HUD-assisted household, 38 percent have children who are 18 years or younger. The proposed regulatory amendments will build on the success of ConnectHome by codifying the policy goals of increased Internet access and digital literacy as permanent features of HUD's community planning regulations.

Alternatives: The Consolidated Plan requirements are regulatory in nature so rulemaking is necessary to revise them. While non-regulatory guidance encouraging the consideration of broadband access in the consolidated planning process is a possible alternative, such guidance is non-binding. Accordingly, rulemaking is the only possible option to accomplish the policy goals described above.

Anticipated Costs and Benefits: The proposed rule will amend the Consolidated Plan regulations to require that States and local governments evaluate the access of public and other assisted housing residents to broadband Internet service. The proposed regulatory changes are concerned with the consolidated planning process and HUD does not anticipate that the costs of the revised consultation and reporting requirements, as proposed in this rule, will be significant since the regulatory changes merely build upon similar existing requirements rather than mandating completely new procedures. While the proposed rule would require States and local governments to consider, as part of their Consolidated Planning process, the broadband access needs of resident of public and other assisted housing, the rule does not mandate that actions be taken to meet those needs. The significant interest expressed by many communities in participating in ConnectHome demonstrated to HUD that many jurisdictions that are already engaged in planning to bring high-speed Internet access to their low-income communities. These jurisdictions also demonstrated their awareness of the harmful effects of the digital divide and a high interest in narrowing that divide. Additionally, given the positive response to ConnectHome, HUD anticipates that many State and local governments will devote resources, whether public or private, without any mandate from HUD, to bring high-speed Internet access to their communities. This rule therefore, which only requires consideration of the needs in low-income communities to access to broadband Internet service, has a minimal cost impact on all grantees subject to the Consolidated Planning process.

Risks: This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State, Local.

Federalism Affected: No.

Energy Affected: No.

International Impacts: No.

Agency Contact: Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, *Phone:* 202 708–3055.

RIN: 2506–AC41

HUD—OFFICE OF THE SECRETARY (HUDSEC)

Proposed Rule Stage

68. • Narrowing the Digital Divide Through Broadband Installation in HUD-Funded New Construction and Substantial Rehabilitation (FR–5890)

Priority: Other Significant.

Legal Authority: 12 U.S.C. 1701q; 12 U.S.C. 4568; 1437a, 1437c, 1437d, 1437f, 1437n, 1437z–2, 1437z–7; 42 U.S.C. 3535(d); 42 U.S.C. 5301–5320; 42 U.S.C. 8013; 42 U.S.C. 11371 *et seq.;* 42 U.S.C. 12701–12839; 42 U.S.C. 12901–12912; 42 U.S.C. 13611–13619; sec 327, Pub. L. 109–115, 119 Stat 2936; sec 607, Pub. L. 109–162, 119 Stat 3051

CFR Citation: 24 CFR 5; 24 CFR 92; 24 CFR 93; 24 CFR 570; 24 CFR 578; 24 CFR 880; 24 CFR 905; 24 CFR 983.

Legal Deadline: None.

Abstract: Through this proposed rule, HUD continues its efforts to narrow the digital divide in low-income communities served by HUD by providing, where feasible and with HUD funding, broadband access to communities in need of such access. Broadband is the common term used to refer to a very fast connection to the Internet. Such connection is also referred to as high-speed broadband or high-speed Internet. In this rule, HUD proposes to require installation of broadband infrastructure at the time of new construction or substantial rehabilitation of multifamily rental housing that is funded by HUD. Installation of broadband infrastructure at the time of new construction or substantial rehabilitation is generally easier and less costly than when such installation is undertaken as a stand-alone effort. The proposed rule, however, recognizes that installation of broadband infrastructure may not be

feasible for all new construction or substantial rehabilitation, and therefore the proposed rule allows limited exceptions to the installation requirements. Installing unit-based high-speed Internet in multifamily rental housing that is newly constructed and substantially rehabilitated with HUD funding will not only expand affordable housing for low-income families but will provide a platform for individuals and families residing in such housing to participate in the digital economy, and increase their access to economic opportunities.

Statement of Need: The proposed rule is part of several mutually supportive efforts being taken by the Administration to close the digital divide for low-income communities. As noted above, many low-income Americans do not have broadband Internet at home. Given the populations impacted by the digital divide, HUD is at the forefront of implementing these Administration efforts. The digital divide in broadband access, connectivity, and use disproportionately affects certain Americans: Those who earn less than $25,000 annually; individuals who did not finish high school; and African Americans and Hispanics. Eighty-four percent of households with HUD assistance make less than $20,000 per year, and 63 percent are African American or Hispanic (46 percent and 17 percent, respectively). Of these HUD-assisted household, 38 percent have children who are 18 years or younger. The proposed rule will build on the success of ConnectHome by ensuring that when construction or significant rehabilitation is done using HUD funds, the infrastructure needed for broadband access is included in the work.

Summary of Legal Basis: None.

Alternatives: Construction and rehabilitation standards are regulatory in nature, so amending them to require the installation of broadband infrastructure requires rulemaking. Without amending the construction and rehabilitation standards, there is no way to require grantees to install broadband infrastructure in multifamily housing.

Anticipated Cost and Benefits: The proposed rule would provide that for new construction or substantial rehabilitation of multifamily rental housing funded by HUD that, as part of the new construction or substantial rehabilitation to be undertaken, such activity must include installation of broadband infrastructure. Installing broadband infrastructure will be an additional cost when doing HUD-funded new construction/substantial rehabilitation. However, HUD notes that none of the HUD covered programs listed in this rule require a grantee to undertake new construction or substantial rehabilitation. New construction and substantial rehabilitation are eligible activities that grantees may take using HUD funds. Therefore, entities will not incur any costs than they otherwise would incur by voluntarily undertaking new construction or substantial rehabilitation, and the costs of these activities are funded by HUD.

Further, HUD is seeking to minimize the costs of installation by pairing the installation requirements with new construction or rehabilitation work when costs are lower than installation broadband infrastructure when no other work is being done. Additionally, HUD is proposing to define substantial rehabilitation as significant work (50 percent or more of full system replacement) on one or more of the following systems: electrical, mechanical, or plumbing. This further minimizes the costs of the rule by ensuring that only significant work that would lower the burden of installing broadband infrastructure triggers the proposed requirements.

HUD also recognizes that there may be some communities or buildings where installing broadband infrastructure is infeasible or impractical due to a variety of circumstances (*e.g.,* no broadband access is available near the community, the building itself may have some difficulties in supporting the infrastructure). In these instances, HUD is reserving the right to determine that installation of broadband infrastructure is not feasible and excusing the grantee from the installation requirement.

Risks: This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/16	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Office of the General Counsel, Department of Housing and Urban Development, Office of the Secretary, 451 7th Street SW., Washington, DC 20410, *Phone:* 202 708–5132.

RIN: 2501–AD75

HUD—OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT (CPD)

Proposed Rule Stage

69. • Narrowing the Digital Divide Through Community Planning: Integrating Broadband Planning Into HUD's Consolidated Planning Process (FR–5891)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 3535(d); 42 U.S.C. 3601–3619; 42 U.S.C. 5301–5315; 42 U.S.C. 11331–11388; 42 U.S.C.12701–12711; 42 U.S.C.12741–12756; 42 U.S.C. 12901–12912

CFR Citation: 24 CFR 91.

Legal Deadline: None.

Abstract: For communities to survive in this digital era, planning for broadband access must be a basic component of their community planning process. HUD's Consolidated Plan is a planning mechanism designed to help States and local governments to assess their affordable housing and community development needs and to make data-driven, place-based investment decisions. The consolidated planning process serves as the framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding from HUD's formula block grant programs.

This proposed rule would amend HUD's Consolidated Plan regulations to require that jurisdictions, in their planning efforts, consider the needs of broadband access for low-income residents in the communities they serve. Broadband is the common term used to refer to a very fast connection to the Internet. Such connection is also referred to as high-speed broadband or high-speed Internet. Specifically, the rule would require that States and localities that submit a consolidated plan evaluate whether residents of HUD-funded housing have access to high-speed Internet and, if so, in what ways is such access made available to these residents. If low-income residents in the communities do not have access to high-speed Internet, States and jurisdictions must consider whether such access can be made available to their communities, as part of their investment of HUD funds. The proposed regulatory amendments build upon other HUD efforts to close the digital divide and help ensure that the benefits of high-speed Internet reach every American household, regardless of their economic backgrounds.

Statement of Need: The proposed rule is part of several mutually supportive efforts being taken by the Administration to close the digital

divide for low-income communities. As noted above, many low-income Americans do not have broadband Internet at home. Given the populations impacted by the digital divide, HUD is at the forefront of implementing these Administration efforts. The digital divide in broadband access, connectivity, and use disproportionately affects certain Americans: Those who earn less than $25,000 annually; individuals who did not finish high school; and African Americans and Hispanics. Eighty-four percent of households with HUD assistance make less than $20,000 per year, and 63 percent are African American or Hispanic (46 percent and 17 percent, respectively). Of these HUD-assisted household, 38 percent have children who are 18 years or younger. The proposed regulatory amendments will build on the success of ConnectHome by codifying the policy goals of increased Internet access and digital literacy as permanent features of HUD's community planning regulations.

Summary of Legal Basis: None.

Alternatives: The Consolidated Plan requirements are regulatory in nature so rulemaking is necessary to revise them. While non-regulatory guidance encouraging the consideration of broadband access in the consolidated planning process is a possible alternative, such guidance is non-binding. Accordingly, rulemaking is the only possible option to accomplish the policy goals described above.

Anticipated Cost and Benefits: The proposed rule will amend the Consolidated Plan regulations to require that States and local governments evaluate the access of public and other assisted housing residents to broadband Internet service. The proposed regulatory changes are concerned with the consolidated planning process and HUD does not anticipate that the costs of the revised consultation and reporting requirements, as proposed in this rule, will be significant since the regulatory changes merely build upon similar existing requirements rather than mandating completely new procedures. While the proposed rule would require States and local governments to consider, as part of their Consolidated Planning process, the broadband access needs of resident of public and other assisted housing, the rule does not mandate the actions that actions be taken to meet those needs. The significant interest in participating in ConnectHome demonstrated to HUD that many jurisdictions that are already engaged in planning to bring high-speed Internet access to their low-income communities. These jurisdictions also demonstrated their awareness of the harmful effects of the digital divide and a high interest in narrowing that divide. Additionally, given the positive response to ConnectHome, HUD anticipates that many State and local governments will devote resources, whether public or private, without any mandate from HUD, to bring high-speed Internet access to their communities. This rule therefore, which only requires consideration of the needs in low-income communities to access to broadband Internet service, has a minimal cost impact on all grantees subject to the Consolidated Planning process.

Risks: This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: None.

Agency Contact: Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Office of the General Counsel, Department of Housing and Urban Development, Office of the Secretary, 451 7th Street SW., Washington, DC 20410, *Phone:* 202 708–5132.

RIN: 2506–AC41

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 408 park units and 563 wildlife refuges, and more than one billion 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.

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. 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 and promote tribal self-determination and self-governance;
- 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 Department's bureaus implement congressionally mandated programs through their regulations. Some of these regulatory programs include:

- Overseeing the development of 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; and

• Managing natural resource damage assessments.

Regulatory Policy

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 responded 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 the Outer Continental Shelf, 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.

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 Department routinely meets with stakeholders to solicit feedback and gather input on how modernize our regulatory programs, through efforts such as incorporating performance based standards where appropriate and removing outdated and unnecessary requirements. DOI bureaus are continuing to 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 dollar spent by careful evaluation of the economic effects of planned rules; and

• Improved compliance and transparency by use of plain language in our regulations and guidance documents.

The Department's Final Plan for Retrospective Review and biannual status reports can be viewed at *http://www.doi.gov/open/regsreview*.

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) provides services to approximately 1.9 million Indians and Alaska Natives, and maintains a government-to-government relationship with the 567 federally recognized Indian tribes. The Bureau also 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. 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. The Bureau 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:

• Finalize 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 plans to finalize regulations that address grants to tribally controlled community colleges and other Indian education regulations. These reviews 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 in Bureau-funded schools.

• 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 finalize revisions to regulations regarding rights-of-way (25 CFR 169); Secretarial elections (25 CFR 81); the Housing Improvement Program (25 CFR 256); Indian Reservation Roads (25 CFR 170); and Indian Child Welfare Act proceedings (25 CFR 23).

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:

• Provide for site security by preventing theft and loss and to enable accurate measurement and production accountability.

• Ensure that crude oil produced from Federal and Indian oil and gas leases is accurately measured and accounted for.

• Ensure that gas produced from Federal and Indian oil and gas leases is accurately measured and accounted.

The Bureau of Land Management (BLM) is updating and improving the current versions of Onshore Oil and Gas Orders (Order) for Site Security (Order 3), Oil Measurement (Order 4), and Gas Measurement (Order 5). These Orders were last updated in 1989. The primary purpose for these updates is to keep pace with changing industry practices, emerging and new technologies, respond to recommendations from the Government Accountability Office, the U.S. Department of the Interior (Department) Office of the Inspector General, and the Department's Subcommittee on Royalty Management. The proposed changes address findings and recommendations that in part formed the basis for the GAO's inclusion of the Department's oil and gas program on the GAO's High Risk List in 2011 (GAO–11–278) and for its continuing to keep the program on the list in the 2013 and 2015 updates. The Orders will be published as proposed rules in 43 Code of Federal Regulations (CFR) 3173, 3174 and 3175 respectively.

• Preventing waste of produced natural gas and ensuring fair return to the taxpayer.

BLM's current requirements regarding venting and flaring of natural gas from oil and gas operations are over three decades old. The agency is currently preparing a proposed rule to address emissions reductions and minimize waste through improved standards for venting, flaring, and fugitive losses of methane from oil and gas production facilities on Federal and Indian lands.

• Ensure that taxpayers receive a fair return from energy resources developed on the public lands, those resources are diligently and responsibly developed, and that adequate financial measures exist to address the risks.

The Government Accountability Office (GAO) recommended to the BLM that steps be taken to revise its regulations with respect to onshore royalty rates to provide flexibility to change those rates. On April 21, 2015, the BLM issued an Advance Notice of Proposed Rulemaking (ANPRM) seeking public comment on potential updates to BLM rules governing oil and gas royalty rates, rental payments, lease sale minimum bids, civil penalty caps and financial assurances. Over 82,000 comments were received by the end of the comment period on June 19, 2015. Most of the comments focused on fiscal lease terms—royalty rates, rentals, and minimum bids. There were a few comments on bonding and very few on civil penalties. The analysis of these comments is on-going and is expected to be complete by the end of calendar year 2015. Following completion of the analysis of these comments the BLM will consider possible revisions to its regulations as contemplated by GAO recommendations.

• Creating a competitive process for offering lands for solar and wind energy development.

BLM will finalize a rule that would establish an efficient competitive process for leasing public lands for solar and wind energy development. The regulations will 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 rule will 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.

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 offering opportunities to develop the conventional and renewable energy and the underlying mineral resources of the Outer Continental Shelf (OCS) in an efficient and effective manner, balancing the need for economic growth with the protection of the environment. BOEM oversees the expansion of domestic energy production, enhancing the potential for domestic energy independence and the generation of revenue to support the economic development of the country. BOEM thoughtfully considers and balances the potential environmental impacts associated with exploring and extracting OCS resources with the critical need for domestic energy production. BOEM's near-term regulatory agenda will focus on a number of issues, including:

• Enhancing the regulatory efficiency of the offshore renewables program.

One rulemaking in particular has been proposed to address recommendations submitted to BOEM by the Transportation Research Board of the National Academies of Science, and other stakeholders in the renewable energy development process. Specifically, this rulemaking will clarify the role of Certified Verification Agents as part of the process of designing, fabricating, and installing offshore wind energy facilities for the OCS. Additionally, BOEM is working to

transfer regulatory oversight responsibilities relating to offshore renewable energy inspections and certain enforcement activities to the Bureau of Safety and Environmental Enforcement (BSEE). This transfer in being undertaken in an effort to implement Department of the Interior Secretarial Order 3299, and will help ensure that these oversight activities will be conducted by the DOI bureau with the appropriate experience and expertise in operational matters.

• Updating BOEM's Air Quality Program.

BOEM's original air quality rules date largely from 1980 and have not been updated substantially since that time. From 1990 to 2011, DOI exercised jurisdiction for air quality only for OCS sources operating in the Gulf of Mexico. In fiscal year 2011, Congress expanded DOI's authority by transferring to it responsibility for monitoring OCS air quality off the North Slope Borough of the State of Alaska, including the Beaufort Sea, and the Chukchi Sea. BOEM will propose regulations to reflect changes that have occurred over the past thirty-four years and the new regulatory jurisdiction. In its development of proposed regulations, BOEM coordinated with other bureaus and agencies, including the U.S. Fish and Wildlife Service, the National Park Service, and the Environmental Protection Agency.

• Promoting Effective Financial Assurance and Risk Management.

BOEM has the responsibility to ensure that lessees and operators on the OCS do not engage in activities that could generate an undue risk of financial loss to the government. BOEM formally established a program office to review these issues, and is working with industry and others to determine how to improve the regulatory regime to better align with the realities of aging offshore infrastructure, hazard risks, and increasing costs of decommissioning. In order to minimize the potential adverse impact of any proposed regulations, and in an effort to take all issues and views into proper account, BOEM published an Advance Notice of Proposed Rulemaking, and has engaged with industry on the subject. BOEM has since issued a Notice to Lessees, will review comments, finalize guidance, and determine whether to update its regulation in this area.

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 priorities in fulfillment of its mission are to: (1) 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; and (2) 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.

BSEE has identified the following four areas of regulatory priorities:

• Improving Crane and Helicopter Safety on Offshore Facilities.

BSEE will finalize a rule regarding crane safety on fixed offshore platforms and will propose a rule for helicopter/helideck safety.

• Improving Oil Spill Response Plans and Procedures.

BSEE will update regulations for offshore oil spill response plans by incorporating requirements for improved procedures. The procedures that will be required are based on lessons learned from the Deepwater Horizon spill, as well as nearly two decades of agency oversight and applicable BSEE research.

• Tailoring Drilling Requirements to the Unique Conditions of the Arctic.

BSEE and BOEM will finalize a joint rule that promotes safe, responsible, and effective exploratory drilling activities on the Arctic OCS by taking into account the unique aspects and risks of operating in the Arctic, in order to ensure protection of the Arctic's communities and marine environment.

• Managing and Mitigating Well Control and Blowout Preventer Risks.

BSEE will finalize a rule concerning requirements on blowout preventers and critical reforms in the areas of well design, well control, casing, cementing, real-time monitoring, and subsea containment. This rule will address multiple recommendations resulting from various investigations from the Deepwater Horizon incident.

Additionally, BSEE will finalize revisions of its regulations on production safety systems and life cycle analysis. This final rule will expand the use of life cycle management of critical equipment and will address issues such as subsurface safety devices, safety device testing, and requirements for operating production systems on the OCS.

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 is as follows:

• Implement regulations to ensure compliance.

ONRR is promulgating final rules to ensure compliance with the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, which will also clarify regulatory processes and direction for lessors on Federal leases.

• Simplify valuation regulations.

ONRR plans to finalize regulations at title 30 of the Code of Federal Regulations (CFR) part 1206 for establishing the value for royalty purposes of (1) oil and natural gas produced from Federal leases; and (2) coal produced from Federal and Indian leases. Additionally, the rule consolidates sections of the regulations common to all minerals, such as definitions and instructions regarding how a payor should request a valuation determination. Clarify and simplify issuing notices of non-compliance and civil penalties.

This rule will amend ONRR civil penalty regulations to: (1) Codify application of those regulations to solid minerals and geothermal leases as the Omnibus Appropriations Act of 2009 authorizes; (2) adjust Federal Oil and Gas Royalty Management Act civil penalty amounts for inflation as the Federal Civil Penalty Inflation Adjustment Act requires; (3) clarify and simplify the existing regulations for issuing notices of noncompliance and civil penalties under 30 CFR part 1241; and (4) provide notice that ONRR will post its matrices for civil penalty assessments on the ONRR Web site.

• Define methodologies for distribution and disbursement of qualified revenues from certain leases under the Gulf of Mexico Energy Security Act (GOMESA).

ONRR is amending the regulations on the distribution and disbursement of qualified revenues from certain leases on the Gulf of Mexico's Outer Continental Shelf, per the statutory direction contained in the Gulf of Mexico Energy Security Act of 2006. This regulation sets forth the formulas and methodologies for calculating and allocating revenues during the second phase of revenue sharing to: The States

of Alabama, Louisiana, Mississippi, and Texas; their eligible Coastal Political Subdivisions; the Land and Water Conservation Fund; and the United States Treasury. Additionally, in this final rule, the Department of the Interior moves the Gulf of Mexico Energy Security Act of 2006's Phase I regulations from the Bureau of Ocean Energy Management's 30 CFR chapter V to ONRR's 30 CFR chapter XII, and provides additional clarification and minor definition changes to the current revenue-sharing regulations.

• Simplify the valuation of coal advance royalty.

The new regulations will implement the provisions of the Energy Policy Act of 2005 (EPAct) governing the payment of advance royalty on coal resources produced from Federal leases. The EPAct provisions amend the Mineral Leasing Act of 1920 (MLA). ONRR is also adding information collection requirements that are applicable to all solid minerals leases and also are necessary to implement the EPAct Federal coal advance royalty provisions.

• Consolidate billing and collection systems at the Department level.

This Direct Final Rule (DFR) amends those sections of the Code of Federal Regulations (CFR) pertaining to how to submit rental and bonus payments for onshore lease sales. The goals are to increase flexibility in how the Department collects these payments and to provide consistency between onshore and offshore lease sale payments and collections. The DFR changes references to paying rents and bonuses from the BLM State Office to paying rents and bonuses as stipulated in the terms of a BLM Lease Sale Notice. BLM will notify potential bidders of their payment options in the Lease Sale Notice during the pre-sale notification process, which occurs 90 days prior to the lease sale date. This additional flexibility will allow for a transition period for successful implementation and coordination between BLM and ONRR.

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. OSM plans to finalize regulations to improve the balance between environmental protection and the Nation's need for coal by better protecting streams from the adverse impacts of surface coal mining operations.

• 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 provides 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.

During the next year, FWS regulatory priorities will include:

• Regulations under the Endangered Species Act (ESA).

We will issue multiple rules to add species to, remove species from, and reclassify species on the Lists of Endangered and Threatened Wildlife and Plants and to designate critical habitat for certain listed species. We will issue a rule to improve the process for listing species by revising the process for submitting petitions to list, delist, or reclassify species. We will further the protection of native species and their ecosystems through a policy that will provide incentives for voluntary conservation actions taken for species prior to their listing under the ESA. In accordance with Executive Order 13563 (''Improving Regulation and Regulatory Review''), we will issue rules to improve the process of critical habitat designation, including clarifying definitions of ''critical habitat'' and ''destruction or adverse modification'' of critical habitat, and a policy to explain how we consider various factors in determining exclusions to critical habitat under section 4(b)(2) of the ESA.

• Regulations under the Migratory Bird Treaty Act (MBTA).

In carrying out our responsibility to manage migratory bird populations, we issue annual migratory bird hunting regulations, which establish the frameworks (outside limits) for States to establish season lengths, bag limits, and areas for migratory game bird hunting. In compliance with E.O. 13563, beginning with the 2016–17 hunting season, we are using a new schedule for promulgating these regulations that is more efficient and will provide potential season dates for the States to consider much earlier than was possible under the old process. For example, we anticipate proposing season frameworks in December 2015, instead of during the summer of 2016, which will make planning easier for the States and all

parties interested in migratory bird hunting.

We will also issue a programmatic environmental impact statement to evaluate the potential environmental impacts of a proposal to authorize incidental take of migratory birds under the MBTA. We are considering rulemaking to address various approaches to regulating incidental take of migratory birds. The rulemaking would establish appropriate standards for any such regulatory approach to ensure that incidental take of migratory birds is appropriately mitigated, which may include requiring measures to avoid or minimize take or securing compensation.

• Regulations to administer the National Wildlife Refuge System (NWRS).

In carrying out our statutory responsibility to provide wildlife-dependent recreational opportunities on NWRS lands, we issue an annual rule to update the hunting and fishing regulations on specific refuges. To ensure protection of NWRS resources, we will issue a proposed rule to ensure that businesses 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.

• Regulations to carry out the Wildlife and Sport Fish Restoration (WSFR) Act.

To strengthen our partnership with State conservation organizations, we are working on several rules to update and clarify our WSFR regulations. States rely on FWS to distribute finances from trust fund and excise tax revenues, and the FWS relies on the States to implement eligible conservation projects. Planned regulatory revisions will help to reflect several new decisions that State and Federal partners have agreed upon, and to clarify language in clear and precise terms. We will expand on existing regulations that prescribe processes that applicants and grantees must follow when applying for and managing grants from FWS. We will also revise our regulations under the Clean Vessel Act program to improve management and execution of that program.

• Regulations to carry out the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Lacey Act.

In accordance with section 3(a) of Executive Order 13609 (''Promoting International Regulatory Cooperation''), we will update our CITES regulations to incorporate provisions resulting from the 16th Conference of the Parties to CITES. The revisions will help us more effectively promote species conservation and help U.S. importers and exporters of wildlife products understand how to conduct lawful international trade. We will also rewrite a substantial portion of our regulations for the importation, exportation, and transportation of wildlife by proposing changes to the port structure and inspection fees and making the regulations easier to understand.

To help protect African elephants, we will finalize regulations regarding ivory from African elephants to prohibit interstate commerce and export, except for antique specimens and certain other items. Import of sport-hunted trophies would still be allowed, but the number of trophies that could be imported by a hunter in a given year would be limited.

Finally, to protect native species and prevent the spread of injurious species, we will propose regulations to improve our process for making injurious wildlife determinations for foreign species under the Lacey Act to prevent the importation and interstate transportation and commerce of injurious wildlife.

National Park Service

The 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. The NPS also cooperates with partners to extend the benefits of natural and resource conservation and outdoor recreation throughout the United States and the world.

To achieve this mission 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.

The NPS regulatory priorities for the coming year include:

• Managing Off-Road Vehicle Use.

Rules for Fire Island National Seashore, Glen Canyon National Recreation Area, Cape Lookout National Seashore, and Big Cypress National Preserve would allow for management of off-road vehicle (ORV) use, to protect and preserve natural and cultural resources, and provide a variety of visitor use experiences while minimizing conflicts among user groups. Further, the rules would designate ORV routes and establish operational requirements and restrictions.

• Managing Bicycling.

A new rule would authorize and allow for management of bicycling at Rocky Mountain National Park.

• Implementing the Native American Graves Protection and Repatriation Act.

(1) 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, eliminate ambiguity, clarify terms, and include Native Hawaiians in the process. The rule would eliminate unnecessary requirements for museums and would not add processes or collect additional information.

• Regulating non-Federal oil and gas activity on NPS land.

NPS will revise its existing regulations to 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.

• Managing service animals.

The rule will define and differentiate service animals from pets, and will describe the circumstances under which service animals would be allowed in a park area. The rule will ensure NPS compliance with Section 504 of the Rehabilitation Act of 1973 (28 U.S.C. 794) and better align NPS regulations with the Americans with Disabilities

Act of 1990 (42 U.S.C. 1211 *et seq.*) and the Department of Justice Service Animal regulations of 2011 (28 CFR 36.104).

• Preserving and managing paleontological resources.

This rule would implement provisions of the Paleontological Resources Protection Act. The rule would preserve, manage, and protect paleontological resources on Federal lands and ensure that these resources are available for current and future generations to enjoy as part of America's national heritage. The rule would address management, collection, and curation of paleontological resources from Federal lands using scientific principles and expertise. Provisions of the rule will ensure that resources are collected in accordance with permits and curated in an approved repository. The rule would also protect confidential locality data, and authorize penalties for illegally collecting, damaging, altering, defacing, or selling paleontological resources.

• Collecting plants for traditional cultural practices.

The rule will authorize Park Superintendents to enter into agreements with federally recognized tribes to permit tribal members to collect limited quantities of plant resources in parks to be used for traditional cultural practices and activities.

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.

Our regulatory program focus in fiscal year 2016 is to publish a proposed minor amendment to 43 CFR part 429 to bring it into compliance with the requirements of 43 CFR part 5, Commercial Filming and Similar Projects and Still Photography on Certain Areas under Department Jurisdiction. Publishing this rule will implement the provisions of Public Law 106–206, which directs the establishment of permits and reasonable fees for commercial filming and certain still photography activities on public lands.

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DEPARTMENT OF JUSTICE (DOJ)—FALL 2015

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 four 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; and (4) Accessibility of Web Information and Services of State and Local Governments.

The Department will also be revising its regulations for Coordination of Enforcement of Non-Discrimination in Federally Assisted Programs, as well as revising regulations implementing section 274B of the Immigration and Nationality Act.

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 years 2017 and 2018. 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; (4) Accessibility of Web Information and Services of Public Accommodations; and (5) Accessibility of Equipment and Furniture.

Regulatory Plan Initiatives

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. On January 30, 2014, the Department published a Notice of Proposed Rulemaking (NPRM) proposing amendments to both its title II and title III ADA regulations in order to incorporate the statutory changes set forth in the ADA Amendments Act. The comment period closed on March 31, 2014. The Department expects to publish a final rule incorporating these changes into the ADA implementing regulations in fiscal year 2016. The Department also plans to propose amendments to its section 504 regulations to implement the ADA Amendments Act of 2008 in fiscal year 2016.

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. 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 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 an 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 1,171 public comments in response to its movie captioning and video description ANPRM. On August 1, 2014, the Department published its NPRM proposing to revise the ADA title III regulation to require movie theaters to have the capability to exhibit movies with closed movie captioning and audio description (which was described in the ANPRM as video description) for all showings of movies that are available with closed movie captioning or audio description, to require theaters to provide notice to the public about the availability of these services, and to ensure that theaters have staff available who can provide information to patrons about the use of these services. In response to a request for an extension of the public comment period, the Department has issued a notice extending the comment period for 60 days until December 1, 2014. The Department received approximately 435 public comments in response to the movie captioning and audio description NPRM and expects to publish a final rule during fiscal year 2016.

Web site Accessibility: State and local Governments. The Internet as it is known today did not exist when Congress enacted the ADA, yet today the Internet 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. 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 government programs and services. In this regard, the Internet is 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. Information available on the Internet has become a gateway to education, and participation in many other public programs and activities. 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 that their Web sites must be accessible. Consequently, the Department is planning to amend its regulation implementing title II of the ADA to require public entities that provide services, programs or activities to the public through Internet Web sites to make their sites accessible to and usable by individuals with disabilities.

The Department, in its 2010 ANPRM on Web site accessibility, indicated that it was considering amending its regulations implementing titles II and III of the ADA to require Web site accessibility and it 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, 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 will be publishing separate NPRMs addressing Web site accessibility pursuant to titles II and III of the ADA. The Department expects to publish the title II NPRM early in fiscal year 2016.

Coordination of Enforcement of Non-Discrimination in Federally Assisted Programs. In addition, the Department is planning to revise the coordination 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. The Department expects to publish its NPRM during fiscal year 2016.

Implementation of Section 274B of the Immigration and Nationality Act. The Department also proposes to revise regulations implementing section 274B of the Immigration and Nationality Act, and to reflect the new name of the office within the Department charged with enforcing this statute. The proposed revisions are appropriate to conform the regulations to the statutory text as amended, simplify and add definitions of statutory terms, update and clarify the procedures for filing and processing charges of discrimination, ensure effective investigations of unfair immigration-related employment practices, and update outdated references. The Department expects to publish an NPRM proposing these changes during fiscal year 2016.

Long-Term Actions

The remaining disability nondiscrimination rulemaking initiatives from the 2010 ANPRMs are

included in the Department's long-term priorities projected for fiscal years 2017 and 2018:

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 during fiscal year 2017.

Web site Accessibility: Public Accommodations. As noted above, the ADA's expansive nondiscrimination mandate reaches the goods and services provided by public accommodations using Internet Web sites. The inability 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. And, as also stated above, 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 Department's 2010 ANPRM on Web site accessibility, as previously pointed out, 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, including 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 is reviewing the public comments received in response to the ANPRM and, as noted above, plans to publish the title II NPRM on Web site accessibility early in fiscal year 2016. The Department believes that the title II Web site accessibility rule will facilitate the creation of an important infrastructure for Web accessibility that will be very important in the Department's preparation of the title III Web site accessibility NPRM. Consequently, the Department has decided to extend the time period for development of the proposed title III Web site accessibility rule and include it among its long-term rulemaking priorities. The Department expects to publish the title III Web site accessibility NPRM during fiscal year 2018.

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 fiscal year 2017 a separate NPRM pursuant to title III of the ADA on beds in accessible guest rooms, and in fiscal year 2018 an NPRM 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 fiscal year 2018.

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 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 2016, 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.

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 collectively 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 providing for the legitimate medical, scientific, research, and industrial needs of the United States.

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 2016, in addition to initiating temporary scheduling actions to prevent imminent hazard to the public safety, DEA will also consider petitions to control or reschedule various substances. Among other regulatory reviews and initiatives, the DEA will initiate the notice of proposed rulemaking titled, ''Transporting Controlled Substances Away from Principal Places of Business or Principal Places of Professional Practice on an As Needed and Random Basis.'' In this rule, the DEA proposes to amend its regulations governing the registration, security, reporting, recordkeeping, and ordering requirements in circumstances where practitioners transport controlled substances for dispensing to patients on an as needed and random basis. Lastly, the DEA will finalize its Interim Final Rule for Electronic Prescriptions for Controlled Substances. By this final rule, the DEA would finalize its regulations to clarify: (1) The criteria by which DEA-registered practitioners may electronically issue controlled substance prescriptions; and (2) the criteria by which DEA-registered pharmacies may receive and archive these electronic prescriptions.

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 300,000 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 continued role in the conducting of immigration proceedings, including removal proceedings 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 immigration proceedings in order to further EOIR's primary mission to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws. These pending regulations include but are not limited to: 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; a final regulation to improve the recognition and accreditation process for organizations and representatives that appear in immigration proceedings before EOIR; and a proposed regulation 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. In addition, EOIR recently published a final regulation to allow for separate representation in custody and bond proceedings and a final regulation to enhance the eligibility requirements for providers to appear on the List of Pro Bono Legal Service Providers. 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
1125–AA62	List of Pro Bono Legal Service Providers for Aliens in Immigration Proceedings.	The Department has published a Final rule amending the EOIR regulations to enhance the eligibility requirements for organizations, private attorneys, and referral services to be included on the List of Pro Bono Legal Service Providers.
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. The ANPRM was published on 9/28/2012. The comment period closed on 11/27/2012. EOIR is currently in the process of reviewing the comments received and drafting two follow-up NPRMs.
1125–AA72	Recognition of Organizations and Accreditations of Non-Attorney Representatives.	This rule amends the regulations governing the requirements and procedures for authorizing representatives of non-profit religious, charitable, social service, or similar organizations to represent persons in proceedings before the Executive Office for Immigration Review (EOIR) and the Department of Homeland Security (DHS).
1125–AA78	Separate Representation for Custody and Bond Proceedings.	The Department has published a Final rule amending the Executive Office for Immigration Review (EOIR) regulations relating to the representation of aliens in custody and bond proceedings by allowing a representative to enter an appearance in custody and bond proceedings before EOIR without committing to appear on behalf of the alien for all proceedings before the Immigration Court.
1117–AB37	Transporting to Dispense Controlled Substances on an As-Needed and Random Basis.	DEA proposes to amend its regulations to clearly delineate how to transport, dispense, and store controlled substances away from registered locations when such activities are for the purpose of dispensing controlled substances on an as-needed and random basis. These proposed amendments include changes necessary to implement the Veterinary Medicine Mobility Act of 2014 and to clarify controlled substance handling requirements for emergency response operations.
1117–AB41	Implementation of the International Trade Data System.	DEA plans to update its regulations for the import and export of tableting and encapsulating machines, controlled substances, and listed chemicals, and its regulations relating to reports required for domestic transactions in listed chemicals, gammy-hydroxybutyric acid, and tableting and encapsulating machines. In accordance with Executive Order 13563, the DEA has plans to review its import and export regulations and reporting requirements for domestic transactions in listed chemicals (and gammy-hydroxybutyric acid) and tableting and encapsulating machines, and evaluate them for clarity, consistency, continued accuracy, and effectiveness. The proposed amendments would clarify certain policies and reflect current procedures and technological advancements. The amendments would also allow for the implementation, as applicable to tableting and encapsulating machines, controlled substances, and listed chemicals, of the President's Executive Order 13659 on streamlining the export/import process and requiring the government-wide utilization of the International Trade Data System.
1121–AA85; 1121–AA86.	Public Safety Officers' Benefits (PSOB) Program.	These two related rules are a priority because certain key provisions of the PSOB rule have been superseded by statutory change, a need exists to improve the overall efficiency of the program, and the last significant update to the rules was in 2008. The first rule would be relatively short and would update the existing regulation to address issues related to injuries and deaths of public safety officers asserted to have been caused by 9/11 services, and offset issues with the 9/11 Victim Compensation Fund. The second rule would be a more comprehensive update of the PSOB regulation. These revisions are necessary as a result of significant changes to the Program following the enactment of the Dale Long Public Safety Officers' Benefits Improvements Act of 2012 (signed into law in January 2013), as well as recommendations from an OIG Audit finalized in July 2015, and other internal reviews that identified the need to streamline the claims review process to reduce delays and increase transparency.

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.

Executive Order 13659

Executive Order 13659, ''Streamlining the Export/Import Process for America's Businesses,'' provided new directives for agencies to improve the

technologies, policies, and other controls governing the movement of goods across our national borders. This includes additional steps to implement the International Trade Data System as an electronic information exchange capability, or ''single window,'' through which businesses will transmit data required by participating agencies for the importation or exportation of cargo.

At the Department of Justice, stakeholders must obtain pre-import and pre-export authorizations from the Drug Enforcement Administration (DEA) (relating to controlled substances and listed chemicals), or from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) (relating to firearms, ammunition, and explosives). The ITDS ''single window'' will work in conjunction with these pre-import and pre-export authorizations. Because the ITDS excludes applications for permits, licenses, or certifications, the ITDS single window will not be used by DEA registrants, regulated persons, or brokers or traders applying for permits or filing import/export declarations, notifications or reports. The DEA import/export application and filing processes will continue to remain separate from (and in advance of) the ITDS single window. Entities will continue to use the DEA application and filing processes; however, the processes will be electronic rather than paper. After DEA's approval or notification of receipt as appropriate, the DEA will transmit the necessary information electronically to the ITDS and the registrant or regulated person.

Pursuant to section 6 of E.O. 13659, DEA and ATF have consulted with U.S. Customs and Border Protection (CBP) and are continuing to study what modifications and technical changes to their existing regulations and operational systems are needed to achieve the goals of E.O. 13659.

DOJ—CIVIL RIGHTS DIVISION (CRT)

Proposed Rule Stage

70. Implementation of the ADA Amendments Act of 2008 (Section 504 of the Rehabilitation Act of 1973)

Priority: Other Significant.

Legal Authority: Pub. L. 110–325; 29 U.S.C. 794 (sec 504 of the Rehabilitation Act of 1973, as amended); E.O. 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. 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	05/00/16	
NPRM Comment Period End.	06/00/16	
Final Action	12/00/16	

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

71. Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Governments

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

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

Action	Date	FR Cite
ANPRM Comment Period End.	01/21/11	
NPRM	01/00/16	
NPRM Comment Period End.	04/00/16	

Regulatory Flexibility Analysis Required: Yes.

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—CRT

72. Revision of Standards and Procedures for the Enforcement of Section 274B of the Immigration and Nationality Act

Priority: Other Significant.

Legal Authority: 5 U.S.C. 301; 8 U.S.C. 1103(a)(1); 8 U.S.C. 1103(g); 8 U.S.C. 1324b; 28 U.S.C. 509; 28 U.S.C. 510; 28 U.S.C. 515–519

CFR Citation: 28 CFR 0; 28 CFR 44.

Legal Deadline: None.

Abstract: The Department of Justice proposes to revise regulations implementing section 274B of the Immigration and Nationality Act and to reflect the new name of the office within the Department charged with enforcing this statute. The proposed revisions are appropriate to conform the regulations to the statutory text as amended, simplify and add definitions of statutory terms, update and clarify the procedures for filing and processing charges of discrimination, ensure effective investigations of unfair immigration-related employment practices, and update outdated references.

Statement of Need: The regulatory revisions are necessary to conform the regulations to section 274B of the Immigration and Nationality Act (INA), as amended. The regulatory revisions also simplify and add definitions of statutory terms, update and clarify the procedures for filing and processing charges of discrimination, ensure effective investigations of unfair immigration-related employment practices, replace outdated references, and reflect the new name of the office within the Department charged with enforcing this statute.

Summary of Legal Basis: Statutory Authority: 8 U.S.C. 1324b; 8 U.S.C. 1103(a)(1), (g).

Alternatives: The Department believes that an NPRM is the most appropriate, and for some revisions a necessary, method for achieving the goals of the revisions. Issuing this NPRM is necessary to correct outdated regulatory provisions and incorporate statutory changes to section 274B of the INA. Likewise, revising the regulations to be consistent with longstanding agency guidance and relevant case law is appropriate and will reduce potential confusion about the law. Further, because the regulations already include procedures for filing and processing charges, it is appropriate to revise the regulations to reflect updates to these processes and procedures. Finally, it is appropriate to update the regulations to reflect the new name of the office charged with enforcing the statute.

Anticipated Cost and Benefits: The Department has determined that this rule is not 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. Any estimated costs to the public relate to costs employers may incur familiarizing themselves with the rule, updating their relevant policies if needed, and participating in a voluntary training webinar. In the NPRM, the Department will be soliciting public comment in response to its preliminary analysis regarding the costs imposed by the rule. While not easily quantifiable due to data limitations, the Department identified several benefits of the rule, including: (1) Helping employers understand the law more efficiently, (2) increasing public access to government services, and (3) eliminating public confusion regarding two offices in the Federal government with the same name.

Risks: Failure to update the regulations to conform to the statutory amendments will interfere with the Department's enforcement efforts. Further, failure to revise the regulations to reflect changes to the filing and processing of charges and the new name of the office charged with enforcing the law will lead to confusion among the public, most specifically employers subject to the law's requirements and workers whose rights are guaranteed by the law.

Timetable:

Action	Date	FR Cite
NPRM	11/00/15	
NPRM Comment Period End.	01/00/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Alberto Ruisanchez, Deputy Special Counsel, OSC, Department of Justice, Civil Rights Division, 1425 New York Ave. NW., Suite 9000, Washington, DC 20530, *Phone:* 202 616–5594, *Fax:* 202 616–5509, *Email: osccrt@usdoj.gov*.

RIN: 1190–AA71

DOJ—CRT

Final Rule Stage

73. Implementation of the ADA Amendments Act of 2008 (Title II and Title III of the ADA)

Priority: Other Significant.

Legal Authority: Pub. L. 110–325; 42 U.S.C. 12134(a); 42 U.S.C. 12186(b)

CFR Citation: 28 CFR 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 (42 U.S.C. 12102(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 (42 U.S.C. 12103(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 (42 U.S.C. 12102(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	01/30/14	79 FR 4839
NPRM Comment Period End.	03/31/14	
Final Action	01/00/16	

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

74. 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 solicited 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	08/01/14	79 FR 44975
NPRM Comment Period Extended.	09/08/14	79 FR 53146
NPRM Comment Period End.	09/30/14	
NPRM Extended Comment Period End.	12/01/14	
Final Action	05/00/16	

Regulatory Flexibility Analysis Required: Yes.

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—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (EOIR)

Proposed Rule Stage

75. Motions To Reopen Removal, Deportation, or Exclusion Proceedings Based Upon a Claim of Ineffective Assistance of Counsel

Priority: Other Significant.

Legal Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1252, 1254a, 1255, 1282, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec 2 Reorg Plan No 2 of 1950; 3 CFR, 1949–1953, Comp, p 1002; sec 203 of Pub. L. 105–100, 111 Stat 2196–200; sec 1506 and 1510 of Pub. L. 106–386, 114 Stat 1527–29, 1531–32; sec 1505 of Pub. L. 106–554, 114 Stat 2763A–326–328; title VII of Pub. L. 110–229

CFR Citation: 8 CFR 1003; 8 CFR 1208.

Legal Deadline: None.

Abstract: The Department of Justice (Department) is planning to propose to amend the regulations of the Executive Office for Immigration Review (EOIR) by establishing procedures for the filing and adjudication of motions to reopen removal, deportation, and exclusion proceedings based upon a claim of ineffective assistance of counsel. This proposed rule is in response to Matter of Compean, Bangaly & J–E–C–, 25 I&N Dec. 1 (A.G. 2009), in which the Attorney General directed EOIR to develop such regulations. The Department is also planning to propose to amend the EOIR regulations to provide that ineffective assistance of counsel may constitute extraordinary circumstances that may excuse the failure to file an asylum application within one year after the date of arrival in the United States.

Statement of Need: This regulation is necessary to comply with *Matter of Compean, Bangaly & J–E–C–,* 25 I&N Dec. 1 (A.G. 2009), in which the Attorney General directed EOIR to develop regulations governing claims of ineffective assistance of counsel in proceedings before the immigration judges and the Board of Immigration Appeals. The purpose of this proposed rule is to establish uniform procedural and substantive requirements for the filing of motions to reopen based upon a claim of ineffective assistance of counsel and to provide a uniform standard for adjudicating such motions.

Summary of Legal Basis: The summary of the legal basis for the authority for this regulation is set forth in the above abstract.

Alternatives: The Department will consider any public comments it may receive regarding achievable alternatives that will still accomplish the goal of setting forth a framework for claims of ineffective assistance of counsel that supports the integrity of immigration proceedings.

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.

Risks: Without the proposed changes to the Department's regulations, the Department will not have complied with the Attorney General's directive in Matter of Compean, Bangaly & J–E–C–, 25 I&N Dec. 1 (A.G. 2009) and the procedural and substantive requirements for filing—and the standards for adjudicating—motions to reopen based upon a claim of ineffective assistance of counsel will lack uniformity.

Timetable:

Action	Date	FR Cite
NPRM	01/00/16	
NPRM Comment Period End.	03/00/16	
Final Action	11/00/16	

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: Jean King, General Counsel, Department of Justice,

Executive Office for Immigration Review, 5197 Leesburg Pike, Suite 2600, Falls Church, VA 22041, *Phone:* 703 305–0470.

RIN: 1125–AA68

DOJ—EOIR

76. Recognition of Organizations and Accreditation of Non-Attorney Representatives

Priority: Other Significant.

Legal Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1154; 8 U.S.C. 1155; 8 U.S.C. 1158; 8 U.S.C. 1182; 8 U.S.C. 1226; 8 U.S.C. 1229; 8 U.S.C. 1229a; 8 U.S.C. 1229b; 8 U.S.C. 1229c; 8 U.S.C. 1231; 8 U.S.C. 1232; 8 U.S.C. 1252b; 8 U.S.C. 1254a; 8 U.S.C. 1255; 8 U.S.C. 1324d; 8 U.S.C. 1330; 8 U.S.C. 1361; 8 U.S.C. 1362; 28 U.S.C. 509; 28 U.S.C. 510; 28 U.S.C. 1746; sec 2 Reorg Plan No 2 of 1950; 3 CFR, 1949–1953 Comp, 1002; sec 203 of Pub. L. 105–100, 111 Stat 2196–200; sec 1506 and 1510 of Pub. L. 106–386, 114 Stat 1527–29, 1531–1532; sec 1505 of Pub. L. 106–554, 114 Stat 2763 A–326 to –328

CFR Citation: 8 CFR 1001; 8 CFR 1003; 8 CFR 1292.

Legal Deadline: None.

Abstract: This rule would propose to amend the regulations governing the requirements and procedures for authorizing the representatives of nonprofit religious, charitable, social service, or similar organizations to represent aliens in proceedings before the Executive Office for Immigration Review and the Department of Homeland Security.

Statement of Need: The Recognition and Accreditation (R&A) program addresses the critical and ongoing shortage of qualified legal representation for underserved populations in immigration cases before federal administrative agencies. Through the R&A program, EOIR permits qualified non-attorneys to represent persons before the DHS, the immigration courts, and the Board of Immigration Appeals (Board). For over 30 years, the R&A regulations have remained largely unchanged, despite structural changes in the government, the changing realities of the immigration system, the inability of non-profit organizations to meet the increased need for legal representation under the current regulations, and the surge in fraud and abuse by unscrupulous organizations and individuals preying on indigent and vulnerable populations.

The proposed rule seeks to address the critical and ongoing shortage of qualified legal representation for underserved populations in immigration cases before federal administrative agencies by revising the eligibility requirements and procedures for recognizing organizations and accrediting their representatives to provide immigration legal services to underserved populations. The proposed rule also imposes greater oversight over recognized organizations and their representatives in order to protect against potential abuse of vulnerable immigrant populations by unscrupulous organizations and individuals.

Summary of Legal Basis: The proposed rule is a revision of current regulations that are authorized under 8 U.S.C. 292, regarding authorization to practice before the immigration courts and the Board.

Alternatives: The R&A regulations have been comprehensively examined in light of various issues that have arisen and input has been solicited from the public on how to address in amended regulations various developments over the past 30 years. The proposed rule is the product of both internal and external deliberations, and the proposed rule directly addresses alternatives approaches to the current regulations that the Department has either decided to adopt or reject in the proposed rule. The Department will consider any public comments that propose achievable alternatives that will still accomplish the goals of this proposed rule.

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. The proposed rule, like the current regulations, does not assess any fees on an organization to apply for initial recognition or accreditation, to renew recognition or accreditation, or to extend recognition.

Risks: The purpose of this proposed rule is to promote effective and efficient administration of justice before DHS and EOIR by increasing the availability of competent non-lawyer representation for underserved immigrant populations. The proposed rule seeks to accomplish this goal by amending the requirements for recognition and accreditation to increase the availability of qualified representation for primarily low-income and indigent persons while protecting the public from fraud and abuse by unscrupulous organizations and individuals. Without the proposed changes, the Department will be limited in its ability to expand the availability of non-lawyer representation and to provide increased oversight over recognized organizations and their representatives.

Timetable:

Action	Date	FR Cite
NPRM	10/01/15	80 FR 59514
NPRM Comment Period End.	11/30/15	
Final Action	09/00/16	

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: Public Meeting notice 77 FR 9590 (Feb. 17, 2012).

URL for More Information: *www.regulations.gov*.

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

Agency Contact: Jean King, General Counsel, Department of Justice, Executive Office for Immigration Review, 5197 Leesburg Pike, Suite 2600, Falls Church, VA 22041, *Phone:* 703 305–0470.

RIN: 1125–AA72

BILLING CODE 4410–BP–P

U.S. DEPARTMENT OF LABOR

Fall 2015 Statement of Regulatory Priorities

Introduction

The Department's Fall 2015 Regulatory Agenda is driven by Secretary Perez's commitment to building a stronger America through shared prosperity. This means more opportunity for workers to acquire the skills they need to succeed, to earn a fair day's pay for a fair day's work, for workers and employers to compete on a level playing field, for veterans to thrive in the civilian economy, for people with disabilities to be productive members of the labor force, for workers to retire with dignity, and for people to work in a safe environment with the full protection of our anti-discrimination laws.

In recent years, the Department of Labor has taken bold steps to use our regulatory authorities to address many of the most critical challenges facing workers and their families.

We took action to give home care workers a raise by guaranteeing them minimum wage and overtime for the hard work that they do. We required mine operators to limit miners' exposure to coal dust, which will dramatically reduce black lung disease and save lives.

We updated our regulations to require federal contractors and subcontractors to treat applicants and employees without regard to their sexual orientation or gender identity.

Along with the Department of Education, we have proposed new regulations that will transform our nation's workforce system, giving workers the chance to develop the skills that will prepare them to succeed in 21st century jobs and careers. We proposed extending overtime protections to roughly 5 million workers.

We proposed important new conflict of interest protections for 401(k) and IRA investors that would require retirement advisors to put their clients' best interests before their own profits.

Working with the Federal Acquisition Regulatory Council we proposed regulations that will implement the President's Fair Pay and Safe Workplaces Executive Order, holding federal contractors accountable when they put workers' safety, hard-earned wages and basic workplace rights at risk.

We finalized a rule to help close the persistent pay gap that exists between men and women by providing employees working on federal contracts with real pay transparency and openness enabling them to freely talk about their compensation.

The 2015 Regulatory Plan highlights the Labor Department's most noteworthy and significant rulemaking efforts, with each addressing these top priorities of its regulatory agencies: Employee Benefits Security Administration (EBSA), Employment and Training Administration (ETA), Mine Safety and Health Administration (MSHA), Office of Federal Contract Compliance Programs (OFCCP), Occupational Safety and Health Administration (OSHA), Office of Labor-Management Standards (OLMS), Office of Workers' Compensation Programs (OWCP), Veterans' Employment Service (VETS), and Wage and Hour Division (WHD). These regulatory priorities exemplify the five components of the Secretary's opportunity agenda:

- Training more people, including veterans and people with disabilities, to have the skills they need for the in-demand jobs of the 21st century;
- ensuring that individuals have the peace of mind that comes with access to health care, retirement, and federal workers' compensation benefits when they need them;
- safeguarding a fair day's pay for a fair day's work for all hardworking Americans, regardless of race, gender, religion, sexual orientation, or gender identity;
- giving workers a voice in their workplaces; and
- protecting the safety and health of workers so they do not have to risk their lives for a paycheck.

Under Secretary Perez's leadership, the Department continues its commitment to ensuring that collaboration, consensus-building and extensive stakeholder outreach are integral to all of its regulatory efforts. Successful rulemaking requires that we build a big table and keep an open mind.

Training More Workers and Job-Seekers for Twenty-First Century Jobs

Sustained economic growth requires a fundamental transformation of the workforce development system, building new partnerships, engaging employers, emphasizing proven strategies like apprenticeships, and preparing people for the demands of the 21st century economy as never before. The Department's regulatory priorities reflect the Secretary's vision for a modern job-driven workforce system that helps businesses stay on the competitive cutting edge and helps workers punch their ticket to the middle class.

- ETA issued a Notice of Proposed Rulemaking (NPRM) on April 16, 2015, that implements the important changes made to the public workforce system by the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113–128), signed by the President on July 22, 2014, and replacing the Workforce Investment Act of 1998 (WIA) and amending the Wagner-Peyser Act. This NPRM enables the Department to implement WIOA, empowering the public workforce system and its partners to increase employment, retention, and earnings of participants, meet the skill requirements of employers, and enhance the productivity and competitiveness of the nation.[1] The Department is analyzing comments received and developing a Final Rule. In addition, as required by WIOA, the Departments of Education and Labor issued a joint NPRM on April 16, 2015, to implement the changes that WIOA makes to the public workforce system regarding Combined and Unified State Plans, performance accountability, and the one-stop delivery system and one-stop centers.[2] The Departments are analyzing the comments received and developing a Final Rule.
- The Department's Civil Rights Center (CRC) will issue a proposed rule to implement the nondiscrimination provisions in Section 188 of WIOA. The rule would update the regulations implementing the nondiscrimination obligations in Section 188 of WIA to address current compliance issues in the workforce system, and to incorporate developments and interpretations of existing nondiscrimination law into the workforce development system. To ensure no gap in coverage between the effective date of WIOA and this rulemaking, CRC issued a Final Rule that makes only technical revisions to the WIA Section 188 rule, changing references from ''WIA'' to ''WIOA.''[3] The current Final Rule ultimately would ultimately be superseded by any Final Rule arising from the subsequent NPRM.
- ETA issued a NPRM on November 6, 2015 that proposes updated equal opportunity regulations implementing the National Apprenticeship Act of 1937, which prohibit discrimination in registered apprenticeship on the basis of race, color, religion, national origin, and sex, and which require that program sponsors take affirmative action to provide equal opportunity. Most notably, the proposed rule would update equal opportunity standards to include age (40 and older) and disability among the list of protected bases. It would also strengthen the affirmative action provisions by detailing mandatory actions that sponsors must take, and by requiring affirmative action for individuals with disabilities.[4]

Ensuring Access to Health Care, Retirement, and Workers' Compensation Benefits

The American Dream does not end when a person retires. A financially secure retirement is a fundamental pillar of the middle class. People need access to retirement savings vehicles; and when they work hard and save responsibly, they need access to sound

[1] Workforce Innovation and Opportunity Act (RIN: 1205–AB73).

[2] Workforce Innovation and Opportunity Act Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions (RIN: 1205–AB74).

[3] Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation Act of 2014 (RIN: 1291–A37).

[4] Equal Employment Opportunity in Apprenticeship Amendment of Regulations (RIN: 1205–AB59).

retirement investment advice from someone looking out for their best interest. The Department has a regulatory program designed do exactly that.

• Last spring EBSA proposed a rule to help assure workers' retirement security by clarifying the circumstances under which a person will be considered a ''fiduciary'' when providing investment advice related to retirement plans, individual retirement accounts, and other employee benefit plans, and to participants, beneficiaries, and owners of such plans and accounts. The proposed rule includes a prohibited transaction exemption for any advice that raises any conflict of interest concerns so that the advice has to first be provided pursuant to a contract where the advisor agrees to provide the advice in the best interest of the client. The underlying principle is very simple and rooted in basic common sense: if you want to give financial advice, you have to put your clients' best interests first, and not your own. EBSA continues to review the extensive public comments submitted on the proposed rule.[5]

• EBSA recognizes that around one-third of American workers lack access to a retirement plan at work. Inadequate retirement savings places stress on various state and federal retirement income support programs. Some states have passed laws to set up state-based auto-enrollment IRA arrangements for workers whose employers don't offer a plan. However, many of these states remain concerned about preemption by the Employee Retirement Income Security Act of 1974. At the President's direction on July 13, 2015, EBSA plans to publish a proposed rule to clarify how states can move forward, including with respect to requirements to automatically enroll employees, and offer coverage in ways that are consistent with federal laws governing employee benefit plans.

EBSA will also continue to issue guidance implementing the health reform provisions of the Affordable Care Act, giving more people greater access to quality medical care. 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 of these regulations are joint rulemakings with the Departments of Health and Human Services and Treasury.

The Department also promulgates regulations to ensure that federal workers' compensation benefits programs are fairly administered:

• OWCP will issue a Final Rule under the Black Lung Benefits Act that will address claimants' and coal mine operators' responsibility to disclose medical information developed in connection with a claim.[6] In addition, the Final Rule may also clarify a coal mine operator's liability for paying benefits while seeking modification of a decision to award benefits and may clarify the evidence submission limitations.

• OWCP will issue an additional NPRM under the Black Lung Benefits Act that would address how medical providers are reimbursed for covered services rendered to coal miners, including the possibility of modernizing and standardizing payment methodologies and fee schedules.[7]

Safeguarding Fair Pay for All Americans

The Department's regulatory agenda prioritizes ensuring that all Americans receive a fair day's pay for a fair day's work, and are not discriminated against with respect to hiring, employment, or benefits on the basis of race, gender, sexual orientation, or gender identity. The Department takes a robust approach to implementing its wage-and-hour and nondiscrimination regulations through education, outreach and strategic enforcement across industries. These regulations are grounded in a commitment to an inclusive and diverse workforce and rewarding hard work with a fair wage to provide workers with a real pathway to middle class jobs.

• WHD plans to publish a Final Rule revising the Fair Labor Standards Act's (FLSA's) overtime exemptions, as directed by a March 2014 Presidential Memorandum. The FLSA generally requires covered employers to pay their employees at least the federal minimum wage for all hours worked, and one-and-one-half times their regular rate of pay for hours worked in excess of 40 in a workweek (''overtime''). However, there are a number of exemptions from the FLSA's minimum wage and overtime requirements, including an exemption for bona fide executive, administrative, or professional employees. In line with the Presidential Memorandum directing the Secretary to modernize and streamline the existing overtime regulations for these ''white collar'' employees to ensure that hardworking middle-class workers are not denied overtime protections that Congress intended, the Department issued an NPRM that would raise the salary threshold. The Department is currently analyzing comments.[8]

• WHD will issue a proposed rule to establish the ability of employees of federal contractors to earn seven days of paid sick leave per year, implementing Executive Order 13706, signed by President Obama on September 7, 2015, enabling these workers to use leave to care for themselves, family members, or loved ones without fear of losing their paychecks or their jobs.

Giving Workers a Voice in Their Workplaces

There is a direct link throughout our nation's history between a vibrant middle class and the power of worker voice. The economy is strong when the middle class is strong, and the middle class is strong when workers have a seat at the table, when they have a chance to organize and negotiate for their fair share of the value they helped create. By contrast, it's not a coincidence that middle-class wage stagnation coincides with a decline in the percentage of workers represented by unions. The Department's regulatory program therefore promotes policies that give workers a voice on the job.

• OFCCP recently issued a Final Rule implementing Executive Order 13665, signed by the President on April 8, 2014, prohibiting discrimination by Federal contractors and subcontractors against certain of their employees for disclosing compensation information. This Executive Order was intended to address policies that limit the ability to advocate for themselves about their pay and that prohibit employee conversations about compensation, which can serve as a significant barrier to Federal enforcement of the laws against compensation discrimination.[9]

• OLMS plans to publish a Final Rule that will better align our regulations with the statutory text of the Labor-Management Reporting and Disclosure Act (LMRDA) to create greater balance between union and employer/consultant reporting requirements in situations where employers engage consultants to persuade employees concerning their rights to organize and bargain collectively. This is one important step to enhance workers' abilities to make

[5] Conflict of Interest Rule: Investment Advice (RIN: 1210–AB32).

[6] Black Lung Benefits Act: Medical Evidence (RIN: 1240–AA10).

[7] Black Lung Benefits Act: Benefit Payments (RIN: 1240–AA11).

[8] Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees (RIN: 1235–AA11).

[9] Prohibitions Against Pay Secrecy Policies and Actions (RIN: 1250–AA06).

informed choices about representation.[10]

Protecting the Safety and Health of Workers

No one should have to sacrifice their life for their livelihood, and a nation built on the dignity of work must provide safe working conditions for its people. Through our rulemaking, we are committed to protecting workers in all kinds of workplaces, including above- and below-ground coal and metal/nonmetal mines, and we want to ensure that benefits programs are available to workers and their families when they are injured on the job. So many workplace injuries, illnesses and fatalities are preventable. They not only put workers in harm's way, they jeopardize their economic security, often forcing families out of the middle class and into poverty. The Department's safety and health regulatory proposals are based on the responsibility of employers to provide workers with workplaces that do not threaten their safety or health and we reject the false choice between worker safety and economic growth. Our efforts will both save lives and improve employers' bottom lines.

- OSHA's top priority is a Final Rule aimed at curbing lung cancer, silicosis, chronic obstructive pulmonary disease and kidney disease in America's workers by lowering worker exposure to crystalline silica, which kills hundreds and sickens thousands more each year. OSHA estimates that the proposed rule would ultimately save nearly 700 lives and prevent 1,600 new cases of silicosis annually. OSHA held public hearings over nearly a month last spring in Washington, DC, during which over 200 industry, labor, and public health stakeholders participated. The post-hearing brief period ended on August 18, 2014.[11] As a part of the Secretary's strategy for securing safe and healthy work environments, MSHA will utilize information provided by OSHA to undertake regulatory action related to silica exposure in mines.[12]
- OSHA is developing a Final Rule that will address employers' electronic submission of data required by agency regulations governing the Recording and Reporting of Occupational Injuries. An updated and modernized reporting system would enable a more efficient and timely collection of data—including by leveraging data already maintained electronically by many large employers—and would improve the accuracy and availability of relevant records and statistics, in addition to leveraging data already maintained electronically by many large employers.[13]
- MSHA issued a proposed rule that would require underground mine operators to equip certain mobile machines with proximity detection systems.[14] This builds on a Final Rule issued in January 2015 that addressed the danger that miners face when working near continuous mining machines in underground coal mines.[15]

Regulatory Review and Burden Reduction

On January 18, 2011, the President issued Executive Order (E.O.) 13563, entitled ''Improving Regulation and Regulatory Review.'' The Department is committed to smart regulations that ensure the health welfare and safety of all working Americans and foster economic growth, job creation, and competitiveness of American business. The Department's Fall 2015 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 the E.O., the Department published its ''Plan for Retrospective Analysis of Existing Rules.'' (This plan, and each subsequent update, can be found at *www.dol.gov/regulations/*.) The current regulatory agenda includes 23 retrospective review projects, which are listed below pursuant to section 6 of E.O. 13563. More information about completed rulemakings no longer included in the plan can be found on *www.Reginfo.gov*.

Agency	Regulatory Identifier No.	Title of rulemaking	Whether it is expected to significantly reduce burdens on small businesses
EBSA	1210–AB47	Amendment of Abandoned Plan Program	Yes.
EBSA	1210–AB63	21st Century Initiative to Modernize the Form 5500 Series and Implementing and Related Regulations.	To Be Determined.
ETA	1205–AB59	Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations.	To Be Determined.
ETA	1205–AB62	Implementation of Total Unemployment Rate Extended Benefits Trigger and Rounding Rule.	No.
ETA	1205–AB75	Modernizing the Permanent Labor Certification Program (PERM)	To Be Determined.
MSHA	1219–AB72	Criteria and Procedures for Proposed Assessment of Civil Penalties (Part 100)	To Be Determined.
OFCCP	1250–AA05	Sex Discrimination Guidelines	To Be Determined.
OSHA	1218–AC34	Bloodborne Pathogens	To Be Determined.
OSHA	1218–AC67	Standard Improvement Project—Phase IV (SIP IV)	To Be Determined.
OSHA	1218–AC74	Review/Lookback of OSHA Chemical Standards	To Be Determined.
OSHA	1218–AC81	Cranes and Derricks in Construction: Amendments	Yes.
OSHA	1218–AC82	Process Safety Management and Flammable Liquids	To Be Determined.
OSHA	1218–AC87	Updating OSHA Standards Based on National Consensus Standards (Eye and Face Protection).	To Be Determined.
OSHA	1218–AC49	Improve Tracking of Workplace Injuries and Illnesses	No.
OSHA	1218–AC76	Streamlining of Provisions on State Plans for Occupational Safety and Health	To Be Determined.
OSHA	1218–	Revocation of Obsolete PELs	To Be Determined.
OSHA	1218–	Powered Industrial Trucks	To Be Determined.
OSHA	1218–	Power Presses	To Be Determined.
OSHA	1218–	Lock-Out/Tag-Out Update	To Be Determined.

[10] Persuader Agreements: Employer and Labor Relations Consultant Reporting Under the LMRDA (RIN: 1245–AA03).

[11] Occupational Exposure to Crystalline Silica (RIN: 1218–AB70).

[12] Respirable Crystalline Silica (RIN: 1219–AB36).

[13] Improve Tracking of Workplace Injuries and Illnesses (RIN: 1218–AC49).

[14] Proximity Detection Systems for Mobile Machines in Underground Mines (RIN: 1219–AB78).

[15] Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines (RIN: 1219–AB65).

Agency	Regulatory Identifier No.	Title of rulemaking	Whether it is expected to significantly reduce burdens on small businesses
OWCP	1240–AA11	Black Lung Benefits Act: Medical Benefit Payments	To Be Determined.
OWCP	1240–AA09	Longshore and Harbor Workers' Compensation Act: Transmission of Documents and Information.	No.

DOL—WAGE AND HOUR DIVISION (WHD)

Proposed Rule Stage

77. • Establishing Paid Sick Leave for Contractors, Executive Order 13706

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

Unfunded Mandates: Undetermined.

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Statutory, September 30, 2016.

Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors (80 FR 54697).

Abstract: Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors (80 FR 54697) establishes paid sick leave for Federal contractors and subcontractors. The Executive Order indicates that Executive Departments and agencies shall, to the extent permitted by law, ensure that new contracts, contract-like instruments, and solicitations as described in section 6 of the Order, include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, specifying that all employees, in the performance of the contract or any subcontract thereunder, shall earn not less than one hour of paid sick leave for every 30 hours worked. Consistent with the Executive Order, the Department of Labor will issue implementing regulations.

Statement of Need: On September 7, 2015, President Barack Obama signed Executive Order 13706 Establishing Paid Sick Leave for Federal Contractors. The Executive Order states that the Order seeks to increase efficiency and cost savings in the work performed by parties that contract with the Federal Government by ensuring that employees on those contracts can earn up to 7 days or more of paid sick leave annually, including paid leave allowing for family care. The Order states that providing access to paid sick leave will improve the health and performance of employees of Federal contractors and bring benefits packages at Federal contractors in line with model employers, ensuring that they remain competitive employers in the search for dedicated and talented employees. The Order indicates that [t]hese savings and quality improvements will lead to improved economy and efficiency in Government procurement.

Summary of Legal Basis: Section 2 of the Executive Order states that Executive Departments and agencies shall, to the extent permitted by law, ensure that new contracts, contract-like instruments, and solicitations (collectively referred to as contacts), as described in section 6 of the order, include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, specifying, as a condition of payment, that all employees in the performance of the contract or any subcontract thereunder, shall earn not less than 1 hour of paid sick leave for every 30 hours worked. The Order goes on to indicate that a contractor may not set a limit on the total accrual of paid sick leave per year, or at any point in time, at less than 56 hours. The Order goes on to describe the purposes for which the employee may use the paid the sick leave. The Executive Order requires the Secretary of Labor to issue regulations implementing the E.O. by September 30, 2016.

Alternatives: To be determined.

Anticipated Cost and Benefits: The Executive Order indicates benefits associated with the paid sick leave E.O. include improved health and performance of employees of Federal contractors, ensuring that contractors remain competitive in line with model employers, and improved economy and efficiency in Government procurement.

Costs will be determined as part of the NPRM.

Risks: To be determined.

Timetable:

Action	Date	FR Cite
NPRM	02/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Federal.

Agency Contact: Robert Waterman, Compliance Specialist, Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW., Room S–3010, Washington, DC 20210, *Phone:* 202 693–0805, *Email: waterman.robert@dol.gov*.

RIN: 1235–AA13

DOL—WHD

Final Rule Stage

78. Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees

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: 29 U.S.C. 213(a)(1) (Fair Labor Standards Act)

CFR Citation: 29 CFR 541.

Legal Deadline: None.

Abstract: The Department proposes to update the regulations governing which executive, administrative, and professional employees (white collar workers) are entitled to the Fair Labor Standards Act's minimum wage and overtime pay protections. Key provisions of the proposed rule include: (1) Setting the standard salary level required for exemption at the 40th percentile of weekly earnings for full-time salaried workers (projected to be $970 per week, or $50,440 annually, in 2016); (2) increasing the total annual compensation requirement needed to exempt highly compensated employees to the annualized value of the 90th percentile of weekly earnings of full-time salaried workers ($122,148 annually); and (3) establishing a mechanism for automatically updating the salary and compensation levels going forward to ensure that they will continue to provide a useful and effective test for exemption. The Department last updated these regulations in 2004, which, among other items, set the standard salary level at not less than $455 per week.

Statement of Need: On March 13, 2014, President Obama signed a Presidential Memorandum directing the Department to update the regulations defining which white collar workers are protected by the FLSA's minimum wage and overtime standards. 79 FR 18737 (Apr. 3, 2014). Consistent with the

President's goal of ensuring workers are paid a fair day's pay for a fair day's work, the memorandum instructed the Department to look for ways to modernize and simplify the regulations while ensuring that the FLSA's intended overtime protections are fully implemented.

Summary of Legal Basis: There are a number of exemptions from the FLSA's minimum wage and overtime requirements. Section 13(a)(1) of the FLSA, codified at 29 U.S.C. 213(a)(1), exempts from both minimum wage and overtime protection ''any employee employed in a bona fide executive, administrative, or professional capacity . . . or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of [the Administrative Procedure Act] . . .).'' The FLSA does not define the terms ''executive,'' ''administrative,'' ''professional,''' or ''outside salesman.'' Pursuant to Congress' grant of rulemaking authority, the Department in 1938 issued the first regulations at 29 CFR part 541, defining the scope of the section 13(a)(1) exemptions. Because Congress explicitly delegated to the Secretary of Labor the power to define and delimit the specific terms of the exemptions through notice and comment rulemaking, the regulations so issued have the binding effect of law. See *Batterton* v. *Francis,* 432 U.S. 416, 425 n.9 (1977).

Alternatives: Alternatives were listed in the Department's NPRM published in the **Federal Register** July 6, 2015 (80 FR 38516).

Anticipated Cost and Benefits: Detailed analysis of the costs and benefits is included in the Department's NPRM published in the **Federal Register** July 6, 2015 (80 FR 38516).

Risks: Risks were discussed in the NPRM published in the **Federal Register** July 6, 2015 (80 FR 38516).

Timetable:

Action	Date	FR Cite
NPRM	07/06/15	80 FR 38516
NPRM Comment Period End.	09/04/15	
Final Rule	07/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

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

Agency Contact: Mary Ziegler, Assistant Administrator, Office of Policy, Wage and Hour (WHD), Department of Labor, 200 Constitution Avenue NW., Room S–3502, FP Building, Washington, DC 20210, *Phone:* 202 693–0406, *Fax:* 202 693–1387.

RIN: 1235–AA11

DOL—EMPLOYMENT AND TRAINING ADMINISTRATION (ETA)

Proposed Rule Stage

79. Workforce Innovation and Opportunity Act

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

Legal Authority: Section 503(f) of the Workforce Innovation and Opportunity Act (Pub. L. 113–128)

CFR Citation: Not Yet Determined.

Legal Deadline: NPRM, Statutory, January 22, 2015, Public Law 113–128.

Final, Statutory, January 18, 2016.

Abstract: On July 22, 2014, the President signed the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113–128). WIOA repeals the Workforce Investment Act of 1998 (WIA) and amends the Wagner-Peyser Act. (29 U.S.C. 2801 *et seq.*) The Department of Labor issued a Notice of Proposed Rulemaking (NPRM) on April 16, 2015 that proposed to implement the changes WIOA makes to the public workforce system in regulations. Through the NPRM, the Department proposed ways to carry out the purposes of WIOA to provide workforce investment activities, through State and local workforce development systems, that increase employment, retention, and earnings of participants, meet the skill requirements of employers, and enhance the productivity and competitiveness of the Nation. The Department is analyzing the comments received and developing a final rule.

Statement of Need: On July 22, 2014, the President signed the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113–128) into law. WIOA repeals the Workforce Investment Act of 1998 (WIA) (29 U.S.C. 2801 *et seq.*) and amends the Wagner-Peyser Act. As a result, the WIA and Wagner-Peyser regulations no longer reflect current law and we must change. Therefore, the Department of Labor issued a Notice of Proposed Rulemaking (NPRM) that proposes to implement the WIOA. The Department is moving forward in analyzing comments received and developing a final rule.

Summary of Legal Basis: The Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113–128), signed by the President on July 22, 2014. Section 503(f) of WIOA requires that the Department issue a Notice of Proposed Rulemaking (NPRM) and then Final Rule that implements the changes WIOA makes to the public workforce system in regulations.

Alternatives: Since Congress statutorily directed the Department of Labor to issue a Notice of Proposed Rulemaking (NPRM) and Final Rule that implements the changes WIOA makes to the public workforce system there is no alternative.

Anticipated Cost and Benefits: Undetermined.

Risks: Undetermined.

Timetable:

Action	Date	FR Cite
NPRM	04/16/15	80 FR 20690
NPRM Comment Period End.	06/15/15	
Analyze Comments.	11/00/15	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

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

Agency Contact: Portia Wu, Assistant Secretary for Employment and Training, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210, *Phone:* 202 639–2700.

RIN: 1205–AB73

DOL—EMPLOYEE BENEFITS SECURITY ADMINISTRATION (EBSA)

Proposed Rule Stage

80. • Savings Arrangements Established by States for Non-Governmental Employees

Priority: Other Significant.

Legal Authority: 29 U.S.C. 1135 (ERISA sec 505); 29 U.S.C. 1002 (ERISA sec 3(2))

CFR Citation: 29 CFR 2510.3–2.

Legal Deadline: None.

Abstract: About one-third of American workers lack access to a retirement plan at work. For older Americans, inadequate retirement savings can mean sacrificing or skimping on food, housing, health care, transportation, and other necessities. President Obama has long supported federal legislation to require automatic enrollment of new workers in payroll deduction IRAs if they lack access to a 401(k)-type plan through their employer. In the absence of Congressional action, some states have

passed laws to set up state-based savings plans and require employers not currently offering workplace plans to automatically enroll employees into IRAs. Others are looking at ways to encourage employers to provide coverage under state-administered 401(k)-type plans or other retirement alternatives including IRAs and the Treasury's new starter savings program, *my*RA. However, many of these states remain concerned about preemption by ERISA. On July 13, 2015, the President directed the Department to publish a proposed rule clarifying how states may offer retirement savings arrangements to private-sector employees in ways that are consistent with federal laws governing employee benefit plans. The proposal will set forth circumstances in which a state could establish a payroll deduction savings program, with an automatic enrollment feature, without giving rise to an employee pension benefit plan under ERISA.

Statement of Need: The proposal responds to the President's directive to the Department of Labor, issued at the 2015 White House Conference on Aging, to publish a proposed regulation by the end of 2015 to support the efforts of a growing number of states trying to promote broader access to workplace retirement saving opportunities for America's workers. The regulation would clarify that state savings initiatives would not cause the establishment of ERISA covered employee benefit plans, so long as the conditions of the regulation are met.

Summary of Legal Basis: Section 505 of ERISA, 29 U.S.C. 1135, provides the Secretary of Labor with broad authority to prescribe such regulations as he finds necessary and appropriate to carry out the provisions of Title I of the Act. Section 3(2) of ERISA, 29 U.S.C. 1002, defines the term ''employee pension benefit plan''. The Department's regulations at 29 CFR 2510.3–2 clarify the term ''employee pension benefit plan'' by identifying certain specific plans, funds and programs that do not constitute ''employee pension benefit plans''.

Alternatives: Since the President directed the Department to publish a proposed rule clarifying how states may offer retirement savings arrangement to private-sector employees, there is no alternative.

Anticipated Cost and Benefits: Undetermined.

Risks: Undetermined.

Timetable:

Action	Date	FR Cite
NPRM	11/00/15	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact: Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N–5655, Washington, DC 20210, *Phone:* 202 693–8500, *Fax:* 202 219–7291.

RIN: 1210–AB71

DOL—MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)

Proposed Rule Stage

81. Respirable Crystalline Silica

Priority: Other Significant.

Legal Authority: 30 U.S.C. 811

CFR Citation: 30 CFR 58.

Legal Deadline: None.

Abstract: Current standards limit exposures to quartz (crystalline silica) in respirable dust. The metal and nonmetal mining industry standard is based on the 1973 American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values formula: 10 mg/m3 divided by the percentage of quartz plus 2. Overexposure to crystalline silica can result in some miners developing silicosis, an irreversible but preventable lung disease, which ultimately may be fatal. The formula is designed to limit exposures to 0.1 mg/m3 (100 ug/m3) of silica. The National Institute for Occupational Safety and Health (NIOSH) recommends a 50 ug/m3 exposure limit for respirable crystalline silica. MSHA will publish a proposed rule to address miners' exposure to respirable crystalline silica.

Statement of Need: MSHA standards are outdated; current regulations may not protect workers from developing silicosis. Evidence indicates that miners continue to develop silicosis. MSHA's proposed regulatory action exemplifies the Agency's commitment to protecting the most vulnerable populations while assuring broad-based compliance. MSHA will regulate based on sound science to eliminate or reduce the hazards with the broadest and most serious consequences. MSHA intends to use OSHA's work on the health effects and risk assessment, adapting it as necessary for the mining industry.

Summary of Legal Basis: Promulgation of this standard is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

Alternatives: This rulemaking would improve health protection from that afforded by the existing standards. MSHA will consider alternative methods of addressing miners' exposures based on the capabilities of the sampling and analytical methods.

Anticipated Cost and Benefits: MSHA will prepare estimates of the anticipated costs and benefits associated with the proposed rule.

Risks: For over 70 years, toxicology information and epidemiological studies have shown that exposure to respirable crystalline silica presents potential health risks to miners. These potential adverse health effects include simple silicosis and progressive massive fibrosis (lung scarring). Evidence indicates that exposure to silica may cause cancer. MSHA believes that the health evidence forms a reasonable basis for reducing miners' exposures to respirable crystalline silica.

Timetable:

Action	Date	FR Cite
NPRM	04/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Local, State.

URL for More Information: *www.msha.gov/regsinfo.htm.*

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

Agency Contact: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 201 12th Street South, Room 4E401, Arlington, VA 22202–5452, *Phone:* 202 693–9440, *Fax:* 202 693–9441, *Email: mcconnell.sheila.a@dol.gov.*

RIN: 1219–AB36

DOL—MSHA

82. Proximity Detection Systems for Mobile Machines in Underground Mines

Priority: Other Significant.

Legal Authority: 30 U.S.C. 811

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: Mine Safety and Health Administration (MSHA) published a proposed rule that address the hazards miners face when working near mobile equipment in underground mines. MSHA has concluded, from investigations of accidents involving mobile equipment and other reports, that action is needed to protect miner safety. Mobile equipment can pin,

crush, or strike a miner working near the equipment. Proximity detection technology can prevent these types of accidents. The proposed rule would strengthen the protection for underground miners by reducing the potential of pinning, crushing, or striking hazards associated with working close to mobile equipment.

Statement of Need: Mining is one of the most hazardous industries in this country. Miners continue to be injured or killed resulting from pinning, crushing, or striking accidents involving mobile equipment. Equipment is available to help prevent accidents that cause debilitating injuries and accidental death.

Summary of Legal Basis: Promulgation of this standard is authorized by section 101(a) of the Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006.

Alternatives: No reasonable alternatives to this regulation would be as comprehensive or as effective in eliminating hazards and preventing injuries.

Anticipated Cost and Benefits: MSHA will develop a preliminary regulatory economic analysis to accompany the proposed rule.

Risks: The lack of proximity detection systems on mobile equipment in underground mines contributes to a higher incidence of debilitating injuries and accidental deaths.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	02/01/10	75 FR 5009
RFI Comment Period End.	04/02/10	
NPRM	09/02/15	80 FR 53070
Scheduling of Public Hearing.	09/28/15	80 FR 58229
Public Hearing—Denver, Colorado 10/06/2015.	10/06/15	
Public Hearing—Birmingham, Alabama 10/08/2015.	10/08/15	
Public Hearing—Beaver, West Virginia 10/19/2015.	10/19/15	
Public Hearing—Indianapolis, Indiana 10/29/2015.	10/29/15	
NPRM Comment Period End.	12/01/15	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

URL for More Information: *www.msha.gov/regsinfo.htm.*

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

Agency Contact: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 201 12th Street South, Room 4E401, Arlington, VA 22202–5452, *Phone:* 202 693–9440, *Fax:* 202 693–9441, *Email: mcconnell.sheila.a@dol.gov.*

Related RIN: Related to 1219–AB65

RIN: 1219–AB78

DOL—MSHA

Final Rule Stage

83. Criteria and Procedures for Proposed Assessment of Civil Penalties

Priority: Other Significant.

Legal Authority: 30 U.S.C. 815; 30 U.S.C. 820; 30 U.S.C. 957

CFR Citation: 30 CFR 100.

Legal Deadline: None.

Abstract: The Mine Safety and Health Administration (MSHA) revises 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. 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.

Statement of Need: Section 110(a) of the Federal Mine Safety and Health Act of 1977 (Mine Act) requires MSHA to assess a civil penalty for a violation of a mandatory health or safety standard or violation of any provision of the Mine Act. The mine operator has 30 days from receipt of the proposed assessment to contest it before the Federal Mine Safety and Health Review Commission (Commission), an independent adjudicatory agency established under the Mine Act. A proposed assessment that is not contested within 30 days becomes a final order of the Commission. A proposed assessment that is contested within 30 days proceeds to the Commission for adjudication. The proposed rule would promote consistency, objectivity, and efficiency in the proposed assessment of civil penalties. When issuing citations or orders, inspectors are required to evaluate safety and health conditions, and make decisions about the statutory criteria related to assessing penalties. The proposed changes in the measures of the evaluation criteria would result in fewer areas of disagreement and earlier resolution of enforcement issues. The proposal would require conforming changes to the Mine Citation/Order form (MSHA Form 7000–3).

Summary of Legal Basis: Section 104 of the Mine Act requires MSHA to issue citations or orders to mine operators for any violations of a mandatory health or safety standard, rule, order, or regulation promulgated under the Mine Act. Sections 105 and 110 of the Mine Act provide for assessment of these penalties.

Alternatives: The proposal would include several alternatives in the preamble and requests comments on them.

Anticipated Cost and Benefits: MSHA's proposed rule includes an estimate of the anticipated costs and benefits.

Risks: MSHA's existing 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. In the overwhelming majority of contested cases before the Commission, the issue is not whether a violation occurred. Rather, the parties disagree on the gravity of the violation, the degree of mine operator negligence, and other criterion. The proposed changes should result in fewer areas of disagreement and earlier resolution of enforcement issues, which should result in fewer contests of violations or proposed assessments.

Timetable:

Action	Date	FR Cite
NPRM	07/31/14	79 FR 44494
NPRM Comment Period End.	09/29/14	
NPRM Comment Period Extended.	09/16/14	79 FR 55408
NPRM Comment Period Extended End.	12/03/14	
NPRM Notice of Public Hearings, Close of Comment Period.	11/07/14	79 FR 66345
NPRM Notice of Public Hearings, Close of Comment Period End.	01/09/15	

Action	Date	FR Cite
NPRM Notice of Public Hearing; Extension of Comment Period; Close of Record.	12/31/14	79 FR 78749
Extension of Comment Period End.	03/12/15	
NPRM Comment Period Extended; Close of Record.	02/10/15	80 FR 7393
NPRM Comment Period Extended End.	03/31/15	
Final Rule	03/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

URL for More Information: www.msha.gov/regsinfo.htm.

URL for Public Comments: www.regulations.gov.

Agency Contact: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 201 12th Street South, Room 4E401, Arlington, VA 22202–5452, *Phone:* 202 693–9440, *Fax:* 202 693–9441, *Email: mcconnell.sheila.a@dol.gov.*

RIN: 1219–AB72

DOL—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

Final Rule Stage

84. Occupational Exposure to Crystalline Silica

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: 29 U.S.C. 655(b); 29 U.S.C. 657

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926.

Legal Deadline: None.

Abstract: Crystalline silica is a significant component of the earth's crust, and many workers in a wide range of industries are exposed to it, usually in the form of respirable quartz or, less frequently, cristobalite. Chronic silicosis is a uniquely occupational disease resulting from exposure of employees over long periods of time (10 years or more). Exposure to high levels of respirable crystalline silica causes acute or accelerated forms of silicosis that are ultimately fatal. The current OSHA permissible exposure limit (PEL) for general industry is based on a formula proposed by the American Conference of Governmental Industrial Hygienists (ACGIH) in 1968 (PEL = 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. NIOSH and ACGIH recommend 50 µg/m3 and 25 µg/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.

The NPRM was published on September 12, 2013 (78 FR 56274). OSHA received over 1,700 comments from the public on the proposed rule, and over 200 stakeholders provided testimony during public hearings on the proposal. The agency is now reviewing and considering the evidence in the rulemaking record.

Statement of Need: Workers are exposed to crystalline silica dust in general industry, construction, and maritime industries. Industries that could be particularly affected by a standard for crystalline silica include: Foundries, industries that have abrasive blasting operations, paint manufacture, glass and concrete product manufacture, brick making, china and pottery manufacture, manufacture of plumbing fixtures, and many construction activities including highway repair, masonry, concrete work, rock drilling, and tuckpointing. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur. From 2009 to 2013 silicosis was identified on over 500 death certificates as an underlying or contributing cause of death. It is likely that many more cases have occurred where silicosis went undetected. In addition, the International Agency for Research on Cancer has designated crystalline silica as carcinogenic to humans, and the National Toxicology Program has concluded that respirable crystalline silica is a known human carcinogen. Exposure to crystalline silica has also been associated with an increased risk of developing tuberculosis and other nonmalignant respiratory diseases, as well as renal and autoimmune diseases. Exposure studies and OSHA enforcement data indicate that some workers continue to be exposed to levels of crystalline silica far in excess of current exposure limits. Congress has included compensation of silicosis victims on Federal nuclear testing sites in the Energy Employees' Occupational Illness Compensation Program Act of 2000. There is a particular need for the Agency to modernize its exposure limits for construction and shipyard workers.

Summary of Legal Basis: The legal basis for the proposed rule was a preliminary determination that workers are exposed to a significant risk of silicosis and other serious disease, and that rulemaking is needed to substantially reduce the risk. In addition, the proposed rule recognized that the PELs for construction and maritime are outdated, and need to be revised to reflect current sampling and analytical technologies.

Alternatives: Over the past several years, the Agency has attempted to address this problem through a variety of non-regulatory approaches, including initiation of a Special Emphasis Program on silica in October 1997, sponsorship with NIOSH and MSHA of the National Conference to Eliminate Silicosis, and dissemination of guidance information on its Web site.

Anticipated Cost and Benefits: OSHA preliminarily estimated the cost of the proposed rule to be $664 million per year. OSHA preliminarily estimated that the proposed rule would prevent nearly 700 deaths per year and prevent over 1,600 cases of silicosis annually once the full effect of the rule are realized, and would result in monetized benefits of $2.8 to $4.7 billion annually.

Risks: A detailed risk analysis is under way.

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

Action	Date	FR Cite
NPRM Comment Period Extended; Notice of Intention to Appear at Pub Hearing; Scheduling Pub Hearing.	10/31/13	78 FR 65242
NPRM Comment Period Extended.	01/29/14	79 FR 4641
NPRM Comment Period Extended End.	02/11/14	
Informal Public Hearing.	03/18/14	
Post Hearing Briefs Ends.	08/18/14	
Final Rule	02/00/16	

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 E.O. 13132.

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3718, FP Building, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov.*

RIN: 1218–AB70

DOL—OSHA

85. Improve Tracking of Workplace Injuries and Illnesses

Priority: Other Significant.

Legal Authority: 29 U.S.C. 657

CFR Citation: 29 CFR 1904.

Legal Deadline: None.

Abstract: Occupational Safety and Health Administration (OSHA) is making changes to its reporting system for occupational injuries and illnesses. An updated and modernized reporting system would enable a more efficient and timely collection of data, and would improve the accuracy and availability of the relevant records and statistics. This rulemaking involves modification to 29 CFR part 1904.41 to expand OSHA's legal authority to collect and make available injury and illness information required under part 1904, and a modification to 29 CFR part 1904.35 to clarify an employee's right to report injury and illnesses to their employer without fear of retaliation.

Statement of Need: The collection of establishment specific injury and illness data in electronic format on a timely basis is needed to help OSHA, employers, employees, researchers, and the public more effectively prevent workplace injuries and illnesses, as well as support President Obama's Open Government Initiative to increase the ability of the public to easily find, download, and use the resulting dataset generated and held by the Federal Government.

Summary of Legal Basis: The Occupational Safety and Health Act of 1970 authorize the Secretary of Labor to develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics (29 U.S.C. 673).

Alternatives: The alternative to the proposed rulemaking would be to take no regulatory action.

Anticipated Cost and Benefits: OSHA estimates that this final rule will have economic costs of $15 million per year. The Agency believes that the annual benefits, while unquantified, significantly exceed the annual costs. These benefits include increased prevention of workplace injuries and illnesses as a result of expanded access to timely, establishment-specific injury/illness information by OSHA, employers, employees, employee representatives, potential employees, customers, potential customers, and researchers.

Risks: Analysis of risks is still under development.

Timetable:

Action	Date	FR Cite
Stakeholder Meetings.	05/25/10	75 FR 24505
NPRM	11/08/13	78 FR 67254
NPRM Comment Period End.	02/06/14	
Notice of Public Meeting on 01/09/2013.	11/15/13	78 FR 68782
NPRM Comment Period Extended.	01/07/14	79 FR 778
NPRM Comment Period Extended End.	03/08/14	
NPRM Comment Period Reopened.	08/14/14	79 FR 47605
NPRM Comment Period Reopened End.	10/14/14	
Final Rule	03/00/16	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Amanda Edens, Director, Directorate of Technical Support and Emergency Management, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3653, Washington, DC 20210, *Phone:* 202 693–2300, *Fax:* 202 693–1644, *Email: edens.mandy@dol.gov.*

RIN: 1218–AC49

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DEPARTMENT OF TRANSPORTATION (DOT)

Introduction: Department Overview and Summary of Regulatory Priorities

The Department of Transportation (DOT) consists of nine 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 2014–2018:

- *Safety:* Improve public health and safety by ''reducing transportation-related fatalities, injuries, and crashes.''

• *State of Good Repair:* Ensure the U.S. ''proactively maintains critical transportation infrastructure in a state of good repair.''

• *Economic Competitiveness:* Promote ''transportation policies and investments that bring lasting and equitable economic benefits to the Nation and its citizens.''

• *Quality of Life:* Foster quality of life in communities by ''integrating transportation policies, plans, with coordinated housing and economic development policies to increase transportation choices and access to transportation services for all.''

• *Environmental Sustainability:* Advance ''environmental sustainable policies and investments that reduce carbon and other harmful emissions from transportation sources.''

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 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 Logging Devices and revise motor carrier safety fitness determination procedures.

• The National Highway Traffic Safety Administration (NHTSA) will continue its rulemaking efforts to reduce death and injury resulting from motor vehicle crashes.

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; 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. If a retrospective review action has been completed it will no longer appear on the list below. However, more information can be found about these completed rulemakings on the Unified Agenda publications at Reginfo.gov in the Completed Actions section for that

agency. These rulemakings can also be found on Regulations.gov. The final agency retrospective review plan can be found at *http://www.dot.gov/regulations.*

RIN	Retrospective review of existing regulations Rulemaking title	Significantly reduces costs on small businesses
1. 2105–AE29	Transportation Services for Individuals with Disabilities: Over-the-Road Buses (RRR)	TBD.
2. 2120–AJ94	Enhanced Flight Vision System (EFVS) (RRR).	
3. 2120–AK24	Fuel Tank and System Lightning Protection (RRR).	
4. 2120–AK28	Aviation Training Devices; Pilot Certification, Training, and Pilot Schools; Other Provisions (RRR).	
5. 2120–AK32	Acceptance Criteria for Portable Oxygen Concentrators Used Onboard Aircraft (RRR).	
6. 2120–AK34	Flammability Requirements for Transport Category Airplanes (RRR).	
7. 2120–AK44	Reciprocal Waivers of Claims for Non-Party Customer Beneficiaries, Signature of Waivers of Claims by Commercial Space Transportation Customers. And Waiver of Claims and Assumption of Responsibility for Permitted Activities with No Customer (RRR).	
8. 2125–AF62	Acquisition of Right-of-Way (RRR) (MAP–21)	N.
9. 2125–AF65	Buy America (RRR)	TBD.
10. 2126–AB46	Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (RRR).	
11. 2126–AB47	Electronic Signatures and Documents (E-Signatures) (RRR).	
12. 2126–AB49	Elimination of Redundant Maintenance Rule (RRR).	
13. 2127–AK98	Pedestrian Safety Global Technical Regulation (RRR).	
14. 2127–AL03	Part 571 FMVSS No. 205, Glazing Materials, GTR (RRR).	
15. 2127–AL05	Amend FMVSS No. 210 to Incorporate the Use of a New Force Application Device (RRR)	Y.
16. 2127–AL17	49 CFR Part 595, Subpart C, Make Inoperative Exemptions, Vehicle Modifications to Accommodate People With Disabilities, from FMVSS No. 226 (RRR).	
17. 2127–AL20	Upgrade of LATCH Usability Requirements (MAP–21) (RRR).	
18. 2127–AL24	Rapid Tire Deflation Test in FMVSS No. 110 (RRR).	
19. 2127–AL41	FMVSS No. 571.108 License Plate Mounting Angle (RRR).	
20. 2127–AL58	Upgrade of Rear Impact Guard Requirements for Trailers and Semitrailers (RRR).	
21. 2130–AC40	Qualification and Certification of Locomotive Engineers; Miscellaneous Revisions (RRR).	
22. 2130–AC41	Hours of Service Recordkeeping; Electronic Recordkeeping Amendments (RRR).	
23. 2130–AC43	Safety Glazing Standards; Miscellaneous Revisions (RRR).	
24. 2137–AE72	Pipeline Safety: Gas Transmission (RRR)	Y.
25. 2137–AE80	Hazardous Materials: Miscellaneous Pressure Vessel Requirements (DOT Spec Cylinders) (RRR).	Y.
26. 2137–AE81	Hazardous Materials: Reverse Logistics (RRR)	Y.
27. 2137–AE86	Hazardous Materials: Requirements for the Safe Transportation of Bulk Explosives (RRR).	
28. 2137–AE94	Pipeline Safety: Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Changes (RRR).	Y.
29. 2137–AF00	Hazardous Materials: Adoption of Special Permits (MAP–21) (RRR)	Y.
30. 2137–AF04	Hazardous Materials: Miscellaneous Amendments (RRR).	
31. 2137–AF10	Hazardous Materials: Revision of the Requirements for Carriage by Aircraft (RRR).	

International Regulatory Cooperation

Executive Order 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'' Executive Order 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 Executive Order 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.

NHTSA is actively engaged in international regulatory cooperative efforts on both a multilateral and a bilateral basis, exchanging information on best practices and otherwise seeking to leverage its resources for addressing vehicle issues in the U.S. As noted in Executive Order 13609: ''(i)n meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective

as those that are or would be adopted in the absence of such cooperation'' and ''can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.''

As the representative, for vehicle safety matters, of the United States, one of 33 contracting parties to 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 currently 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.

In recognition of the large cross-border market in motor vehicles and motor vehicle equipment, NHTSA is working bilaterally with Transport Canada under the Motor Vehicles Working Group of the U.S.–Canada Regulatory Cooperation Council (RCC) to facilitate implementation of the initial RCC Joint Action Plan. Under this Plan, NHTSA and Transport Canada are working on the development of international standards on quieter vehicles, electric vehicle safety, and hydrogen and fuel cell vehicles.

Building on the initial Joint Action Plan, the U.S. and Canada issued a Joint Forward Plan on August 29, 2014. The Forward Plan provided that regulators would develop Regulatory Partnership Statements (RPSs) outlining the framework for how cooperative activities will be managed between agencies. In that same period, regulators will also develop and complete detailed work plans to begin to address the commitments in the Forward Plan. To facilitate future cooperation, the RCC will work over the next year on cross-cutting issues in areas such as: ''sharing information with foreign governments, joint funding of new initiatives and our respective rulemaking processes.''

To broaden and deepen its cooperative efforts with the European Union, NHTSA is participating in ongoing negotiations regarding the Transatlantic Trade and Investment Partnership which is ''aimed at providing greater compatibility and transparency in trade and investment regulation, while maintaining high levels of health, safety, and environmental protection.'' NHTSA is seeking to build on existing levels of safety and lay the groundwork for future cooperation in addressing emerging safety issues and technologies.

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 ''Reports on Rulemakings and Enforcement.'' (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:

RIN	DOT significant rulemakings with international impacts Rulemaking title
2105–AD91	Accessibility of Airports.
2105–AE06	E-Cigarette.
2120–AJ38	Airport Safety Management System.
2120–AJ60	Small Unmanned Aircraft.
2120–AJ69	Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan.
2120–AJ89	Slot Management and Transparency.
2120–AK09	Drug & Alcohol Testing for Repair Stations.
2120–AK65	Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes.
2126–AA34	Mexico-Domiciled Motor Carriers.
2126–AA35	Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States.
2124–AA70	Limitations on the Issuance of Commercial Driver Licenses with a Hazardous Materials Endorsement.
2126–AB56	MAP–21 Enhancements and Other Updates to the Unified Registration System.
2127–AK76	Tire Fuel Efficiency Part 2.
2127–AK93	Quieter Vehicles Sound Alert.
2133–AB74	Cargo Preference.

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.* 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, the Americans with Disabilities Act, 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 2016, OST will focus its efforts on voice communications on passengers´ mobile wireless devices on scheduled flights within, to and from the United States (2105–AE30).

OST will also continue its efforts on the following rulemaking initiatives:

- Airline Passenger Protections III (2105–AE11)
- In-Flight Medical Oxygen and other ACAA issues (2105–AE12)
- In-Flight Entertainment (2105–AE32)

Reporting of Statistics for Mishandled Baggage and Wheelchairs (2105–AE41)

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 quality of life for the people and communities who use transportation systems subject to the Department's policies. It will also continue to 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. Destination 2025, an FAA initiative that captures the agency's vision of transforming the Nation's aviation system by 2025, has proven to be an effective tool for pushing the agency to think about longer-term aspirations; FAA has established a vision that defines the agency's priorities for the next five years. The changing technological and industry environment compels us to transform the agency. And the challenging fiscal environment we face only increases the need to prioritize our goals.

We have identified four major strategic initiatives where we will focus our efforts: (1) Risk-based Decision Making—Build on safety management principles to proactively address emerging safety risk by using consistent, data-informed approaches to make smarter, system-level, risk-based decisions; (2) NAS Initiative—Lay the foundation for the National Airspace System of the future by achieving prioritized NextGen benefits, enabling the safe and efficient integration of new user entrants including Unmanned Aircraft Systems (UAS) and Commercial Space flights, and deliver more efficient, streamlined air traffic management services; (3) Global Leadership—Improve safety, air traffic efficiency, and environmental sustainability across the globe through an integrated, data-driven approach that shapes global standards, enhances collaboration and harmonization, and better targets FAA resources and efforts; and (4) Workforce of the Future—Prepare FAA's human capital for the future, by identifying, recruiting, and training a workforce with the leadership, technical, and functional skills to ensure the U.S. has the world's safest and most productive aviation sector.

FAA activities that may lead to rulemaking in Fiscal Year 2016 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 decision making, and cabin safety. Some of these projects may result in rulemaking and guidance materials.
- Respond to the FAA Modernization and Reform Act of 2012 (the Act), which directed the FAA to initiate a rulemaking proceeding to issue guidelines and regulations relating to ADS–B In technology and recommendations from an Aviation Rulemaking Committee on ADS–B–In capabilities in consideration of the FAA's evolving thinking on how to provide an integrated suite of communication, navigation, and surveillance (CNS) capabilities to achieve full NextGen performance.
- Respond to the Act, which also recommended we complete the rulemaking for small Unmanned Aircraft Systems, and consider how to fully integrate UAS operations in the NAS, which will require future rulemaking.
- Respond to the Airline Safety and Federal Aviation Administration Extension Act of 2010 (H.R. 5900), which requires the FAA to 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 decision-making tools that can be used to plan, organize, direct, and control activities in a manner that enhances safety.

• Respond to the Small Airplane Revitalization Act of 2013 (H.R. 1848), which requires the FAA adopt the 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 Secretary of Transportation 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.'' Further, these changes are consistent with directions to agencies in [Executive Order 13610 ''*Identifying and Reducing Regulatory Burdens,*'' we continue to find ways to make our regulatory program more effective or less burdensome; provide quantifiable monetary savings or quantifiable reductions in paperwork burdens, and modify and streamline regulations in light of changed circumstances.]

• 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.

FAA top regulatory priorities for Fiscal Year 2016 include:

- Operation and Certification of Small Unmanned Aircraft Systems (2120–AJ60) (Pub. L. 112–95 (Feb. 14, 2012))
- Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes (2120–AK65)
- Airport Safety Management System (2120–AJ38)
- Flight Crewmember Mentoring, Leadership and Professional Development (2120–AJ87)

The Operation and Certification of Small Unmanned Aircraft Systems rulemaking would:

• Adopt specific rules for the operation of small unmanned aircraft systems in the national airspace system; and

• Address the classification of small unmanned aircraft, certification of their pilots and visual observers, registration, approval of operations, and operational limits.

The Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes rulemaking would:

• Reorganize part 23 into performance-based requirements by removing the detailed design requirements from part 23;

• Promote the adoption of the newly created performance-based airworthiness design standard as an internationally accepted standard by the majority of other civil aviation authorities;

• Re-align the part 23 requirements to promote the development of entry-level airplanes similar to those certified under Certification Specification for Very Light Aircraft (CS–VLA);

• Enhance the FAA's ability to address new technology;

• Increase the general aviation (GA) level of safety provided by new and modified airplanes;

• Amend the stall, stall warning, and spin requirements to reduce fatal accidents and increase crashworthiness by allowing new methods for occupant protection; and

• Address icing conditions that are currently not included in part 23 regulations.

The Airport Safety Management System rulemaking would:

• Require certain airport certificate holders to develop, implement, maintain, and adhere to a safety management system (SMS) for its aviation related activities.

The Flight Crewmember Mentoring, Leadership and Professional Development rulemaking would:

• Ensure air carriers establish or modify training programs to address mentoring, leadership and professional development of flight crewmembers in part 121 operations.

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 most cost-effective 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.

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 2016, 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 safety 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 MAP–21. 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 2016 includes completion of a number of rulemakings that are high priorities for the Agency because they would have a positive impact on safety. Among the rulemakings included in the plan are: (1) Carrier Safety Fitness Determination (RIN 2126–AB11), (2) Entry Level Driver Training (RIN 2126–AB66), and (3) Commercial Driver's License Drug and Alcohol Clearinghouse (RIN 2126–AB18).

Together, these priority rules could improve substantially commercial motor vehicle (CMV) safety on our Nation's highways by increasing FMCSA's ability to provide safety oversight of motor carriers and commercial drivers.

In FY 2016, FMCSA plans to complete the public comment period and issue a final rule on Carrier Safety Fitness Determination (RIN 2126–AB11) to establish a new safety fitness determination standard that will enable the Agency to prohibit ''unfit'' carriers from operating on the Nation's highways and contribute to the Agency's overall goal of decreasing CMV-related fatalities and injuries.

In FY 2016, FMCSA plans to complete the public comment period and issue a final rule on Entry Level Driver Training (RIN 2126–AB66). This rule would establish training requirements for individuals before they can obtain their CDL or certain endorsements. It will define curricula for training providers and establish requirements and procedures for the schools. The proposed rule is based on consensus recommendations from the Agency's Entry-Level Driver Training Advisory Committee (ELDTAC), a negotiated rulemaking committee that held a series of 6 meetings between February and May 2015.

Also in FY 2016, FMCSA plans to issue a final rule on the Commercial Driver's License Drug and Alcohol Clearinghouse (RIN 2126–AB18). The rule would establish a clearinghouse requiring employers and service agents to report information about current and prospective employees' drug and alcohol test results. It would 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 non-regulatory 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.

In Fiscal Year 2016, NHTSA, in conjunction with the Environmental Protection Agency, will publish a final rule to address phase two of fuel efficiency standards for medium- and heavy-duty on-highway vehicles and work trucks for model years beyond 2018. This final rule will be responsive to requirements of the Energy Independence and Security Act of 2007 as well as the President's Climate Action Plan.

NHTSA plans to issue a notice of proposed rulemaking (NPRM) on vehicle-to-vehicle (V2V) communications in Fiscal Year 2016. V2V communications are currently perceived to become a foundational aspect of vehicle automation. In response to requirements in MAP–21, NHTSA plans to issue a NPRM that would propose requiring automobile manufacturers to install a seat belt reminder system for the front passenger and rear designated seating positions in passenger vehicles. The seat belt reminder system is intended to increase belt usage and thereby improve the crash protection of vehicle occupants who would otherwise have been unbelted. The Agency will also continue work toward a NPRM that would consider requirements for rear impact guards and other safety strategies on single unit trucks to mitigate under-ride crashes into the rear of single unit trucks.

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, driver distraction, 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), and

the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), as well as actions under its general safety rulemaking authority and actions supporting a high-performing passenger rail network and to address the safe and effective movement of energy products, particularly crude oil. RSIA08 alone has required 21 rulemaking actions, 17 of which have been completed. 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, while working to complete as many mandated rulemakings as quickly as possible.

Through the Railroad Safety Advisory Committee (RSAC), FRA is working to complete its on-going development of requirements related to the creation and implementation of railroad risk reduction and system safety programs. FRA is developing proposed rulemaking documents based on the recommendations of an RSAC working group containing the fatigue management provisions related to both proceedings. FRA is also in the process of developing a significant regulatory action that would propose requirements related to the crew size of passenger and freight trains, including trains transporting crude oil and ethanol by rail. FRA continues its work to produce a rulemaking containing RSAC-supported actions that advance high-performing passenger rail to proposed standards for alternative compliance with FRA's Passenger Equipment Safety Standards for the operation of Tier III passenger equipment. Finally, FRA is developing proposed rules regarding track inspections aimed at improving rail integrity to allow continuous rail integrity testing and to address the use of inward and outward facing locomotive-mounted cameras and other recording devices.

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 Nation's mobility through 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. 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 the newly authorized Public Transportation Safety Program (49 U.S.C. 5329), such as the Public Transportation Safety Plan and updating the State Safety Oversight rule, as well as, implementing requirements for Transit Asset Management Systems (49 U.S.C. 5326). The joint FTA/FHWA planning rule which will be merged with FTA/FHWA's Additional Authorities for Planning and Environmental Linkages rule and FTA's Bus Testing rule round out its regulatory priorities.

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 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 2016 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 2011 included a number of rulemaking studies and mandates and additional enforcement authorities that continue to impact PHMSA's regulatory activities in Fiscal Year 2015.[1]

MAP–21 reauthorized the hazardous materials safety program and required several regulatory actions by PHMSA. PHMSA has been very effective in implementing the MAP–21 provisions. MAP–21 established over thirty distinct provisions applicable to PHMSA's Hazardous Materials Safety Program. For example, MAP–21 required PHMSA to codify its procedures for issuing special permits and the criteria it uses to evaluate special permit and approval applications. MAP–21 requires PHMSA to conduct a review of existing special permits and publish a rulemaking every two years to codify special permits that have been in continuous effect for a ten-year period. MAP–21 also requires PHMSA to evaluate the feasibility of paperless hazard communication as an effective means for transmitting shipment information between shippers, carriers, responders, and enforcement officials.

PHMSA will continue to work toward improving safety related to transportation of hazardous materials by all transportation modes, including

[1] *http://www.phmsa.dot.gov/pv_obj_cache/pv_obj_id_7FD46010F0497123865B976479CFF3952E990200/filename/Pipeline%20Reauthorization%20Bill%202011.pdf.*

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 reducing 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 evaluate, 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 our Federal and international partners, the NTSB, industry, and the general public. Expansion in United States energy production has led to significant challenges in the transportation system. Expansion in oil production has led to increasing volumes of energy products transported to refineries. With a growing domestic supply, rail transportation, in particular, has emerged as an alternative to transportation by pipeline or vessel. The growing reliance on trains to transport large volumes of flammable liquids raises risks that have been highlighted by the recent instances of trains carrying crude oil that have derailed. PHMSA and FRA issued a final rule on May 8, 2015 (80 FR 26643), designed to lessen the frequency and consequences of train accidents involving flammable liquids. In addition, PHMSA and FRA issued an Advanced Notice of Proposed Rulemaking on August 1, 2014 (79 FR 45079), seeking comment on potential revisions to its regulations that would expand the applicability of comprehensive oil spill response plans (OSRPs) for crude oil trains. PHMSA will continue to take regulatory actions to enhance the safe transportation of energy products.

On October 13, 2015 [80 FR 61609], PHMSA issued an NPRM proposing changes to the regulations covering hazardous liquid onshore pipelines. Specifically, the agency proposed regulatory changes relative to High Consequence Areas (HCAs) for integrity management (IM) protections, repair timeframes, and reporting for all hazardous liquid gathering lines. The agency also addressed public safety and environmental aspects of any new requirements, as well as the cost implications and regulatory burden.

PHMSA also will be revisiting the requirements in the Pipeline Safety Regulations addressing integrity management principles for Gas Transmission pipelines. In particular, PHMSA is planning to propose requirements to address repair criteria for both HCA and non-HCA areas, assessment methods, validating and integrating pipeline data, risk assessments, knowledge gained through the IM program, corrosion control, management of change, gathering lines, and safety features on launchers and receivers.

QUANTIFIABLE COSTS AND BENEFITS OF RULEMAKINGS ON THE 2015 TO 2016 DOT REGULATORY PLAN

[This chart does not account for benefits and costs that could not be monetized, which may be substantial]

Agency/RIN No.	Title	Stage	Quantifiable costs discounted 2013 $ (millions)	Quantifiable benefits discounted 2013 $ (millions)
		OST		
2105–AE30	Use of Mobile Wireless Devices for Voice Calls on Aircraft.	NPRM 03/16	TBD	TBD.
		FAA		
2120–AJ38	Airport Safety Management System	SNPRM 11/15	$157.5	$225.9.
2120–AJ60	Small Unmanned Aircraft Systems ..	FR 4/16	$5.7	TBD.
2120–AJ87	Pilot Professional Development	NPRM 12/15	$46.8	$46.3.
2120–AK65	Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes.	NPRM 01/16	$3.9	$11.6.
		FHWA		
2125–AF49	Performance Management 1	FR 11/15	$5.4 ..... *Note: These are preliminary agency estimates only. They have not been reviewed by others outside of DOT. The estimates could change after interagency review.*	Breakeven Analysis.
2125–AF53	Performance Management 2	NPRM (Analyzing Comments 12/15) FR TBD.	$21.2 ..... *Note: These are preliminary agency estimates only. They have not been reviewed by others outside of DOT. The estimates could change after interagency review.*	Breakeven Analysis.

QUANTIFIABLE COSTS AND BENEFITS OF RULEMAKINGS ON THE 2015 TO 2016 DOT REGULATORY PLAN—Continued

[This chart does not account for benefits and costs that could not be monetized, which may be substantial]

Agency/RIN No.	Title	Stage	Quantifiable costs discounted 2013 $ (millions)	Quantifiable benefits discounted 2013 $ (millions)
2125–AF54	Performance Management 3	NPRM 12/15	TBD	Breakeven Analysis.
		FMCSA		
2126–AB11	Carrier Safety Fitness Determination	NPRM 11/15	$7	$241.
2126–AB18	Commercial Driver's License Drug and Alcohol Clearinghouse.	FR 03/16	$174	$230.
2126–AB66	Entry Level Driver Training	NPRM 11/15	TBD	TBD.
		NHTSA		
2127–AL37	Rear Seat Belt Reminder System	NPRM 04/16	$164.3–$324.6 *Note: These are preliminary agency estimates only. They have not been reviewed by others outside of DOT. The estimates could change after interagency review.*	310–465.5. *Note: These are preliminary agency estimates only. They have not been reviewed by others outside of DOT. The estimates could change after interagency review.*
2127–AL52	Fuel Efficiency Standards for Medium- and Heavy-Duty Vehicles and Work Trucks: Phase 2.	NPRM (Analyzing Comments 11/15) FR TBD.	$30,500–$31,100	$261,000–$276,000.
		FTA		
2132–AB07	Transit Asset Management	NPRM (Analyzing Comments 11/15).	$18.9 million (Annualized)	Breakeven Analysis.
2132–AB23	Public Transportation Agency Safety Plan.	NPRM 12/15	$92 million (Annualized)	Breakeven Analysis.
		PHMSA		
2137–AE66	Pipeline Safety: Safety of On-Shore Liquid Hazardous Pipelines.	NPRM 11/15	TBD	TBD.
2137–AE72	Pipeline Safety: Gas Transmission (RRR).	NPRM 12/15	TBD	TBD.
2137–AF08	Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains.	NPRM 01/16	TBD	TBD.

Notes: Costs and benefits of rulemakings may be forecast over varying periods. Although the forecast periods will be the same for any given rulemaking, comparisons between proceedings should be made cautiously.

Costs and benefits are generally discounted at a 7 percent discount rate over the period analyzed.

The Department of Transportation generally assumes that there are economic benefits to avoiding a fatality of $9.4 million. That economic value is included as part of the benefits estimates shown in the chart. As noted above, we have not included the non-quantifiable benefits.

DOT—OFFICE OF THE SECRETARY (OST)

Proposed Rule Stage

86. +Use of Mobile Wireless Devices for Voice Calls on Aircraft

Priority: Other Significant.

Legal Authority: 49 U.S.C. 41712, 49 U.S.C. 41702

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: The Department of Transportation (DOT or Department) is seeking comment on whether it should adopt a rule to restrict voice communications on passengers' mobile wireless devices on scheduled flights within, to and from the United States. The Federal Communications Commission (FCC) recently issued a notice of proposed rulemaking that if adopted would, among other things, create a pathway for airlines to permit the use of cellphones or other mobile wireless devices to make or receive calls on board aircraft. DOT supports the FCC's proposal to revise its rules in light of the technology available and to expand access to mobile wireless data services on board aircraft; however, under the Department's aviation consumer protection authority and because of concerns raised, we are seeking comment on whether to ban voice calls on aircraft.

Statement of Need: This rulemaking proposes to regulate the practice of permitting airline passengers to use mobile wireless devices to make voice calls onboard aircraft. Currently, the FCC bans the use of certain cellular frequencies on aircraft; this rule effectively prohibits the use of cellular telephone frequencies to make voice calls while in flight. In 2013, however, the FCC issued an NPRM which proposed lifting the ban on cellular frequencies while in flight, so long as the aircraft is equipped with an Airborne Access System. Moreover,

airlines are increasingly installing Wi-Fi technology onboard aircraft. These systems operate outside the scope of the FCC's ban and have the capacity to transmit voice calls. In light of these developments, the Department anticipates an environment in which voice calls on aircraft would be not only permitted, but increasingly frequent. In February 2014, the Department issued an ANPRM seeking comment on whether to regulate the use of voice calls onboard aircraft. Comments received by the public (along with pilots' organizations and flight attendants' organizations) overwhelmingly favored a ban.

Summary of Legal Basis: The primary legal basis for this rulemaking is 49 U.S.C. 41712, which prohibits unfair or deceptive practices in air transportation or the sale of air transportation. The Department submits that permitting passengers to make voice calls within the confines of an aircraft may be ''unfair'' in that it subjects other passengers to significant unavoidable harm without countervailing benefits. The Department's consumer protection authority found in section 41712 also supports a proposed rule which would require sellers of air transportation to notify passengers when a given flight does permit the use of voice calls. Another legal basis for the proposed rule is 49 U.S.C. 41702, which provides that air carriers shall provide ''safe and adequate'' domestic air transportation. The Department relied on section 41702 when it determined that the discomfort to passengers from smoking on aircraft was significant enough to justify regulating smoking to ensure adequate service in domestic air transportation. The Department submits that voice calls on aircraft would create a similar type of passenger hardship.

Alternatives: The Department's NPRM, as currently drafted, would propose three (co-equal) alternative rules: (1) Prohibiting airlines from permitting passengers to use mobile devices to make voice calls on domestic flights and domestic segments of international flights; (2) prohibiting airlines from permitting passengers to use mobile devices to make voice calls on both domestic flights and international flights; and (3) not banning voice calls, but requiring sellers of air transportation to disclose in advance when a particular flight is one on which voice calls are permitted. The alternative to these three proposals is to take no action; this alternative would require no advance notice and would passengers to make voice calls to the extent that the FCC's rule, technological advances, and airlines' own policies would allow.

Anticipated Cost and Benefits: TBD.

Risks: n/a.

Timetable:

Action	Date	FR Cite
ANPRM	02/24/14	79 FR 10049
ANPRM Comment Period End.	03/26/14	
NPRM	03/00/16	

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: Blane A. Workie, Principal Deputy Assistant General Counsel, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–9342, *TDD Phone:* 202 755–7687, *Fax:* 202 366–7152, *Email: blane.workie@dot.gov.*

RIN: 2105–AE30

DOT—FEDERAL AVIATION ADMINISTRATION (FAA)

Proposed Rule Stage

87. +Airport Safety Management System

Priority: Other Significant.

Legal Authority: 49 U.S.C. 44706; 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 44701 to 44706; 49 U.S.C. 44709; 49 U.S.C. 44719

CFR Citation: 14 CFR 139.

Legal Deadline: Final, Statutory, November 5, 2012, final rule.

Abstract: This rulemaking would require certain airport certificate holders to develop, implement, maintain, and adhere to a safety management system (SMS) for its aviation related activities. An SMS is a formalized approach to managing safety by developing an organization-wide safety policy, developing formal methods of identifying hazards, analyzing and mitigating risk, developing methods for ensuring continuous safety improvement, and creating organization-wide safety promotion strategies.

Statement of Need: In the NPRM published on October 7, 2010, the FAA proposed to require all part 139 certificate holders to develop and implement an SMS to improve the safety of their aviation-related activities. The FAA received 65 comment documents from a variety of commenters. Because of the complexity of the issues and concerns raised by the commenters, the FAA began to reevaluate whether deployment of SMS at all certificated airports was the most effective approach. The FAA continues to believe that an SMS can address potential safety gaps that are not completely eliminated through effective FAA regulations and technical operating standards.

Summary of Legal Basis: The FAA's authority to issue rules regarding aviation safety is found in title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. The FAA is proposing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44706, ''Airport operating certificates.'' Under that section, Congress charges the FAA with issuing airport operating certificates (AOC) that contain terms that the Administrator finds necessary to ensure safety in air transportation. This proposed rule is within the scope of that authority because it requires certain certificated airports to develop and maintain an SMS. The development and implementation of an SMS ensures safety in air transportation by assisting these airports in proactively identifying and mitigating safety hazards.

Alternatives: The FAA is exploring various alternatives to determine how to apply an SMS requirement to a group of airports that gains the most benefit in a cost-effective manner.

Anticipated Cost and Benefits: Benefits are estimated at $370,788,457 ($225,850,869 present value) and total costs are estimated at $238,865,692 ($157,496,312 present value), with benefits exceeding costs. These are preliminary estimates subject to change based on further review and analysis.

Risks: An SMS is a formalized approach to managing safety by developing an organization-wide safety policy, developing formal methods of identifying hazards, analyzing and mitigating risk, developing methods for ensuring continuous safety improvement, and creating organization-wide safety promotion strategies. An SMS provides an organization's management with a set of decisionmaking tools that can be used to plan, organize, direct, and control its business activities in a manner that enhances safety and ensures compliance with regulatory standards. Adherence to standard operating procedures, proactive identification and mitigation of hazards and risks, and effective

communications are crucial to continued operational safety. The FAA envisions an SMS would provide an airport with an added layer of safety to help reduce the number of near-misses, incidents, and accidents. An SMS also would ensure that all levels of airport management understand safety implications of airfield operations.

Timetable:

Action	Date	FR Cite
NPRM	10/07/10	75 FR 62008
NPRM Comment Period Extended.	12/10/10	75 FR 76928
NPRM Comment Period End.	01/05/11	
End of Extended Comment Period.	03/07/11	
Second Extension of Comment Period.	03/07/11	76 FR 12300
End of Second Extended Comment Period.	07/05/11	
Supplemental NPRM.	12/00/15	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: State.

Additional Information: The estimated costs of this rule do not include the costs of mitigations that operators could incur as a result of conducting the risk analysis proposed in this rule. Given the range of mitigation actions possible, it is difficult to provide a quantitative estimate of both the costs and benefits of such mitigations. However, we anticipate that operators will only implement mitigations where benefits exceeds costs. As such, the FAA believes that the costs of this rule would be justified by the anticipated benefits of the rule, if adopted as proposed.

URL for More Information: *www.regulations.gov*.

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

Agency Contact: Keri Lyons, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, *Phone:* 202 267–8972, *Email: keri.lyons@faa.gov*.

Related RIN: Related to 2120–AJ15

RIN: 2120–AJ38

DOT—FAA

88. +Pilot Professional Development

Priority: Other Significant.

Legal Authority: 49 U.S.C. 44701(a)(5); Pub. L. 111–216, sec 206

CFR Citation: 14 CFR 121.

Legal Deadline: NPRM, Statutory, April 20, 2015, NPRM.

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 to address mentoring, leadership and professional development of flight crewmembers in part 121 operations. This rulemaking is required by the Airline Safety and Federal Aviation Administration Act of 2010.

Statement of Need: On August 1, 2010, the President signed the Airline Safety and Federal Aviation Administration Extension Act of 2010 (Pub. L. 111–216). Section 206 of Public Law 111–216 directed the FAA to convene an aviation rulemaking committee (ARC) to develop procedures for each part 121 air carrier pertaining to mentoring, professional development, and leadership and command training for pilots serving in part 121 operations and to issue a Notice of Proposed Rulemaking (NPRM) based on the ARC recommendations. This NPRM is necessary to satisfy a requirement of section 206 of Public Law 111–216.

Summary of Legal Basis: The FAA authority to issue rules on aviation safety is found in title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the general authority described in 49 U.S.C. 106(f) and 44701(a) and the specific authority found in section 206 of Public Law 111–216, the Airline Safety and Federal Aviation Administration Extension Act of 2010 (49 U.S.C. 44701 note), which directed the FAA to convene an aviation rulemaking committee (ARC) and conduct a rulemaking proceeding based on this ARC's recommendations pertaining to mentoring, professional development, and leadership and command training for pilots serving in part 121 operations. Section 206 further required that the FAA include in leadership and command training, instruction on compliance with flightcrew member duties under 14 CFR 121.542.

Alternatives: The Flight Crewmember Mentoring, Leadership, and Professional Development ARC presented recommendations to the FAA in its report dated November 2, 2010.

Anticipated Cost and Benefits: For the timeframe 2015 to 2024 (millions of 2013 Dollars), the total cost saving benefits is $72.017 ($46.263 present value) and the total compliance costs is $67.632 ($46.774 present value).

Risks: As recognized by the National Transportation Safety Board (NTSB), the overall safety and reliability of the National Airspace System demonstrates that most pilots conduct operations with a high degree of professionalism. Nevertheless, a problem still exists in the aviation industry with some pilots acting unprofessionally and not adhering to standard operating procedures, including sterile cockpit. The NTSB has continued to cite inadequate leadership in the flight deck, pilots' unprofessional behavior, and pilots' failure to comply with the sterile cockpit rule as factors in multiple accidents and incidents including Pinnacle Airlines flight 3701 and Colgan Air, Inc. flight 3407. The FAA intends for this proposal to mitigate unprofessional pilot behavior which would reduce pilot errors that can lead to a catastrophic event.

Timetable:

Action	Date	FR Cite
NPRM	03/00/16	

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: Sheri Pippin, Department of Transportation, Federal Aviation Administration, 15000 Aviation Blvd., Lawndale, CA 90261, *Phone:* 310 725–7342, *Email: sheri.pippin@faa.gov*.

Related RIN: Related to 2120–AJ00

RIN: 2120–AJ87

DOT—FAA

89. +Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes

Priority: Other Significant.

Legal Authority: 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 44701; 49 U.S.C. 44702; 49 U.S.C. 44704

CFR Citation: 14 CFR 23.

Legal Deadline: NPRM, Statutory, December 15, 2015, NPRM (Pub. L. 113–53).

Abstract: This rulemaking would revise title 14, Code of Federal Regulations (14 CFR) part 23 as a set of performance based regulations for the design and certification of small transport category aircraft. This

rulemaking would: (1) Reorganize part 23 into performance-based requirements by removing the detailed design requirements from part 23. The detailed design provisions that would assist applicants in complying with the new performance-based requirements would be identified in means of compliance (MOC) documents to support this effort; (2) promote the adoption of the newly created performance-based airworthiness design standard as an internationally accepted standard by the majority of other civil aviation authorities; (3) re-align the part 23 requirements to promote the development of entry-level airplanes similar to those certified under Certification Specification for Very Light Aircraft (CS–VLA); (4) enhance the FAA's ability to address new technology; (5) increase the general aviation (GA) level of safety provided by new and modified airplanes; (6) amend the stall, stall warning, and spin requirements to reduce fatal accidents and increase crashworthiness by allowing new methods for occupant protection; (7) address icing conditions that are currently not included in part 23 regulations.

Statement of Need: The FAA's strategic vision in line with Destination 2025, communicates FAA goals to increase safety throughout general aviation by enabling and facilitating innovation and development of safety enhancing products. This project intends to provide an appropriate and globally competitive regulatory structure that allows small transport category airplanes to achieve FAA safety goals through innovation and compliance with performance-based safety standards. One focus area is Loss of Control (LOC) accidents, which continues to be the largest source of fatal GA accidents. To address LOC accidents, the Small Airplane Directorate is focused on establishing standards based on a safety continuum that balances the level of certitude, appropriate level of safety, and acceptable risk for each segment of GA. This risk-based approach to certification has already served the FAA and public well, with the application of section 23.1309 to avionics equipment in part 23 airplanes, leading to the successful introduction of glass cockpits in small GA airplanes. To improve the GA fleet's safety level over that of today's aging fleet, the FAA needs to allow industry to build new part 23 certificated airplanes with today's safety enhancing technologies. Although a number of new small airplanes are being built, many are certified to the Civil Air Regulations (CAR 3) part 3, or very early amendment levels of part 23, and reflect the level of safety technology available when they were designed decades ago. Without new airplanes and improved existing airplanes, we will not see the safety improvements in GA that are possible with the technology developed since the 1970's. This rulemaking effort targets: increasing the safety level in new airplanes; reducing the cost of certification to encourage newer and safer airplane development; and create new opportunities to address safety related issues, not just in new airplanes, but eventually with the existing fleet.

Summary of Legal Basis: Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704. Additionally, Public Law 113–53, Small Airplane Revitalization Act of 2013 (Nov. 27, 2013), requires that the FAA issue a final rule revising these standards by December 15, 2015.

Alternatives: Several alternatives are considering. 1. Retaining part 23 in its current form without adopting the recommendations of the ARC and the CPS. 2. Revising part 23 using a tiered approach and adopting a performance and complexity tiering structure instead of the propulsion and weight-based approach used today, but retaining the detailed design requirements in the rule. 3. Allowing an industry standard for part 23 entry-level airplanes as an alternative to part 23. Airplanes other than entry-level would still be regulated within the confines of the existing part 23. being

Anticipated Cost and Benefits: For the timeframe 2017 to 2036 (2014 $ Millions), the total costs are $3.9 ($3.9 present value) and the total benefits are $30.8 ($11.6 present value).

Risks: To be determined.

Timetable:

Action	Date	FR Cite
NPRM	01/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Undetermined.

Additional Information: Additionally, Public Law 113–53, Small Airplane Revitalization Act of 2013 states: ''SEC. 3. SAFETY AND REGULATORY IMPROVEMENTS FOR GENERAL AVIATION. (a) IN GENERAL.— Not later than December 15, 2015, the Administrator of the Federal Aviation Administration shall issue a final rule—''

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Lowell Foster, Department of Transportation, Federal Aviation Administration, 901 Locust St., Kansas City, MO 64106, *Phone:* 816–329–4125, *Email: lowell.foster@faa.gov.*

RIN: 2120–AK65

DOT—FAA

Final Rule Stage

90. +Operation and Certification of Small Unmanned Aircraft Systems

Priority: Other Significant.

Legal Authority: 49 U.S.C. 44701; Pub. L. 112–95

CFR Citation: 14 CFR 91.

Legal Deadline: Final, Statutory, August 14, 2014, Pub. L. 112–95, sec 332(b) requires issuance of final rule 18 months after integration plan is submitted to Congress. Integration plan due Feb. 14, 2013.

Abstract: This rulemaking would allow the commercial operation of small unmanned aircraft systems (small UAS) in the National Airspace System (NAS). These changes would address the operation of small unmanned aircraft systems, certification of their operators, registration of the small unmanned aircraft, and display of registration markings. This action would also find airworthiness certification is not required for small unmanned aircraft system operations subject to this rulemaking.

Statement of Need: This rulemaking would amend regulations to adopt specific rules for the operation of Small Unmanned Aircraft Systems in the National Airspace System (NAS). These changes would address the classification of small UAS, certification of small UAS pilots, registration of small UAS, and small UAS operational limits. The changes are necessary to allow for routine non-recreational operation of small UAS. Absent this rulemaking effort, operators would need to file a request for exemption or certificate of waiver to operate.

Summary of Legal Basis: The FAA's authority to issue rules on aviation safety is found in title 49 of the U.S. Code. Subtitle I, section 106 describes the authority of the FAA Administrator, including the authority to issue, rescind, and revise regulations. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described subtitle VII, part A, subpart III, chapter 447, Safety Regulation. Pursuant to section 44701 (a)(5), the FAA is charged with promoting safe flight of civil aircraft by, among other

things, prescribing regulations the FAA finds necessary for safety in air commerce and national security. This rulemaking is within the scope of that authority.

Alternatives: The overall quantified benefits to society will eventually be determined by market forces and the ingenuity of the entrepreneurs. We expect markets to evolve within the constraints of the proposed requirements and we assess the potential market within the context of the demand for sUAS services. We estimate the total benefits and costs associated with the requirements contained in the proposal. As this is an enabling rulemaking action, the estimated benefits cannot yet be quantified. The total estimated costs are $8.0 million.

Anticipated Cost and Benefits: The costs are estimated at $6,803,100 ($5,714,000 present value). The FAA has not quantified the benefits for this rulemaking because we lack sufficient data. The FAA invited commenters to provide data that could be used to quantify the benefits of this rulemaking.

Risks: Commercial operations currently have no legal means to conduct operations without an FAA-issued exemption.

Timetable:

Action	Date	FR Cite
NPRM	02/23/15	80 FR 9544
NPRM Comment Period End.	04/24/15	
Final Rule	04/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

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: Lance Nuckolls, Unmanned Aircraft Systems Integration Office, Department of Transportation, Federal Aviation Administration, 490 L'Enfant Plaza SW., Washington, DC 20024, *Phone:* 202 267–8447, *Email: uas-rule@faa.gov.*

RIN: 2120–AJ60

DOT—FEDERAL HIGHWAY ADMINISTRATION (FHWA)

Proposed Rule Stage

91. +National Goals and Performance Management Measures (MAP–21)

Priority: Other Significant.

Legal Authority: Pub. L. 112–141 sec 1203; 49 FR 1.85

CFR Citation: 23 CFR 490.

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	12/00/15	

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—FHWA

Final Rule Stage

92. +National Goals and Performance Management Measures (Map–21)

Priority: Other Significant.

Legal Authority: 23 U.S.C. 150

CFR Citation: 23 CFR 490.

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 decision-making 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% discount rate), and $60,504,205 (3% 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.

Note: These are preliminary agency estimates only. They have not been reviewed by others outside of DOT. The estimates could change after interagency review.

Risks: N/A.

Timetable:

Action	Date	FR Cite
NPRM	03/11/14	79 FR 13846
NPRM Comment Period End.	06/09/14	
Comment Period Extended.	06/30/14	79 FR 30508
Final Rule	02/00/16	

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

93. +National Goals and Performance Management Measures (Map–21)

Priority: Other Significant.

Legal Authority: Pub. L. 112–141 sec 1203; 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: The FHWA estimated the incremental costs associated with the new requirements proposed in this regulatory action that represent a change to current practices for State DOTs and MPOs. Following this approach, the estimated 10-year undiscounted incremental costs to comply with this rule are $196.4 million. The FHWA could not directly quantify the expected benefits due to data limitations and the amorphous nature of the benefits from the proposed rule. Therefore, in order to evaluate the benefits, FHWA used a break-even analysis as the primary approach to quantify benefits. For both pavements and bridges, FHWA focused its break-even analysis on Vehicle Operating Costs (VOC) savings. The FHWA estimated the number of road miles of deficient pavement that would have to be improved and the number of posted bridges that would have to be avoided in order for the benefits of the rule to justify the costs. The results of the break-even analysis quantified the dollar value of the benefits that the proposed rule must generate to outweigh the threshold value, the estimated cost of the proposed rule, which is $196.4 million in undiscounted dollars. The FHWA believes that the proposed rule would

surpass this threshold and, as a result, the benefits of the rule would outweigh the costs.

Note: These are preliminary agency estimates only. They have not been reviewed by others outside of DOT. The estimates could change after interagency review.

Risks: N/A.

Timetable:

Action	Date	FR Cite
NPRM	01/05/15	80 FR 326
NPRM Comment Period Extended.	02/17/15	80 FR 8250
NPRM Comment Period End.	04/06/15	
NPRM Extended Comment Period End.	05/08/15	
Final Rule	05/00/16	

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—FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA)

Proposed Rule Stage

94. +Carrier Safety Fitness Determination

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

Legal Authority: 49 U.S.C. 31144; 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 on-road safety performance in relation to five of the Agency's seven 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 more effectively use 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 on-site compliance review, only a small fraction of carriers (approximately 7,000) receive a safety fitness determination each year. Since the current safety fitness determination process is based exclusively on the results of an on-site comprehensive 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 many of 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 1.87, 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 two alternatives. Each alternative focuses on the carriers with the highest crash rates, and represent the best opportunity for the Agency to have an impact on safety with its limited resources. The number of proposed unfit determinations that would result and the Agency's capacity to manage this population was also an important consideration in both options. While the Agency can accommodate the number of investigations and on-road inspections resulting in proposed unfit determinations based on its current resources, the number of follow-up enforcement cases, compliance agreements, and oversight required from this population maximizes the capacity of the Agency's existing staff to administer the expected proposed and final unfit determinations.

Anticipated Cost and Benefits: The Agency is continuing to review the estimated costs and benefits of the proposed rule. Preliminary estimates indicate that annualized benefits may be in the range of $241 to $286 million and annualized costs within the range of $6 and $8 million.

Risks: A risk of incorrectly identifying a compliant carrier as not 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	11/00/15	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: None.

Additional Information: 0.

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

95. +Entry-Level Driver Training (Section 610 Review)

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

Legal Authority: 49 U.S.C. 31136

CFR Citation: 49 CFR 380; 49 CFR 383; 49 CFR 384.

Legal Deadline: None.

Abstract: FMCSA proposes to adopt new standards for mandatory training requirements for entry-level operators of commercial motor vehicles (CMVs) that are required to complete a skills test prior to obtaining a commercial driver's license (CDL). FMCSA is conducting a negotiated rulemaking (Reg-Neg) proceeding to implement the new entry-level driver training (ELDT) provisions in the Moving Ahead for Progress in the 21st Century Act (MAP–21) and other relevant laws. Therefore, FMCSA proposes to require persons applying for new or upgraded CDLs to complete classroom, range, and behind-the-wheel training from a training provider listed on a National Registry. Training modules for those individuals applying for a Hazardous Materials (HM), Passenger (P), or School Bus (S) Endorsement may also be proposed. This notice of proposed rulemaking would strengthen the Agency's ELDT requirements, which would enhance the safety of CMV operations on our Nation's highways.

Statement of Need: The Agency believes this rulemaking would enhance the safety of commercial motor vehicle (CMV) operations on our nation's highways by establishing a more extensive entry-level driver training (ELDT) protocol and by increasing the number of drivers who receive ELDT. It would revise the standards for mandatory training requirements for entry-level operators of CMVs in interstate and intrastate operations who are required to possess a commercial driver's license (CDL). FMCSA proposes new training standards for certain individuals applying for their initial CDL, an upgrade of their CDL (*e.g.,* a Class B CDL holder seeking a Class A CDL), or a hazardous materials, passenger, or school bus endorsement for their license.

Summary of Legal Basis: FMCSA's legal authority to propose this rulemaking is derived from the Motor Carrier Act of 1935, the Motor Carrier Safety Act of 1984, the Commercial Motor Vehicle Safety Act of 1986, and the Moving Ahead for Progress in the 21st Century Act.

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 a driver not receiving adequate training before applying for a CDL.

Timetable:

Action	Date	FR Cite
NPRM	11/00/15	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

Government Levels Affected: None.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

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.*

Related *RIN:* Related to 2126–AB06

RIN: 2126–AB66

DOT—FMCSA

Final Rule Stage

96. +Commercial Driver's License Drug and Alcohol Clearinghouse (MAP–21)

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

Legal Authority: 49 U.S.C. 31306

CFR Citation: 49 CFR 382.

Legal Deadline: Other, Statutory, October 1, 2014, clearinghouse required to be established by 10/01/2014.

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 perform safety-sensitive functions. It would also ensure that drivers who have tested positive and have not completed the return to duty process are not driving and will ensure that they receive the required evaluation and treatment before resuming safety-sensitive functions.

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; (3) the physical condition of CMV operators is adequate to enable them to operate the vehicles safely; and (4) CMV operation does not have a deleterious effect on physical condition of the operators; and (5) CMV drivers are not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a CMV in violation of regulations promulgated under (49 U.S.C. 31136(a)).

Alternatives: To be determined.

Anticipated Cost and Benefits: In the final rule the Agency estimated $230 million in annual benefits from increased crash reduction from the rule. This is against an estimated $174 million in total annual costs.

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	02/20/14	79 FR 9703
NPRM Comment Period End.	04/21/14	

Action	Date	FR Cite
NPRM Comment Period Extended End.	04/22/14	
NPRM Comment Period Extended.	04/22/14	79 FR 22467
Final Rule	03/00/16	

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 E.O. 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: Juan Moya, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–4844, *Email: juan.moya@dot.gov.*

RIN: 2126–AB18

DOT—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA)

Proposed Rule Stage

97. +Rear Seat Belt Reminder System

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

Legal Authority: 49 U.S.C. 30101; delegation of authority at 49 CFR 1.95

CFR Citation: 49 CFR 571.208.

Legal Deadline: NPRM, Statutory, October 1, 2014, Initiate.

Final, Statutory, October 1, 2015, Final Rule.

Abstract: This rulemaking would amend Federal Motor Vehicle Safety Standard No. 208, occupant crash protection, to require automobile manufacturers to install a seat belt reminder system for the front passenger and rear designated seating positions in passenger vehicles. The seat belt reminder system is intended to increase belt usage and thereby improve the crash protection of vehicle occupants who would otherwise have been unbelted. This rulemaking would respond in part to a petition for rulemaking submitted by Public Citizen and Advocates for Highway and Auto Safety, as well as to requirements in MAP–21.

Statement of Need: Based on recent FARS data, there was an annual average of 1,695 rear-seat passenger vehicle occupants killed. Of these fatalities, 1,057 rear-seat occupants (62.4%) were known to be unrestrained. According to recent NASS–GES data, there was an annual average of 46,927 rear-seat occupants injured, of which 15,254 (32.5%) were unrestrained. These unrestrained occupants who were killed or injured represent the rear-seat occupant target population. There was an annual average of 3,846 front outboard passenger seat occupant fatalities in the FARS data. Of these fatalities, 1,799 occupants (46.8%) were unrestrained. In addition, according to NASS–GES data, there was an annual average of 67,948 injured occupants in front outboard seating positions in crashes. Of those front outboard seat occupants injured, 20,369 (30%) were unrestrained. These unrestrained occupants who were killed or injured in crashes represent the front outboard passenger seat occupant target population.

Summary of Legal Basis: MAP–21 required the Secretary to initiate a rulemaking proceeding to amend FMVSS No. 208 to provide a safety belt use warning system for designated seating positions in the rear seat. [1] It directed the Secretary to either issue a final rule, or, if the Secretary determined that such an amendment did not meet the requirements and considerations of 49 U.S.C. 30111, to submit a report to Congress describing the reasons for not prescribing such a standard.

Alternatives: The agency considered several alternatives, including (1) Low cost front outboard passenger system without occupant protection; (2) requiring a SBRS for the front center seat; (3) system hardening from inadvertent and intentional defeat; and (4) awarding points through NCAP for rear SBRSs.

Anticipated Cost and Benefits: The proposed rule would result in 43.7–65.4 equivalent lives saved (ELS) and 33.7–60.6 ELS at 3% and 7% discount rates, respectively. The estimated total cost range is $164.3 million to $324.6 million.

Note: These are preliminary agency estimates only. They have not been reviewed by others outside of DOT. The estimates could change after interagency review.

Risks: The agency believes there are no substantial risks to this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/00/16	

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: Carla Rush, Safety Standards Engineer, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–4583, *Email:* *carla.cuentas@dot.gov.*

RIN: 2127–AL37

DOT—NHTSA

98. +Fuel Efficiency Standards for Medium- and Heavy-Duty Vehicles and Work Trucks: Phase 2

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. 32902(k)(2); delegation of authority at 49 CFR 1.95

CFR Citation: 49 CFR 523; 49 CFR 534; 49 CFR 535.

Legal Deadline: None.

Abstract: This rulemaking would address fuel efficiency standards for medium- and heavy-duty on-highway vehicles and work trucks for model years beyond 2018. This rulemaking would respond to requirements of the Energy Independence and Security Act of 2007 (EISA), title 1, subtitle A, sections 102 and 108, as they amend 49 U.S.C. 32902, which was signed into law December 19, 2007. The statute requires that NHTSA establish a medium- and heavy-duty on-highway vehicle and work truck fuel efficiency improvement program that achieves the maximum feasible improvement, including standards that are appropriate, cost-effective, and technologically feasible. The law requires that the new standards provide at least 4 full model years of regulatory lead-time and 3 full model years of regulatory stability (*i.e.,* the standards must remain in effect for 3 years before they may be amended). This action would follow the first ever Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles (''Phase 1'') (76 FR 57106, September 15, 2011). In June, 2013, the President's Climate Action Plan called for the Department of Transportation to develop fuel efficiency standards and

the Environmental Protection Agency to develop greenhouse gas emission standards in joint rulemaking within the President's second term. In February, 2014, the President directed DOT and EPA to complete the second phase of Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles during his second term.

Statement of Need: Setting fuel consumption standards for commercial medium-duty and heavy-duty on-highway vehicles and work trucks will reduce fuel consumption, and will thereby improve U.S. energy security by reducing dependence on foreign oil, which has been a national objective since the first oil price shocks in the 1970s. Transportation accounts for about 70 percent of U.S. petroleum consumption, and medium- and heavy-duty vehicles currently account for about 20 percent of oil use in the U.S. transportation sector. Net petroleum imports now account for approximately 30 percent of U.S. petroleum consumption. World crude oil production is highly concentrated, exacerbating the risks of supply disruptions and price shocks. Therefore, setting fuel consumption standards for commercial medium-duty and heavy-duty on-highway vehicles and work trucks will reduce fuel consumption and improve U.S. energy security. In June, 2013, the President's Climate Action Plan called for the Department of Transportation to develop fuel efficiency standards and the Environmental Protection Agency to develop greenhouse gas emission standards in joint rulemaking within the President's second term.

Summary of Legal Basis: This rulemaking would respond to requirements of the Energy Independence and Security Act of 2007 (EISA), title 1, subtitle A, sections 102 and 108, as they amend 49 U.S.C. 32902, which was signed into law December 19, 2007. These sections authorize the creation of a fuel efficiency improvement program, designed to achieve the maximum feasible improvement for commercial medium- and heavy-duty on-highway vehicles and work trucks, that includes appropriate test methods, measurement metrics, standards, and compliance and enforcement protocols that are appropriate, cost-effective and technologically feasible.

Alternatives: In the proposal, NHTSA evaluated five alternatives for semi tractors and trailers, heavy-duty pickup trucks and work vans, vocational vehicles, and separate standards for heavy-duty engines. Alternative 1 is a no-action alternative that serves as the baseline for the cost and benefit analyses; Alternative 2 would increase standards beyond model year 2018 levels in model years 2018 to 2024 or 2025; Alternative 3, the Preferred Alternative, would set more stringent standards than Alternative 2 in model years 2018 to 2027; Alternative 4 approximately achieves the same stringency as Alternative 3 in fewer model years (2018 to 2024 or 2025); and Alternative 5 includes the most stringent of the alternative standards in model years 2018 to 2024 or 2025.

Anticipated Cost and Benefits: The estimated total costs for the preferred alternative over the lifetimes of model year 2018 to 2029 vehicles are $30.5 billion to $31.1 billion, and estimated total benefits are $261 billion to $276 billion (3% discount rate).

Risks: The agency believes there are no substantial risks to this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	07/13/15	80 FR 40137
NPRM: Notice of Public Hearings and Extension of Comment Period.	07/28/15	80 FR 44863
NPRM: Comment Period Extended.	09/08/15	80 FR 53756
NPRM: Extended Comment Period End.	09/17/15	
NPRM: Extended Comment Period End.	10/01/15	
Analyzing Comments.	11/00/15	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

Energy Effects: Statement of Energy Effects planned as required by Executive Order 13211.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: James Tamm, Fuel Economy Division Chief, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 493–0515, *Email: james.tamm@dot.gov.*

RIN: 2127–AL52

DOT—FEDERAL TRANSIT ADMINISTRATION (FTA)

Proposed Rule Stage

99. +Transit Asset Management

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

Legal Authority: 49 U.S.C. 5326(d)

CFR Citation: Not Yet Determined.

Legal Deadline: Other, Statutory, October 1, 2013, Secretary must issue rule to implement the Transit Asset Management System by October 1, 2013.

Abstract: This ANPRM has been consolidated with the ANPRM for the National and Public Transportation Agency Safety Plans. See 2132–AB20. This rule will establish a system for Transit Asset Management (TAM) for all operators of public transportation, for all modes of transportation throughout the United States. This national system will be based on the term ''State of Good Repair,'' to be developed through rulemaking, which will generate accurate data about the condition of the transit agencies' assets, and performance measures for improving the conditions of those assets.

Statement of Need: In its most recent biennial Conditions and Performance Report, FTA estimated that the nation's transit state of good repair backlog is $86 billion and growing. It is the goal of the FTA to help bring the nation's public transportation capital assets into a state of good repair. To attain this goal, this NPRM establishes the National Transit Asset Management (TAM) System, that includes: The definition of state of good repair; requirements for Transit Asset Management Plans based on inventories of transit providers' facilities, equipment, rolling stock, and infrastructure, their assessments of the condition of those assets, and a prioritization of projects to meet state of good repair targets; requirements for reporting to the National Transit Database; an analytical process and decision support tool to assist transit provider in estimating their capital investment needs and prioritizing investments; and technical assistance from FTA. Also, this NPRM establishes performance measures for classes of assets and requirements for transit provider's to set performance targets for assets based on the performance measures. In addition, the National Transit Asset Management System complements the needs-based, formula program of Federal financial assistance for State of Good Repair administered under 49 U.S.C. 5337. The National TAM System is designed to foster informed decision-making on the needs for repair, rehabilitation, and

replacement of capital assets used or available for use in public transportation, based on accurate and comprehensive data and information about the condition of those assets. In concert with the planning requirements at 49 U.S.C. 5303 and 5304, and the regulations there under, FTA expects States, transit providers, and metropolitan planning organizations to allocate available Federal, State and local funding towards those capital assets most in need of recapitalization.

Summary of Legal Basis: 49 U.S.C. 5326.

Alternatives: MAP–21 requires the Department to issue this regulation. This NPRM will set forth FTA's rulemaking goals, soliciting comments on alternatives to regulation, such circulars and guidance.

Anticipated Cost and Benefits: The costs of this rulemaking are unknown, as the prospective shape and direction of the regulatory obligations are undetermined.

Risks: Regulated parties could raise the traditional concerns about unfunded Federal mandates and lack of transparency. But, the costs of developing a TAM Plan are eligible for reimbursement under the section 5307, 5311, and 5337 program.

Timetable:

Action	Date	FR Cite
ANPRM	10/03/13	78 FR 61251
ANPRM Comment Period End.	01/02/14	
NPRM	09/30/15	80 FR 58912
NPRM Comment Period End.	11/30/15	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: Undetermined.

URL for More Information: *www.regulations.gov*.

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

Agency Contact: Bonnie Graves, Attorney Advisor, Department of Transportation, Federal Transit Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–0644, *Email:* *bonnie.graves@dot.gov*.

Related RIN: Merged with 2132–AB20

RIN: 2132–AB07

DOT—FTA

100. +Public Transportation Agency Safety Plans

Priority: Other Significant.

Legal Authority: 49 U.S.C. 5329(c)

CFR Citation: 49 CFR 673.

Legal Deadline: None.

Abstract: This rulemaking would establish requirements for States or recipients to develop and implement individual agency safety plans. The requirements of this rulemaking will be based on the principles and concepts of Safety Management Systems (SMS). SMS is the formal, top-down, organization-wide approach to managing safety risks and assuring the effectiveness of a transit agency's safety risk controls. SMS includes systematic procedures, practices, and policies for managing hazards and risks.

Statement of Need: The public transportation industry remains among the safest surface transportation modes in terms of total reported safety events, fatalities, and injuries. The National Safety Council (NSC) reports that, in most locations around the nation, passengers on public transportation vehicles are 40 to 70 times less likely to experience an accident than drivers and passengers in private automobiles. Nonetheless, given the complexity of public transportation service, the condition and performance of transit equipment and facilities, turnover in the transit workforce, and the quality of procedures, training, and supervision, the public transportation industry remains vulnerable to catastrophic accidents. This Notice of Proposed Rulemaking (NPRM) proposes a minimal set of requirements for Public Transportation Agency Safety Plans that would carry out the several explicit statutory mandates in the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141; July 6, 2012) (MAP–21), now codified at 49 U.S.C. 5329(d), to strengthen the safety of public transportation systems that receive Federal financial assistance under chapter 53. This NPRM proposes requirements for the adoption of Safety Management Systems (SMS) principles and methods; the development, certification, and update of Public Transportation Agency Safety Plans; and the coordination of Public Transportation Agency Safety Plan elements with other FTA programs and proposed rules, as specified in MAP–21.

Summary of Legal Basis: 49 U.S.C. 5329(d).

Alternatives: MAP–21 requires the Department to issue this regulation. The NPRM will set forth FTA's proposals for implementing the requirement for Public Transportation Safety Plans and solicit comments on alternatives to both the proposals therein and to regulation.

Anticipated Cost and Benefits: FTA has determined that this is an ''economically significant'' rule under Executive Order 12866, as it would cost approximately $111 million in the first year, and $90 million per year thereafter. The average annual cost over a 20-year horizon period is $92 million. The benefits of the proposed rule are estimated at $775 million per year over the 20-year horizon period.

Risks: The NPRM is merely a proposal for public comment, and would not impose any binding obligations. However, given that the safety program is new, there will likely be significant interest in any action FTA takes to implement the requirements of the program.

Timetable:

Action	Date	FR Cite
NPRM	01/00/16	

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: Candace Key, Department of Transportation, Federal Transit Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–4011, *Email:* *candace.key@dot.gov*.

Related RIN: Split from 2132–AB20, Related to 2132–AB22

RIN: 2132–AB23

DOT—PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION (PHMSA)

Proposed Rule Stage

101. +Pipeline Safety: Safety of On-Shore Liquid Hazardous Pipelines

Priority: Other Significant.

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 time frames 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: PHMSA is proposing to make the following changes to the hazardous liquid pipeline safety regulations: (1) Repeal the exception for gravity lines; (2) Extend certain reporting requirements to all hazardous liquid gathering lines; (3) Require inspections of pipelines in areas affected by extreme weather, natural disasters, and other similar events; (4) Require periodic assessments of pipelines that are not already covered under the integrity management (IM) program requirements; (5) Expand the use of leak detection systems on hazardous liquid pipelines to mitigate the effects of failures that occur outside of high consequence areas; (6) Modify the IM repair criteria, both by expanding the list of conditions that require immediate remediation and consolidating the timeframes for remediating all other conditions, and apply those same criteria to pipelines that are not subject to the IM requirements, with an adjusted schedule for performing non-immediate repairs; and, (7) Increase the use of inline inspection tools by requiring that any pipeline that could affect a high consequence area be capable of accommodating these devices within 20 years, unless its basic construction will not permit that accommodation. (8) Other regulations will also be clarified to improve compliance and enforcement. These changes will protect the public, property, and the environment by ensuring that additional pipelines are subject to regulation, increasing the detection and remediation of unsafe conditions, and mitigating the adverse effects of pipeline failures. This rule responds to a congressional mandate in the 2011 Pipeline Reauthorization Act (sections 5, 8, 21, 29, 14); NTSB recommendation P–12–03 and P–12–04; and GAO recommendation 12–388.

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 (Pub. L. 96–129). Like its predecessor, the Natural Gas Pipeline Safety Act of 1968 (Pub. 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.*).

Alternatives: The various alternatives analyzed included no action ''status quo'' and individualized alternatives based on the proposed amendments.

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: The proposed rule will 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	10/13/15	80 FR 61609
NPRM Comment Period End.	01/08/16	

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 Gale, Director Standards and Rulemaking, 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

102. +Pipeline Safety: Gas Transmission

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

Legal Authority: 49 U.S.C. 60101 *et seq.*

CFR Citation: 49 CFR 192.

Legal Deadline: None.

Abstract: In this rulemaking, PHMSA will be revisiting the requirements in the Pipeline Safety Regulations addressing integrity management principles for Gas Transmission pipelines. In particular, PHMSA will address: repair criteria for both HCA and non-HCA areas, assessment methods, validating and integrating pipeline data, risk assessments, knowledge gained through the IM program, corrosion control, management of change, gathering lines, and safety features on launchers and receivers.

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).

Summary of Legal Basis: Congress has authorized Federal regulation of the transportation of gas by pipeline under the Commerce Clause of the U.S. Constitution. Authorization is codified in the Pipeline Safety Laws (49 U.S.C. 60101 *et seq.*), a series of statutes that are administered by the DOT, PHMSA. PHMSA has used that authority to promulgate comprehensive minimum safety standards for the transportation of gas by pipeline.

Alternatives: Alternative analyzed included no change and extension 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 $138 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 $138 million. Here is a summary of the costs and benefits: Present Values Calculated at 3 Percent Discount for Gas rule Avg Annual Cost Estimate: $138.3 Million/year. Avg Annual Benefit Estimate: $204.53 Million/year Avg Annual Net Benefit Estimate: $68.60 Million/year.

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 53086
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	12/00/15	

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 Avenue SE., Washington, DC 20590, *Phone:* 202 366–8553, *Email: cameron.satterthwaite@dot.gov.*

RIN: 2137–AE72

DOT—PHMSA

103. +Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains

Priority: Other Significant.

Legal Authority: 49 U.S.C. 5101 *et seq.*

CFR Citation: 49 CFR 130; 49 CFR 174.

Legal Deadline: None.

Abstract: In this rulemaking, PHMSA is seeking comment on revisions to the Hazardous Materials Regulations (HMR) applicable to the transportation of oil by rail. Currently, the majority of the rail community transporting oil, including crude oil transported as a hazardous material, is subject to the basic oil spill response plan requirement of 49 CFR 130.31(a) based on the understanding that most rail tank cars being used to transport crude oil have a capacity greater than 3,500 gallons. However, a comprehensive response plan for the shipment of oil is only required when the oil is in a quantity greater than 42,000 gallons per package. Tank cars of this size are not used to transport oil by rail. As a result, the railroads do not file a comprehensive oil response plan. Based on this difference and the recent occurrence of high-profile accidents involving crude oil, the National Transportation Safety Board (NTSB) has recommended in Safety Recommendation R–14–5 that the Department and PHMSA reconsider the threshold quantity for requiring the development of a comprehensive response plan for the shipment of oil. In response to the NTSB Safety Recommendation R–14–5 and significant interest from congressional stakeholders, environmental groups, and the general public, PHMSA is seeking specific comment on revisions to the oil spill response plan requirements in 49 CFR part 130, including threshold quantities.

Statement of Need: This rulemaking is important to mitigate the effects of potential train accidents involving the release of flammable liquid energy products by increasing planning and preparedness. The proposals in this rulemaking are shaped by public comments, National Transportation Safety Board (NTSB) Safety Recommendations, analysis of recent accidents, and input from stakeholder outreach efforts (including first responders). To this end, PHMSA will consider expanding the applicability of comprehensive oil spill response plans; clarifying the requirements for comprehensive oil spill response plans; requiring railroads to share additional information; and providing an alternative test method for determining the initial boiling point of a flammable liquid.

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.'' The authority of 33 U.S.C. 1321, the Federal Water Pollution Control Act (FWPCA), which directs the President to issue regulations requiring owners and operators of certain vessels and onshore and offshore oil facilities to develop, submit, update and in some cases obtain approval of oil spill response plans. Executive Order 12777 delegated responsibility to the Secretary of Transportation for certain transportation-related facilities. The Secretary of Transportation delegated the authority to promulgate regulations to PHMSA and provides FRA the approval authority for railroad ORSPs.

Alternatives: PHMSA and FRA are committed to a comprehensive approach to addressing the risk and consequences of derailments involving flammable liquids by addressing not only oil spill response plans, but communication requirements between railroads and communities. Obtaining information and comments in a NPRM 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: The NPRM will request comments on both the path forward and the economic impacts. We will evaluate comments prior to developing the final rule, and once the final rule is drafted the costs and benefits will be detailed.

Risks: DOT analyzed recent incidents, National Transportation Safety Board (NTSB) Safety Recommendations, received input from stakeholder outreach efforts (including first responders) to determine amending the applicability and requirements of comprehensive oil spill response plans and codifying requirements for information sharing is important. DOT will continue to research these topics and evaluate comment feedback prior to the final rule. DOT expects the highest ranked options will be low cost and most effective at providing better preparedness and planning to mitigate the effects of a derailment.

Timetable:

Action	Date	FR Cite
ANPRM	08/01/14	79 FR 45079
ANPRM Comment Period End.	09/30/14	
NPRM	01/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: HM–251B; SB–N, IC–N, SLT–N.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

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DEPARTMENT OF THE TREASURY

Statement of Regulatory Priorities

The primary missions of the Department of the Treasury are:

- To promote prosperous and stable American and world economies, including promoting domestic economic growth and maintaining our Nation's leadership in global economic issues, supervising national banks and thrift institutions, and helping to bring residents of distressed communities into the economic mainstream.
- To manage the Government's finances by protecting the revenue and collecting the correct amount of revenue under the Internal Revenue Code, overseeing customs revenue functions, financing the Federal Government and managing its fiscal operations, and producing our Nation's coins and currency.
- To safeguard the U.S. and international financial systems from those who would use these systems for illegal purposes or to compromise U.S. national security interests, while keeping them free and open to legitimate users.

Consistent with these missions, most regulations of the Department and its constituent bureaus are promulgated to interpret and implement the laws as enacted by the Congress and signed by the President. It is the policy of the Department to comply with applicable requirements to issue a notice of proposed rulemaking and carefully consider public comments before adopting a final rule. Also, 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.

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) Collect the taxes on alcohol, tobacco, firearms, and ammunition;

(2) protect the consumer by ensuring the integrity of alcohol products; and

(3) prevent unfair and unlawful market activity for alcohol and tobacco products.

In the last several years, TTB has identified changes in the industries it regulates, as well as new technologies available in compliance enforcement. In response, TTB has focused on revising its regulations to ensure that it accomplishes its mission in a way that facilitates industry growth and reduces burdens where possible, while at the same time collecting the revenue and protecting consumers from deceptive labeling and advertising of alcohol beverages. This modernization effort resulted in the publishing of two key rulemakings that took effect in FY 2014–15 that reduced burden on TTB-regulated industry members.

On March 27, 2014, TTB published a final rule (79 FR 17029) amending its regulations in 27 CFR part 73 regarding the electronic submission of forms and other documents. Among other things, this rule provided for the electronic submission to TTB of forms requiring third-party signatures, such as bond forms and powers of attorney. It also provided that any requirement in the TTB regulations to submit a document to another agency may be met by the electronic submission of the document to the other agency, as long as the other agency provides for, and authorizes, the electronic submission of such document.

On September 30, 2014, TTB published a final rule (79 FR 58674) that reduced the compliance burden for the beer industry. This rule reduced the penal sum of the bond required for certain small brewers to a flat $1,000, which applies to brewers whose excise tax liability is reasonably expected to be not more than $50,000 in a given calendar year and who were liable for not more than $50,000 in such taxes in the preceding calendar year. Additionally, TTB adopted as a final rule its prior proposal to provide that those brewers must file Federal excise tax returns, pay tax, and submit reports of operations less frequently, that is every quarter rather than twice monthly.

As part of this rulemaking, TTB also made a number of changes to the forms brewers use to report on their operations. The two versions of the Brewer's Report of Operations forms (TTB F 5130.9 and TTB F 5130.26) were streamlined based on feedback from the industry. These changes included removing two separate parts, adding clarifying instructions, and revising TTB F 5130.26 (previously for brewpub reporting only) to be an ''EZ'' reporting option for small brewers to facilitate the new quarterly reporting mandate. TTB released the new versions of the reports in the second quarter of FY 2015. This combination of regulatory amendments and form changes have reduced regulatory burdens and administrative costs for small brewers and created administrative efficiencies for TTB.

In FY 2016, TTB will continue its multi-year Regulations Modernization effort by prioritizing projects that will update its Import and Export regulations, Labeling Requirements regulations, Specially Denatured and Completely Denatured Alcohol regulations, Nonbeverage Products regulations, Distilled Spirits Plant Reporting requirements, and Civil Monetary Penalty for Violations of the Alcohol Beverage Labeling Act regulation.

This fiscal year TTB plans to give priority to the following regulatory matters:

Revisions to Export and Import Regulations Related to the International Trade Data System. TTB is currently preparing for the implementation of the International Trade Data System (ITDS) and, specifically, the transition to an all-electronic import and export environment. The ITDS, as described in section 405 of the Security and Accountability for Every Port Act of 2006 (the ''SAFE Port Act'') (Public Law 109–347), is an electronic information exchange capability, or ''single window,'' through which businesses will transmit data required by participating Federal agencies for the importation or exportation of cargo. To enhance Federal coordination associated with the development of the ITDS and put in place specific deadlines for implementation, President Obama, on February 19, 2014, signed an Executive Order on Streamlining the Export/Import Process for America's Businesses. In line with section 3(e) of the Executive Order, TTB was required to develop a timeline for ITDS implementation. Updating the regulations for transition to the all-

electronic environment is part of the implementation process.

TTB has completed its review of the relevant regulatory requirements and identified those that it intends to update to address an all-electronic environment. As noted above, TTB regulations in 27 CFR part 73 have already been amended to remove regulatory barriers to the electronic submission of TTB-required documents to another agency. In FY 2016, TTB intends to publish a notice of proposed rulemaking to propose changes to TTB regulatory sections that address the submission of information or documentation at importation, and to update and streamline TTB regulatory processes for importations and make clear the circumstances in which the submission of certain data elements replaces the submission of paper documents. Specifically, TTB will propose that data from certain forms (*e.g.,* the TTB F 5100.31 (Application for and Certification/Exemption of Label/Bottle Approval)) may be submitted electronically at importation through the ''single window'' in lieu of the submission of the paper documents to U.S. Customs and Border Protection personnel. TTB also reviewed existing requirements and processes to determine how the all-electronic environment can be used to reduce burden. For example, many regulatory provisions in TTB's import and export regulations require forms to be submitted in triplicate or quadruplicate, and the availability of the relevant data electronically makes such multiple submissions unnecessary. The amendments to the regulations that TTB will propose to implement ITDS for imports will facilitate legitimate trade and allow enforcement resources to be focused on identifying noncompliance.

On August 7, 2015, TTB published a notice (80 FR 47558) announcing a pilot program for importers who want to gain experience with the ITDS ''single window'' functionality for providing data on the TTB-regulated commodities. This pilot program will help familiarize both TTB and the public with the new environment and assist TTB and the public to refine the implementation of ITDS. TTB is planning to publish rulemaking on its import and export regulations in FY 2016, and the pilot program will provide valuable information for this undertaking.

In addition, in recent years, TTB has identified selected sections of its export regulations (27 CFR parts 28 and 44) that it intends to amend to clarify and update the requirements. Under the Internal Revenue Code of 1986 (IRC), the products taxed by TTB may be removed for exportation without payment of tax or with drawback of any excise tax previously paid, subject to the submission of proof of export. However, the current export regulations require industry members to obtain documents and follow procedures that do not reflect current technology or take into account current industry business practices. The notice of proposed rulemaking that TTB will publish to implement ITDS for exports will include proposals to amend the regulations to provide industry members with clear and updated procedures for removal of alcohol and tobacco products for exportation, thus facilitating exportation of those products. Increasing U.S. exports benefits the U.S. economy and is consistent with Treasury and Administration priorities.

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 conducted an analysis of its labeling regulations to identify any that might be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with that analysis. These regulations were also reviewed to assess their applicability to the modern alcohol beverage marketplace. As a result of this review, TTB plans to propose in FY 2016 revisions to modernize the regulations concerning the labeling requirements for wine, distilled spirits, and malt beverages. TTB anticipates that these regulatory changes will assist industry in voluntarily complying with these requirements for the over 160,000 label applications that are projected to be submitted in FY 2016, which will decrease industry burden associated with the label approval requirement and result in the regulated industries being able to bring products to market without undue delay.

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 will provide a reduction in regulatory burden while posing no risk to the revenue.

Under the authority of the 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 published a notice of proposed rulemaking (78 FR 38628) and, in FY 2016, 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.

TTB estimates that these changes will result in an 80 percent reduction in the formula approval submissions currently required from industry members. 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. Additionally, the reclassification of certain SDA formulas as CDA formulas will not jeopardize the revenue because it is more difficult to separate potable alcohol from CDA than it is from SDA, and CDA is less likely to be used for beverage purposes due to its taste. Similarly, authorizing new general-use formulas will not jeopardize the revenue because it will be difficult to remove potable alcohol from articles made with the specific SDA formulations. Other changes made by this final rule will remove unnecessary regulatory burdens and update the regulations to align them with current industry practice.

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 regulations in 27 CFR part 17 governing nonbeverage products made with taxpaid distilled spirits. These nonbeverage products include foods, medicines, and flavors. This proposal, which TTB intends to publish in FY 2016, offers a new method of formula certification by incorporating quantitative standards into the regulations and establishing new voluntary procedures that would further

streamline the formula review process for products that meet the standards. This proposal provides adequate protection to the revenue because TTB will continue to receive submissions of certified formulas; however, TTB will not take action on certified formula submissions unless TTB discovers that the formulas require correction. By allowing for self-certification of certain nonbeverage product formulas, this proposal would nearly eliminate the need for TTB to formally approve all such formulas. These changes would result in significant cost savings for the nonbeverage alcohol 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.

Revisions to Distilled Spirits Plant Reporting Requirements. In FY 2012, TTB published a notice of proposed rulemaking (NPRM) proposing to revise regulations in 27 CFR part 19 to 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 file taxes on a quarterly basis would submit the new reports on a quarterly basis.) This project will address numerous concerns and desires for improved reporting by the distilled spirits industry and result in cost savings to 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 a reduction of paperwork burden hours for industry members, as well as savings in processing hours and contractor time for TTB. In addition, TTB estimates that this project will result in additional savings in staff time based on the more efficient and effective processing of reports and the use of report data to reconcile industry member tax accounts. In FY 2016, TTB intends to publish a Supplemental NPRM that will include new proposals to address comments received in response to the initial NPRM.

Inflation Adjustment to the Civil Monetary Penalty for Violations of the Alcohol Beverage Labeling Act. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires Federal agencies to adjust certain civil monetary penalties for inflation according to a formula set out in the statute. In FY 2016, TTB plans to publish a final rule increasing the maximum penalty for violations of the Alcohol Beverage Labeling Act from $11,000 (the level at which it was set following the first inflation adjustment in 1996) to $16,000. The increased maximum penalty will help maintain the deterrent effect of the penalty.

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 mission of the CDFI Fund is to increase economic opportunity and promote community development investments for underserved populations and in distressed communities in the United States. The CDFI Fund currently administers the following programs: The Community Development Financial Institutions (CDFI) Program, the Bank Enterprise Award (BEA) Program, the Native American CDFI Assistance (NACA) Program, the New Markets Tax Credit (NMTC) Program, the Financial Education and Counseling Pilot Program (FEC), the Capital Magnet Fund (CMF), and the CDFI Bond Guarantee Program (BGP).

In FY 2016, the CDFI Fund will publish updated regulations for its Capital Magnet Fund (CMF) to incorporate the requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) and make other policy updates.

Customs Revenue Functions

The Homeland Security Act of 2002 (the Act) provides that, although many functions of the former United States Customs Service were transferred to the Department of Homeland Security, the Secretary of the Treasury retains sole legal authority over 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 promulgate 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 were the United States-Australia Free Trade Agreement interim final rule, the Documentation Related to Goods Imported from U.S. Insular Possessions final rule, Technical Corrections to the North American Free Trade Agreement Uniform Regulations final rule, and Liberalization of Certain Documentary Evidence Required As Proof of Exportation on Drawback Claims final rule. On February 10, 2015, U.S. Customs and Border Protection published the United States-Australia Free Trade Agreement interim final rule (80 FR 7303) to the CBP regulations, which implemented the preferential tariff treatment and other customs-related provisions of the United States-Australia Free Trade Agreement Implementation Act. In addition, on May 11, 2015, CBP and Treasury issued a final rule (80 FR 26828) titled ''Technical Corrections to the North American Free Trade Agreement Uniform Regulations'' which amended CBP regulations implementing conforming changes of the preferential tariff treatment and other customs-related provisions of the North American Free Trade Agreement (NAFTA) entered into by the United States, Canada, and Mexico. On August 7, 2015, CBP issued a final rule (80 FR 47405) titled ''Liberalization of Certain Documentary Evidence Required As Proof of Exportation on Drawback Claims'' which amended CBP regulations by removing some of the requirements for documentation used to establish proof of exportation for drawback claims.

This past fiscal year, consistent with the goals of Executive Orders 12866 and 13563, Treasury and CBP issued a final rule titled ''Documentation Related to Goods Imported From U.S. Insular Possessions'' on February 11, 2015 (80 FR 7537), that amended CBP 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 amendments 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.

Treasury and CBP are currently working towards the implementation of the International Trade Data System (ITDS). The ITDS, as described in section 405 of the Security and Accountability for Every Port Act of 2006 (the ''SAFE Port Act'') (Public Law 109–347), is an electronic information

exchange capability, or ''Single Window,'' through which businesses will transmit data required by participating agencies for the importation or exportation of cargo. To enhance Federal coordination associated with the development of the ITDS, Treasury and CBP plan to issue an interim regulation which will to reflect that on November 1, 2015, the Automated Commercial Environment (ACE) is a CBP-authorized Electronic Data Interchange (EDI) System. This regulatory document informs the public that the Automated Commercial System (ACS) is being phased out as a CBP-authorized EDI System for the processing electronic entry and entry summary filings (also known as entry filings). In the future when there is full functionality, ACE will replace the Automated Commercial System (ACS) as the CBP-authorized EDI system for processing commercial trade data.

During fiscal year 2016, CBP and Treasury also plan to give priority to the following regulatory matters involving the customs revenue functions:

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.

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. Treasury and CBP also expect to issue final regulations implementing the preferential trade benefit provisions of the United States-Australia Free Trade Agreement Implementation Act.

In-Bond Process. 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, Treasury and CBP plan to finalize this fiscal year the proposal to change the in-bond process by issuing final regulations to amend the in-bond regulations that were proposed on February 22, 2012 (77 FR 10622). The proposed changes, including the automation of the in-bond process, would 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.

Inter-Partes Proceedings Concerning Exclusion Orders Based on Unfair Practices in Import Trade. Treasury and CBP plans to publish a proposal to amend its regulations with respect to administrative rulings related to the importation of articles in light of exclusion orders issued by the United States International Trade Commission (''Commission'') under section 337 of the Tariff Act of 1930, as amended. The proposed amendments seek to promote the speed, accuracy, and transparency of such rulings through the creation of an *inter partes* proceeding to replace the current *ex parte* process.

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.

Office of the Comptroller of the Currency

The primary mission of the Office of the Comptroller of the Currency (OCC) is to charter, regulate, and supervise all national banks and Federal Savings Associations (FSAs). The agency also supervises the Federal branches and agencies of foreign banks. The OCC's goal in supervising the financial institutions subject to its jurisdiction is to ensure that they operate in a safe and sound manner and in compliance with laws requiring fair treatment of their customers and fair access to credit and financial products.

Significant rules issued during fiscal year 2015 include:

Integration of National Bank and Federal Savings Association Regulations: Licensing Rules (12 CFR parts 4, 5, 7, 14, 32, 34, 100, 116, 143, 144, 145, 146, 150, 152, 159, 160, 161, 162, 163, 174, 192, and 193). The OCC issued a final rule that integrates its rules relating to policies and procedures for corporate activities and transactions involving national banks and FSAs. The final rule also revises some of these rules in order to eliminate unnecessary requirements, consistent with safety and soundness; promote fairness in supervision; and to make other technical and conforming changes. The final rule also includes amendments to update OCC rules for agency organization and function. The final rule was issued on May 18, 2015, 80 FR 28345.

Flood Insurance (12 CFR parts 22 and 172). The banking agencies,[1] Farm Credit Administration (FCA), and the National Credit Union Administration (NCUA) revised their regulations regarding loans in areas having special flood hazards to implement provisions of the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA), which amends some of the changes to the Flood Disaster Protection Act of 1973 mandated by the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters). The rule requires the escrow of flood insurance payments on residential improved real estate securing a loan, consistent with the changes set forth in HFIAA. The final rule also incorporates an exemption in HFIAA for certain detached structures from the mandatory flood insurance purchase requirement. The rule also implements the provisions of Biggert-Waters related to the force placement of flood insurance. Finally, the rule integrates the OCC's flood insurance regulations for national banks and Federal savings associations. The final rule was issued on July 21, 2015, 80 FR 43216.

Appraisal Management Companies (12 CFR part 34). The banking agencies, the Federal Housing Finance Agency (FHFA), NCUA and the Consumer Financial Protection Bureau (CFPB) issued a rule that sets minimum standards for state registration and supervision of appraisal management companies (AMCs). The rule implements the minimum requirements in section 1473 of the Dodd-Frank Act to be applied by states in the registration and supervision of AMCs. It also implements the requirement in section 1473 of the Dodd-Frank Act for states to report to the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council the information needed by the ASC to administer the national registry of AMCs. The final rule was issued on June 6, 2015, 80 FR 32658.

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. The proposed rule

[1] OCC, Board of Governors of the Federal Reserve System (Board), and Federal Deposit Insurance Corporation (FDIC).

will implement 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. A second proposal was issued on September 24, 2014, 79 FR 57348.

Credit Risk Retention (12 CFR part 43). The banking agencies, Securities and Exchange Commission (SEC), FHFA, and the Department of Housing and Urban Development (HUD) issued rules to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934 (15 U.S.C. 78o–11), as added by section 941 of the Dodd-Frank 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 final rule was issued on December 24, 2014, 78 FR 77602.

Regulatory priorities for fiscal year 2016 include finalizing any proposals listed above as well as the following rulemakings:

Automated Valuation Models (parts 34, 164). The banking agencies, NCUA, FHFA and CFPB, in consultation with the ASC and the Appraisal Standards Board of the Appraisal Foundation, are required to promulgate regulations to implement quality-control standards required under the statute. Section 1473(q) of the Dodd-Frank Act requires that automated valuation models used to estimate collateral value in connection with mortgage origination and securitization activity, 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 to adopt quality-control standards.

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 Dodd-Frank 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 proposed rule was issued on April 14, 2011, 76 FR 21170.

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 other 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.

Net Stable Funding Ratio (12 CFR part 50). The banking agencies plan to issue a proposed rule to implement the Basel net stable funding ratio standards. These standards would require large, internationally active banking organizations to maintain sufficient stable funding to support their assets, generally over a one-year time horizon.

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 2015, FinCEN issued the following regulatory actions:

Anti-Money Laundering Program and SAR Requirements for Investment Advisers. On August 25, 2015, FinCEN published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) to solicit public comment on proposed rules under the BSA 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.

Imposition of Special Measure against FBME Bank Ltd., formerly known as Federal Bank of the Middle East, Ltd., as a Financial Institution of Primary Money Laundering Concern. On July 29, 2015, FinCEN issued a final rule

imposing the fifth special measure under section 311 of the USA PATRIOT Act against FBME. 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. This action followed a notice of finding issued on July 22, 2014 that FBME is a financial institution of primary money laundering concern and an NPRM proposing the imposition of the fifth special measure. FBME filed suit on August 7, 2015 in the United States District Court for the District of Columbia; FBME also moved for a preliminary injunction. On August 27, 2015, the Court granted the preliminary injunction and enjoined the rule from taking effect until a final judgment is entered.

Imposition of Special Measure against Banca Privada d'Andorra as a Financial Institution of Primary Money Laundering Concern. On March 10, 2015, FinCEN issued a finding that Banca Privada d'Andorra 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. Also on March 10, 2015, 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 4 administrative rulings and written guidance pieces, and provided 30 responses to written inquiries/correspondence interpreting the BSA and providing clarity to regulated industries.

FinCEN's regulatory priorities for fiscal year 2016 include finalizing any initiatives mentioned above that are not finalized by fiscal year end, as well as the following in-process and potential projects:

Customer Due Diligence Requirements. On August 4, 2014, FinCEN issued a Notice of Proposed Rulemaking (NPRM) to solicit public comment on proposed rules under the BSA to clarify and strengthen customer due diligence requirements for banks, brokers or dealers in securities, mutual funds, and futures commission merchants and introducing brokers in commodities. The proposed rules contain explicit customer due diligence requirements and include a new regulatory requirement to identify beneficial owners of legal entity customers, subject to certain exemptions.

Report of Foreign Bank and Financial Accounts. FinCEN has drafted an NPRM to address requests from filers for clarification of certain requirements regarding the Report of Foreign Bank and Financial Accounts (FBAR), including requirements with respect to employees, who have signature authority over, but no financial interest in, the foreign financial accounts of their employers.

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 has drafted a Supplemental NPRM to update the previously published proposed rule and provide additional information to those banks and money transmitters that will become subject to the rule.

Anti-Money Laundering Program Requirements for Banks Lacking a Federal Functional Regulator. FinCEN has drafted an NPRM to remove the anti-money laundering (AML) program exemption for banks that lack a Federal functional regulator, including, but not limited to, private banks, non-federally insured credit unions, and certain trust companies. The proposed rule would prescribe minimum standards for AML programs and would ensure that all banks, regardless of whether they are subject to Federal regulation and oversight, are required to establish and implement AML programs.

Amendments to the Definitions of Broker or Dealer in Securities. FinCEN has drafted an NPRM that proposes amendments to the regulatory definitions of broker or dealer in securities under the BSA regulations. The proposed changes would expand the current scope of the definitions to include funding portals and would require them to implement policies and procedures reasonably designed to achieve compliance with all of the BSA requirements that are currently applicable to brokers or dealers in securities.

Amendment to the Bank Secrecy Act Regulations—Registration Requirements of Money Services Businesses. FinCEN is considering issuing an NPRM to amend the requirements for money services businesses with respect to registering with FinCEN.

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 and to lower the threshold.

Changes to the Currency and Monetary Instrument Report (CMIR) Reporting Requirements. FinCEN will research, obtain, and analyze relevant data to validate the need for changes aimed at updating and improving the CMIR and ancillary reporting requirements. Possible areas of study to be examined could include current trends in cash transportation across international borders, transparency levels of physical transportation of currency, the feasibility of harmonizing data fields with bordering countries, and information derived from FinCEN's experience with Geographic Targeting Orders.

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.

Bureau of the Fiscal Service

The Bureau of the Fiscal Service (Fiscal Service) administers regulations pertaining to the Government's financial activities, including: (1) Implementing Treasury's borrowing authority, including regulating the sale and issue of Treasury securities, (2) Administering Government revenue and debt collection, (3) Administering Governmentwide accounting programs, (4) Managing certain Federal investments, (5) Disbursing the majority of Government electronic and check payments, (6) Assisting Federal agencies in reducing the number of improper payments, and (7) Providing administrative and operational support to Federal agencies through franchise shared services.

During fiscal year 2016, the Fiscal Service will accord priority to the following regulatory projects:

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 promulgating their own rules to publish information about delinquent debtors and the standards for determining when use of this debt collection remedy is appropriate.

Offset of Tax Refund Payments to Collect Past-Due Support. Currently, there is no time limit to recoup offset amounts that were collected from tax refunds to which the debtor taxpayer was not entitled. An interim rule with request for comments would provide a time limit for such recoupments.

Debt Collection Authorities Under the Debt Collection Improvement Act of 1996. The Data Accountability and Transparency Act of 2014 changed the statutory requirement for federal agencies to submit delinquent debts to Treasury for purposes of administrative offset from 180 days delinquent to 120 days delinquent. The direct final rule will amend the regulations to conform to that statutory change.

Amendment to Savings Bond Regulations. Fiscal Service plans to amend regulations in 31 CFR parts 315, 353, and 360 to allow consideration of certain state escheat claims when the state cannot show that the owner, coowner, or beneficiary is deceased.

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 (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 2016, 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 of the Code, the small-business health coverage tax credit under section 45R of the Code, new requirements for charitable hospitals under section 501(r) of the Code, limits on tax preferences for remuneration provided by certain health insurance providers under section 162(m)(6) of the Code, the employer shared responsibility provisions under section 4980H of the Code, the individual shared responsibility provisions under section 5000A of the Code, insurer and employer reporting under sections 6055 and 6056 of the Code, and several revenue-raising provisions, including fees on branded prescription drugs under section 9008 of the ACA, fees on health insurance providers under section 9010 of the ACA, the tax on indoor tanning services under 5000B of the Code, the net investment income tax under section 1411 of the Code, and the additional Medicare tax under sections 3101 and 3102 of the Code.

In fiscal year 2016, Treasury and the IRS will continue to provide guidance to implement tax provisions of the ACA, including:

- Proposed and final regulations related to numerous aspects of the premium tax credit under section 36B, including the determination of minimum value of eligible-employer-sponsored plans;
- Regulations under section 4980I of the Code relating to the excise tax on high cost employer-provided coverage;
- Regulations on expatriate health plans under the Expatriate Health Coverage Clarification Act of 2014 for purposes of sections 36B, 4980I, and 5000A of the Code, and section 9010 of the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act;
- Final regulations regarding issues related to the net investment income tax under section 1411 of the Code.

Interest on Deferred Tax Liability for Contingent Payment Installment Sales. Section 453 of the Code generally allows taxpayers to report the gain from a sale of property in the taxable year or years in which payments are received, rather than in the year of sale. Section 453A of the Code imposes an interest charge on the tax liability that is deferred as a result of reporting the gain when payments are received. The interest charge generally applies to installment obligations that arise from a sale of property using the installment method if the sales price of the property exceeds $150,000, and the face amount of all such installment obligations held by a taxpayer that arose during, and are outstanding as of the close of, a taxable year exceeds $5,000,000. The interest charge provided in section 453A cannot be determined under the terms of the statute if an installment obligation provides for contingent payments. Accordingly, in section 453A(c)(6), Congress authorized the Secretary of the Treasury to issue regulations providing for the application of section 453A in the case of installment sales with contingent payments. Treasury and the IRS intend to issue proposed regulations that, when finalized, will provide guidance and reduce uncertainty regarding the application of section 453A to contingent payments.

Rules for Home Construction Contracts. In general, section 460(a) of the Code requires taxpayers to use the percentage-of-completion method (PCM) to account for taxable income from any long-term contract. Under the PCM, income is generally reported in installments as work is performed, and expenses are generally deducted in the taxable year incurred. However, taxpayers with contracts that meet the definition of a ''home construction contract,'' under section 460(e)(4), are not required to use the PCM for those contracts and may, instead, use an exempt method. Exempt methods include the completed contract method (CCM) and the accrual method. Under the CCM, for example, a taxpayer generally takes into account the entire gross contract price and all incurred allocable contract costs in the taxable year the taxpayer completes the contract. Treasury and the IRS believe that amended rules are needed to reduce uncertainty and controversy, including litigation, regarding when a contract qualifies as a ''home construction contract'' and when the income and allocable deductions are taken into account under the CCM. On August 4, 2008, Treasury and the IRS published proposed regulations on the types of

contracts that are eligible for the home construction contract exemption. The preamble to those regulations stated that Treasury and the IRS expected to propose additional rules specific to home construction contracts accounted for using the CCM. After considering comments received and the need for additional and clearer rules to reduce ongoing uncertainty and controversy, Treasury and the IRS have determined that it would be beneficial to taxpayers to present all of the proposed changes to the current regulations in a single document. Treasury and the IRS plan to withdraw the 2008 proposed regulations and replace them with new, more comprehensive proposed regulations.

Research Expenditures. Section 41 of the Code provides a credit against taxable income for certain expenses paid or incurred in conducting research activities. To assist in resolving areas of controversy and uncertainty with respect to research expenses, Treasury and the IRS plan to issue final regulations with respect to the definition and credit eligibility of expenditures for internal use software.

Income Inclusion When Lessee Treated as Having Acquired Investment Credit Property. Section 50(d)(5) of the Code provides that, for purposes of the investment credit, rules similar to former section 48(d) (as in effect prior to the enactment of Revenue Reconciliation Act of 1990 (Public Law 101–508)) apply. Former section 48(d)(5)(B) of the Code generally provides that when a lessor of investment credit property elects to treat the lessee as having acquired the property, the lessee of the property must include an applicable amount in gross income. Treasury and the IRS plan to issue regulations to address how the section 50(d)(5) income-inclusion rules operate when a partnership is the lessee.

Domestic Production Activities Income. Section 199 of the Code provides a deduction for certain income attributable to domestic production activities. To assist in resolving areas of controversy and uncertainty with respect to the eligibility of income from online computer software, Treasury and the IRS plan to issue regulations regarding the application of section 199 to online computer software.

Consistent Basis Reporting between Estate and Person Acquiring Property from Decedent. On July 31, 2015, the President of the United States signed H.R. 3236, Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (Act) (P.L. 114–41), into law. Section 2004 of the Act added new Code sections 1014(f), 6035, and 6662(k). Section 1014(f) provides rules requiring that the basis of certain property acquired from a decedent be consistent with the estate tax value of the property. Section 6035 requires executors who are required to file a return under section 6018(a) of the Code (and other persons required to file a return under section 6018(b)) after July 31, 2015, to furnish statements with the IRS and certain estate beneficiaries providing information regarding the value of certain property acquired from a decedent. Section 6662(k) provides a penalty for certain recipients of property acquired from an estate required to file a return after July 31, 2015, who do not report a basis that is consistent with the value determined under section 1014(f) when the property is sold (or deemed sold). On August 21, 2015, Notice 2015–57 was issued. This notice delayed the due date for any statements required by section 6035 to February 29, 2016. The IRS is in the process of issuing a form, a schedule, and instructions thereto to facilitate the reporting required by section 6035. It is expected these documents will be available in draft form for taxpayers' use prior to February 29, 2016. Treasury and the IRS will issue proposed regulations providing guidance under sections 1014(f), 6035, and 6662(k) within 18 months of July 31, 2015.

Arbitrage Investment Restrictions on Tax-Exempt Bonds. The arbitrage investment restrictions on tax-exempt bonds under section 148 of the Code generally limit issuers from investing bond proceeds in higher-yielding investments. On September 16, 2013, Treasury and the IRS published proposed regulations (78 FR 56842) to address selected current issues involving the arbitrage investment restrictions, including guidance on the issue price definition used in the computation of bond yield, working capital financings, grants, investment valuation, modifications, terminations of qualified hedging transactions, and selected other issues. On June 24, 2015, Treasury and the IRS published proposed regulations (80 FR 36301) that revise the 2013 guidance on the issue price definition. Treasury and the IRS plan to finalize the proposed regulations on the arbitrage investment restrictions, including the issue price definition used in the computation of bond yield.

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 about what is required for an entity to be a political subdivision. Treasury and the IRS plan to provide additional guidance under section 103 of the Code 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 the IRS released Notice 2008–2 requesting comments and information with respect to transactions frequently referred to as prepaid forward contracts. On May 8, 2015, Treasury and the IRS published temporary and proposed regulations (80 FR 26437) relating to the treatment of nonperiodic payments. Treasury and the IRS plan to finalize the temporary regulations and 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. During fiscal year 2016, Treasury and the IRS plan to address certain of these issues in published guidance.

Definition of Real Property and Qualifying Income for REIT Purposes. A taxpayer must satisfy certain asset and income requirements to qualify as a real estate investment trust (REIT) under section 856 of the Code. REITs have sought to invest in various types of assets that are not directly addressed by the current regulations or other published guidance. On May 14, 2014, Treasury and the IRS published proposed regulations (79 FR 27508) to update and clarify the definition of real property for REIT qualification purposes, including guidance addressing whether a component of a larger item is tested on its own or only as part of the larger item, the scope of the asset to be tested, and whether certain intangible assets qualify as real property. Treasury and the IRS plan to

finalize the proposed regulations in the fiscal year. Treasury and the IRS also plan to provide guidance clarifying the definition of income for purposes of section 856.

Corporate Spin-offs and Split-offs. Section 355 and related provisions of the Code allow for the tax-free distribution of stock or securities of a controlled corporation if certain requirements are met. For example, the distributing corporation must distribute a controlling interest in the controlled corporation, and both the distributing and controlled corporations must be engaged in the active conduct of a trade or business immediately after the distribution. Treasury and the IRS intend to provide guidance on the qualification of a distribution for tax-free treatment under section 355, including (1) regulations that address when a corporation is treated as engaged in an active trade or business, and (2) final regulations that define predecessor or successor corporation for purposes of the exception to tax-free treatment under section 355(e). Treasury and the IRS also intend to provide guidance relating to the tax treatment of other transactions undertaken as part of a plan that includes a distribution of stock or securities of a controlled corporation, such as changes to the voting power of the controlled corporation's stock in anticipation of the distribution, the issuance of debt of the distributing corporation and retirement of such debt using stock or securities of the controlled corporation, and the transfer of cash or property between a distributing or controlled corporation and its shareholder(s) in connection with the distribution.

Disguised Payments for Services. Section 707(a)(2)(A) of the Code provides that if a partner performs services for a partnership and receives a related direct or indirect allocation and distribution, and the performance of services and the allocation and distribution, when viewed together, are properly characterized as a transaction occurring between the partnership and a partner acting other than in its capacity as a partner, the transfer will be treated as occurring between the partnership and one who is not a partner. Treasury and the IRS published proposed regulations on July 23, 2015, to provide guidance on when an arrangement that is purported to be a distributive share under section 704(b) of the Code will be recharacterized as a disguised payment for services under section 707(a)(2)(A). The proposed regulations also provide for modifications to the regulations governing guaranteed payments under section 707(c) to make those regulations consistent with the proposed regulations under section 707(a)(2)(A). Treasury and the IRS expect to issue final regulations during fiscal year 2016.

Transfers of Property to Partnerships with Related Foreign Partners. Section 721(c) of the Code provides authority to issue regulations that prevent the use of a partnership to shift gain to a foreign person. Treasury and the IRS exercised this authority on August 6, 2015, by issuing Notice 2015–54. The notice denies nonrecognition treatment to certain contributions by U.S. persons to partnerships that have foreign partners related to the transferor, unless conditions that preserve U.S. taxing nexus with respect to the built-in gain in the transferred property are met. The notice also addresses the consequences under section 482 of the Code of controlled transactions involving partnerships. Treasury and the IRS intend to issue the regulations described in the notice in this fiscal year.

Country-by-Country Reporting. This fiscal year, pursuant to authority granted under sections 6011, 6012, 6031, and 6038 of the Code, Treasury and the IRS expect to issue regulations requiring reporting of country-by-country information by large U.S. multinational enterprises (MNEs). The regulations will require those MNEs to report income, earnings, taxes paid, and certain economic activity for each country in which the MNE group conducts business, consistent with a template released by the Organisation for Economic Co-operation and Development (OECD) as part of its report ''Guidance on Transfer Pricing Documentation and Country-by-Country Reporting.'' The information will be used for transfer pricing risk assessment.

Currency. On September 6, 2006, Treasury and the IRS published a notice of proposed rulemaking under section 987 of the Code that proposes rules for translating a section 987 qualified business unit's income or loss into the taxpayer's functional currency for each taxable year, as well as for determining the amount of section 987 currency gain or loss that must be recognized when a section 987 qualified business unit makes a remittance. Treasury and the IRS expect to finalize the proposed regulations in this fiscal year.

Disguised Sale and Allocation of Liabilities. A contribution of property by a partner to a partnership may be recharacterized as a sale under section 707(a)(2)(B) of the Code 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 of the Code may impact the determination of whether a disguised sale has occurred and whether gain is otherwise recognized upon a distribution. Treasury and the IRS published proposed regulations on January 30, 2014, to address certain issues that arise in the disguised sale context and other issues regarding the partners' shares of partnership liabilities. Treasury and the IRS are considering comments on the proposed regulations and expect to issue regulations on this issue in fiscal year 2016.

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 of the Code. The current regulations, however, do not always achieve the purpose of the statute. 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 published proposed regulations following up on Notice 2006–14 on November 3, 2014. These regulations were intended to 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. Treasury and the IRS expect to issue final regulations during fiscal year 2016.

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 2016 addressing these penalty provisions. Specifically, Treasury and the IRS intend to publish final regulations under section 6708 of the Code regarding the penalty for failure to make available upon request a list of advisees that is required to be maintained under section 6112 of the Code. 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 of the Code 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.

Inversion Transactions. On September 22, 2014, Treasury and the IRS issued Notice 2014–52, addressing the application of sections 7874 and 367 of the Code to inversions, as well as certain tax avoidance transactions that are commonly undertaken after an inversion transaction. In this fiscal year, Treasury and the IRS expect to issue regulations implementing the rules described in Notice 2014–52. Also in this fiscal year, and as announced in Notice 2014–52, Treasury and the IRS expect to issue additional guidance to further limit inversion transactions that are contrary to the purposes of section 7874 and the benefits of post-inversion tax avoidance transactions.

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 by U.S. citizens and residents and generally requires foreign financial institutions (FFIs) to enter into an agreement (FFI Agreement) with the IRS to report information regarding financial accounts of U.S. persons and certain foreign entities with significant U.S. ownership. An FFI that does not enter into an FFI Agreement, or that is not otherwise deemed compliant with FATCA, generally will be subject to a withholding tax on the gross amount of certain payments from U.S. sources. Treasury and the IRS have issued proposed, temporary, and final regulations under chapter 4, followed by proposed and temporary regulations modifying certain provisions of the final regulations; proposed and temporary regulations under chapters 3 and 61, and section 3406, to coordinate with those chapter 4 regulations; as well as implementing revenue procedures and other guidance. Treasury and the IRS expect to issue further guidance with respect to FATCA and related provisions in this fiscal year, including finalizing of the aforementioned chapter 3, 4 and 61 regulations and proposed regulations covering the compliance requirement of entities acting as sponsoring entities on behalf of certain foreign entities.

Foreign Tax Credits and Covered Asset Acquisitions. Section 901(m) of the Code limits 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. In 2014, Treasury and the IRS issued two notices providing guidance under section 901(m) regarding the treatment of gains and losses from dispositions. In this fiscal year, Treasury and the IRS expect to issue regulations to implement these notices, and also provide substantial additional guidance under section 901(m).

Transfers of Property to Foreign Corporations. Section 367 of the Code provides special rules to address the transfer of property, including intangible property, by U.S. persons to foreign corporations in certain nonrecognition transactions. Under existing temporary regulations issued in 1986, favorable treatment is afforded to the outbound transfer of ''foreign goodwill and going concern value,'' which has created incentives for taxpayers to categorize transfers of high-value intangible property as such. On September 14, 2015, Treasury and the IRS released proposed regulations that would eliminate that favorable treatment. Treasury and the IRS released on the same day temporary and proposed regulations under section 482 that clarify the coordination of the application of the transfer pricing rules in conjunction with other provisions, including section 367. Treasury and the IRS intend to finalize the proposed section 367 regulations and the temporary and proposed section 482 regulations in this fiscal year.

Section 501(c) Guidance. After reviewing over 160,000 comments submitted on the proposed regulations under section 501(c)(4) published in fiscal year 2014, Treasury and the IRS plan to issue revised proposed regulations that provide guidance under section 501(c) relating to limitations on political campaign activities of certain tax-exempt organizations.

Guidance on Multiemployer Benefit Suspensions. The Multiemployer Pension Reform Act of 2014 (MPRA) enacted new rules for multiemployer plans that are projected to have insufficient funds, at some point in the future, to pay the full plan benefits to which individuals will be entitled. MPRA permits the sponsor of such a plan to reduce the pension benefits payable to plan participants and beneficiaries if certain conditions are satisfied, after submitting an application to Treasury for approval and conducting a participant vote. Two sets of proposed and temporary regulations, each set covering different aspects of the legislation, have been published, as well as a revenue procedure concerning the application process. A public hearing on the first set of regulations has been held and over 700 comments received. Treasury and the IRS plan to finalize both sets of regulations in this fiscal year.

ABLE Account guidance. On December 19, 2014, Congress passed The Stephen Beck, Jr., Achieving a Better Life Experience (ABLE) Act of 2014, adding section 529A to the Code to enable states to create qualified ABLE programs under which disabled individuals may establish a tax-advantaged account to pay for disability-related expenses. To be eligible to establish an ABLE account, the individual must have become disabled prior to age 26. As required by the statute, Treasury and the IRS on June 19, 2015, published proposed regulations implementing the provision. States may rely on the proposed regulations for establishing a qualified ABLE program. Treasury and the IRS intend to finalize the regulations during the 2016 fiscal year, taking into account all comments received.

Guidance Responding to the SEC's Money Market Reform Rule. On July 23, 2014, the SEC adopted a final rule to reduce the systemic risk that money market funds present to the national economy. Later that day, Treasury and the IRS issued simplifying guidance, including proposed regulations (79 FR 43694), designed to ameliorate the tax compliance difficulties that the SEC rule would otherwise pose for certain money market funds and their shareholders. In fiscal year 2016, Treasury and the IRS intend to finalize the proposed regulations.

Guidance Relating to Publicly Traded Partnerships. Section 7704 of the Code provides that a partnership whose interests are traded on either an established securities market or on a secondary market (a ''publicly traded partnership'') is generally treated as a corporation for Federal tax purposes. However, section 7704(c) permits publicly traded partnerships to be treated as partnerships for Federal tax purposes if 90 percent or more of partnership income consists of ''qualifying income.'' Section 7704(d) provides that income is generally qualifying income if it is passive income or is derived from exploration, development, mining or production, processing, refining, transportation, or marketing of a mineral or natural resource. Treasury and the IRS issued proposed regulations in 2015 to provide guidance and reduce uncertainty regarding the scope of the natural resource exception. After considering comments on the proposed regulations, Treasury and the IRS expect to issue final regulations in fiscal year 2016.

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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 families. 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 dependents. 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 commemorate their service and sacrifice to our Nation.

VA Regulatory Priorities

VA's main regulatory priority is to implement the Veterans Access, Choice, and Accountability Act of 2014, which has been amended by Congress in 2015 (Public Laws 114–19 and 114–41). The purpose of the law is to establish a program to furnish hospital care and medical services through non-VA health care providers to veterans who cannot be seen within VA's wait time goals, live far from any VA medical facility, or would face undue hardship travelling to a VA medical facility.

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_VA_OIRA_Status_Report_201507.pdf*.

VA's most recent report on its retrospective review of regulations can be found at: *http://www.va.gov/ORPM/docs/RegMgmt_VA_EO13563_RegRevPlan20110810.docx*.

RIN	Title	Significantly reduce burdens on small businesses
2900–AP50	Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition	No.
2900–AO53	Fiduciary Activities	No.
Multiple RINs	VA Schedule for Rating Disabilities (with specific body system)	No.

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

FY 2016 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 four rulemaking priorities for the Access Board in FY 2016: (A) Information and Communication Technology Accessibility Standards and Guidelines; (B) Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles; (C) Medical Diagnostic Equipment Accessibility Standards; and (D) Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way. 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).

This rulemaking would update in a single document the 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 the accessibility guidelines for telecommunications equipment and customer premises equipment covered by section 255 of the Communications Act of 1934 (47 U.S.C. 255) (Section 255). Section 508 requires the Federal Acquisition Regulatory Council (FAR Council) and each appropriate federal department or agency to revise their procurement policies and directives no later than 6 months after the Access Board's publication of standards. The FAR Council has incorporated the accessibility standards for electronic and information technology in the Federal Acquisition Regulation (48 CFR Chapter 1). Under section 255, the Federal Communications Commission (FCC) is responsible for issuing implementing regulations and enforcing section 255. The FCC has promulgated enforceable standards (47 CFR parts 6 and 7) implementing section 255 that are consistent with the Access Board's accessibility guidelines for telecommunications equipment and

customer premises equipment. The Access Board's 2010 ANPRM included a proposal to amend section 220 of the Americans with Disabilities Act Accessibility Guidelines (ADAAG), but, based on public comments, the ADAAG proposal is no longer included in this rulemaking and will be pursued separately at a later date.

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.

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.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 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 expects that the Information and Communication Technology Standards and Guidelines will have international influences. The Access Board first 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 was published in the **Federal Register** on February 27, 2015 (80 FR 10880). The comment period closed on May 28, 2015. The proposed rule, comments on the proposed rule, records and transcripts from three public hearings, and the preliminary regulatory impact analysis are available in the rulemaking docket at *http://www.regulations.gov/#!docketDetail;D=ATBCB-2015-0002*. The final rule will address and incorporate comments submitted in response to the NPRM.

A.4. *Anticipated Costs and Benefits:* The Access Board worked with a contractor to assess costs and benefits and prepare a preliminary regulatory impact assessment to accompany the NPRM. Baseline cost estimates of complying with Section 508 and Section 255 are made, and incremental costs due to the revised or new requirements are estimated for federal agencies and telecommunications equipment manufacturers. Anticipated benefits are also numerous, including hard-to quantify benefits such as increased ability for people with disabilities to obtain information and conduct transactions electronically. The Access Board will prepare a final regulatory impact assessment to accompany the final rule, which will incorporate information received from commenters to the NPRM.

B. Americans With Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles (RIN: 3014–AA38).

This rulemaking would update the accessibility guidelines for buses, over-the-road buses, and vans covered by the Americans with Disabilities Act (ADA). The accessibility guidelines for other transportation vehicles covered by the ADA, including vehicles operated in fixed guideway systems (*e.g.,* rapid rail, light rail, commuter rail, high speed rail and intercity rail) would be updated in a future rulemaking. The guidelines ensure that transportation vehicles covered by the ADA are readily accessible to and usable by individuals with disabilities. The U.S. Department of Transportation (DOT) has issued enforceable standards (49 CFR part 37) that apply to the acquisition of new, used, and remanufactured transportation vehicles, and the remanufacture of existing transportation vehicles covered by the ADA. DOT is expected to update its standards in a separate rulemaking to be consistent with the updated guidelines.

B.1. *Statement of Need:* The Access Board issued the ADA Accessibility Guidelines for Transportation Vehicles in 1991, and amended the guidelines in 1998 to include additional requirements for over-the-road buses. Level boarding bus systems were introduced in the U.S. after the 1991 guidelines were issued. We are revising the 1991 guidelines to include new requirements for level boarding bus systems, automated stop and route announcements, and other changes.

B.2. *Summary of the Legal Basis:* Title II of the ADA applies to state and local governments and title III of the ADA applies to places of public accommodation operated by private entities. The ADA covers designated public transportation services provided by state and local governments and specified public transportation services provided by private entities that are primarily engaged in the business of transporting people and whose operations affect commerce. (See 42 U.S.C. 12141 to 12147 and 12184.) Bus rapid transit systems, including level boarding bus systems, that provide public transportation services, are covered by the ADA.

The Access Board is required by the ADA and the Rehabilitation Act to establish and maintain guidelines for the accessibility standards adopted by DOT for transportation vehicles acquired or manufactured by entities covered by the ADA. Compliance with the new guidelines is not required until DOT revises its accessibility standards for transportation vehicles acquired or remanufactured by entities covered by the ADA to be consistent with the new guidelines.

B.3. *Alternatives:* The Access Board issued a Notice of Proposed Rulemaking to revise the 1991 guidelines for buses, over-the-road buses, and vans in 2010

(75 FR 43748, July 26, 2010). The proposed rule, comments on the proposed rule, transcripts from public hearings and an information meeting, and other related documents are available in the rulemaking docket at *http://www.regulations.gov/#!docketDetail;D=ATBCB-2010-0004*. The final rule will address and incorporate comments submitted in response to the NPRM.

B.4. *Anticipated Costs and Benefits:* In conjunction with the NPRM, the Access Board published a report entitled ''Cost Estimates for Automated Stop and Route Announcements'' (July 2010), which is available on the agency Web site (*www.access-board.gov*) and the rulemaking docket. A final regulatory assessment will be prepared to accompany the final rule. The final regulatory assessment will evaluate estimated incremental costs for new or revised requirements for buses, over-the-road buses, and vans in the final rule, as well as provide a description of qualitative benefits. It is anticipated that this rule will improve access to wheeled transportation vehicles for persons who have mobility disabilities, persons who have difficulty hearing or are deaf, and persons who have difficulty seeing or are blind to make better use of transportation services.

C. 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).

C.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 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.

C.2. *Summary of the Legal Basis:* Section 4203 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570) amended title V of the Rehabilitation Act, which establishes rights and protections for individuals with disabilities, by adding section 510 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 diagnostic equipment.

C.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 and responses to questions in the NPRM. The Advisory Committee report, completed in December 2013, is available at *http://www.access-board.gov/guidelines-and-standards/health-care/about-this-rulemaking/advisory-committee-final-report*. The final rule will be based recommendations of the advisory committee, and will also address and incorporate comments submitted in response to the NPRM.

C.4. *Anticipated Costs and Benefits:* In conjunction with the NPRM, the Access Board published a preliminary regulatory assessment of the proposed MDE standards. The Access Board is working on a final regulatory assessment, which will evaluate the incremental costs and benefits of the final rule from quantitative and qualitative perspectives as information permits. It is anticipated that the final MDE standards will address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. The standards aim to 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 also are expected to improve the quality of health care for individuals with disabilities and ensure that they receive examinations, diagnostic procedures, and other health care services equivalent to those received by individuals without disabilities.

D. Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (RIN: 3014–AA26).

The rulemaking would establish accessibility guidelines to ensure that sidewalks and pedestrian facilities in the public right-of-way are accessible to and usable by individuals with disabilities. A Supplemental Notice of Proposed Rulemaking consolidated this rulemaking with RIN 3014–AA41; accessibility guidelines for shared use paths (which are multi-use paths designed primarily for use by bicyclists and pedestrians—including persons with disabilities—for transportation and recreation purposes). 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 and for shared use paths, 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.

D.1. *Statement of Need:* While 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) (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 as well as shared use paths.

D.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.

D.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 of 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 two drafts of the guidelines for public comment, an NPRM (76 FR 44664, July 11, 2011) based on the advisory committee report and public comments on the draft guidelines, and a supplemental notice of proposed rulemaking (SNPRM) regarding shared use paths (78 FR 10110, February 13, 2013). The final rule will address and incorporate comments submitted in response to the NPRM and SNPRM.

D.4. *Anticipated Costs and Benefits:* In conjunction with the NPRM, the Access Board published a preliminary regulatory assessment of the proposed accessibility guidelines for pedestrian facilities in the public right-of-way, which is available in the rulemaking docket at *http://www.regulations.gov/#!docketDetail;D=ATBCB-2011-0004*. The Access Board identified four provisions in the NPRM that were expected to have more than minimal monetary impacts on state and local governments. Three of these four requirements are related to: (1) Detectable warning surfaces on newly constructed and altered curb ramps and blended transitions at pedestrian street crossings; (2) accessible pedestrian signals and pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections; and (3) pedestrian activated signals at roundabouts with multi-lane pedestrian crossings. In addition, the fourth requirement for provision of a 2 percent maximum cross slope on pedestrian access routes within pedestrian street crossings with yield or stop control was estimated to have more than minimal monetary impacts on state and local governments when constructing 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 final regulatory impact assessment to accompany the final rule based on information provided in response to questions in the NPRM and other sources.

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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 and its federal, state, local, and community partners have made important progress to address pollution where people live, work, play, and learn. From cleaning up contaminated waste sites to reducing greenhouse gases, mercury and other air emissions, to investing in water and wastewater treatment, the American people have seen and felt tangible benefits to their health and surroundings. Efforts to reduce air pollution alone have produced hundreds of billions of dollars in benefits in the United States.

To keep up this momentum in the coming year, EPA will use regulatory authorities, along with grant- and incentive-based programs, technical and compliance assistance and tools, research and educational initiatives to address the priorities set forth in EPA's Strategic Plan:

- Addressing Climate Change and Improving Air Quality
- Protecting America's Waters
- Cleaning up Communities and Advancing Sustainable Development
- Ensuring the Safety of Chemicals and Preventing Pollution
- Protecting Human Health and the Environment by Enforcing Laws and Assuring Compliance

All of this work will be undertaken with a strong commitment to science, law and transparency.

Highlights of EPA'S Regulatory Plan

EPA's more than forty years of protecting public 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.

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. 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 and deploy new, cleaner technologies. 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. As part of the President's Climate Action Plan, in July 2015, the EPA promulgated the Clean Power Plan final rules setting guidelines for states to follow in reducing carbon emissions from existing power plants, as well as finalizing emission standards for new plants. At the same time, EPA proposed Model Rules, to be finalized in 2016, to help the states develop plans that adequately implement the carbon-reduction guidelines. The July 2015 proposal also included a Federal Plan that will serve as a backstop in cases where states do not adequately implement the guidelines. By 2030 carbon emissions from existing plants are estimated to be reduced by 32% from 2005 levels.

Heavy-Duty Vehicles GHG Emission Standards. In 2011, in cooperation with the Department of Transportation (DOT), EPA issued the first-ever

Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles for model years 2014–2018. On June 19, 2015, EPA and DOT proposed a second set of standards to further reduce greenhouse gas emissions and fuel consumption from a wide range of on-road vehicles from semi-trucks to the largest pickup trucks and vans and all types and sizes of work trucks and buses. These new standards will be finalized in 2016. This action is another important component of the President's Climate Action Plan.

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. It also includes a rule to reduce state-to-state atmospheric transport of pollutants that contribute to nonattainment of the ozone NAAQS.

2. Protecting America's Waters

Despite considerable progress, many of 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.

3. Cleaning up Communities and Advancing Sustainable Development

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 provide for an environmentally sustainable future more efficiently and effectively.

Establishing User Fees for the Use of RCRA Manifests. The e-Manifest Final Rule of February 7, 2014 codified certain provisions of the ''Hazardous Waste Electronic Manifest Establishment Act'' (or the Act), which directed the EPA to adopt a regulation that authorized the use of electronic manifests to track hazardous waste shipments nationwide. The Act also instructed the EPA to develop a user-fee-funded e-Manifest system. Since the Act grants broad discretion to the EPA to determine the fees and gives the Agency authority to collect such fees for both electronic manifests and any paper manifests that continue in use, the EPA plans to issue a rulemaking to establish the appropriate electronic and paper manifest fees. The initial fees, to be established in the final rule, are expected to cover the operation and maintenance costs for the system, as well as the costs associated with the development of the system. The EPA plans to also announce in the final rule the date on which the system will be implemented and available to users.

Once 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, unless required by the state, as the 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.

CERCLA Section 108(b)—Hard Rock Mining. 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's 108(b) rules will address the degree and duration of risks associated with aspects of hazardous substance management at hard rock mining and mineral processing facilities. These regulations will help ensure that businesses make financial arrangements to address risks from hazardous substances at their sites, and encourage businesses to improve their management of hazardous substances.

Modernization of the Accidental Release Prevention Regulations under Clean Air Act. On August 1, 2013, President Obama signed Executive Order 13650, entitled *Improving Chemical Facility Safety and Security* (E.O. 13650 or the E.O.). The E.O. was prompted by major chemical accidents, such as the explosion at the West Fertilizer facility in West, Texas on April 17, 2013. E.O. 13650 directs the federal government to carry out a number of tasks whose overall aim is to prevent chemical accidents. Among the tasks discussed, the E.O. directs agencies to consider possible changes to existing chemical safety regulations, such as the EPA's Risk Management Plan (RMP) regulation (40 CFR part 68).

Both EPA and the Occupational Safety & Health Administration (OSHA) had previously issued regulations, as required by the Clean Air Act Amendments of 1990, in response to a number of catastrophic chemical accidents occurring worldwide that had resulted in public and worker fatalities and injuries, environmental damage, and other community impacts. OSHA published the Process Safety Management (PSM) standard (29 CFR part 1910.119) in 1992. EPA modeled the RMP regulation after OSHA's PSM standard and published the RMP rule in two stages—a list of regulated substances and threshold quantities in 1994; and the RMP final regulation, containing risk management requirements, in 1996. Both the OSHA PSM standard and the EPA RMP regulation aim to prevent, or minimize the consequences of, accidental chemical releases to workers and the community.

The EPA is considering modifications to the current RMP regulations in order to (1) reduce the likelihood and severity of accidental releases, (2) improve emergency response when those releases occur, and (2) enhance state and local emergency preparedness and response in an effort to mitigate the effects of accidents.

4. Ensuring the Safety of Chemicals and Preventing Pollution

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 2016, 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. After completing risk assessments and identifying concerns related to several specific uses of Trichloroethylene (TCE) and methylene chloride, and n-methylpyrrolidone (NMP), EPA is

initiating action under TSCA section 6 to address these risks and determine what requirements may be necessary to adequately protect the public, workers, and the environment from unreasonable risk of exposure to these chemicals.

Addressing Formaldehyde Used in Composite Wood Products. As directed by the Formaldehyde Standards for Composite Wood Products Act of 2010, EPA is developing a final regulation 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.

Lead-based Paint Program. EPA is developing a final rule that would implement several amendments to the EPA lead-based paint program that would improve efficiencies and save resources for those involved. EPA proposed changes in 2014 to the EPA lead-based paint program that would, among other things, amend the renovation, repair and painting rule by removing the requirement for hands-on refresher training for renovators so that they can take the refresher course online and without the need to travel to a training facility for the hands-on portion. EPA also proposed to amend the lead-based paint abatement program by removing the requirement for firms, training providers and individuals to apply for and be certified or accredited in each EPA-administered jurisdiction where they work (*i.e.,* state, tribe or territory where EPA runs the abatement program). In addition, as directed by TSCA section 402(c)(3), EPA is developing a proposed rule to address renovation or remodeling activities that create lead-based paint hazards in pre-1978 public buildings and commercial buildings. EPA previously issued a final rule to address lead-based paint hazards created by these activities in target housing and child-occupied facilities.

Reassessment of PCB Use Authorizations. When enacted in 1978, TSCA banned the manufacture, processing, distribution in commerce, and use of polychlorinated biphenyls (PCBs), except when uses would pose no unreasonable risk of injury to health or the environment. EPA is reassessing certain ongoing, authorized uses of PCBs that were established by regulation in 1979, including the use, distribution in commerce, marking and storage for reuse of liquid PCBs in electric equipment, to determine whether those authorized uses still meet TSCA's ''no unreasonable risk'' standard. EPA plans to propose the revocation or revision of any PCBs use authorizations included in this reassessment that no longer meet the TSCA standard.

Enhancing Agricultural Worker Protection. As a result of extensive stakeholder engagement and public meetings, EPA is acting to enhance the pesticide worker safety program. EPA plans to issue final amendments to the agricultural worker protection regulation that strengthens protections for agricultural farm workers and pesticide handlers. The revisions will address key environmental justice concerns for a population that may be disproportionately affected by pesticide exposure. The final rule is expected to improve pesticide safety training, use of personal protective equipment, and access to decontamination supplies, and improve agricultural workers' ability to protect themselves and their families from potential secondary exposure to pesticides and pesticide residues. Other changes are intended to bring hazard communications and respirator requirements more in line with Occupational Safety and Health Administration requirements and to clarify current requirements to facilitate program implementation and enforcement.

Strengthening Pesticide Applicator Safety. As part of EPA's effort to enhance the pesticide worker safety program, the Agency also proposed revisions to the existing regulation concerning the certification of applicators of restricted-use pesticides. This proposed rule is intended to ensure that the federal certification standards adequately protect applicators, the public and the environment from potential risks associated with use of restricted use pesticides. The proposed changes are intended to improve the competency of certified applicators of restricted use pesticides, increase protection for noncertified applicators of restricted use pesticides operating under the direct supervision of a certified applicator through enhanced pesticide safety training and standards for supervision of noncertified applicators, and establish a minimum age requirement for such noncertified applicators. Also, in keeping with EPA's commitment to work more closely with tribal governments to strengthen environmental protection in Indian Country, certain proposed changes are intended to provide more practical options for establishing certification programs in Indian Country.

Evaluating Pesticide Risks to Bees and Other Pollinators. As part of the efforts outlined in the ''National Strategy to Promote the Health of Honey Bees and Other Pollinators,'' EPA is working to update its pesticide data requirements to provide the Agency with data needed to determine the potential exposure and effects of pesticides on bees and other important non-target insect pollinators. Pollinator insects are ecologically and economically important. Recognizing heightened concerns for honey bees due to pollinator declines and that the science has now evolved to where additional toxicity and exposure protocols are available, EPA issued interim study guidance for bees in 2011. EPA developed finalized guidance in 2014 on the conduct of exposure and effect studies used to characterize the potential risk of pesticides to bees. The development and implementation of updates data requirements is intended to provide the information the Agency needs to evaluate whether a proposed or existing use of a pesticide may have an unreasonable adverse effect on these important insects and support pesticide registration decisions under FIFRA.

5. Protecting Human Health and the Environment by Enforcing Laws and Assuring Compliance

Today's pollution challenges require a modern approach to compliance, taking advantage of new tools and approaches while strengthening vigorous enforcement of environmental laws. Next Generation Compliance is EPA's integrated strategy to do that, designed to bring together the best thinking from inside and outside EPA.

EPA's Next Generation Compliance consists of five interconnected components, each designed to improve the effectiveness of our compliance program:

- Design regulations and permits that are easier to implement, with a goal of improved compliance and environmental outcomes.
- Use and promote advanced emissions/pollutant detection technology so that regulated entities, the government, and the public can more easily see pollutant discharges, environmental conditions, and noncompliance.
- Shift toward electronic reporting to help make environmental reporting more accurate, complete, and efficient while helping EPA and co-regulators better manage information, improve effectiveness and transparency.
- Expand transparency by making information more accessible to the public.
- Develop and use innovative enforcement approaches (*e.g.,* data analytics and targeting) to achieve more widespread compliance.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following EPA actions have been identified as associated with retrospective review and analysis in the Agency's final plan for retrospective review of regulations, or one of its subsequent updates. Some of the entries on this list may not appear in *The Regulatory Plan* but appear in EPA's semiannual regulatory agenda. These rulemakings can also be found on Regulations.gov. EPA's final agency plan can be found at: *http://www.epa.gov/regdarrt/retrospective/.*

Rulemaking title	Regulatory Identifier No. (RIN)
New Source Performance Standards for Grain Elevators—Amendments	2060–AP06
Treatment of Data Influenced by Exceptional Events—Rule Revisions	2060–AS02
Public Notice Provisions in CAA Permitting Programs	2060–AS59
Regional Haze Regulations—Revision to SIP Submission Date and Requirements for Progress Reports	2060–AS55
Title V Petitions Process Improvement Rulemaking	2060–AS61
National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions	2040–AF15
National Pollutant Discharge Elimination System (NPDES) Application and Program Updates Rule	2040–AF25
National Primary Drinking Water Regulations: Group Regulation of Carcinogenic Volatile Organic Compound (VOCs)	2040–AF29
Management Standards for Hazardous Waste Pharmaceuticals	2050–AG39
Hazardous Waste Export-Import Revisions Rule	2050–AG77
Improvements to the Hazardous Waste Generator Regulatory Program (Parts 261–265)	2050–AG70
Revisions to Resource Conservation and Recovery Act Subtitle D Research, Demonstration & Development Permit Rule	2050–AG75
Pesticides; Certification of Pesticide Applicators	2070–AJ20
Lead; Lead-based Paint Program; Amendment to Jurisdiction-Specific Certification and Accreditation Requirements and Renovator Refresher Training Requirements	2070–AK02

AGGREGATION OF BENEFITS AND COSTS FROM MONETIZED RULES REPORTED IN THE REGULATORY PLAN

Rule	Base year	Benefits (millions $/year)		Costs (millions $/year)		Net benefits (millions $/year)	
		Low	High	Low	High	Low	High
Discount Rate = 3%							
Oil and Gas Emission Standards for New and Modified Sources	2012	$200	$210	$150	$170	$35	$42
GHG Emissions and Efficiency Standards for Medium- and Heavy-Duty Engines–Phase 2 *	2012	3,700	4,900	(5,660)	(7,300)	9,400	12,300
Model Trading Rules for GHG Emissions from EGUs Constructed Before 1–8–14; Amendments	2012	3,564	8,249	2,546	1,426	1,018	6,823
Review of the National Ambient Air Quality Standards for Lead	2012	0	0	0	0	0	0
GHG Endangerment Findings for Aircraft	2012	0	0	0	0	0	0
RFS 2014–2016	2012	0	0	118	595	(118)	(595)
Pesticides; Certification of Pesticide Applicators	2012	21	22	50	50	(28)	(28)
Formaldehyde Emissions Standards for Composite Wood Products	2012	21	50	75	84	(62)	(25)
Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards	2012	$0	$0	$0.04	$0.04	($0.04)	($0.04)
Aggregate Estimates	2012	7,507	13,431	(2,721)	(4,975)	10,245	18,517
Discount Rate = 7%							
Oil and Gas Emission Standards for New and Modified Sources	2012	200	210	150	170	35	42
GHG Emissions and Efficiency Standards for Medium- and Heavy-Duty Engines–Phase 2 *	2012	4,200	4,800	(6,000)	(5,460)	10,100	10,200
Model Trading Rules for GHG Emissions from EGUs Constructed Before 1–8–14; Amendments	2012	3,463	7,842	2,546	1,426	1,120	6,416
Review of the National Ambient Air Quality Standards for Lead	2012	0	0	0	0	0	0
GHG Endangerment Findings for Aircraft	2012	0	0	0	0	0	0
RFS 2014–2016	2012	0	0	118	595	(118)	(595)
Pesticides; Certification of Pesticide Applicators	2012	21	22	50	50	(28)	(28)

AGGREGATION OF BENEFITS AND COSTS FROM MONETIZED RULES REPORTED IN THE REGULATORY PLAN—Continued

Rule	Base year	Benefits (millions $/year)		Costs (millions $/year)		Net benefits (millions $/year)	
		Low	High	Low	High	Low	High
Formaldehyde Emissions Standards for Composite Wood Products	2012	21	50	75	84	(62)	(25)
Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards	2012	0	0	0.04	0.04	(0.04)	(0.04)
Aggregate Estimates	2012	7,905	12,923	(3,061)	(3,135)	11,046	16,010

* In order to maintain consistency between the NHTSA's and EPA's analyses, the fuel savings values are treated as negative costs consistent with the information presented in the Regulatory Impact Analysis for the rulemaking (*http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2014-0827-0243*).

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 Orders 13563 and 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 the following rules that may be of particular interest to small entities:

Rulemaking title	Regulatory Identifier No. (RIN)
Formaldehyde Emission Standards for Composite Wood Products.	2070–AJ44
Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2.	2060–AS16
Oil and Natural Gas Sector: Emission Standards for New and Modified Sources.	2060–AS30
Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hard Rock Mining Industry.	2050–AG61

International Regulatory Cooperation Activities

EPA has considered international regulatory cooperation activities as described in Executive Order 13609 and has identified the following international activity that is anticipated to lead to a significant regulation in the following year:

Rulemaking title	Regulatory Identifier No. (RIN)
Formaldehyde Emission Standards for Composite Wood Products.	2070–AJ44

Streamlining the Export/Import Process for America's Businesses

EPA has considered import and export streamlining activities as described in Executive Order 13659 and identified the following rulemaking activity:

Rulemaking title	Regulatory Identifier No. (RIN)
Hazardous Waste Export-Import Revisions Rule.	2050–AG77

EPA—AIR AND RADIATION (AR)

Proposed Rule Stage

104. Interstate Transport Rule for the 2008 Ozone NAAQS

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

Legal Authority: 42 U.S.C. 7401 *et seq.* Clean Air Act

CFR Citation: 40 CFR 51.

Legal Deadline: None.

Abstract: This proposed rule would address Clean Air Act (CAA) requirements concerning the transport of air pollution across State boundaries. It is the next step for the EPA to move forward with the States to address interstate transport with respect to the 2008 ozone National Ambient Air Quality Standards. This action will not address the particulate matter National Ambient Air Quality Standards.

Statement of Need: Interstate transport poses significant challenges with respect to the 2008 ozone NAAQS in the eastern United States, and this ozone pollution transport presents public health and welfare concerns.

Summary of Legal Basis: The statutory authority for this proposed action is provided by the CAA as amended (42 U.S.C. 7401 *et seq.*). Specifically, sections 110 and 301 of the CAA provide the primary statutory bases for this proposal. Section 110(a)(2)(D)(i)(I), also known as the ''good neighbor provision,'' provides the basis for this proposed action. It requires that each state SIP shall include provisions sufficient to ''prohibit . . . any source or other type of emissions activity within the State from emitting any air pollutants in amounts which will—(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any [NAAQS].''

Alternatives: Alternatives will be identified as the proposal is developed.

Anticipated Cost and Benefits: Costs and benefits will be analyzed as the proposal is developed.

Risks: Risks will be analyzed as the proposal is developed.

Timetable:

Action	Date	FR Cite
NPRM	11/00/15	
Final Rule	08/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal.

Additional Information: Docket #:EPA–HQ–OAR–2015–0500.

Sectors Affected: 221112 Fossil Fuel Electric Power Generation

URL for More Information: http://www.epa.gov/airtransport/ozonetransportNAAQS.html.

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RIN: 2060–AS05

EPA—AR

105. Oil and Natural Gas Sector: Emission Standards for New and Modified Sources

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

Legal Authority: 42 U.S.C. 7401 *et seq.* Clean Air Act

CFR Citation: 40 CFR 60.

Legal Deadline: None.

Abstract: Consistent with the White House Methane Strategy and the January 14, 2015, announcement of the EPA's approach to achieving methane and volatile organic compounds (VOC) reductions from the oil and natural gas sector, this action will finalize amendments to the 2012 new source performance standards (NSPS) for this sector. The proposed rule published 9/18/15, included methane and VOC standards for sources not covered by the 2012 Oil and Gas NSPS, such as completions of hydraulically fractured oil wells, pneumatic pumps and fugitive emissions at well sites and compressor stations. The proposal also included methane standards for sources covered in the 2012 NSPS. In addition, in response to the reconsideration petitions received for the 2012 NSPS and the 2013 amendments to the NSPS, this proposal addressed the issues for which the EPA is granting reconsideration.

Statement of Need: This action finalizes amendments the new source performance standards for the oil and natural gas source category by setting standards for both methane and volatile organic compounds for certain equipment, processes, and activities across this source category that were not covered in the 2012 rules. This action responds to the 2014 Climate Action Plan: Strategy to Reduce Methane Emissions (the Methane Strategy). The Methane Strategy instructs the EPA to complete regulations pertaining to the sources of methane in the oil and gas sector by the end of 2016. Specifically, in January 2015, the Administration announced a new goal to cut methane emissions from the oil and gas sector. Additionally, this action finalizes certain issues raised in reconsideration petitions pertaining to the previously promulgated rule in 2012. EPA proposed these amendments on August 18, 2015.

Summary of Legal Basis: New source performance standards are issued under CAA section 111.

Alternatives: Alternatives for this final rule have not yet been determined. The EPA proposed both methane and VOC standards for several emission sources not currently covered by the NSPS (*i.e.,* hydraulically fractured oil well completions, fugitive emissions from well sites and compressor stations, and pneumatic pumps). In addition, the EPA proposed methane standards for certain emission sources that are currently regulated for VOC (*i.e.,* hydraulically fractured gas well completions, equipment leaks at natural gas processing plants). The proposed amendments would establish methane standards for certain equipment across the source category and extend the current VOC standards to the remaining unregulated equipment. Lastly, amendments proposed to the current NSPS that improve implementation of several aspects of the current standards. Except for the implementation improvements and the setting of standards for methane, these amendments do not change the requirements for operations already covered by the current standards. The EPA has incorporated flexibility to the extent possible into the proposed rule affected sources can achieve emissions reductions in a cost-effective way. In additional to proposing alternatives options where possible, the EPA solicited comments on alternative approaches. We believe that affected sources already complying with more stringent State requirements may also be in compliance with this rule. Furthermore, the EPA is mindful that some facilities that will be subject to the proposed EPA standards will also be subject to current or future requirements of the Department of Interior's Bureau of Land Management (BLM) rules covering production of natural gas on Federal lands. The EPA and BLM have maintained an ongoing dialogue during development of this action to identify opportunities for alignment and ways to minimize potential conflicting requirements and will continue to coordinate through the agencies' respective proposals and final rulemakings.

Anticipated Cost and Benefits: The EPA is currently assessing the costs and benefits associated with the final action. The August 18, 2015, proposal estimated the emission reductions are 340,000 to 400,000 tons of methane, 170,000 to 180,000 tons of VOC, and 1,900 to 2,500 tons of hazardous air pollutants in 2025. The proposal's methane-related monetized climate benefits are estimated to be $460 to $550 million in 2025. The estimate of total annualized engineering costs of the proposed NSPS (with gas savings) is $320 to $420 million in 2025. The quantified net benefits are estimated to be $120 to $150 million in 2025 using a 3 percent discount rate (model average) for climate benefits.

Risks: This action is a reconsideration of new source performance standards and, thus, does not assess risk.

Timetable:

Action	Date	FR Cite
NPRM	09/18/15	80 FR 56593
NPRM Comment Period End.	11/17/15	
Final Rule	06/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: Docket #: EPA–HQ–OAR–2010–0505.

URL for More Information: www.epa.gov/airquality/oilandgas.

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RIN: 2060–AS30

EPA—AR

106. Model Trading Rules for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014

Priority: Economically Significant.

Unfunded Mandates: Undetermined.

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

CFR Citation: 40 CFR 62.

Legal Deadline: None.

Abstract: The EPA is planning a notice of final rulemaking for model rules to implement greenhouse gas emission guidelines for existing fossil fuel-fired electric generating units (EGUs). Emission guidelines were signed 8/3/15 as the Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (the Clean Power Plan). This plan is part of the President's Climate Action Plan announced in June 2013 to reduce carbon emissions from the power sector by 30 percent below 2005 levels. This

action offers States model trading rules that they can follow in developing their own plans in order to capitalize on the flexibility built into the final Emission Guidelines.

Statement of Need: The Federal plan and model trading rules proposal is part of President Obama's Climate Action Plan (CAP). The CAP called for the reduction of carbon emissions from the power sector by 30 percent below 2005 levels. In this action, the EPA has proposed a Federal plan to implement the Clean Power Plan emission guidelines (EGs) for affected fossil fuel-fired EGUs operating in States that do not have approved State plans. Specifically, the EPA has co-proposed two different approaches to a Federal plan to implement the Clean Power Plan EGs—a rate-based trading approach and a mass-based trading approach. The proposal also serves to provide a model rule that States can tailor for implementation as a State plan. A State program that adheres to the model trading rule provisions specified in this rulemaking would be presumptively approvable. The Federal plan will achieve the same levels of emissions performance as required of State plans under the EGs. The agency has proposed a finding that it is necessary or appropriate to implement a Clean Air Act (CAA) section 111(d) Federal plan for the affected EGUs located in Indian country. The agency has also proposed certain enhancements to the process and timing for State submittals and EPA action in the CAA section 111(d) framework regulations of 40 CFR part 60, subpart B (these proposals are not a part of the Federal plan or model trading rules).

Summary of Legal Basis: Greenhouse gas (GHG) pollution threatens the American public's health and welfare by contributing to long-lasting changes in our climate that can have a range of negative effects on human health and the environment. The U.S. Supreme Court ruled that GHGs meet the definition of ''air pollutant'' in the CAA, and this decision clarified that the CAA's authorities and requirements apply to GHG emissions. GHGs, including carbon dioxide (CO_2) from power plants, may persist in the atmosphere from decades to millennia, depending on the specific GHG. This special characteristic makes it crucial to take initial steps now to limit GHG emissions from fossil fuel-fired power plants, specifically emissions of CO_2, since they are the nation's largest sources of carbon pollution. Section 111(d)(2) of the CAA, 42 U.S.C. 7411(d)(2), provides the EPA the same authority to prescribe a plan for a state in cases where the state fails to submit a satisfactory plan as the agency would have under CAA section 110(c) in the case of failure to submit an implementation plan. In addition, the EPA has authority under CAA section 111(d)(1) to prescribe regulations that establish procedures similar to CAA section 110 with respect to the submission of state plans, and the EPA also has general rulemaking authority, as necessary, to implement the CAA under CAA section 301. This rule will provide model rules that states can tailor for implementation as a state plan to ensure that emission standards under authority of section 111 of the CAA (the Clean Power Plan EGs) are implemented for affected EGUs.

Alternatives: The final Clean Power Plan EGs are related to, but separate from the model trading rules and the federal plan. The final EGs detail the CO_2 reduction goals for sources by state. The purpose of the model rules is to provide states an example that the states can follow in developing their own plans in order to capitalize on the flexibility built into the final Clean Power Plan EGs. The purpose of the federal plan is to lay out mechanisms to achieve reductions in CO_2 emissions from affected EGUs that are not covered by an EPA-approved state plan. The EPA has co-proposed two basic approaches to a federal plan, a rate-based emission trading program and a mass-based emission trading program. Within these two approaches, the EPA has presented a range of options for comment through which affected EGUs would meet a rate-based goal or a mass-based equivalent. The EPA has incorporated flexibility to the extent possible into the proposed federal plan so affected units can achieve these reductions in a cost-effective way.

Anticipated Cost and Benefits: The EPA estimated the annual incremental compliance cost for the rate-based Federal plan approach to be $2.5 billion in 2020, $1.0 billion in 2025 and $8.4 billion in 2030. The EPA estimated the annual incremental compliance cost for the mass-based Federal plan approach to be $1.4 billion in 2020, $3.0 billion in 2025, and $5.1 billion in 2030. The Federal plan would be implemented only in those States that do not have a fully approved State plan as required under the final Clean Power Plan. In those States where a Federal plan may be required, a final Federal plan will implement the same emission guidelines for affected power plants outlined in the Clean Power Plan. The model trading rules and the Federal plan would not require additional control requirements or impose additional costs. States operating under a Federal plan may adopt complementary measures outside of that plan to facilitate compliance and lower costs to the benefit of power generators and consumers. Implementing the proposed action will generate benefits by reducing emissions of CO_2 and criteria pollutant precursors, including sulfur dioxide, nitrogen oxides, and directly emitted particles. The estimated benefits associated with these emission reductions are beyond those achieved by previous EPA rulemakings including the Mercury and Air Toxics Standards rule. The health and welfare benefits from reducing air pollution were considered co-benefits for the proposal. We were only able to quantify the climate benefits from reduced emissions of CO_2 and the health co-benefits associated with reduced exposure to $PM_{2.5}$ and ozone. There were many additional benefits which we were not able to quantify, leading to an underestimate of monetized benefits. In summary, we estimated the total combined climate benefits and health co-benefits for the rate-based Federal plan approach to be $3.5 to $4.6 billion in 2020, $18 to $28 billion in 2025, and $34 to $54 billion in 2030 (3 percent discount rate, 2011$). Total combined climate benefits and health co-benefits for the mass-based Federal plan approach were estimated to be $5.3 to $8.1 billion in 2020, $19 to $29 billion in 2025, and $32 to $48 billion in 2030 (3 percent discount rate, 2011$).

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 Finding 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	10/23/15	80 FR 64965
NPRM Comment Period End.	01/21/16	
Final Rule	08/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

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

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RIN: 2060–AS47

EPA—AR

107. • Proposed Renewable Fuel Volume Standards for 2017 and Biomass Based Diesel Volume (BBD) for 2018

Priority: Other Significant.

Legal Authority: 42 U.S.C. 7619 Clean Air Act

CFR Citation: 40 CFR 80.

Legal Deadline: Final, Statutory, November 30, 2015. Statutory November 30.

Abstract: The Clean Air Act requires the EPA to promulgate regulations that specify the annual volume requirements for renewable fuels under the Renewable Fuel Standard (RFS) program. Standards are to be set for four different categories of renewable fuels: cellulosic biofuel, biomass-based diesel (BBD), advanced biofuel, and total renewable fuel. The statute requires the standards be finalized by November 30 of the year prior to the year in which the standards would apply. In the case of biomass-based diesel, the statute requires applicable volumes be set no later than 14 months before the year for which the requirements would apply. This action would propose the applicable volumes for all renewable fuel categories for 2017, and would also proposed the BBD standard for 2018.

Statement of Need: The Clean Air Act section 211(o) specifies annual volume requirements for renewable fuels under the Renewable Fuel Standard (RFS) program. Standards are to be set for four different categories of renewable fuels: cellulosic biofuel, biomass-based diesel (BBD), advanced biofuel, and total renewable fuel. The statute requires the standards be finalized by November 30 of the year prior to the year in which the standards would apply. In the case of biomass-based diesel, the statute requires applicable volumes be set no later than 14 months before the year for which the requirements would apply. This action would, as required by law, propose the applicable volumes for all renewable fuel categories for 2017, and would also proposed the BBD standard for 2018.

Summary of Legal Basis: Clean Air Act section 211(o) requires EPA to implement the Renewable Fuels Standard Program. The CAA requires that the Agency set annual volume requirements for four different categories of renewable fuels: cellulosic biofuel, biomass based diesel (BBD), advanced biofuel, and total renewable fuel. The statute requires the standards be finalized by November 30 of the year prior to the year in which the standards would apply.

Alternatives: Application of specific provisions for this program are set forth in the law. The law requires standards be established annually. The only alternatives authorized under the law are those which allow for waiving in whole or in part the volumes of renewable fuel for which the standards apply.

Anticipated Cost and Benefits: Illustrative cost scenarios will be prepared during development of the rule. The short time frame provided for the annual renewable fuel rule process does not allow sufficient time for EPA to conduct a comprehensive analysis of the benefits of the standards, and the statute does not require it. Moreover, the costs and benefits of the RFS program as a whole are best assessed when the program is fully mature in 2022. We continue to believe that this is the case, as the annual standard-setting process encourages consideration of the program on a piecemeal (*i.e.,* year to year) basis, which may not reflect the long-term economic effects of the program. Therefore, for the purpose of the annual rulemaking, we are preparing illustrative cost impacts.

Risks: Failure to set RFS annual standards would create uncertainty in the marketplace as to the volumes of renewable fuels that are required for blending in transportation fuels.

Timetable:

Action	Date	FR Cite
NPRM	06/00/16	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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RIN: 2060–AS72

EPA—OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION (OCSPP)

Proposed Rule Stage

108. Polychlorinated Biphenyls (PCBs); Reassessment of use Authorizations

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

Unfunded Mandates: Undetermined.

Legal Authority: 15 U.S.C. 2605 Toxic Substances Control Act

CFR Citation: 40 CFR 761.

Legal Deadline: None.

Abstract: The EPA's regulations governing the use of polychlorinated biphenyls (PCBs) in electrical equipment and other applications were first issued in the late 1970s and have not been updated since 1998. The EPA has initiated rulemaking to reassess the ongoing authorized uses of PCBs to determine whether certain use authorizations should be ended or phased out because they can no longer be justified under section 6(e) of the Toxic Substances Control Act, which requires that the authorized use will not present an unreasonable risk of injury to health and the environment. As the first step in this reassessment, the EPA published an Advanced Notice of Proposed Rulemaking (ANPRM) in 2010. The EPA reviewed and considered all comments received on the ANPRM in planning the current rulemaking. This action will address the following specific areas: (1) The use, distribution in commerce, marking and storage for reuse of liquid PCBs in electric equipment; (2) improvements to the existing use authorization for natural gas pipelines; and (3) definitional and other regulatory ''fixes.'' The reassessment of use authorizations related to liquid PCBs in equipment will focus on small capacitors in fluorescent light ballasts, large capacitors, transformers and other electrical equipment. In addition, revised testing, characterization, and reporting requirements for PCBs in natural gas pipeline systems to provide more transparency for the Agency and the public when PCB releases occur will be considered. Consistent with Executive Order 13563, ''Improving Regulation and Regulatory Review'', wherever possible and consistent with the overall objectives of this rulemaking, the Agency will also eliminate or fix regulatory inefficiencies noted by the Agency or in public comments on the ANPRM.

Statement of Need: The EPA is reassessing authorized uses of PCBs to determine whether certain uses should be ended or phased out because they can no longer be justified under section 6(e) of the Toxic Substances Control Act, which requires that the authorized use will not present an unreasonable risk of injury to health and the environment. A rulemaking is needed to revise or revoke any PCB use authorizations that no longer meet the TSCA unreasonable risk standard.

Summary of Legal Basis: The authority for this action comes from TSCA section 6(e)(2)(B) and (C) of TSCA (15 U.S.C. 605(e)(2)(B) and (C)), as well as TSCA section 6(e)(1)(B) (15 U.S.C. 2605(e)(1)(B)).

Alternatives: The EPA published an Advanced Notice of Proposed Rulemaking (ANPRM) on April 7, 2010, and took comment through August 20, 2010. EPA reviewed and considered all comments received on the ANPRM in planning the current rulemaking.

Anticipated Cost and Benefits: The EPA is currently evaluating the costs and benefits of this action.

Risks: The EPA is currently evaluating the possible risks presented by ongoing uses of PCBs. PCB exposures can cause significant human health and ecological effects. The EPA and the International Agency for Research on Cancer (IARC) have characterized some commercial PCB mixtures as probably carcinogenic to humans. In addition to carcinogenicity, potential effects of PCB exposure include neurotoxicity, reproductive and developmental toxicity, immune system suppression, liver damage, skin irritation, and endocrine disruption. PCBs persist in the environment for long periods of time and bioaccumulate, especially in fish and marine animals. PCBs are also readily transported across long distances in the environment, and can easily cycle between air, water, and soil.

Timetable:

Action	Date	FR Cite
ANPRM	04/07/10	75 FR 17645
Second ANPRM	06/16/10	75 FR 34076
NPRM	06/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Local, State, Tribal.

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

Additional Information: Docket #: EPA–HQ–OPPT–2009–0757.

Sectors Affected: 31–33 Manufacturing; 54 Professional, Scientific, and Technical Services; 92 Public Administration; 53 Real Estate and Rental and Leasing; 811 Repair and Maintenance; 48–49 Transportation and Warehousing; 22 Utilities; 562 Waste Management and Remediation Services.

URL for More Information: http://www.epa.gov/pcb.

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RIN: 2070–AJ38

EPA—OCSPP

109. Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a)

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

Unfunded Mandates: Undetermined.

Legal Authority: 15 U.S.C. 2605 Toxic Substances Control Act

CFR Citation: 40 CFR NYD.

Legal Deadline: None.

Abstract: Section 6 of the Toxic Substances Control Act (TSCA) provides authority for the EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemicals, as well as any manner or method of disposal. The EPA identified trichloroethylene (TCE) for risk evaluation as part of its Work Plan for Chemical Assessment under TSCA. TCE is used in industrial and commercial processes, and also has some limited uses in consumer products. In the June 2014 TSCA Work Plan Chemical Risk Assessment for TCE, the EPA identified risks associated with commercial degreasing and some consumer uses. EPA is initiating rulemaking under TSCA section 6 to address these risks, if the EPA finds that there is a reasonable basis to conclude that the risks to human health or the environment are unreasonable.

Statement of Need: In the June 2014 TSCA Work Plan Chemical Risk Assessment for TCE, the EPA identified risks associated with commercial degreasing and some consumer uses. The EPA is initiating a rulemaking under TSCA section 6 to address these risks. Specifically, the EPA will determine whether the continued use of TCE in some commercial degreasing uses, as a spotting agent in dry cleaning, and in certain consumer products would pose an unreasonable risk to human health and the environment.

Summary of Legal Basis: Section 6 of the Toxic Substances Control Act provides authority for the EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemicals, as well as any manner or method of disposal.

Alternatives: Alternatives will be developed as part of the development of a proposed rule.

Anticipated Cost and Benefits: The EPA will prepare a regulatory impact analysis as part of the development of a proposed rule.

Risks: In the published TCE Risk Assessment, the EPA identified significant risks to human health in occupational, consumer and residential settings. The risk assessment identified health risks from TCE exposures to consumers using aerosol degreasers and spray fixatives, and health risks to workers when TCE is used in commercial shops and as a stain removing agent in dry cleaning.

Timetable:

Action	Date	FR Cite
NPRM	03/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Sectors Affected: 325 Chemical Manufacturing.

URL for More Information: http://www.epa.gov/oppt/existingchemicals/.

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RIN: 2070–AK03

EPA—OCSPP

110. N-Methylpyrrolidone (NMP) and Methylene Chloride; Rulemaking Under TSCA Section 6(A)

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

Unfunded Mandates: Undetermined.

Legal Authority: 15 U.S.C. 2605 Toxic Substances Control Act

CFR Citation: 40 CFR NYD.

Legal Deadline: None.

Abstract: Section 6 of the Toxic Substances Control Act provides authority for the EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemicals, as well as any manner or method of disposal of chemicals. The EPA identified n-methylpyrrolidone (NMP) and methylene chloride for risk evaluation as part of its TSCA Work Plan for Chemical Assessments. NMP and methylene chloride are used in commercial processes and in consumer products in residential settings. In the August 2014 TSCA Work Plan Chemical Risk Assessment for methylene chloride and the March 2015 TSCA Work Plan Chemical Risk Assessment for NMP, the EPA identified risks associated with commercial and consumer paint and varnish stripping uses. The EPA is initiating rulemaking under TSCA section 6 to address these risks, if the EPA finds that there is a reasonable basis to conclude that the risks to human health or the environment are unreasonable.

Statement of Need: The EPA identified n-methylpyrrolidone and methylene chloride for risk evaluation as part of its Work Plan for Chemical Assessments under TSCA. In the August 2014 Risk Assessment for methylene chloride and March 2015 Risk Assessment for NMP, the EPA identified risks associated with commercial and consumer paint removal uses. The EPA is initiating rulemaking under TSCA section 6 to address these risks. Specifically, the EPA will determine whether the use of NMP or methylene chloride in commercial and consumer paint removal poses an unreasonable risk to human health and the environment.

Summary of Legal Basis: Section 6 of the Toxic Substances Control Act provides authority for the EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemicals, as well as any manner or method of disposal.

Alternatives: Alternatives will be developed as part of the development of a proposed rule.

Anticipated Cost and Benefits: The EPA will prepare a regulatory impact analysis as part of the development of a proposed rule.

Risks: As indicated in the published Risk Assessments and supplemental analyses for these chemicals, the EPA determined that there is risk of adverse human health effects (acute and chronic) for methylene chloride and NMP in occupational, consumer and residential settings.

Timetable:

Action	Date	FR Cite
NPRM	03/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Sectors Affected: 325 Chemical Manufacturing.

URL for More Information: http://www.epa.gov/oppt/existingchemicals/.

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RIN: 2070–AK07

EPA—SOLID WASTE AND EMERGENCY RESPONSE (SWER)

Proposed Rule Stage

111. Financial Responsibility Requirements Under CERCLA Section 108(B) for Classes of Facilities in the Hard Rock Mining Industry

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. 9601 *et seq.;* 42 U.S.C. 9608(b)

CFR Citation: None.

Legal Deadline: None.

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.

Statement of Need: EPA's 108(b) rules will address the degree and duration of risks associated with aspects of hazardous substance management at hard rock mining and mineral processing facilities. These regulations will help ensure that businesses make financial arrangements to address risks from hazardous substances at their sites, and encourage businesses to improve their management of hazardous substances.

Summary of Legal Basis: Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, establishes certain regulatory authorities concerning financial responsibility requirements. Specifically, the statutory language addresses the promulgation of regulations that require classes of facilities to establish and maintain evidence of financial responsibility consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances.

Alternatives: The EPA is considering proposing for comment alternatives for allowable types of financial instruments.

Anticipated Cost and Benefits: The EPA expects that the primary costs of the rule will be the costs to facilities for procuring required financial instruments. The EPA also expects to incur administrative and oversight costs. These regulations will help ensure that businesses make financial arrangements to address risks from hazardous substances at their sites, and encourage businesses to improve their management of hazardous substances.

Risks: EPA's 108(b) rules are intended to address the risks associated with the production, transportation, treatment, storage or disposal of hazardous substances at hard rock mining and mineral processing facilities.

Timetable:

Action	Date	FR Cite
Notice	07/28/09	74 FR 37213
NPRM	08/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

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

Additional Information: Docket #:EPA–HQ–SFUND–2009–0265. Split from RIN 2050–AG56.

Sectors Affected: 212 Mining (except Oil and Gas); 331 Primary Metal Manufacturing.

URL for More Information: http://www.epa.gov/superfund/policy/financialresponsibility/.

URL for Public Comments: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-SFUND-2009-0265-0001.

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RIN: 2050–AG61

EPA—SWER

112. User Fee Schedule for Electronic Hazardous Waste Manifest

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

Legal Authority: 42 U.S.C. 6939(g)

CFR Citation: Undetermined.

Legal Deadline: None.

Abstract: After promulgation of the first e-Manifest regulation in February 2014 to authorize the use of electronic manifests and to codify key provisions of the Hazardous Waste Electronic Manifest Establishment Act (or Act), the EPA is moving forward on the development of the separate e-Manifest User Fee Schedule Regulation. The Act authorizes the EPA to impose on manifest users reasonable service fees that are necessary to pay costs incurred in developing, operating, maintaining and upgrading the system, including costs incurred in collecting and processing data from any paper manifest submitted to the system after the date on which the system enters operation. The agency plans to issue both a proposed and final rule in setting the appropriate electronic manifest and manifest fees. The EPA intends to propose for comment the fee methodology for establishing the electronic manifest and paper service fees. The agency plans in a final rule to establish a program of fees that will be imposed on users of the e-manifest system and announce the user fee schedule for manifest-related activities, including activities associated with the collection and processing of paper manifests submitted to the EPA. The agency also plans in that final rule to announce (1) the date upon which the EPA will be ready to transmit and receive manifests through the national e-Manifest system and (2) the date upon which the user community must comply with the new e-Manifest regulation.

Statement of Need: On February 7, 2014, the EPA promulgated the e-Manifest Final rule, in order to comply with the Hazardous Waste Electronic Manifest Establishment Act, which required the EPA to issue a regulation authorizing electronic manifests by October 5, 2013. In issuing that rule, the EPA completed an important step that must precede the development of a national e-Manifest system, as required by the Hazardous Waste Electronic Manifest Establishment Act. This rule is the second regulation that must precede the development of the e-Manifest system. This action will implement the broad discretion granted on the Agency to establish reasonable user fees for the various activities associated with using and submitting electronic and paper manifests to the national system. Additionally, OMB Circular A–25 on User Charges provides that agencies of the Executive Branch must generally set user fee charges or fees through regulation.

Summary of Legal Basis: Section 2(c) of the e-Manifest Act authorizes the EPA to impose on manifest users reasonable user fees to pay any costs incurred in developing, operating, maintaining, and upgrading the system, including any costs incurred in collecting and processing data from any paper manifest submitted to the system. Thus, this Action will implement the broad discretion granted on the Agency to establish reasonable user fees for the various activities associated with using and submitting electronic and paper manifests to the national system.

Alternatives: The EPA plans to issue rulemaking to establish the appropriate electronic manifest and paper manifest fees. The EPA plans to propose for comment alternatives for imposing and collecting electronic manifest and paper fees.

Anticipated Cost and Benefits: When the e-Manifest Final Rule was published in February 2014, the Agency deferred the development of the detailed risk impact analysis (RIA) for the e-Manifest system until the User Fee Schedule Rule. Thus, the RIA for the proposed User Fee Schedule Rule will not be limited to the impacts of the user fees announced in the rule, but will also estimate the costs and benefits of the overall e-Manifest system. The primary costs in the e-Manifest RIA will be the cost to build the system, the costs for industry and state governments to connect to the system, and the cost to run the system. The most significant benefit of the e-Manifest system estimated in the RIA will be reduced burden for industry to comply with RCRA manifesting requirements, and the reduced burden on states that collect and utilize manifest data for program management purposes.

Risks: This action does not address any particular risks in the EPA's jurisdiction as it does not change existing requirements for manifesting hazardous waste shipments. It will merely propose for comment our fee methodology for setting the appropriate fees of electronic manifests, and paper manifests that continue in use, at such time as the system to receive them is built and operational.

Timetable:

Action	Date	FR Cite
NPRM	05/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal, State, Local.

Additional Information: Docket #:EPA–HQ–RCRA–2001–0032.

Sectors Affected: 11 Agriculture, Forestry, Fishing and Hunting; 21 Mining, Quarrying, and Oil and Gas Extraction; 22 Utilities; 23 Construction; 31–33 Manufacturing; 42 Wholesale Trade; 44–45 Retail Trade; 48–49 Transportation and Warehousing; 51 Information; 562 Waste Management and Remediation Services; 92 Public Administration.

URL for More Information: http://www.epa.gov/epawaste/hazard/transportation/manifest/e-man.htm.

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RIN: 2050–AG80

EPA—SWER

113. Modernization of the Accidental Release Prevention Regulations Under Clean Air Act

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

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 7412(r)

CFR Citation: 40 CFR 68.

Legal Deadline: None.

Abstract: In response to Executive Order 13650, the EPA is considering potential revisions to its Risk Management Program regulations and related programs. The Agency may

consider the addition of new accident prevention or emergency response program elements, and/or changes to existing elements, and/or other changes to the existing regulatory provisions.

Statement of Need: In response to Executive Order 13650, the EPA is considering potential revisions to its Risk Management Program regulations. The Executive Order establishes the Chemical Facility Safety and Security Working Group (''Working Group''), co-chaired by the Secretary of Homeland Security, the Administrator of the EPA, and the Secretary of Labor or their designated representatives at the Assistant Secretary level or higher, and composed of senior representatives of other federal departments, agencies, and offices. The Executive Order requires the Working Group to carry out a number of tasks whose overall goal is to prevent chemical accidents, such as the explosion that occurred at the West Fertilizer facility in West, Texas, on April 17, 2013, which killed 15 people, injured many others, and did extensive damage to the town. Section 6(a)(i) of the Executive Order requires the Working Group to develop options for improved chemical facility safety and security that identify ''improvements to existing risk management practices through agency programs, private sector initiatives, Government guidance, outreach, standards, and regulations.'' Section 6(c) of Executive Order 13650 requires the Administrator of the EPA to review the RMP Program (RMP).

Summary of Legal Basis: Clean Air Act Section 112(r)(7) authorizes the EPA Administrator to promulgate regulations to prevent accidental releases. Section 112(r)(7)(A) authorizes release prevention, detection, and correction requirements that may include a broad range of methods, make distinctions among classes and types of facilities, and may take into consideration other factors, including, but not limited to, size, location, process and substance factors, and response capabilities. Section 112(r)(7)(B) authorizes reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases of regulated substances and for response to such releases by the owners or operators of the sources of such releases.

Alternatives: The EPA is considering revisions to the accident prevention, emergency response, recordkeeping, and other provisions in 40 CFR part 68 to address chemical accident risks. The proposed action will contain the EPA's preferred option, as well as alternative regulatory options. The EPA also is considering publishing guidance to address some issues that may be raised in the proposed action.

Anticipated Cost and Benefits: Costs will include the burden on regulated entities associated with implementing new or revised requirements, including program implementation, training, equipment purchases, and recordkeeping, as applicable. Some costs will also accrue to implementing agencies and local governments, due to enhanced local coordination and recordkeeping requirements. Benefits will result from avoiding the harmful accident consequences to communities and the environment, such as deaths, injuries, and property damage, environmental damage, and from mitigating the effects of releases that may occur.

Risks: The proposed action will address the risks associated with accidental releases of listed regulated toxic and flammable substances to the air from stationary sources. Substances regulated under the RMP program include highly toxic and flammable substances that can cause deaths, injuries, property and environmental damage, and other on- and off-site consequences if accidentally released. The proposed action will reduce these risks by making accidental releases less likely, and by mitigating the severity of releases that may occur. The proposed action would not address the risks of non-accidental chemical releases, accidental releases of non-regulated substances, chemicals released to other media, and air releases from mobile sources.

Timetable:

Action	Date	FR Cite
NPRM	11/00/15	

Regulatory Flexibility Analysis Required: Undetermined.

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

Sectors Affected: 325 Chemical Manufacturing; 49313 Farm Product Warehousing and Storage; 42491 Farm Supplies Merchant Wholesalers; 311511 Fluid Milk Manufacturing; 311 Food Manufacturing; 221112 Fossil Fuel Electric Power Generation; 311411 Frozen Fruit, Juice, and Vegetable Manufacturing; 49311 General Warehousing and Storage; 31152 Ice Cream and Frozen Dessert Manufacturing; 311612 Meat Processed from Carcasses; 211112 Natural Gas Liquid Extraction; 32519 Other Basic Organic Chemical Manufacturing; 42469 Other Chemical and Allied Products Merchant Wholesalers; 49319 Other Warehousing and Storage; 322 Paper Manufacturing; 42471 Petroleum Bulk Stations and Terminals; 32411 Petroleum Refineries; 311615 Poultry Processing; 49312 Refrigerated Warehousing and Storage; 22132 Sewage Treatment Facilities; 11511 Support Activities for Crop Production; 22131 Water Supply and Irrigation Systems.

URL for More Information: http://www2.epa.gov/rmp.

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RIN: 2050–AG82

EPA—AIR AND RADIATION (AR)

Final Rule Stage

114. 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, the 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, the EPA published a final rule to revise the primary and secondary NAAQS for lead to provide increased protection for public health and welfare. The 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 the 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. The proposed decision was 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, the 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 the EPA's Clean Air Scientific Advisory Committee and the public. These documents will inform the Administrator's decision as to whether to retain or revise the standards. The proposed decision was 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	01/05/15	80 FR 277
Final Rule	06/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State.

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—AR

115. Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2

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

Legal Authority: 42 U.S.C. 7401 *et seq.* Clean Air Act

CFR Citation: 40 CFR 1036; 40 CFR 1037; 40 CFR 9; 40 CFR 22; 40 CFR 85; 40 CFR 86; 40 CFR 600; 40 CFR 1033; 40 CFR 1039; 40 CFR 1042; 40 CFR 1043; 40 CFR 1065; 40 CFR 1066; 40 CFR 1068.

Legal Deadline: None.

Abstract: During the President's second term, the EPA and the Department of Transportation, in close coordination with the California Air Resources Board, are developing a comprehensive National Program for Medium- and Heavy-Duty Vehicle Greenhouse Gas Emission and Fuel Efficiency Standards for model years beyond 2018. These second sets of standards would further reduce greenhouse gas emissions and fuel consumption from a wide range of on-road vehicles from semi-trucks to the largest pickup trucks and vans, and all types and sizes of work trucks and buses. This action will be in continued response to the President's directive to take coordinated steps to produce a new generation of clean vehicles. This action follows the first ever Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles (75 FR 57106, September 15, 2011).

Statement of Need: Under Clean Air Act authority, the EPA has determined that emissions of greenhouse gases (GHG) from new motor vehicles and engines cause or contribute to air pollution that may reasonably be anticipated to endanger public health and welfare. Therefore, there is a need to reduce GHG emissions from medium- and heavy-duty vehicles to protect public health and welfare. The medium- and heavy-duty truck sector accounts for approximately 23 percent of the U.S. mobile source GHG emissions and is the second-largest mobile source sector. GHG emissions from this sector are forecast to continue increasing rapidly; reflecting the anticipated impact of factors such as economic growth and increased movement of freight by trucks. This rulemaking would significantly reduce GHG emissions from future medium- and heavy-duty vehicles by setting GHG standards that will lead to the introduction of GHG-reducing vehicle and engine technologies.

Summary of Legal Basis: The Clean Air Act section 202(a)(1) states that ''The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.'' Section 202(a) covers all on-highway vehicles including medium- and heavy-duty trucks. In April 2007, the Supreme Court found in *Massachusetts* v. *EPA* that greenhouse gases fit well within the Act's definition of ''air pollutant'' and that EPA has statutory authority to regulate emission of such gases from new motor vehicles. Lastly, in April 2009, EPA issued the Proposed Endangerment and Cause-or-Contribute Findings for Greenhouse Gases under the Clean Air Act. The endangerment proposal stated that greenhouse gases from new motor vehicles and engines cause or contribute to air pollution that may reasonably be anticipated to endanger public health and welfare.

Alternatives: The rulemaking will include an evaluation of regulatory alternatives. In addition, the rule is expected to include tools such as averaging, banking, and trading of emissions credits as an alternative approach for compliance with the program.

Anticipated Cost and Benefits: Detailed analysis of economy-wide cost impacts, greenhouse gas emission reductions, and societal benefits will be performed during development of the rule.

Risks: The failure to set new GHG standards for medium- and heavy-duty trucks risks continued increases in GHG emissions from the trucking industry and therefore increased risk of unacceptable climate change impacts.

Timetable:

Action	Date	FR Cite
NPRM	07/13/15	80 FR 40137
NPRM Comment Period End.	09/11/15	
NPRM Comment Period Extended.	09/02/15	80 FR 53756
NPRM Comment Period Extended End.	10/01/15	
Final Rule	07/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal, State.

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RIN: 2060–AS16

EPA—AR

116. Renewable Fuel Volume Standards, 2014–2016 (Reg Plan)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 7401 *et seq.,* Clean Air Act

CFR Citation: 40 CFR 80, subpart M.

Legal Deadline: None.

Abstract: The Clean Air Act requires the EPA to promulgate regulations that specify the annual volume requirements for renewable fuels under the Renewable Fuel Standard (RFS) program. Standards are to be set for four different categories of renewable fuels: Cellulosic biofuel, biomass-based diesel (BBD), advanced biofuel, and total renewable fuel. The statute requires the standards be finalized by November 30 of the year prior to the year in which the standards would apply. In the case of biomass-based diesel, the statute requires applicable volumes be set no later than 14 months before the year for which the requirements would apply. This action would finalize the applicable volumes for all renewable fuel categories for 2014, 2015 and 2016, and would also finalize the BBD standard for 2017.

Statement of Need: The Clean Air Act Section 211(o) specifies annual volume requirements for renewable fuels under the Renewable Fuel Standard (RFS) program. Standards are to be set for four different categories of renewable fuels: Cellulosic biofuel, biomass based diesel (BBD), advanced biofuel, and total renewable fuel. The statute requires the standards be finalized by November 30 of the year prior to the year in which the standards would apply. In the case of biomass based diesel, the statute requires applicable volumes be set no later than 14 months before the year for which the requirements would apply. This action would, as required by law, finalize the applicable volumes for all renewable fuel categories for 2014—2016, and would also finalize the BBD standard for 2017.

Summary of Legal Basis: Clean Air Act Section 211(o) requires EPA to implement the Renewable Fuels Standard Program. The Act requires the Agency set annual volume requirements for four different categories of renewable fuels: Cellulosic biofuel, biomass based diesel (BBD), advanced biofuel, and total renewable fuel. The statute requires the standards be finalized by November 30 of the year prior to the year in which the standards would apply.

Alternatives: Application of specific provisions for this program are set forth in the law. The law requires standards be established annually. The only alternatives authorized under the law are those which allow for waiving in whole or in part the volumes of renewable fuel for which the standards apply.

Anticipated Cost and Benefits: Costs and benefits of the program were analyzed in the 2010 Final Rule establishing the regulatory provisions for the RFS program.

Risks: Risks of the program were analyzed in the 2010 Final Rule establishing the regulatory provisions for the RFS program.

Timetable:

Action	Date	FR Cite
NPRM	06/10/15	80 FR 33100
NPRM Comment Period End.	07/27/15	
Final Rule	12/00/15	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Energy Effects: Statement of Energy Effects planned as required by Executive Order 13211.

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–OAR–2015–0111.

Sectors Affected: 325199 All Other Basic Organic Chemical Manufacturing; 325193 Ethyl Alcohol Manufacturing; 424690 Other Chemical and Allied Products Merchant Wholesalers; 454319 Other Fuel Dealers; 424710 Petroleum Bulk Stations and Terminals; 324110 Petroleum Refineries; 424720 Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)

URL for More Information: http://www2.epa.gov/renewable-fuel-standard-program.

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RIN: 2060–AS22

EPA—AR

117. Findings That Greenhouse Gas Emissions From Aircraft Cause or Contribute to Air Pollution That May Reasonably Be Anticipated To Endanger Public Health and Welfare Under CAA Section 231 (Reg Plan)

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

Legal Authority: 42 U.S.C. 7401 *et seq.* Clean Air Act

CFR Citation: 40 CFR 87; 40 CFR 1068.

Legal Deadline: None.

Abstract: The EPA issued its proposed findings under section 231(a) of the Clean Air Act (CAA) on July 1, 2015 (80 FR 37757) that aircraft greenhouse gas (GHG) emissions cause or contribute to air pollution which may reasonably be anticipated to endanger public health and welfare. This action will finalize the proposed findings and respond to public comments. If finalized, the findings are scientific determinations under section 231(a) of the Clean Air Act; the EPA is not planning at this time

to propose or issue aircraft engine GHG emission standards. This action continues to rely on the peer-reviewed science from the major climate change science assessments of the U.S. Global Change Research Program (USGCRP), National Research Council (NRC), and the Intergovernmental Panel on Climate Change (IPCC) underlying the 2009 endangerment and cause or contribute findings for GHGs under section 202 of the CAA, along with updated reports from the same major climate change assessments.

Statement of Need: This action makes a determination regarding the current and future threat of climate change to public health and welfare. This action comes in response to a citizen petition submitted by Friends of the Earth, Oceana, the Center for Biological Diversity, and Earthjustice requesting that the EPA issue a GHG endangerment finding and standards under section 231(a)(2)(A) of the Act for GHG emissions from aircraft engines. Further, the EPA anticipates that the International Civil Aviation Organization (ICAO) will adopt a final international aircraft carbon dioxide (CO2) emissions standard in February 2016. The outcome of the final aircraft GHG endangerment and cause or contribute findings is a pre-requisite for the subsequent domestic rulemaking process.

Summary of Legal Basis: Section 231(a)(2)(A) of the CAA states that ''The Administrator shall, from time to time, issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which in [her] judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.'' Before the Administrator may issue standards addressing emissions of GHGs under section 231, the Administrator must satisfy a two-step test. First, the Administrator must decide whether, in her judgment, the air pollution under consideration may reasonably be anticipated to endanger public health or welfare. Second, the Administrator must decide whether, in her judgment, emissions of an air pollutant from certain classes of aircraft engines cause or contribute to this air pollution. If the Administrator answers both questions in the affirmative, she must issue standards under section 231. See *Massachusetts* v. *EPA,* 549 U.S. 497, 533 (2007) (interpreting analogous provision in CAA section 202).

Alternatives: This section is not applicable, as this action is a scientific determination and does not create any regulatory standards under section 231(a)(2)(A) of the CAA.

Anticipated Cost and Benefits: This section is not applicable, as this action is a scientific determination and does not create any regulatory standards under section 231(a)(2)(A) of the CAA.

Risks: The risks discussed here are the current and future threat of climate change to public health and welfare, relying on the scientific and technical evidence in the record for the 2009 section 202 CAA endangerment and cause or contribute findings and building on it with more recent major scientific assessments.

Timetable:

Action	Date	FR Cite
ANPRM	07/01/15	80 FR 37757
ANPRM Comment Period End.	08/31/15	
NPRM	07/01/15	80 FR 37757
NPRM Comment Period End.	08/31/15	
Final Rule	06/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

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.

Docket #: EPA–HQ–OAR–2014–0228.

URL for More Information: http://www3.epa.gov/otaq/aviation.htm.

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RIN: 2060–AS31

EPA—OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION (OCSPP)

Final Rule Stage

118. Pesticides; Certification of Pesticide Applicators

Priority: Other Significant.

Legal Authority: 7 U.S.C. 136 *et seq.* Federal Insecticide Fungicide and Rodenticide Act

CFR Citation: 40 CFR 156; 40 CFR 171.

Legal Deadline: None.

Abstract: The EPA is developing a final rule to revise the federal regulations governing the certified pesticide applicator program (40 CFR part 171). In August 2015, the EPA proposed revisions based on years of extensive stakeholder engagement and public meetings, to ensure that they adequately protect applicators, the public, and the environment from potential harm due to exposure to restricted use pesticides (RUPs). This action is intended to improve the training and awareness of certified applicators of RUPs and to increase protection for noncertified applicators of RUPs operating under the direct supervision of a certified applicator through enhanced pesticide safety training and standards for supervision of noncertified applicators.

Statement of Need: Change is needed to strengthen the protections for pesticide applicators, the public, and the environment from harm due to pesticide exposure.

Summary of Legal Basis: This action is issued under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136–136y, particularly sections 136a(d), 136i, and 136w.

Alternatives: The Agency has developed mechanisms to improve applicator trainers and make training materials more accessible. The Agency has also developed nationally relevant training and certification materials to preserve State resources while improving competency. However, these mechanisms and materials do not address other requisite needs for improving protections, such as requirements for determining competency and recertification. The EPA worked with key stakeholders to identify and evaluate various alternatives and regulatory options during the development of the proposed rule. These are discussed in detail in the proposed rule, and Economic Analysis that was prepared for the proposed rule.

Anticipated Cost and Benefits: The EPA prepared an Economic Analysis (EA) of the potential costs and impacts associated with the proposed rule, a copy or which is available in the docket, discussed in more detail in unit III of the proposed rule; and briefly summarized here. The EPA monetized benefits based on avoided acute pesticide incidents are estimated at $80.5 million/year after adjustment for underreporting of pesticide incidents (EA chapter 6.5). Qualitative benefits include the following:

- Willingness to pay to avoid acute effects of pesticide exposure beyond cost of treatment and loss of productivity.
- Reduced latent effect of avoided acute pesticide exposure.
- Reduced chronic effects from lower chronic pesticide exposure to workers, handlers, and farmworker families,

including a range of illnesses such as non-Hodgkins lymphoma, prostate cancer, Parkinson's disease, lung cancer, chronic bronchitis, and asthma. (EA chapter 6.4 & 6.6) EPA estimated total incremental costs of $47.2 million/year (EA chapter 5), which included the following:

• $19.5 million/year for costs to Private Applicators, with an estimated 490,000 impacted and an average cost of $40 per applicator (EA chapter 5 & 5.6).

• $27.4 million/year for costs to Commercial Applicators, with an estimated 414,000 impacted and an average cost of $66 per applicator (EA chapter 5 & 5.6).

• $359,000 for costs to States and other jurisdictions, with an estimated 63 impacted (EA chapter 5). The EPA estimated that there is no significant impact on a substantial number of small entities. EPA estimated that the proposed rule may affect over 800,000 small farms that use pesticides, although about half are unlikely to apply restricted use pesticides. The estimated impact for small entities is less than 0.1% of the annual revenues for the average small entity (EA chapter 5.7). The EPA also estimated that the proposed rule will have a negligible effect on jobs and employment because most private and commercial applicators are self-employed; and the estimated incremental cost per applicator represents from 0.3 to 0.5 percent of the cost of a part-time employee (EA chapter 5.6).

Risks: Applicators are at risk from exposure to pesticides they handle for their work. The public and the environment may also be at risk from misapplication by applicators. Revisions to the regulations are expected to minimize these risks by ensuring the competency of certified applicators.

Timetable:

Action	Date	FR Cite
NPRM	08/24/15	80 FR 51355
Final Rule	10/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

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

Additional Information: Docket #: EPA–HQ–OPP–2011–0183. Includes retrospective review under Executive Order 13563.

Sectors Affected: 9241 Administration of Environmental Quality Programs; 111 Crop Production; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 5617 Services to Buildings and Dwellings.

URL for More Information: http://www.epa.gov/oppfead1/safety/applicators/applicators.htm.

URL for Public Comments: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPP-2011-0183-0001.

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RIN: 2070–AJ20

EPA—OCSPP

119. Formaldehyde Emission Standards for Composite Wood Products

Priority: Other Significant.

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

Legal Authority: 15 U.S.C. 2697 Toxic Substances Control Act

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: The EPA is developing a final rule under the Formaldehyde Standards for Composite Wood Products Act that was enacted in 2010 as title VI of Toxic Substances Control Act (TSCA), 15 U.S.C. 2697. In 2013, EPA issued two proposed rules. A proposed rule 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. That proposed rule identified 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. It also proposed 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 proposed rule issued in 2013 under RIN 2070–AJ92 covered the implementation of 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. 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; ultra-low-emitting formaldehyde 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. As noted in the previously published Regulatory Agenda entry for each rulemaking, EPA has decided to issue a single final rule that addresses both of these proposals. As such, EPA is also combining the entries for the Regulatory Agenda.

Statement of Need: TSCA title VI directs EPA to promulgate regulations to implement the statutory formaldehyde emission standards and emissions testing requirements for composite wood products (hardwood plywood, particleboard, and medium-density fiberboard). It also directs EPA to include regulatory provisions relating to third-party testing and certification in addition to the auditing and reporting of third-party certifiers.

Summary of Legal Basis: EPA will issue this rule under title VI of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2697, enacted in the Formaldehyde Standards for Composite Wood Products Act of 2010, which provides authority for the EPA to ''promulgate regulations to implement the standards required under subsection (b)'' of the Act. This provision includes authority to promulgate regulations relating to ''third-party testing and certification'' and ''auditing and reporting of third-party certifiers.'' Congress directed EPA to consider a number of elements for inclusion in the implementing regulations, many of which are aspects of the California Air Resources Board (CARB) program. These elements include: (a) Labeling, (b) chain of custody requirements, (c) sell-through provisions, (d) ultra low-emitting formaldehyde resins, (e) no-added formaldehyde-based resins, (f)

finished goods, (g) third-party testing and certification, (h) auditing and reporting of TPCs, (i) recordkeeping, (j) enforcement, (k) laminated products, and (l) exceptions from the requirements of regulations promulgated for products and components containing de minimis amounts of composite wood products.

Alternatives: TSCA title VI establishes national formaldehyde emission standards for composite wood products and the EPA has not been given the authority to change those standards. EPA is evaluating allowable alternatives in this rulemaking.

Anticipated Cost and Benefits: The Economic Analysis issued with the proposed third-party certification program rule provides the EPA analysis of the potential costs and impacts associated with the proposed third-party certification program. As proposed, the annualized costs are estimated at approximately $34,000 per year using either a 3% discount rate or a 7% discount rate. These requirements would impact an estimated nine small entities, of which eight are expected to have impacts of less than 1% of revenues or expenses, and one is expected to have impacts between 1% and 3%. State, Local, and Tribal Governments are not expected to be subject to the requirements, which apply to third-party certifiers and accreditation bodies. The proposal does not have a significant intergovernmental mandate, significant or unique effect on small governments, or have Federalism implications. The Economic Analysis issued with the proposed implementation rule provides EPA's analysis of the potential costs and benefits associated with the proposed implementation requirements. As proposed, the rulemaking 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. The annualized costs for the proposed implementation requirements 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. Government entities are not expected to be subject to the rule's requirements, which apply to entities that manufacture (including import), fabricate, distribute, or sell composite wood products. EPA also estimated that the rulemaking would 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. The proposed implementation rule increases 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. The estimated costs of the proposed implementation rule exceed the quantified benefits. There are additional unquantified benefits due to other avoided health effects. After assessing both the costs and the benefits of the proposal, including the unquantified benefits, EPA has made a reasoned determination that the benefits of the proposal justify its costs.

Risks: At room temperature, formaldehyde is a colorless, flammable gas that has a distinct, pungent smell. Small amounts of formaldehyde are naturally produced by plants, animals and humans. Formaldehyde is used widely by industry to manufacture a range of building materials and numerous household products. It is in resins used to manufacture some composite wood products (*e.g.,* hardwood plywood, particleboard and medium-density fiberboard). Everyone is exposed to small amounts of formaldehyde in the air, some foods, and products, including composite wood products. The primary way you can be exposed to formaldehyde is by breathing air containing it. Formaldehyde can cause irritation of the skin, eyes, nose, and throat. High levels of exposure may cause some types of cancers.

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 Extended.	07/23/13	78 FR 44090
NPRM Comment Period Extended.	08/21/13	78 FR 51696
Final Rule	05/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

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

Additional Information: Docket #: ANPRM stage: EPA–HQ–OPPT–2008–0627; NPRM Stage: EPA–HQ–OPPT–2011–0380; NPRM2 Stage: EPA–HQ–OPPT–2012–0018. This entry includes the rulemaking previously identified under RIN 2070–AJ92.

Sectors Affected: 541611 Administrative Management and General Management Consulting Services; 325199 All Other Basic Organic Chemical Manufacturing; 541990 All Other Professional, Scientific, and Technical Services; 561990 All Other Support Services; 813910 Business Associations; 337212 Custom Architectural Woodwork and Millwork Manufacturing; 321213 Engineered Wood Member (except Truss) Manufacturing; 541330 Engineering Services; 423210 Furniture Merchant Wholesalers; 442110 Furniture Stores; 444130 Hardware Stores; 321211 Hardwood Veneer and Plywood Manufacturing; 444110 Home Centers; 33712 Household and Institutional Furniture Manufacturing; 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; 813920 Professional Organizations; 321219 Reconstituted Wood Product Manufacturing; 441210 Recreational Vehicle Dealers; 337215 Showcase, Partition, Shelving, and Locker Manufacturing; 321212 Softwood Veneer and Plywood Manufacturing; 541380 Testing Laboratories; 336214 Travel Trailer and Camper Manufacturing; 337121 Upholstered Household Furniture Manufacturing; 3212 Veneer, Plywood, and Engineered Wood Product Manufacturing; 337110 Wood Kitchen Cabinet and Countertop Manufacturing; 337211 Wood Office Furniture Manufacturing.

URL for More Information: Docket EPA–HQ–OPPT–2012–0018–0001; *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

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 item in this Regulatory Plan is entitled ''The Federal Sector's Obligation To Be a Model Employer of Individuals with Disabilities.'' 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. The Commission issued an Advanced Notice of Proposed Rulemaking (ANPRM) on May 15, 2014, (79 FR 27824), and intends to issue a proposed rule to 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.'' 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.

The second item is entitled ''Federal Sector Equal Employment Opportunity Process.'' In July 2012, the Commission published a final rule containing 15 discrete changes to various parts of the Federal sector EEO process, and indicated that the rule was the Commission's initial step in a broader review of the Federal sector EEO process. The Commission issued an ANPRM on February 6, 2015, and intends to issue an NPRM in August 2016, aimed at making the process more fair and efficient.

The third item is entitled ''Amendments to Regulations Under the Americans With Disabilities Act.'' This rule would amend the regulations to implement the equal employment provisions of the Americans with Disabilities Act (ADA) to address the interaction between title I of the ADA and financial inducements and/or penalties as part of wellness programs offered through health plans. EEOC also plans to address other aspects of wellness programs that may be subject to the ADA's nondiscrimination provisions. The EEOC issued an NPRM on July 20, 2014, and intends to issue a final rule in February 2016.

The fourth item is entitled ''Amendments to Regulations Under the Genetic Information Nondiscrimination Act of 2008.'' This rule would amend the regulations on the Genetic Information Nondiscrimination Act of 2008 to address inducements to employees' spouses or other family members who respond to questions about their current or past medical conditions on health risk assessments. It will also correct a typographical error in the rule's discussion of wellness programs and add references to the Affordable Care Act, where appropriate. The EEOC issued an NPRM on October 30, 2015. The EEOC intends to issue a final rule in February 2016.

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 contacts or subcontracts.	This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient.

RIN	Title	Effect on small business
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.
3046–AB00	Federal sector equal employment opportunity process	This rulemaking pertains to the federal sector equal employment opportunity process and thus is not expected to affect small businesses.

EEOC

Proposed Rule Stage

120. The Federal Sector's Obligation To Be a Model Employer of Individuals With Disabilities

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] On May 15, 2014, the Commission issued an Advance Notice of Proposed Rulemaking (79 FR 27824) that sought public comments on whether and how the existing regulations could be improved to provide more detail on what being a ''model employer'' means and how Federal agencies and departments should ''give full consideration to the hiring, placement and advancement of qualified individuals with disabilities.'' [2] The EEOC's review of the comments and potential revisions was 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 EEOC's review of the comments and potential revisions was also informed by, and consistent with, the goals of Executive Order 13548 to increase the employment of individuals with disabilities and 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.

[1] 29 CFR 1614.203(a).
[2] Id.

Summary of Legal Basis: Section 501 of the Rehabilitation Act of 1973, as amended (section 501), 29 U.S.C. 791, in addition to requiring nondiscrimination with respect to Federal employees and applicants for Federal employment who are individuals with disabilities, also requires Federal agencies to maintain, update annually, and submit to the Commission an affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities. As part of its responsibility for the administration and enforcement of equal opportunity in Federal employment, the Commission is authorized under 29 U.S.C. 794a(a)(1) to issue rules, regulations, orders, and instructions pursuant to section 501.

Alternatives: The EEOC considered all alternatives offered by ANPRM public commenters. The EEOC will consider all alternatives offered by future 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
ANPRM	05/15/14	79 FR 27824
ANPRM Comment Period End.	07/14/14	
NPRM	11/00/15	

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:* 202 653–6034, *Email: christopher.kuczynski@eeoc.gov.*

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Related RIN: Related to 3046–AA73
RIN: 3046–AA94

EEOC

121. Federal Sector Equal Employment Opportunity Process

Priority: Other Significant.
Legal Authority: 29 U.S.C. 206(d); 29 U.S.C. 633a; 29 U.S.C. 791; 29 U.S.C. 794; 42 U.S.C. 2000e–16; E.O. 10577; E.O. 11222; E.O. 11478; E.O. 12106; Reorganization Plan No. 1 of 1978; 42 U.S.C. 2000ff–6(e)
CFR Citation: 29 CFR 1614.
Legal Deadline: None.
Abstract: In July 2012, the Commission published a final rule containing 15 discrete changes to various parts of the Federal sector EEO complaint process, and indicated that the rule was the Commission's initial step in a broader review of the Federal sector EEO process. On February 6, 2015, the Commission issued an Advance Notice of Proposed Rulemaking (ANPRM) (80 FR 6669), that sought public input on additional issues associated with the Federal sector EEO process.

Statement of Need: Any proposals contained in an NPRM would be aimed at making the process more fair and efficient.

Summary of Legal Basis: Title VII of the Civil Rights Act of 1964 authorizes EEOC ''to issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under . . . section [717].'' 42 U.S.C. 2000e–16(b).

Alternatives: The EEOC will consider all alternatives offered by public commenters.

Anticipated Cost and Benefits: Based on the information currently available, we anticipate that most of the changes will have no cost and will benefit users of the process by correcting or clarifying the requirements. Any cost that might result would only be borne by the Federal Government.

Risks: Any proposed revisions would not affect risks to the public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
ANPRM	02/06/15	80 FR 6669
ANPRM Comment Period End.	04/07/15	
NPRM	08/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal.

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RIN: 3046–AB00

EEOC

122. Amendments to Regulations Under the Genetic Information Nondiscrimination Act of 2008

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2000ff

CFR Citation: 29 CFR 1635.

Legal Deadline: None.

Abstract: This proposed rule would amend the regulations on the Genetic Information Nondiscrimination Act of 2008 to address inducements to employees' spouses or other family members who respond to questions about their current or past medical conditions on health risk assessments (HRA). This Notice of Proposed Rulemaking will also correct a typographical error in the rule's discussion of wellness programs and add references to the Affordable Care Act, where appropriate.

Statement of Need: The revision to 29 CFR 1635.8 is needed to address numerous inquiries received by EEOC about whether an employer will violate the Genetic Information Nondiscrimination Act (GINA) of 2008 by offering an employee a financial inducement if the employee's family member completes an HRA that asks about the family member's current health status. Technical amendments are also needed to correct a typographical error and to include references to the ACA, where appropriate.

Summary of Legal Basis: GINA, section 211, 42 U.S.C. 2000ff–10, requires the EEOC to issue regulations implementing title II of the Act. The EEOC issued regulations on November 9, 2010. These proposed revisions are based on that statutory requirement.

Alternatives: The EEOC will consider all alternatives offered by public commenters.

Anticipated Cost and Benefits: Based on the information currently available, the Commission does not anticipate that the rule will impose additional costs on employers, beyond minimal costs to train human resource professionals. The regulation does not impose any new employer reporting or recordkeeping obligations. We anticipate that the changes will benefit entities covered by title II of GINA by clarifying that employers who offer wellness programs are free to adopt a certain type of inducement without violating GINA, as well as correcting an internal citation, and providing citations to the ACA.

Risks: The proposed rule imposes no new or additional risks to employers. The proposal does not address risks to public safety or the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/30/15	80 FR 66853
NPRM Comment Period End.	12/29/15	
Final Action	02/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

Government Levels Affected: Federal, Local, State.

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RIN: 3046–AB02

EEOC

Final Rule Stage

123. Amendments to Regulations Under the Americans with Disabilities Act

Priority: Other Significant.

Legal Authority: 42 U.S.C. 12101 *et seq.*

CFR Citation: 29 CFR 1630.

Legal Deadline: None.

Abstract: This proposed rule would amend the regulations to implement the equal employment provisions of the Americans with Disabilities Act (ADA) to address the interaction between title I of the ADA and financial inducements and/or penalties as part of wellness programs offered through health plans. EEOC also plans to address other aspects of wellness programs that may be subject to the ADA's nondiscrimination provisions in this Notice of Proposed Rulemaking.

Statement of Need: The revision to 29 CFR 1630.14(d) is needed to address numerous inquiries EEOC has received about whether an employer that complies with regulations implementing the final Health Insurance Portability and Accountability Act (HIPAA) rules concerning wellness program incentives, as amended by the Affordable Care Act (ACA), will be in compliance with the ADA.

Summary of Legal Basis: The ADA requires the EEOC to issue regulations implementing title I of the Act. The EEOC initially issued regulations in 1991 on the law's requirements and prohibited practices with respect to employment and issued amended regulations in 2011 to conform to changes to the ADA made by the ADA Amendments Act of 2008. These proposed revisions are based on that statutory requirement.

Alternatives: The EEOC will consider all alternatives offered by public commenters.

Anticipated Cost and Benefits: Based on the information currently available, the Commission does not anticipate that the rule will impose additional costs on employers, beyond minimal costs to train human resource professionals. The regulation does not impose any new employer reporting or recordkeeping obligations. We anticipate that the changes will benefit entities covered by title I of the ADA by generally promoting consistency between the ADA and HIPAA, as amended by the ACA, and result in greater predictability and ease of administration.

Risks:

The proposed rule imposes no new or additional risks to employers. The proposal does not address risks to public safety or the environment.

Timetable:

Action	Date	FR Cite
NPRM	04/20/15	80 FR 21659
NPRM Comment Period End.	06/19/15	
Final Action	02/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

Government Levels Affected: Federal, Local, State.

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RIN: 3046–AB01

BILLING CODE 6570–01–P

GENERAL SERVICES ADMINISTRATION (GSA)

Regulatory Plan—October 2015

I. Mission and Overview

GSA oversees the business of the Federal Government by supplying Federal purchasers with cost-effective, high-quality products and services from commercial vendors providing workplaces for Federal employees, overseeing the preservation of historic Federal properties, 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's work is done through the Federal Acquisition Service (FAS), the Public Buildings Service (PBS), and the Office of Government-wide Policy (OGP).

Federal Acquisition Service (FAS)

FAS is the lead organization for procurement of products and services (other than real property) for the Federal Government and leverages the buying power of the Government by consolidating Federal agencies' requirements for common goods and services.

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' 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 policy regulations are described below:

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 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.

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.

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), which implements and supplement the Federal Acquisition Regulation at GSA. The GSAM comprises both a non-regulatory portion (GSAM), which reflects policies with no external impact, and a regulatory portion, the General Services Administration Acquisition Regulation (GSAR). The GSAR establishes agency acquisition regulations that affect GSA's business partners (*e.g.* prospective offerors and contractors) and acquisition of leasehold interests in real property.

Federal Acquisition Regulation

On behalf of the General Services Administration (GSA), the Office of Government-wide Policy, in conjunction with Department of Defense (DOD) and National Aeronautics and Space Administration (NASA), write and sign the Federal Acquisition Regulation (FAR), the rule book for all federal agency procurements that governs the billions of contract dollars expended by the Government every year.

II. Statement of Regulatory and Deregulatory Priorities

FTR Regulatory Priorities

In fiscal year 2016, 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 based on administrative changes, case decisions, and agency review.

FMR Regulatory Priorities

In fiscal year 2016, GSA plans to amend the FMR by:

- Revising rules regarding management of Federal real property;
- Revising rules regarding management of Federal personal property.
- Revising rules under management of mail and transportation.

GSAR Regulatory Priorities

GSA plans, to update the GSAR to maintain consistency with the Federal Acquisition Regulation (FAR) and to implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships. Current GSAR initiatives are focused on—

- Providing consistency with the FAR;
- Eliminating coverage that duplicates the FAR or creates inconsistencies within the GSAR;

• Rewriting sections that have become irrelevant because of changes in technology or business processes or that place unnecessary administrative burdens on contractors and the Government;
• Streamlining or simplifying the regulation;
• Rolling up coverage from the services and regions/zones that should be in the GSAR, specifically targeting PBS's construction contracting policies and the GSA Schedules Program;
• Streamlining the evaluation process for contracts containing commercial supplier agreements; and
• Reviewing pricing practices for the GSA Schedules Program.

Regulations of Concern to Small Businesses

GSAR rules are relevant to small businesses that do or wish to do business with the Federal Government. GSA is reviewing regulations that govern the GSA Schedules program; approximately 17,300 businesses, most of whom are small, have GSA Schedule contracts.

GSAR Case 2013–G504, Transactional Data Reporting and GSAR Case 2013–G502, Federal Supply Schedules Administrative Changes are both of interest to GSA proposed a rule to capture transactional data, and in return eliminate the requirement for contractors to track prices offered to the customer or class of customers designated for purposes of the Price Reductions Clause. Among other benefits, GSA anticipates this rule to result in a net burden reduction to GSA Schedule contractors and reduce the need for costly, duplicative contract vehicles, thereby reducing the barrier to entry for small businesses in the Federal marketplace. GSAR Case 2013–G502, Federal Supply Schedules Administrative Changes updates the GSA Schedules program to implement long standing Schedules clauses that had previously never received public comment.

Additionally, GSAR case 2015–G512 Unenforceable Commercial Supplier Agreement Terms will propose a way to streamline the evaluation process to award contracts containing commercial supplier agreements. By streamlining this process, GSA anticipates reducing barriers to entry for small businesses.

Regulations Which Promote Open Government and Disclosure

There are currently no regulations which promote open Government and disclosure.

III. Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (July, 2015), the GSA retrospective review and analysis final and updated regulations plan can be found at *www.gsa.gov/improvingregulations*.

	Completed actions
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 (Withdrawn).
3090–AI82	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2006–G506, Environment, Conservation, Occupational Safety, and Drug-Free Workplace.
3090–AI95	Federal Travel Regulation (FTR); FTR Case 2009–307, Temporary Duty (TDY) Travel Allowances (Taxes); Relocation Allowances (Taxes).
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 Service Administration Acquisition Regulation (GSAR); GSAR Case 2012–G503, Industrial Funding Fee (IFF) and Sales Reporting.
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.
3090–AJ42	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2010–G511, Purchasing by Non-Federal Entities.
3090–AJ46	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2013–G501; Qualifications of Offerors.
3090–AJ47	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2014–G501; Progressive Awards and Monthly Quantity Allocations.

Dated: September 18, 2015.

Christine Harada,

Associate Administrator, Office of Government-wide Policy.

BILLING CODE 6820–34–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Statement of Regulatory Priorities

The National Aeronautics and Space Administration (NASA) aim is to increase human understanding of the solar system and the universe that contains it, and to improve American aeronautics ability. NASA's basic organization consists of the Headquarters, nine field Centers, the Jet Propulsion Laboratory (a Federally Funded Research and Development Center), and several component installations which report to Center Directors. Responsibility for overall planning, coordination, and control of NASA programs is vested in NASA Headquarters located in Washington, DC.

NASA continues to implement programs according to its 2014 Strategic Plan. The Agency'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, (available at *http://www.nasa.gov/sites/default/files/files/2014* NASA Strategic Plan.pdf), 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 pursuit of these goals.

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 Executive Order 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.

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 by focusing efforts on controlling the most critical products and technologies and by enhancing the competitiveness of U.S. manufacturing and technology sectors. While NASA does not have any regulations implementing this initiative, the Agency does serve on the interagency review team in a consultative and supportive role for this process, along with the Department of Defense, the Department of State and the Department of Commerce.

In addition, NASA serves as one of the signatories to the Federal Acquisition Regulation (FAR). The FAR at 48 CFR chapter 1, contains procurement regulations that apply to NASA and other Federal agencies. Pursuant to 41 U.S.C. section 1302 and FAR 1.103(b), the FAR is jointly prepared, issued, and maintained by the Secretary of Defense, the Administrator of General Services, and the Administrator, National Aeronautics and Space Administration, under their several statutory authorities. NASA implements and supplements FAR requirements through the NASA FAR Supplement (NFS), 48 CFR chapter 18. NASA finalized the entire NFS rewrite initiative this year to eliminate unnecessary and burdensome regulations, clarify regulatory language, and simplify processes. More than 1.9 million hours of information collection requirements (ICRs) were identified as no longer required and duplicative of active FAR-level ICRs. Specifically, OMB control numbers 2700–0085, 2700–0086, and 2700–0087 were discontinued as part of the NFS rewrite initiative. The Agency will continue to analyze the NFS to implement procurement-related statutes, Executive orders, NASA initiatives, and Federal procurement policy that streamline current processes and procedures.

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. NASA's final plan and updates can be found at *http://www.nasa.gov/open*, under the Open Government News. Below describes the rulemakings that were recently completed or are near completion.

Rulemakings That Were Streamlined and Reduced Unjustified Burdens

1. Discrimination on Basis of Handicap [14 CFR 1251]—NASA is finalizing its section 504 regulations to incorporate changes to the definition of disability required by the Americans with Disabilities Act (ADA) Amendments Act of 2008, include an affirmative statement of the longstanding requirement for reasonable accommodations in programs, services, and activities, include a definition of direct threat and a provision describing the parameters of the existing direct threat defense to a claim of discrimination, clarify the existing obligation to provide auxiliary aids and services to qualified individuals with disabilities, update the methods of communication that recipients may use to inform program beneficiaries of their obligation to comply with section 504 to reflect changes in technology, adopt updated accessibility standards applicable to the design, construction, and alteration of buildings and facilities, establish time periods for compliance with these updated accessibility standards, provide NASA with access to recipient data and records to determine compliance with section 504, and make administrative updates to correct titles. These amendments will reduce administrative burdens imposed on the public.

2. NASA FAR Supplement: Safety and Health Measures and Mishap Reporting [48 CFR 1852.233]—NASA is finalizing its regulations to revise a current clause related to safety and health measures and mishaps reporting by narrowing the application of the clause, resulting in a decrease in the reporting burden on contractors while reinforcing the measures contractors at NASA facilities must take to protect the safety of their workers, NASA employees, the public, and high value assets These amendments will streamline and reduce reporting requirements imposed on the public.

3. NASA FAR Supplement: Drug and Alcohol Free Workplace and Mission Critical Systems Personnel Reliability Program [48 CFR 1823, 1846, and 1852]—NASA amended its regulations to remove requirements related to the discontinued Space Flight Mission Critical System Personnel Reliability Program (PRP) and to revise requirements related to contractor drug and alcohol testing. These amendments eliminated contractors' costs and burden for implementing PRP [80 FR 60552].

4. Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards [2 CFR 1800]—NASA amended is regulations to incorporate requirements for the use of the Federal Awardee Performance & Integrity Information Systems, in accordance with OMB's uniform guidance. These amendments are expected to reduce duplication and risk associated with administering grants and cooperative agreements; the chance of errors, and allows for the timely closeout of grants and cooperative agreements [80 FR 54701].

5. NASA Far Supplement: Denied Access to NASA Facilities [48 CFR 1852.242–72]—NASA amended its regulations to remove ''Observance of Legal Holidays'' and added in its place a new clause entitled, ''Denied Access to NASA Facilities,'' because the October 2013 Government shutdown revealed a need for NASA to be specific and differentiate between conditions when contractor employees may be denied access to their work location in a NASA facility. These amendments standardize procedures and provide greater clarity to contractors on conditions when contractors may be denied access to NASA facilities due to a Government shutdown [80 FR 52642].

6. NASA FAR Supplement #3—NASA amended its regulations to eliminate unnecessary regulatory text, streamline overly-burdensome regulations, clarify language, and simplify processes where possible [80 FR 36719].

Rulemakings That Was Modified, Streamlined, Expanded, or Repealed

7. Space Flight [14 CFR 1214]—NASA is proposing to amend its regulations to remove language that refers to the retired Space Shuttle Program and to clarify language for other ongoing programs that requires some of this rule to remain in place.

8. NASA Protective Services [14 CFR 1204]—NASA is amending its traffic enforcement regulation to correct citations, and to clarify the regulation's scope, policy, responsibilities, procedures, and violation descriptions.

9. Processing of Monetary Claims [14 CFR 1261]—NASA is amending its regulations to change the amount to collect installment payments from $20,000 to $1000 to align with Title II, Claims of the United States Government, section 3711(a)(2) Collection and Compromise. This regulation will also be amended to include the rules for the use of contractors for debt collection and new provisions allowing for debts to be transferred to the Treasury Department for direct collection, as prescribed by Federal Debt Collection Procedures Act of 1990.

10. Duty Free Entry of Space Articles [14 CFR 1217]—NASA amended its regulations to remove language that refers to the Space Shuttle Program and to clarify language for other ongoing programs that require some of this rule to remain in place [80 FR 45864].

11. Removal of Obsolete Regulations [14 CFR 1216]—NASA amended its regulations to remove regulatory text that is covered in internal NASA policies and requirements [80 FR 30352].

12. Administrative Updates [14 CFR 1207, 1245, 1262, 1263, 1264, & 1266] NASA amended its regulations to make administrative updates to correct spelling citations [80 FR 42028].

Rulemaking That Is of Particular Concerns to Small Business

13. NASA Capitalization Threshold [48 CFR 1845 and 1852]—NASA issued an interim rule amending the NASA FAR Supplement to increase the NASA capitalization threshold from $100,000 to $500,000. The Government Accountability Office (GAO) recommends that capital asset thresholds should be periodically reevaluated to ensure their continuing relevance and that they are established at a level that would not omit a significant amount of assets from the balance sheet. Accordingly, the NASA Office of the Chief Financial Officer conducted a review of the current NASA capital asset threshold of $100,000 and determined an increase in the capital asset threshold to $500,000 was warranted. NASA expects this rule to benefit NASA contractors by reducing some of the administrative burden associated with financial reporting of NASA property in the custody of contractors. Of the 568 NASA contracts awarded in 2014, approximately 114 contracts (20%) that required reporting of Government property were awarded to small businesses. [80 FR 51957].

Abstracts for other regulations that will be amended or repealed between October 2015 and October 2016 are reported in the fall 2015 edition of Unified Agenda of Federal Regulatory and Deregulation actions.

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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 Government-wide regulations concerning information security classification and declassification programs. NARA regulations directed to the public address access to and use of our historically valuable holdings, including archives, donated historical materials, Nixon Presidential materials, and Presidential records. NARA also issues regulations relating to the National Historical Publications and Records Commission (NHPRC) grant programs.

NARA has three regulatory priorities for fiscal year 2016, which are included in The Regulatory Plan. The first are revisions to the Federal records management regulations found at 36 CFR chapter XII, subchapter B (phases I and II). The proposed changes include changes resulting from the 2011 Presidential Memorandum on Managing Government Records, the 2012 Managing Government Records Directive (M–12–18), and Public Law 113–187, The Presidential and Federal Records Acts Amendments of 2014. The proposed rules will affect Federal agencies' records management programs relating to proper records creation and maintenance, adequate documentation, electronic recordkeeping requirements, use of the Electronic Records Archive (ERA) for records transfer, and records disposition. Phase I (RIN 3095–AB74) includes changes to provisions in 36 CFR parts 1223 (Managing Essential Records), 1224 (Records Disposition Programs), 1227 (General Records Schedules), 1229 (Emergency Authorization to Destroy Records), 1232 (Transfer of Records to Records Storage Facilities), 1233 (Transfer Use and Disposition of Records in a NARA Federal Records Center), 1235 (Transfer of Records to the National Archives of the United States), 1236 (Electronic records management), 1237 (Audiovisual Cartographic and Related Records Management), and 1239 (Program Assistance and Inspections). NARA has substantially revamped these provisions and they are out for public comment this fall. Phase II (RIN 3095–AB85) is underway, with the remaining parts of subchapter B currently undergoing revision.

The second priority is a new regulation on Controlled Unclassified Information (CUI). The Information Security Oversight Office (ISOO), a component of NARA, is promulgating 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.

And the third priority is a new regulation on the Office of Government Information Services functions and procedures. The Open Government Act of 2007 (Pub. L. 110–175, 121 Stat. 2524), amended the Freedom of Information Act (FOIA) (5 U.S.C. 552, as amended), and created the Office of Government Information Services (OGIS) within the National Archives and Records Administration (NARA). OGIS is proposing regulations, pursuant to 44 U.S.C. 2104, to clarify, elaborate upon, and specify the procedures in place for Federal agencies and public requesters who seek OGIS's services within the FOIA system. The regulations will specify the means by which OGIS carries out its role as the Federal FOIA Ombudsman—by working with Federal agencies to provide an alternative to litigation in resolving FOIA disputes, by independently reviewing agency FOIA policies,

procedures, and compliance, and by recommending improvements to FOIA's administration.

BILLING CODE 7515–01–P

U.S. OFFICE OF PERSONNEL MANAGEMENT

Statement of Regulatory and Deregulatory Priorities

Fall 2015 Unified Agenda

I. Mission and Overview

OPM works in several broad categories to recruit, retain and honor a world-class workforce for the American people.

- We manage Federal job announcement postings at USAJOBS.gov, and set policy on governmentwide hiring procedures.
- We conduct background investigations for prospective employees and security clearances across government, with hundreds of thousands of cases each year.
- We uphold and defend the merit systems in Federal civil service, making sure that the Federal workforce uses fair practices in all aspects of personnel management.
- We manage pension benefits for retired Federal employees and their families. We also administer health and other insurance programs for Federal employees and retirees.
- We provide training and development programs and other management tools for Federal employees and agencies.
- In many cases, we take the lead in developing, testing and implementing new governmentwide policies that relate to personnel issues.

Altogether, we work to make the Federal government America's model employer for the 21st century.

II. Statement of Regulatory and Deregulatory Priorities

Management Priorities

- Personnel Management in Agencies

3206–AL98

The U.S. Office of Personnel Management (OPM) will reissue a new proposed rule that will provide regulatory definitions for various documents related to the strategic management of human resources, clarify requirements regarding the systems and metrics for managing human resources in the Federal Government, streamline/clarify procedures agencies are required to follow, eliminate the Human Capital Management Report, and reflect the planning and reporting requirements of the Government Performance and Results Modernization Act.

- Human Resources Management Reporting Requirements

3206–AM69

The U.S. Office of Personnel Management (OPM) is issuing final regulations to remove or amend certain provisions relating to reporting requirements for Federal agencies that OPM has determined—pursuant to Executive Order 13583 of August 18, 2011, ''Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce''—are no longer needed. This Executive order included a requirement for OPM to: ''review applicable directives to agencies related to the development or submission of agency human capital and other workforce plans and reports in connection with recruitment, hiring, promotion, retention, professional development, and training policies and practices, and develop a strategy for consolidating such agency plans and reports where appropriate and permitted by law . . .''

- Senior Employee Performance Management System Certification

3206–AL20

The U.S. Office of Personnel Management (OPM) is proposing changes to the senior employee performance management system certification regulations which will ultimately replace interim regulations published in 2004. Proposed changes reflect lessons learned from several years of certifying agency Senior Executive Service (SES) and Senior-Level (SL) and Scientific and Professional (ST) performance management systems and recommendations from a cross-agency workgroup.

Hiring Priorities

- Veterans' Preference

3206–AM79

The U.S. Office of Personnel Management (OPM) issued interim regulations to implement statutory changes pertaining to veterans' preference. These changes were in response to the Hubbard Act, which broadened the category of individuals eligible for veterans' preference; and to implement the VOW (Veterans Opportunity to Work) to Hire Heroes Act of 2011, which requires Federal agencies to treat certain active duty service members as preference eligibles for purposes of competing for a position in the competitive service, even though the service members have not been discharged or released from active duty and do not have a Department of Defense (DD) form 214, Certificate of Release or Discharge from Active Duty. In addition, OPM updated its regulations to reference existing requirements for the alternative ranking and selection procedure called ''category rating;'' and to add a reference to the end date of Operation Iraqi Freedom, which affected veteran status and preference eligibility. This action will align OPM's regulations with the existing statute.

- Suitability

3206–AN25

The Office of Personnel Management (OPM) will be proposing modifications to its rules to better ensure that applicants from all segments of society, including those with prior criminal histories, receive a fair opportunity to compete for Federal employment. The proposed changes would prohibit the collection of criminal background information until the best qualified candidates are referred to a hiring manager. These regulations would better ensure that applicants are evaluated as to relevant competencies before criminal history information is collected. OPM would be providing a mechanism for requesting exceptions when there are legitimate, specific job-related, reasons why agencies may need to disqualify candidates with certain types of adverse history from particular types of positions.

Health Benefit Priorities

- Federal Employees Health Benefits Program: Family Member Disenrollments and Process for Removal

3206–AN09

The U.S. Office of Personnel Management (OPM) is issuing a proposed rule to clarify the process for removing ineligible individuals from Federal Employees Health Benefits (FEHB) Program Self and Family enrollments.

Pay and Leave Priorites

○ Compensatory Time Off for Religious Observances

3206–AL55

The U.S. Office of Personnel Management (OPM) will issue a final rule regarding compensatory time off for religious observances. The final regulation will address comments to the proposed rule (78 FR 53695), and will clarify employee and agency responsibilities, provide timeframes for earning and using religious compensatory time off, and define key terms.

○ Family and Medical Leave Act; Definition of Spouse

3206–AM90

The U.S. Office of Personnel Management (OPM) is revising the definition of ''spouse'' in its regulations on the Family and Medical Leave Act (FMLA) as a result of the decision by the United States Supreme Court in *United States* v. *Windsor,* holding Section 3 of the Defense of Marriage Act (DOMA) unconstitutional.

III. Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (July, 2015), the OPM retrospective review and analysis final and updated regulations plan can be found at *https://www.opm.gov/about-us/open-government/accountability/.*

OFFICE OF PERSONNEL MANAGEMENT—COMPLETED ACTIONS

Title	Regulation Identifier No.
Managing Senior Executive Performance	3206–AM48
Designation of National Security Positions In the Competitive Service, and Related Matters	3206–AM73
Prevailing Rate Systems; Redefinition of the Jacksonville, FL; Savannah, GA; Hagerstown-Martinsburg-Chambersburg, MD; Richmond, VA; and Roanoke, VA, Appropriated Fund Federal Wage System Wage Areas	3206–AN15
Federal Employees' Retirement System; Present Value Conversion Factors for Spouses of Deceased Separated Employees	3206–AN16
Federal Employees' Group Life Insurance Program: Providing Option C Coverage for Children of Same-Sex Domestic Partners	3206–AN04
Federal Employees Health Benefits Program; Disputed Claims and External Review Requirements	3206–AM42
Federal Employees Health Benefits Program; Rate Setting for Community-Rated Plans	3206–AN00
Federal Employees Health Benefits Program Self Plus One Enrollment Type	3206–AN08
Federal Employees Health Benefits Program: FEHB Plan Performance Assessment System	3206–AN13
Federal Employees Health Benefits Program; Subrogation and Reimbursement Recovery	3206–AN14
Prevailing Rate Systems; Special Wage Schedules for U.S. Army Corps of Engineers Flood Control Employees of the Vicksburg District in Mississippi	3206–AN17
Overtime Pay for Border Patrol Agents	3206–AN19
Federal Long-Term Care Insurance Program Eligibility Changes	3206–AN05
Federal Employees Health Benefits Program: Enrollment Options Following the Termination of a Plan or Plan Option	3206–AN07
General Schedule Locality Pay Areas	3206–AM88

Beth F. Cobert,

Acting Director Office of Personnel Management.

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 continues to follow a regulatory approach that does not inadvertently discourage the maintenance of existing defined benefit plans or the establishment of new plans. 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).[1] This Statement of Regulatory and Deregulatory Priorities reflects PBGC's ongoing implementation of its Regulatory Review Plan.

[1] *http://www.pbgc.gov/documents/plan-for-regulatory-review.pdf* . 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):

• *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 approximately 1,400 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. The guarantee is differently structured from and generally significantly smaller than the single-employer guarantee.

At the end of FY 2014, PBGC had a deficit of about $62 billion 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, enhance retirement security, and to implement statutory changes, particularly the Multiemployer Pension Reform Act of 2014 (MPRA) and 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 regulatory actions associated with these RINs, as well as other regulatory review projects, are described below.

Title	RIN	Effect on small business
Annual Financial and Actuarial Information Reporting; Changes to Waivers	1212–AB30	Expected to reduce burden on small business.
Reportable Events	1212–AB06	Expected to reduce burden on small business.
Multiemployer Plans; Electronic Filing Requirements	1212–AB28	Expected to reduce burden on small business.
Valuation assumptions and methods; interest and mortality	1212–AB25	Undetermined.

ERISA section 4010. PBGC reviewed its regulation on Annual Financial and Actuarial Information Reporting (part 4010) and the related e-filing application to consider ways of reducing reporting burden and ensuring that PBGC receives the critical information it needs. In July 2015, PBGC published a proposed rule [2] that would modify the existing reporting waiver for companies with aggregate underfunding of less than $15 million in all their plans. This change would better align the regulation with the original intent of generally limiting 4010 reporting relief to smaller plans. The proposal would also add two new reporting waivers, codify the guidance provided in recent statutory changes and related PBGC guidance on 4010 reporting, and make other technical changes. PBGC expects to publish a final rule early in FY 2016.

Reportable events. ERISA section 4043 and PBGC's implementing regulation requires that pension plans and the companies that sponsor them give PBGC notice of various events affecting either the company or the plan that may signal financial problems and could potentially put pensions at risk. In September 2015, PBGC published a final rule [3] that will provide the majority of sponsors and plans with increased flexibility to determine whether a reporting waiver will apply. Under the new rules, reporting will be limited to situations that pose the greatest risk to the pension insurance system. The final rule was developed in response to comments on two earlier proposals, discussion at PBGC's first-ever regulatory hearing, and Executive Order 13563.

Multiemployer plans filing requirements. In September 2015, PBGC published a final rule [4] that will require electronic filing of certain multiemployer plan notices. These changes will make the provision of information to PBGC more efficient and effective and result in a slight decrease in burden on the public.

Valuation assumptions and methods; interest and mortality. PBGC has established a routine, periodic review of PBGC's regulations and policies to ensure that the actuarial and economic content remains current. PBGC plans to publish a proposed rule in FY 2016 that would amend its benefit valuation and asset allocation regulations by improving its valuation assumptions and methods. Chief among the modifications PBGC is considering are modifications to mortality rates and the format of its interest factors.

Retirement Security

DC to DB plan rollovers. In November 2015, PBGC published a final rule [5] that clarifies the treatment of benefits resulting from a rollover distribution from a defined contribution plan to a defined benefit plan, if the defined benefit plan was terminated and trusteed by PBGC.[6] Under the final regulation, a benefit resulting from rollover amounts generally will not be subject to PBGC's maximum guaranteeable benefit or phase-in limitations and will be in the second highest priority category of benefits in the allocation of assets. This rulemaking was part of PBGC's efforts to enhance retirement security by promoting lifetime income options.

Statutory Implementation

MPRA. MPRA established new options for trustees of multiemployer plans that will potentially run out of money to apply to PBGC for financial assistance. In June 2015, PBGC published an interim final rule [7] prescribing the application process and notice requirements for partitions of eligible multiemployer plans under MPRA. PBGC received nine comments

[2] *http://www.pbgc.gov/Documents/2015-18177.pdf.*

[3] *http://www.pbgc.gov/documents/2015-14930.pdf.*

[4] *http://www.gpo.gov/fdsys/pkg/FR-2015-09-17/pdf/2015-23361.pdf.*

[5] *http://www.gpo.gov/fdsys/pkg/FR-2014-11-25/pdf/2014-27826.pdf.*

[6] 79 FR 18483 (Apr. 2, 2014), *http://www.pbgc.gov/documents/2014-07323.pdf.*

[7] *http://www.pbgc.gov/documents/2015-14930.pdf.*

on the interim final rule and expects to issue a new final rule in December 2015. PBGC is also developing a proposed rule that would prescribe rules for facilitated mergers of multiemployer plans under MPRA and conform the existing regulation to changes in the law. PBGC expects to publish that proposal in December 2015.

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.[8] Now that Treasury has issued final regulations on statutory hybrid plans, PBGC is developing a final rule, which it expects to publish early in FY 2016.

Missing participants. A major focus of PBGC's current regulatory efforts is the development of a proposal to improve and expand the existing missing participants program. As authorized by PPA 2006, the expanded program will cover terminating defined contribution plans, non-covered defined benefit plans, and multiemployer plans. The proposal will take into account comments received from employers, plans, and other stakeholders in response to a 2013 Request for Information. PBGC is working with IRS and DOL to coordinate government requirements for dealing with missing participant issues. PBGC expects to publish a proposed regulation early in FY 2016.

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: *Reportable events. The reportable events final rule discussed above under Retrospective Review of Existing Regulations would waive many reporting requirements for plans with fewer than 100 participants.*

ERISA section 4010. The proposed rule discussed above under *Retrospective Review of Existing Regulations* would preserve the existing waiver reporting waiver tied to aggregate underfunding of less than $15 million for sponsors of smaller plans.

Missing participants. The missing participants proposed rule discussed above under PPA 2006 Implementation would benefit small businesses by simplifying and streamlining current requirements, better coordinating with requirements of other agencies, and providing more options for sponsors of terminating non-covered 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. The regulatory projects discussed above highlight PBGC's customer-focused efforts to reduce regulatory burden.

PBGC's Regulatory Review Plan sets forth ways to expand opportunities for public participation in the regulatory process. For example, 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. Discussion at that hearing informed PBGC's final rule. PBGC's 2015 Request for Information[9] on partitions and facilitated mergers under MPRA is an 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.

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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 provides a crucial foundation for those starting a new business, or growing an existing business and ultimately helps to create new jobs. SBA also provides direct financial assistance to homeowners, renters, and small business to help in the rebuilding of communities 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, in particular 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. Where appropriate, SBA also conducts hearings, webinars, and other public events as part of its regulatory process.

Regulatory Framework

The SBA's FY 2014 to FY 2018 strategic plan serves as the foundation for the regulations that the Agency will develop during the next twelve months. This Strategic Plan provides a framework for strengthening, streamlining, and simplifying SBA's programs while leveraging collaborative relationships with other agencies and the private sector to maximize the tools small business owners and entrepreneurs need to drive American innovation and strengthen the economy. The plan sets out three strategic goals: (1) Growing businesses and creating jobs; (2) serving as the voice for small business; and (3) building an SBA that meets the needs of today's and tomorrow's small businesses. In order to

[8] 76 FR 67105 (Oct. 31, 2011), *http://www.pbgc.gov/Documents/2011-28124.pdf.*

[9] *http://www.pbgc.gov/documents/2015-03434.pdf.*

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;
- 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 be to implement the following regulations and program guidance: (1) Affiliation for Business Loan Programs and Surety Bond Guarantee Program (RIN: 3245–AG73); (2) Small Business Investment Company (SBIC) Program; Impact SBICs (RIN: 3245–AG66); (3) Small Business Mentor-Protégé Programs (RIN: 3245–AG24), (4) Small Business Government Contracting and National Defense Authorization Act of 2013 Amendments (RIN: 3245–AG58), and (5) Small Business Innovation Research Program and Small Business Technology Transfer Program Policy Directive (RIN: 3245–AG64).

(1) Affiliation for Business Loan Programs and Surety Bond Guarantee Program (RIN: 3245–AG73)

This rule will propose to amend SBA's regulations to redefine how the agency determines affiliation as it relates to eligibility for its Surety Bond Guarantee (SBG) Program and the business loan programs, consisting of the 7(a) and 504 Loan Programs and the Business Disaster Loan Programs. SBA has reviewed the applicable regulations and concluded that, in order to expand the reach of these programs and increase accessibility to the benefits the programs offer for small businesses, one of the Agency's priorities will be to simplify guidelines for determining affiliation for program eligibility based on size. The proposed amendments would reduce the regulatory burden on small businesses and SBA participating lenders, streamline delivery of program assistance, and lower the costs related to program participation. As part of its process to develop this rule, SBA solicited and received public feedback in support of simplifying the rules and aligning the requirements with normal commercial industry practices.

(2) Small Business Investment Company (SBIC) Program; Impact SBICs (RIN: 3245–AG66)

This rule proposes to establish a regulatory structure for the SBIC program's Impact Investment Fund initiative, which is currently implemented via policy memorandum. The goal of the Impact Investment Fund is to support small business investment strategies that maximize financial returns while also yielding enhanced social, environmental, or economic impacts as part of the SBIC program's overall effort to supplement the flow of private equity and long-term loan funds to small businesses in underserved communities and the innovative sectors whose capital needs are not being met. The proposed rule supports the development of America's growing impact investing industry by making available a new type of SBIC license called an Impact SBIC to investment funds meeting the SBIC program's licensing qualifications, provides application and examination fee considerations to incentivize impact investing participation, establishes leverage eligibility requirements, and establishes reporting and performance measures for licensed funds to maintain Impact SBIC designation. The proposed rule would require an Impact SBIC to invest at least 50% of its total invested capital in one or both categories of impact investment: (a) SBA-identified impact investments, which are investments in small businesses located in geographic areas and sectors of national priority designated by SBA, such as Low- and Moderate- Income Zones (LMI); and/or (b) fund-identified impact investments, which are investments that meet an SBIC's own definition, subject to SBA's approval, of an ''Impact Investment,'' such as small businesses operating in the clean energy, education or healthcare sectors.

(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 twelve months, one of SBA's priorities will be to issue final regulations establishing these 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. The regulatory action would enhance the ability of small business concerns to obtain larger prime contracts that would be normally out of the reach of these businesses. The small business mentor-protégé programs would allow all small businesses to tap into the expertise and capital of larger firms, which in turn would help small business concerns become more competitive in the Federal procurement arena.

(4) Small Business Government Contracting and National Defense Authorization Act of 2013 Amendments (RIN: 3245–AG58)

SBA proposed amending its regulations to implement provisions of the National Defense Authorization Act of 2013, which pertain to performance requirements applicable to small business and socioeconomic program set aside contracts and small business subcontracting. SBA also proposed to amend SBA's regulations concerning the nonmanufacturer rule and affiliation rules. Further, SBA proposed to allow a joint venture to qualify as small for any government procurement as long as each partner to the joint venture qualifies individually as small.

(5) Small Business Innovation Research Program and Small Business Technology Transfer Program Policy Directive (RIN: 3245–AG64):

This proposal seeks to revise the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Policy Directives. Specifically, SBA proposes to combine the two directives into one integrated Directive, clarify the Phase III preference afforded to SBIR and STTR small business awardees, add definitions relating to data rights, clarify the benchmarks for progress towards commercialization, and update language regarding the calculations of extramural Research/Research & Development budgets used to fund the SBIR/STTR programs.

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, which can be found at *http://www.sba.gov/about-sba/sba_performance/open_government/retrospective_review_of_regulations,* currently identify the three rules and the policy directive discussed above.

SBA

Proposed Rule Stage

124. Small Business Innovation Research Program and Small Business Technology Transfer Program Policy Directive

Priority: Other Significant.
Legal Authority: 15 U.S.C. 638(p); Pub. L. 112–81, sec 5001, *et seq.*
CFR Citation: 13 CFR Chapter 1.
Legal Deadline: None.
Abstract: SBA reviews its Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) program policy directives regularly to determine areas that need updating and further clarification. On November 7, 2014, SBA issued an advance notice of policy directive amendments and request for comments at 77 FR 66342. SBA explained that it intended to update the directives on a regular basis and to restructure and reorganize the directives, as well as address certain policy issues relating to SBIR and STTR data rights and Phase III work. In this ANPRM, SBA outlined what it believed were the issues concerning data rights and Phase III awards and requested feedback on several questions posed. The comments SBA received were generally in agreement that the sections of the directives relating to data rights and Phase III awards need further clarification.

SBA is proposing clarification of the issues relating to both programs concerning data rights, Phase III awards, and miscellaneous issues such as benchmarks to commercialization achievement and the calculation of extramural budget. SBA is also proposing to amend both the SBIR and STTR policy directives by combining the two directives into one because the general structure of both programs is the same.

Statement of Need: It is necessary to update the data rights, Phase III preference, benchmark sections, and clarify how agencies calculate extramural budget due to numerous inquiries and requests for clarification received from SBIR and STTR Program Managers and small businesses regarding these issues. Requests for clarification indicate that there is confusion among participating agencies and small business concerns regarding these policy issues. It is necessary to combine the Policy Directives to increase ease of use and to reduce duplicity, as much of the language in the current Directives is identical for both programs. The clarifications and consolidation will provide clearer guidance and uniformity of these sections of the Policy Directive, and are necessary to enhance the efficient implementation of the programs.

Summary of Legal Basis: Section 9(j) and (p) of the Small Business Act, codified at 15 U.S.C. 638(j) & (p) requires SBA to issue directives to the SBIR/STTR participating agencies to simplify and standardize program proposals, selections, contracting, compliance, and audit procedures, while allowing the participating agencies flexibility in the operation of their individual programs.

Alternatives: If SBA does not amend the Policy Directives, the participating agencies and small business concerns will continue to need additional guidance and clarification regarding the implementation of data rights, Phase III awards, and the commercialization benchmarks.

Anticipated Cost and Benefits: The consolidation and revision of the SBIR/STTR Policy Directive is essential to the efficient implementation of the respective programs. There may be some costs associated with the consolidation and revision of the Policy Directives, such as updating current resource materials to reflect the clarifications and consolidation to one document; however, SBA anticipates such costs are not burdensome.

Risks: None identified.
Timetable:

Action	Date	FR Cite
ANPRM	11/07/14	79 FR 66342
ANPRM Comment Period End.	01/06/15	
NPRM	12/00/15	

Regulatory Flexibility Analysis Required: No.
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.*
RIN: 3245–AG64

SBA

125. Small Business Investment Company (SBIC) Program; Impact SBICS

Priority: Other Significant.
Legal Authority: 15 U.S.C. 681
CFR Citation: 13 CFR 107.
Legal Deadline: None.
Abstract: This rule proposes to establish a regulatory structure for the SBIC Programs Impact Investment Fund, which is currently being implemented through a policy memorandum to interested applicants. The rule proposes to establish in the regulations a new type of SBIC license called the Impact SBIC license and will include application and examination fee considerations to incentivize Impact Investment Fund participation. Impact SBICs may also be able to access Early Stage leverage on the same terms as Early Stage SBICs without applying through the Early Stage call process defined in 107.310. This will allow Impact SBICs with early stage strategies to apply for the program. The new license will be available to investment funds that meet the SBIC Programs licensing qualifications and commit to invest at least 50% of their invested capital in impact investments as defined in the rule. The rule would also outline reporting and performance measures for licensed funds to maintain Impact Investment Fund designation. The goal of the Impact Investment Fund is to support small business investment strategies that maximize financial returns while also yielding enhanced social environmental or economic impacts as part of the SBIC Programs overall effort to supplement the flow of private equity and long-term loan funds to small businesses whose capital needs are not being met.

Statement of Need: SBA originally announced the launch of the SBIC program's Impact Investing Initiative (Initiative) on April 7, 2011, with a commitment of $1 billion in debenture leverage over a 5-year period to SBICs that committed to deploy at least 50% of their total invested capital in small businesses located in low-to-moderate income areas, economically-distressed areas and rural areas, as well as small businesses active in the education and

clean energy sectors. Subsequently, SBA made several changes to the Initiative in 2014, including renaming the Initiative the Impact Investment Fund, and expanding its scope to reflect SBA's commitment beyond the initial 5-year term. This proposed rule follows that commitment by providing a permanent framework within the SBIC program's regulations, highlighting the important role of impact investing by supporting the development of America's growing impact investing industry, and seeking to expand the pool of investment capital available to underserved communities and innovative sectors. The proposed rule requires an Impact SBIC to invest at least 50% of its total invested capital in one or both categories of impact investment: (1) SBA-identified impact investments, which are investments in small businesses located in geographic areas and sectors of national priority designated by SBA, such as Low and Moderate Income Zones; and (2) fund-identified impact investments, which are investments that meet an SBIC's own definition, subject to SBA's approval, of an Impact Investment, such as small businesses operating in the clean energy, education and/or healthcare sectors. The proposed rule will encourage the creation of Impact SBICs by providing certain application and examination fee discounts to these funds.

Summary of Legal Basis: The policy goal of the Small Business Investment Act of 1958, 15 U.S.C. 661 *et seq.,* is to stimulate and supplement the flow of private equity capital and long-term loan funds to the nation's small businesses for the sound financing of their growth, expansion, and modernization. The Small Business Investment Act contains several provisions aimed at promoting the flow of capital to several special categories of small business, including those located in low income geographic areas, those engaged in energy-saving activities and smaller businesses, 15 U.S.C. 683(b)(2)(C), 683(b)(2)(D), 683(d). The proposed rule was crafted to enhance the SBIC program's effectiveness in channeling much-needed capital to small businesses operating in these and other underserved areas and sectors of the U.S. economy.

Alternatives: SBA considered several alternatives to the proposed regulation, including continuing its impact investment objectives solely through existing policy initiatives. However, those policy initiatives did not provide sufficient incentives to attract Impact SBIC fund managers to the program. Moreover, SBA determined that it must demonstrate a lasting commitment to the Initiative by promulgating regulations. In addition, SBA considered restricting the definition of an Impact Investment to financings that meet requirements already outlined in federal regulations, such as Energy-Savings Investments, LMI Investments or investments in rural areas. These investments are aligned with federal policy priorities and are easy to define and monitor, but SBA determined a more accommodative approach would be more effective. The proposed rule has been drafted to allow Impact SBIC applicants to make SBA-identified impact investments, which target federal priority areas, or make fund-identified impact investments that align with their own definitions of impact. This approach expands the reach of SBA's impact investing efforts beyond the limited subset of investments that meet existing regulatory criteria and promotes freedom of choice for impact fund managers to pursue an impact investing strategy based on their own definition of Impact Investment.

Anticipated Cost and Benefits: The proposed rule will result in an approximate 6.1 basis point increase in the annual charge paid by all SBICs with outstanding leverage and will include *de minimis* additional oversight costs to SBA in monitoring the additional reporting requirements that Impact SBICs must comply with. The proposed rule benefits SBA by encouraging SBICs to deploy capital to small businesses operating in geographic areas and sectors of national priority designated by SBA, and SBA expects that it will result in increased financings to small businesses taking innovative approaches in, among others, the educational, clean energy and healthcare sectors. As a corollary benefit, the proposed rule will support the development of the impact investing industry more broadly by incorporating impact investing best practices, especially with regard to the measurement and assessment of impact.

Risks: None identified.

Timetable:

Action	Date	FR Cite
NPRM	01/00/16	

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: Nate T. Yohannes, Senior Advisor, Office of Investments, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202–205–6714, *Email: nate.yohannes@sba.gov*.

RIN: 3245–AG66

SBA

126. Affiliation for Business Loan Programs and Surety Bond Guarantee Program

Priority: Other Significant.

Legal Authority: 15 U.S.C. 634(b)(6)

CFR Citation: 13 CFR 115; 13 CFR 120; 13 CFR 121.

Legal Deadline: None.

Abstract: The U.S. Small Business Administration (SBA) has determined that changing conditions in the American economy and a constantly evolving small business community compel it to seek ways to improve program efficiency for its Surety Bond Guarantee (SBG) Program, and the business loan programs consisting of the 7(a) Loan Program, the Business Disaster Loan Programs (the Economic Injury Disaster Loans, Reservist Injury Disaster Loans, Physical Disaster Business Loans, Immediate Disaster Assistance Program loans), the Microloan Program, and the Development Company Program (the 504 Loan Program). As a result, SBA proposes to simplify guidelines for determining affiliation for eligibility based on size as it relates to these programs. This proposed rule would redefine affiliation for all five Programs, thereby simplifying eligibility determinations.

Statement of Need: The U.S. Small Business Administration (SBA) has determined that changing conditions in the American economy and a constantly evolving small business community compel it to seek ways to improve program efficiency for its Surety Bond Guarantee (''SBG'') Program, and the business loan programs consisting of the 7(a) Loan Program, the Economic Injury Disaster Loan (''EIDL'') Program, the Microloan Program, and the Development Company Program (the ''504 Loan Program'').

SBA's surety bond and business loan programs are dedicated to providing solutions to qualified small businesses unable to secure conventional financing or surety bonding through traditional channels. Receipt of this form of SBA assistance includes program qualifications surrounding the size of a small business applicant. The proposed regulations set forth affiliation principles more in keeping with the capital structures presented in the surety and business loan programs.

Summary of Legal Basis: Executive Order 13563, ''Improving Regulation

and Regulatory Review,'' provides that agencies ''must identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends.'' (Emphasis added). Executive Order 13563 further provides that ''[t]o facilitate the periodic review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' (Emphasis added).

SBA has reviewed its regulations with regard to the business loan programs and Surety Bond Guarantee program and is proposing a number of amendments and revisions to accomplish this goal. The loan programs authorized by the Small Business Act (Act), 15 U.S.C. 631 *et seq.,* that are affected by this proposed rule are: (1) The 7(a) Loan Program authorized by section 7(a) of the Act, (2) the Economic Injury Disaster Loan (''EIDL'') Program authorized by section 7(b) of the Act, and (3) the Microloan Program authorized by section 7(m) of the Act. The 504 Loan Program, which is authorized by Title V of the Small Business Investment Act of 1958 (the ''SBIA''), as amended, 15 U.S.C. 695 *et seq.,* is also affected. This rule also proposes revisions to the Surety Bond Guarantee (''SBG'') Program, authorized by section 411 of the SBIA.

Alternatives: SBA first considered retaining the existing principles used to evaluate the size of a small business. It rejected that alternative arguing that a strict interpretation of these existing rules extends indiscriminate harm to small business growth and economic development. SBA also considered proposing a different regulation on size exclusively for the surety and business loan program. It rejected this alternative recognizing the merits behind many of the other standards in the current regulations.

In these proposed rules, SBA proffers that the size a of small business applicant with diffused ownership or operating under franchise or license agreements should be determined eligible without aggregating minority ownership interests, common investments or by reference to an affiliate's relationship to any franchisor or licensor.

Anticipated Cost and Benefits: This will ultimately reduce the costs of submitting an application for the loan applicant and its participating lender. By eliminating or modifying certain affiliation principles for the Business Loan Programs, this proposed rule would also significantly reduce the burden on loan applicants to provide additional documentation evidencing that they are eligible for SBA loan assistance.

Risks: This action introduces a form of regulatory risk associated with considering applicants currently unable to receive SBA financial assistance. It is, however, inequitable to disregard a small business because its distributed ownership or an affiliate's franchise or licensing agreement compels SBA to aggregate unrelated entities for determining a small concern's size. Making these types of businesses eligible for SBA assistance would expand our mission of providing this vital source of assistance to small business. This additional assistance would serve to reduce reputational risk associated with SBA's efficacy as a federal program truly committed to needs of the small business community.

Timetable:

Action	Date	FR Cite
NPRM	10/02/15	80 FR 59667
NPRM Comment Period End.	12/01/15	
Final Rule	06/00/16	

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.

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RIN: 3245–AG73

SBA

Final Rule Stage

127. Small Business Mentor-Protégé Programs

Priority: Other Significant.

Legal Authority: Pub. L. 111–240; sec 1347;15 U.S.C. 657r

CFR Citation: 13 CFR 121; 13 CFR 124; 13 CFR 125; 13 CFR 126; 13 CFR 127; 13 CFR 134

Legal Deadline: None.

Abstract: The U.S. Small Business Administration (SBA or Agency) is amending its regulations to implement provisions of the Small Business Jobs Act of 2010 and the National Defense Authorization Act for Fiscal Year 2013. Based on authorities provided in these two statutes, the rule will establish a Government-wide mentor-protégé program for all small business concerns, consistent with SBA's mentor-protégé program for Participants in SBA's 8(a) Business Development (BD) program. The rule will also make minor changes to the mentor-protégé provisions for the 8(a) Business Development program in order to make the mentor-protégé rules for each of the programs as consistent as possible. The rule will amend the current joint venture provisions to clarify the conditions for creating and operating joint venture partnerships, including the effect of such partnerships on any mentor-protégé relationships. Finally, the rule will make several additional changes to current size, 8(a) Office of Hearings and Appeals or HUBZone regulations, concerning among other things, ownership and control, changes in primary industry, standards of review and interested party status for some appeals.

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	02/05/15	80 FR 6618
NPRM Comment Period End.	04/06/15	
NPRM Comment Period Extension.	04/07/15	80 FR 18556
NPRM Comment Period End.	05/06/15	
Final Rule	04/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

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RIN: 3245–AG24

SBA

128. Small Business Government Contracting and National Defense Authorization Act of 2013 Amendments

Priority: Other Significant.

Legal Authority: 15 U.S.C. 631; Public Law 112–239

CFR Citation: 13 CFR 121; 13 CFR 124; 13 CFR 125; 13 CFR 126; 13 CFR 127.

Legal Deadline: NPRM, Statutory, July 2, 2013, National Defense Authorization Act for FY2013, Public Law 112–239, section 1696.

Section 1696 requires guidance on the statutory limitations on subcontracting to be issued, pursuant to notice and comment rulemaking within 180 days (July 2, 2013) after enactment of the NDAA.

Abstract: The U.S. Small Business Administration (SBA or Agency) is amending its regulations to implement provisions of the National Defense Authorization Act of 2013, which pertain to performance requirements applicable to small business and socioeconomic program set aside contracts and small business subcontracting. SBA is also proposing to make changes to its regulations concerning the nonmanufacturer rule and affiliation rules. Further, SBA is proposing to allow a joint venture to qualify as small for any government procurement as long as each partner to the joint venture qualifies individually as small under the size standard corresponding to the NAICS code assigned in the solicitation.

Statement of Need: The National Defense Authorization Act of 2013 (NDAA), Public Law 112–239, 126 Stat. 1632 (Jan. 2013), made several amendments to SBA's contracting programs as authorized by the Small Business Act. This rule is necessary in order to implement these amendments to the Small Business Act and ensure consistency between SBA's contracting regulations and the statute. The rule also contains other changes not specifically resulting from the NDAA but which are either necessary to create conformance with the NDAA amendments, or are necessary to clarify existing ambiguities and simplify certain regulations governing SBA's size and government contracting programs, including the exception to affiliation for certain joint ventures and the non-manufacturer regulations.

Summary of Legal Basis: This proposed rule implements Sections 1621, 1651, 1652, and 1653 of the NDAA. As a result of changes in section 1621 of the NDAA, as codified at 15 U.S.C. 644(l), the rule amends the regulations regarding the responsibilities of Procurement Center Representatives as set forth in 13 CFR 125. Section 1651 of the NDAA, codified at 15 U.S.C. 657s, amendments regarding the limitations on subcontracting for full or partial small business set-aside contracts, 8(a) Business Development contracts, Service Disabled Veteran-Owned contracts, HUBZone contracts, and Women Owned Small Business (WOSB) and Economically Disadvantaged WOSB contracts, authorizes the changes to the applicable regulations governing each of these types of contracts as set forth in 13 CFR parts 124, 125, 126, and 127. Section 1652 of the NDAA, codified at 15 U.S.C. 645, prescribes penalties for concerns that violate the limitations on subcontracting. Changes will be made to 13 CFR 125 to implement this statutory authority. Section 1653 of the NDAA, as codified at 15 U.S.C. 637(d), amends the requirements for subcontracting plans, including corrective action plans. This rule amends 13 CFR 125 to incorporate implementing regulations.

Alternatives: The National Defense Authorization Act of 2013 (NDAA), Public Law 112–239, 126 Stat. 1632 (Jan. 2013), made several amendments to SBA's contracting programs as authorized by the Small Business Act. This rule is necessary in order to implement these amendments to the Small Business Act and ensure consistency between SBA's contracting regulations and the statute. SBA must implement the statutory provisions in the NDAA. There is no alternative to implementing those provisions. There is also no viable alternative to not implementing the non-statutory based changes; to retain the status quo would mean continued confusion, litigation and controversy particularly with respect to the joint venture and nonmanufacturer regulations.

Anticipated Cost and Benefits: These final regulations should benefit small business concerns by allowing small business concern prime contractors to use similarly situated small business concern subcontractors in the performance of a set aside contract, thereby expanding the capacity of the small business prime contractor and potentially enabling the firm to compete for and obtain larger contracts. It also strengthens the small business subcontracting provisions, which may result in more subcontract awards to small business concerns. The final rule also seeks to address or clarify issues that are ambiguous or subject to dispute, thereby providing clarity to contracting officers as well as small business concerns. Clarifying the confusion and uncertainty concerning the applicability of SBA contracting regulations will reduce the time burden on the small business contracting community and therefore make it easier for them to contract with the Federal Government. This rule does not impose any significant new compliance or other costs on small business concerns. Under current law, firms must adhere to certain requirements when performing set aside contracts; the rule does not change those requirements. Further, SBA expects that costs now incurred by small business concerns as a result of ambiguous or indefinite regulations will be eliminated or reduced.

Risks: None identified.

Timetable:

Action	Date	FR Cite
NPRM	12/29/14	79 FR 77955
NPRM Comment Period End.	02/27/15	
NPRM Comment Period Reopened.	03/09/15	80 FR 12353
Second NPRM Comment Period End.	04/06/15	

Action	Date	FR Cite
Final Rule	04/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Brenda J. Fernandez, Procurement Analyst, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202–205–7337, *Email: brenda.fernandez@sba.gov.*

RIN: 3245–AG58

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION (SSA)

Statement of Regulatory Priorities

We administer the Retirement, Survivors, and Disability Insurance programs under title II of the Social Security Act (Act), the Supplemental Security Income (SSI) program under title XVI of the Act, and the Special Veterans Benefits program under title VIII of the Act. As directed by Congress, we also assist in administering portions of the Medicare program under title XVIII of the Act. Our regulations codify the requirements for eligibility and entitlement to benefits, and our procedures for administering these programs. Generally, our regulations do not impose burdens on the private sector or on State or local governments, except for the States' Disability Determination Services. We fully fund the Disability Determination Services in advance or by way of reimbursement for necessary costs in making disability determinations.

The ten entries in our regulatory plan (plan) represent issues of major importance to the Agency. We describe the individual initiatives more fully in the attached plan.

Improving the Disability Process

Since the continued improvement of the disability program is of vital concern to us, we include initiatives in the plan addressing disability-related issues. These initiatives include one proposed and four final rules that update the medical listings used to determine disability. The revisions reflect our adjudicative experience and advances in medical knowledge, diagnosis, and treatment.

Enhance Public Service

There are five proposed rules that will propose to:

- Require claimants to submit or inform us about all evidence known to them that relates to their disability claim,
- Clarify our guidelines regarding how we will evaluate work experience for persons characterized as ''Illiterate,'' and clarify our guidelines on how we evaluate previous work experience for persons who are ''Illiterate'',
- Remove the expiration date from our rule authorizing State agency disability examiners to make fully favorable determinations without the approval of a State agency medical or psychological consultant in claims we consider under our quick disability determinations and compassionate allowances processes,
- Revise our rules regarding returning evidence at the Appeals Council level to give the Appeals Council discretion in returning additional evidence that it receives when it determines the additional evidence does not relate to the period on or before the date of the Administrative Law Judge's decision, and
- Create a new system of records that exempts certain records from disclosure. This new system tracks anti-harassment claims made by our employees.

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 our 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.* You can find more information about these completed rulemakings in past publications of the Unified Agenda at: *www.Reginfo.gov* in the Completed Actions section for the Social Security Administration. You can also find these rulemakings at *www.Regulations.gov.* The agency final plans are located at *http://mwww.ba.ssa.gov/open/regsreview/EO-13563-Final-Plan-Progress-Update.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 Human Immunodeficiency Virus (HIV) Infection and for Evaluating Functional Limitations in Immune System Disorders.	No.
0960–AG74	Revised Medical Criteria for Evaluating Cardiovascular 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

Prerule Stage

129. Vocational Factors of Age, Education, and Work Experience in the Adult Disability Determination Process

Priority: Other Significant.

Legal Authority: 42 U.S.C. 423(d)(2)(A); 42 U.S.C. 1382(a)(3)(B)

CFR Citation: 20 CFR 404.1562; 20 CFR 404.1565; 20 CFR 416.962; 20 CFR 416.965.

Legal Deadline: None.

Abstract: We are soliciting public input about how we should consider the vocational factors of age, education, and work experience in adult disability claims under titles II and XVI of the Social Security Act (Act). There have been significant changes in technology use and workforce demographics since we first adopted our vocational factor regulations in 1978 (43 FR 55349). We are requesting public comments, along with any supporting data, to assist in our efforts to streamline, simplify, and ensure the ongoing relevance of our disability determination programs.

Statement of Need: There have been significant changes in technology use and workforce demographics since we first adopted our vocational factor regulations in 1978. We are requesting public comments, along with any supporting data, to assist in our efforts to streamline, simplify, and ensure the ongoing relevance of our disability determination programs.

Summary of Legal Basis: Section 205(a) of the Act and, by reference to section 205(a), section 1631(d)(1). Our solicitation of information from the public is part of our effort to ensure that we are evaluating all relevant information as we determine what, if any, updates to our vocational factors are necessary.

Alternatives: Alternatives are undetermined, since this is an advanced notice of proposed rulemaking, and is specifically in an information gathering stage.

Anticipated Cost and Benefits: Undetermined at this time.

Risks: Undetermined at this time.

Timetable:

Action	Date	FR Cite
ANPRM	09/14/15	80 FR 55050
ANPRM Comment Period Extended.	10/30/15	80 FR 66843
ANPRM Comment Period End.	11/13/15	
ANPRM Comment Period Extended End.	12/14/15	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for Public Comments: www.regulations.gov.

Agency Contact: Elaine Tocco, Vocational Policy Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235, *Phone:* 410 966–6356.

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.

RIN: 0960–AH74

SSA

Proposed Rule Stage

130. Revised Medical Criteria for Evaluating Musculoskeletal Disorders (3318P)

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 1.00 and 101.00, Musculoskeletal System, of appendix 1 to subpart P of part 404 of our regulations describe those musculoskeletal system disorders that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: We propose to revise the criteria in the Listing of Impairments (listings) that we use to evaluate claims involving musculoskeletal disorders in adults and children under titles II and XVI of the Social Security Act (Act). These proposed revisions reflect our adjudicative experience, advances in medical knowledge and treatment of musculoskeletal disorders, recommendations from medical experts, and comments we received in response to a final rule with request for public comments that we published in November 2001.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered continuing to use our current criteria. However, we believe these proposed revisions are necessary because of medical advances since we last comprehensively revised the musculoskeletal listings in 2001, our program experience, information we received from medical experts we consulted, and comments we received in response to a final rule with request for public comments that we published in November 2001.

Anticipated Cost and Benefits: Currently being determined.

Risks: We expect the public and adjudicators to support the removal and clarification of ambiguous terms and phrases, and the addition of specific, demonstrable functional criteria for determining listing-level severity of all musculoskeletal disorders.

We expect adjudicators to support the change in the framework of the text because it makes the guidance in the introductory text and listings easier to access and understand.

Timetable:

Action	Date	FR Cite
NPRM	08/00/16	

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.

Nancy Miller, Social Insurance Specialist, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 966–1573.

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, *Email: brian.rudick@ssa.gov.*

RIN: 0960–AG38

SSA

131. Revised Medical Criteria for Evaluating Digestive Disorders (3441P)

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 5.00 and 105.00, Digestive Systems, of appendix 1 to subpart P of part 404 of our regulations describe those digestive disorders that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These proposed rules will update, simplify, and clarify our rules.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We could continue to use our current criteria. However, we believe these proposed revisions are necessary because of our program experience, information we received from medical experts we consulted, and comments we received at the Listings Symposium and in response to the ANPRM.

Anticipated Cost and Benefits: Presently under review.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	12/12/07	72 FR 70527
ANPRM Comment Period End.	02/11/08	
NPRM	08/00/16	

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.

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–AG65

SSA

132. Acceptable Medical Sources, Evaluating Evidence, and Treating Sources (3787P)

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

Legal Authority: 42 U.S.C. 405(a); 42 U.S.C. 423(d)(5)(A); 42 U.S.C. 902(a)(5); 42 U.S.C. 1010(a); 42 U.S.C. 1382c(a)(3)(H)(i); 42 U.S.C. 1382c(a)(3)(H)(i)

CFR Citation: 20 CFR 404.1502; 20 CFR 404.1512; 20 CFR 404.1520b; 20 CFR 404.1521 to 404.1523; 20 CFR 404.1526 and 404.1527; 20 CFR 404.1530; 20 CFR 404.1546; 20 CFR 416.902; 20 CFR 416.912; 20 CFR 416.920b; 20 CFR 416.921 to 416.923; 20 CFR 416.926 and 416.927; 20 CFR 416.930; 20 CFR 416.946.

Legal Deadline: None.

Abstract: We are proposing several revisions to our evidence rules. The proposals include: Redefining several key terms related to evidence; explaining what is and is not evidence; revising how we consider and articulate our consideration of medical opinions and administrative findings of fact; and reorganizing our evidence regulations for each of use. These revisions would simplify and reorganize our rules to make them easier to understand and apply, allow us to make more accurate and consistent decisions, and emphasize the need for objective medical evidence in disability and blindness claims under titles II and XVI of the Social Security Act.

Statement of Need: These revisions would simplify and reorganize our rules to make them easier to understand and apply, allow us to make more accurate and consistent decisions, and emphasize the need for objective medical evidence in disability and blindness claims under titles II and XVI of the Social Security Act.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: Undetermined at this time.

Anticipated Cost and Benefits: Undetermined at this time.

Risks: Undetermined at this time.

Timetable:

Action	Date	FR Cite
NPRM	05/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

URL for Public Comments: www.regulations.gov.

Agency Contact: Joshua Silverman, Social Insurance Specialist, Social Security Administration, Office of Vocational, Evaluation, and Process Policy, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 594–2128.

Dan O'Brien, Social Insurance Specialist, Social Security Administration, Office of Employment Support Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1632.

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–AH51

SSA

133. Returning Evidence at the Appeals Council Level (3844F)

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

Legal Authority: 42 U.S.C. 401(j); 42 U.S.C. 404(f); 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to (h); 42 U.S.C. 405(j); 42 U.S.C. 405 note; 42 U.S.C. 421; 42 U.S.C. 421 note; 42 U.S.C. 423(i); 42 U.S.C. 425; 42 U.S.C. 902(a)(5); 42 U.S.C. 902 note; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.976; 20 CFR 416.1476.

Legal Deadline: None.

Abstract: We propose to revise our rules regarding returning evidence at the Appeals Council level. Our current regulations require the Appeals Council to return to the claimant additional evidence when the Appeals Council finds that the evidence does not relate to the period on or before the date of the administrative law judge (ALJ) hearing decision. With the availability and use of our electronic services, and because

the current procedures are not administratively efficient or cost effective, these rules would no longer require us to return any additional evidence when the Appeals Council determines the additional evidence does not relate to the period on or before the date of the ALJ decision, except in rare circumstances. We are not proposing any changes to how the Appeals Council considers additional evidence or when the Appeals Council gives protective filing based on the receipt of additional evidence.

Statement of Need: We propose to amend our regulations by revising our rules regarding returning evidence at the Appeals Council (AC) level. Our current rules state that the AC will return to the claimant additional evidence it receives when the AC finds the evidence does not relate to the period on or before the date of the administrative law judge (ALJ) hearing decision. We are proposing these revisions to provide the AC discretion in returning additional evidence that it receives when the AC determines the additional evidence does not relate to the period on or before the date of the ALJ decision.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We could have chosen not to amend our regulations, but we believe that with the increasing use of the Electronic Records Express system, the practice of returning evidence is unnecessary. In addition, the practice of returning documents submitted to us electronically is not administratively efficient or cost-effective.

Anticipated Cost and Benefits: These proposed rules should have no effect on Old-Age, Survivors and Disability Insurance or Supplemental Security Income benefits.

The administrative effect of this regulation is negligible (*i.e.,* less than 25 workyears or $2 million annually).

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	10/21/15	80 FR 63717
NPRM Comment Period End.	11/20/15	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for Public Comments: www.regulations.gov.

Agency Contact: Maren Weight, Appeals Officer, Social Security Administration, Office of Appellate Operations, 5107 Leesburg Pike, Falls Church, VA 22041, *Phone:* 703 605–7100.

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–AH64

SSA

134. Removal of the Expiration Date for State Disability Examiner Authority To Make Fully Favorable Quick Disability Determinations and Compassionate Allowances

Priority: Other Significant.

Legal Authority: 42 U.S.C. 405(a); 42 U.S.C. 421; 42 U.S.C. 902(a)(5)

CFR Citation: 20 CFR 404.1615; 20 CFR 416.1015.

Legal Deadline: None.

Abstract: We propose removing the expiration date from our rule authorizing State agency disability examiners to make fully favorable determinations without the approval of a State agency medical or psychological consultant in claims that we consider under our quick disability determinations (QDD) and compassionate allowances (CAL) processes. The disability examiner authority expires on November 11, 2016. In this proposed rule, we remove the expiration date from the disability examiner authority, so that the authority continues indefinitely. Removing the expiration date will allow us to continue to make some favorable disability determinations more quickly. We are making no other substantive changes.

Statement of Need: Our review of cases that qualify for adjudication under this test program decreases the time for issuing disability decisions to claimants; we are therefore making the program permanent.

Summary of Legal Basis: The Social Security Act authorizes the testing of innovative adjudicative procedures [Secs. 205(a), 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 421, and 902(a)(5))], and we are now proposing to make this test program a permanent process.

Alternatives: We could continue to extend this successful program each year, or we could discontinue the process altogether.

Anticipated Cost and Benefits: Costs are presently undetermined. This process decreases the overall time some claimants wait for a disability determination.

Risks: There is no determined risk to making this program permanent, at this time.

Timetable:

Action	Date	FR Cite
NPRM	04/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for Public Comments: www.regulations.gov.

Agency Contact: Kenneth Williams, Social Insurance Specialist, Social Security Administration, Office of Disability Policy, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–0608.

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.

RIN: 0960–AH70

SSA

135. Anti-Harassment and Hostile Work Environment Case Tracking and Records System Revised

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

Legal Authority: 5 U.S.C. 552a(k)(2)

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: We are adding an exemption to the listed SSA System of Records for a Harassment Allegation Case Tracking and Management Information System.

Statement of Need: We are required to amend our Code of Federal Regulations (CFR) when a new system of records is instituted within the agency that exempts certain records from disclosure. Here, we are creating a new system of records and an exemption to disclosure of some of those records, necessitating a new system of records disclosure in our CFR.

Summary of Legal Basis: In accordance with the Privacy Act (5 U.S.C. 552a) we are issuing public notice of our intent to establish a new system of records.

Alternatives: There is no alternative. Failure to amend our CFR, while using a new system of records, would be contrary to the statutory authority and intent of 5 U.S.C. 552.

Anticipated Cost and Benefits: Undetermined at this time. We stand to benefit by tracking anti-harassment claims by our employees, and through

this tracking system accurately determine the outcomes for these claims.

Risks: Failure to implement the new system of records and correlated exemption in our CFR would prevent the institution of the new system, thereby causing the agency to be out of compliance with EEOC guidelines.

Timetable:

Action	Date	FR Cite
NPRM	11/00/15	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for Public Comments: www.regulations.gov.

Agency Contact: Pamela J. Carcirieri, Division Director, Social Security Administration, Office of the General Counsel, Office of Privacy and Disclosure, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–0355.

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.

RIN: 0960–AH82

SSA

136. • Amendment to the Education Category, ''Illiterate or Unable To Communicate in English'' and Clarification of Previous Work Experience Criterion for Persons Who Are ''Illiterate''

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a)(b); 42 U.S.C. 405(d)(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 421(j); 42 U.S.C. 421(m); 42 U.S.C. 421 note; 42 U.S.C. 422(c); 42 U.S.C. 423; 42 U.S.C. 423 note; 42 U.S.C. 425; 42 U.S.C. 902(a)(5); 42 U.S.C. 902 note; 42 U.S.C. 1382; 42 U.S.C. 1382c; 42 U.S.C. 1382h; 42 U.S.C. 1383(a); 42 U.S.C. 1383(c); 42 U.S.C. 1383(d)(1); 42 U.S.C. 1383(p); 42 U.S.C. 1383b; 42 U.S.C. 1382h note

CFR Citation: 20 CFR 404.1564; 20 CFR 416.964.

Legal Deadline: None.

Abstract: We propose amending our education category Illiterate or unable to communicate in English to Illiterate, and we propose to clarify our guidelines regarding how we will evaluate work experience for persons characterized as Illiterate when we determine whether that person is disabled.

We use the education category in our medical-vocational guidelines in appendix 2 to subpart P of part 404 of our regulations (Appendix 2). The medical-vocational guidelines direct or provide a framework for disability determinations and decisions at the final step in our sequential evaluation process. We propose clarifying that we consider a person Illiterate when he or she is unable to read or write in any language.

Under this revised definition of Illiterate, we propose clarifying our guidelines on how we evaluate previous work experience for persons who are Illiterate when we decide whether a person is disabled. These proposed clarifications ensure our guidelines clearly reflect our longstanding policy in 404.1565(a) and 416.965(a). If a person has skilled or semiskilled work experience, but cannot use those skills in other work (*i.e.,* the skills are not transferable to other work), the person's ability to adjust to other work is no greater than if he or she had only unskilled work experience. The proposed revisions will clarify how we evaluate a person's ability to adjust to other work if his or her education category is Illiterate by identifying which medical-vocational guidelines apply given these case facts.

Statement of Need: When we promulgated the existing vocational framework, we judged that illiteracy or inability to communicate in English was a vocational adversity in adjusting to other work. We proposed amending our education category ''Illiterate or unable to communicate in English'' to ''Illiterate'' and clarifying that what we mean by ''Illiterate'' is inability to read and write in any language. This would eliminate the false equivalence between ''inability to communicate in English'' and illiteracy, while retaining ''Illiterate'' in any language as a vocational disadvantage.

Summary of Legal Basis: Section 205(a) of the Act and, by reference to section 205(a), section 1631(d)(1) provide that ''. . . [t]he Commissioner of Social Security shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.''

Alternatives: Undetermined at this time.

Anticipated Cost and Benefits: Undetermined at this time.

Risks: For disability determinations and decisions for people living in countries who do not have English as their official language, we are currently required to use guidelines for people who are ''illiterate or unable to communicate in English,'' even when English is not the official language of the country in which the person lives.

Timetable:

Action	Date	FR Cite
NPRM	04/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

URL for Public Comments: www.regulations.gov.

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RIN: 0960–AH86

SSA

Final Rule Stage

137. Revised Medical Criteria for Evaluating Neurological Impairments (806F)

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 will 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 final rules 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 will ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings and continuing to use our current criteria. However, we believe that these revisions are preferable because of the medical advances that have been made in treating and evaluating 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	02/25/14	79 FR 10636
NPRM Comment Period End.	04/28/14	
NPRM Comment Period Re-opened.	05/01/14	79 FR 24634
NPRM Comment Period Re-opened End.	06/02/14	
Final Action	09/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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

URL for Public Comments: www.regulations.gov.

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RIN: 0960–AF35

SSA

138. Revised Medical Criteria for Evaluating Respiratory System Disorders (859F)

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 3.00 and 103.00, Respiratory System, of appendix 1 to subpart P of part 404 of our regulations describe respiratory system disorders that we consider severe enough to prevent an individual from doing any gainful activity or that cause marked and severe functional limitations for a child claiming SSI payments under title XVI. We will 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 final regulations are necessary to update the Respiratory System listings to reflect advances in medical knowledge, treatment, and methods of evaluating respiratory disorders. The changes will ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings and continuing to use our current criteria. However, we believe that these revisions are preferable because of the medical advances that have been made in treating and evaluating respiratory diseases and because of our adjudicative experience.

Anticipated Cost and Benefits: Estimated costs—low.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	04/13/05	70 FR 19358
ANPRM Comment Period End.	06/13/05	
NPRM	02/04/13	78 FR 7968
NPRM Comment Period End.	04/05/13	
Final Action	04/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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

URL for Public Comments: www.regulations.gov

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RIN: 0960–AF58

SSA

139. Revised Medical Criteria for Evaluating Mental Disorders (886F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 42 U.S.C. 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(h); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1; 20 CFR 404.1520a; 20 CFR 416.920a; 20 CFR 416.934.

Legal Deadline: None.

Abstract: Sections 12.00 and 112.00, Mental Disorders, of appendix 1 to subpart P of part 404 of our regulations describe those mental impairments that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We will revise the criteria in these sections to ensure that the medical evaluation criteria are up-to-date and consistent

with the latest advances in medical knowledge and treatment.

Statement of Need: These regulations are necessary to update the listings for evaluating mental disorders to reflect advances in medical knowledge, treatment, and methods of evaluating these disorders. The changes will ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings or making only minor technical changes. However, we believe that these revisions are preferable because of the medical advances that have been made in treating and evaluating these types of disorders. We have not comprehensively revised the current listings in over 15 years. Medical advances in disability evaluation and treatment and our program experience make clear that the current listings do not reflect state-of-the-art medical knowledge and technology.

Anticipated Cost and Benefits: Savings estimates for fiscal years 2010 to 2018: (in millions of dollars) OASDI–315, SSI–370.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/03	68 FR 12639
ANPRM Comment Period End.	06/16/03	
NPRM	08/19/10	75 FR 51336
NPRM Comment Period End.	11/17/10	
NPRM	11/24/10	75 FR 71632
NPRM Comment Period End.	12/09/10	
Final Action	04/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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

URL for Public Comments: www.regulations.gov.

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RIN: 0960–AF69

BILLING CODE 4191–02–P

FEDERAL ACQUISITION REGULATION (FAR)

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 Department of Defense (DoD), GSA, and National Aeronautics and Space Administration (NASA).

II. Statement of Regulatory and Deregulatory Priorities

Federal Acquisition Regulation Priorities

Specific FAR cases that the FAR Council plans to address in Fiscal Year 2016 include:

Regulations To Improve Small Business Opportunities in Government Contracting

Contracts under the Small Business Administration 8(a) Program—This case clarifies FAR subpart 19.8, ''Contracting with the Small Business Administration (The 8(a) Program).'' (FAR Case 2012–022)

Clarification of Requirement for Justifications for 8(a) Sole-Source Contracts—This case clarifies the requirement for a justification for 8(a) sole-source contracts, in response to GAO Report to the Chairman, Subcommittee on Contracting Oversight, Committee on Homeland Security and Governmental Affairs, U.S. Senate, entitled Federal Contracting: Slow Start to Implementation of Justifications for 8(a) Sole-Source Contracts (GAO–13–118 dated December 2012). (FAR Case 2013–018)

Set-Asides under Multiple Award Contracts—This case implements statutory requirements from the Small Business Jobs Act of 2010 and is aimed at providing agencies with clarifying guidance on how to use multiple-award contracts as a tool to increase Federal contracting opportunities for small businesses. (FAR Case 2014–002)

Small Business Subcontracting Improvements—This case implements statutory requirements from the Small Business Jobs Act of 2010 aimed at protecting small business subcontractors and increasing subcontracting opportunities for small businesses. (FAR Case 2014–003)

Payment of Subcontractors—This case implements section 1334 of the Small Business Jobs Act of 2010 and the Small Business Administration's (SBA) Final Rule 78 FR 42391, Small Business Subcontracting. The rule requires prime contractors of contracts requiring a subcontracting plan to notify the contracting officer in writing if the prime contractor pays a reduced price to a subcontractor or if payment is more than 90 days past due. A contracting officer will then use his or her best judgment in determining whether the late or reduced payment was justified and if not the contracting officer will record the identity of a prime contractor with a history of unjustified untimely payments to subcontractors in the Federal Awardee Performance and Integrity Information System (FAPIIS) or any successor system. (FAR Case 2014–004)

Consolidation and Bundling of Contract Requirements—This case implements statutory requirements from the Small Business Jobs Act of 2010, which created a definition for contract consolidation and limited its use by agencies until certain steps are taken to identify and minimize the negative impact to small businesses. (FAR Case 2014–015)

Sole Source Contracts to Women-Owned Small Businesses—This case implements statutory requirements from the NDAA for FY 2015, which provides for sole source authority under the Women-Owned Small Business (WOSB) Program. The new authority is expected to increase WOSB participation in the Federal marketplace. (FAR Case 2015–032)

Labor—Regulations Which Promote Fair Pay and Safe Workplace Practices

Fair Pay and Safe Workplaces—This rule implements Executive Order 13673, Fair Pay and Safe Workplaces, seeks to increase efficiency in the work performed by Federal contractors by ensuring that they understand and comply with labor laws designed to

promote safe, healthy, fair and effective workplaces. (FAR Case 2014–025)

Establishing a Minimum wage for Contractors—This rule implements Executive Order 13658, Establishing a Minimum Wage for Contractors, which requires agencies, to the extent permitted by law, to include a clause in new solicitations and resultant contracts, specifying, as a condition of payment, that the minimum wage to be paid to workers, in the performance of the contract or any subcontract there under, shall be at least $10.10 per hour beginning January 1, 2015. (FAR Case 2015–003)

Further Amendments to Equal Employment Opportunity—This rule implements Executive Order 13672, dated July 21, 2014, and Department of Labor (DOL) regulations at 41 CFR 60, published December 9, 2014. The Executive Order and the DOL regulations provide for a uniform policy in Federal Government procurement by prohibiting discrimination based on sexual orientation and gender identity. (FAR case 2015–013)

Combating Trafficking in Persons—Definition of ''Recruitment Fees''—This case considers a new definition for the term ''recruitment fees'' at the request of the Senior Policy Operating Group (SPOG) for Combating Trafficking in Persons. (FAR Case 2015–017)

Environmental Rules—Regulations That Promote Environmental Goals

High Global Warming Potential Hydrofluorocarbons—This case facilitates implementation of the President's Climate Action Plan with regard to high global warming potential hydrofluorocarbons. (FAR Case 2014–026)

Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation—This case creates an annual representation within the System for Award Management (SAM) for contractors to indicate if and where they publicly disclose GHG emissions and GHG reduction goals or targets. This information will help the Government assess supplier GHG management practices and assist agencies in developing strategies to engage with contractors to reduce supply chain emissions as directed in section 15 of Executive Order 13693, Planning for Federal Sustainability in the Next Decade, dated March 19, 2015. (FAR Case 2015–024)

Sustainable Acquisition—This case implements E.O. 13693, Planning for Federal Sustainability in the Next Decade, which supersedes E.O.s 13423 and 13514. (FAR Case 2015–033)

Regulations That Promote Protection of Government Information and Systems

Privacy Training—This case creates a FAR clause to require contractors that (1) need access to a system of records, (2) handle personally identifiable information, or (3) design, develop, maintain, or operate a system of records on behalf of the Government, have their personnel complete privacy training. This addition complies with subsections (e) (agency requirements) and (m) (Government contractors) of the Privacy Act (5 U.S.C. 552a). (FAR Case 2010–013)

Organizational Conflicts of Interest and Unequal Access to Information—This case 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 issues regarding unequal access to information. (FAR Case 2011–001)

Basic Safeguarding of Contractor Information Systems—This case amends the FAR to implement procedures for safeguarding contractor information systems that contain information provided by or generated for the Government. The purpose of these safeguards is to provide the Government with the necessary assurance that contractors are taking basic security measures on their information systems containing Government information. (FAR Case 2011–020)

Contractor Use of Information—This case addresses contractor access to controlled unclassified information. (FAR Case 2014–021)

Regulations Which Promote Ethics and Integrity in Contractor Performance

Information on Corporate Contractor Performance and Integrity—This case 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)

Prohibition on Contracting with Corporations with Delinquent Taxes or a Felony Conviction.—This case implements multiple sections of the Consolidated and Further Continuing Appropriations Act, 2015. (Pub. L. 113–235) to prohibit using any of the funds appropriated by the Act to enter into a contract with any corporation with a delinquent Federal tax liability or a felony conviction. (FAR case 2015–011)

Prohibition on Providing Funds to the Enemy—This case implements sections 841–843, subtitle E (Never Contract with the Enemy), title VIII, of the National Defense Authorization Act for FY 2015 (Pub. L. 113–291), enacted 12/19/2014. Section 841 prohibits providing funds to the enemy. Section 842 provides additional access to records. Section 843 provides definitions. (FAR Case 2015–014)

Regulations That Streamline and Reduce Unjustified Burdens

Provisions and Clauses for Acquisitions of Commercial Items and Acquisitions That Do Not Exceed the Simplified Acquisition Threshold—This case implements a new approach to the prescription and flowdown for provisions and clauses applicable to the acquisition of commercial items or acquisitions that do not exceed the simplified acquisition threshold. Each clause prescription and each clause flowdown for commercial items is specified within the prescription/clause itself, without having to cross-check another clause or list. The rule supports the use of automated contract writing systems and reduced necessary FAR maintenance when clauses are updated. (FAR Case 2015–004)

Retention Period—This case updates the file retention periods identified at FAR subpart 4.805, Government Contract Files, to conform with the retention periods in the National Archives and Records Administration (NARA) General Records Schedule 1.1, Financial Management and Reporting Records, published on September 12, 2014. (FAR Case 2015–009)

Simplified Acquisition Threshold for Contracts in Support of Humanitarian or Peacekeeping Operation—This case implements 41 U.S.C. 153 by increasing the simplified acquisition threshold for contracts to be awarded and performed, or purchases to be made, outside the United States in support of a humanitarian or peacekeeping operation. (FAR Case 2015–020)

Removal of Regulations Relating to Telegraphic Communication—This case removes the terms ''telegraph,'' ''telegram,'' and related regulations from the FAR, in accordance with OFPP Memorandum dated December 4, 2014, which directed removal or revision of outdated regulations. (FAR Case 2015–035)

Reverse Auction Guidance—This case Implements OFPP memorandum, ''Effective Use of Reverse Auctions.''The memorandum provides guidance on the usage of reverse auctions, and was issued in response to recommendations within GAO report (Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings, GAO–14–108). (FAR Case 2015–038)

Regulations Which Promote Fiscal Responsibility (Accountability and Transparency)

Applicability of the Senior Executive Compensation Benchmark. Proposes retroactive implementation 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)

Limitation on Allowable Government Contractor Compensation Costs—This case implements Public Law 113–67, which limits costs of compensation of contractor and subcontractor employees. (FAR Case 2014–012)

Strategic Sourcing Documentation—This case implements section 836 of the FY15 NDAA. Section 836 requires that when purchasing services and supplies that are offered under the Federal Strategic Sourcing Initiative but the Initiative in not used, the contract file shall include an analysis of comparative value, including price and nonprice factors, between the services and supplies offered under such Initiative and services and supplies offered under the source or sources used for the purchase. (FAR Case 2015–015)

Prohibition on Reimbursement for Congressional Investigations and Inquiries—This case implements section 857 of the NDAA for FY15, which amends 10 U.S.C. 2324(e)(1). Section 857 disallows costs incurred by a contractor in connection with a congressional investigation or inquiry into an issue that is the subject 10 U.S.C. 2324(k)(2). (FAR Case 2015–016)

Determination of Fair and Reasonable Prices on Orders under Multiple-Award Contracts—This case clarifies the responsibilities for ordering activity contracting officers to determine fair and reasonable prices when using Federal Supply Schedules. (FAR Case 2015–021)

Federal Supply Schedule Order Level Materials—This case provides clarification of the authority to acquire order-level materials when placing a task order or establishing a blanket purchase agreement against a Federal Supply Schedule contract. (FAR Case 2015–023)

Regulations Which Promote Accountability and Transparency

Uniform Use of Line Items—This case establishes a requirement for use of a standardized uniform line item numbering structure in Federal procurement. (FAR Case 2013–014)

Past Performance Evaluation Requirements—This case updates FAR subpart 42.15 to identify ''regulatory compliance'' as a separate evaluation factor in the Contractor Past Performance Assessment System (CPARS) and require agencies use past performance information in the Past Performance Information three years for construction and architect-engineer contracts. (FAR Case 2015–027)

Dated: October 7, 2015.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

BILLING CODE 6820–EP–P

FALL 2015 STATEMENT OF REGULATORY PRIORITIES

CFPB Purposes and Functions

The Bureau of Consumer Financial Protection (CFPB or Bureau) was established in 2010 as an independent bureau of the Federal Reserve System by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203, 124 Stat. 1376) (Dodd-Frank Act). Pursuant to the Dodd-Frank Act, the CFPB has rulemaking, supervisory, enforcement, and other authorities relating to consumer financial products and services. Among these are the consumer financial protection authorities that transferred to the CFPB from seven Federal agencies on the designated transfer date, July 21, 2011. These authorities include the ability to issue regulations under more than a dozen Federal consumer financial laws.

As provided in section 1021 of the Dodd-Frank Act, the purpose of the CFPB is to implement and enforce Federal consumer financial laws consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that such markets are fair, transparent, and competitive. The CFPB is authorized to exercise its authorities for the purpose of ensuring that, with respect to consumer financial products and services:

(1) Consumers are provided with timely and understandable information to make responsible decisions about financial transactions;

(2) Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;

(3) Outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens;

(4) Federal consumer financial law is enforced consistently, without regard to status of a person 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, 2015, to October 31, 2016, include continuing rulemaking activities to address critical issues in various markets for consumer financial products and services and implementing Dodd-Frank Act mortgage protections. The Bureau has also made changes to its long-term agenda, which are discussed below.

Bureau Regulatory Efforts in Various Consumer Markets

The Bureau is working on a number of rulemakings to address important consumer protection issues in a wide variety of markets for consumer financial products and services.

For example, the Bureau is beginning a rulemaking process to follow up on a report it issued to Congress in March 2015, concerning the use of agreements providing for arbitration of any future dispute between covered persons and consumers in connection with the offering or providing of consumer financial products or services. The report, which was required by the Dodd-Frank Act, expanded on preliminary results of arbitration research that had been released by the Bureau in December 2013. Following release of the report, the CFPB analyzed whether rules governing pre-dispute arbitration agreements are warranted, and, if so, what types of rules would be appropriate. The Bureau has preliminarily determined that it should proceed with a rulemaking regarding pre-dispute arbitration agreements. To begin the rulemaking process, the Bureau intends to convene a panel in fall 2015, under the Small Business Regulatory Enforcement Fairness Act and in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy, to consult with small businesses that may be affected by the policy proposals under consideration.

The Bureau is also analyzing consumer protection concerns associated with the use of payday, auto title, and similar lending products in anticipation of the release of a notice of proposed rulemaking to address acts or practices in connection with these

products. In March 2015, as part of the Small Business Regulatory Enforcement Fairness Act process, the Bureau released an outline of proposals under consideration concerning the failure to determine whether consumers have the ability to repay without default or re-borrowing and certain payment collection practices. The Bureau completed the Small Business Regulatory Enforcement Fairness Act process in June 2015. The Bureau had previously released substantial research on certain of these products, issuing a white paper in April 2013, and a data point in March 2014, and is continuing to conduct additional research that it expects to release in conjunction with the rulemaking proposal.

Building on Bureau research and other sources, the Bureau is also engaged in policy analysis and further research initiatives in preparation for a rulemaking on overdraft programs on checking accounts. The CFPB issued a white paper in June 2013, and a report in July 2014, based on supervisory data from several large banks that highlighted a number of possible consumer protection concerns, including how consumers opt in to overdraft coverage for ATM and one-time debit card transactions, overdraft coverage limits, transaction posting order practices, overdraft and insufficient funds fee structures, and involuntary account closures. The CFPB is continuing to engage in additional research and has begun consumer testing initiatives relating to the opt-in process.

In addition, the Bureau also engaged in policy analysis and research initiatives in preparation for a rulemaking on debt collection activities, which are the single largest source of complaints to the federal government of any industry. Building on the Bureau's November 2013, Advance Notice of Proposed Rulemaking, the CFPB is in the process of analyzing the results of a survey to obtain information from consumers about their experiences with debt collection. The Bureau is also undertaking consumer testing initiatives to determine what information would be useful for consumers to have about debt collection and their debts and how that information should be provided to them.

The Bureau is also working on a final rule to create a comprehensive set of protections for general purpose reloadable cards and other similar products, which are increasingly being used by consumers in place of traditional checking accounts or credit cards. The Bureau issued a proposed rule in November 2014, seeking to expressly bring prepaid products within the ambit of Regulation E (which implements the Electronic Fund Transfer Act) as prepaid accounts and to create new provisions specific to such accounts. The proposal would also amend Regulation E and Regulation Z (which implements the Truth in Lending Act) to regulate prepaid accounts with overdraft services or credit features.

The Bureau is also 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. The Bureau expects that its next larger participant rulemaking will focus on the markets for consumer installment loans and vehicle title loans for purposes of supervision. The Bureau is also considering whether rules to require registration of these or other non-depository lenders would facilitate supervision, as has been suggested to the Bureau by both consumer advocates and industry groups.

The Bureau is also continuing to develop research on other critical markets to help implement statutory directives and to assess whether regulation of other consumer financial products and services may be warranted. For example, the Bureau is starting its work to implement section 1071 of the Dodd-Frank Act, which amends the Equal Credit Opportunity Act to require financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau will focus on outreach and research to develop its understanding of the players, products, and practices in the small business lending market and of the potential ways to implement section 1071. The CFPB then 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.

Implementing Dodd-Frank Act Mortgage Protections

The Bureau is also continuing its 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. The Bureau has already issued regulations implementing Dodd-Frank Act protections for mortgage originations and servicing and integrating various federal mortgage disclosures as discussed further below.

The Bureau is also working to implement Dodd-Frank amendments to the Home Mortgage Disclosure Act (HMDA), which augment existing data reporting requirements regarding housing-related loans and applications for such loans. In addition to obtaining data that is critical to the purposes of HMDA—which include providing the public and public officials with information that can be used to help determine whether financial institutions are serving the housing needs of their communities, assisting public officials in the distribution of public sector investments, and assisting in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes—the Bureau views this rulemaking as an opportunity to streamline and modernize HMDA data collection and reporting, in furtherance of its mission under the Dodd-Frank Act to reduce unwarranted regulatory burden. The Bureau published a proposed HMDA rule in the **Federal Register** in August 2014, to add several new reporting requirements and to clarify several existing requirements. Publication of the proposal followed initial outreach efforts and the convening of 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. As part of the process for developing the HMDA final rule, the Bureau is reviewing and considering public comments on the proposed rule, consulting and coordinating with other agencies, conducting additional outreach to build and refine operational capacity, and preparing to assist financial institutions in their compliance efforts. The Bureau expects to issue a final rule in fall 2015.

Another major effort of the Bureau is the implementation of its final rule combining several federal mortgage 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 integrated forms are the cornerstone of the Bureau's broader ''Know Before You Owe'' mortgage initiative. The rule, in most cases, requires that two forms, the Loan Estimate and the Closing Disclosure, replace four different federal disclosures. These new forms will help consumers better understand their

options, choose the deal that is best for them, and avoid costly surprises at the closing table. The Bureau conducted extensive qualitative testing of the new forms prior to issuing a proposal, and also conducted a post-proposal quantitative study to validate the results of the new forms. The results of the quantitative testing showed that consumers of all different experience levels, with loans of different characteristics—whether focused on buying a home or refinancing—were able to understand the Bureau's new forms better than the current forms.

The final rule combining the federal mortgage disclosures under TILA and RESPA was issued in November 2013, and takes effect October 3, 2015. The Bureau has worked intensively to support implementation efforts, including consumer education initiatives. To facilitate implementation, the Bureau has released a small entity compliance guide, a guide to forms, a readiness guide, sample forms, and additional materials. The Bureau has conducted six free, publicly available webinars to answer common questions and hosted an additional webinar targeted at housing counselors. In January 2015, after extensive outreach to stakeholders, the Bureau adopted two minor modifications and technical amendments to the rule to smooth compliance for industry.[1] After discovering an administrative error in June 2015, the Bureau issued a proposal to extend the effective date from August 1, 2015 to October 3, 2015, and finalized the extension of the effective date on July 24, 2015. The Bureau expects to continue working to support implementation of the rule, monitor the market, and make clarifications and adjustments to the rule where warranted.

The Bureau also continues to work in support of the full implementation of, and to facilitate compliance with, various mortgage-related final rules issued by the Bureau in January 2013, to strengthen consumer protections involving the origination and servicing of mortgages. These rules, implementing requirements under the Dodd-Frank Act, were all effective by January 2014. The Bureau is working diligently to monitor the market and continues to make clarifications and adjustments to the rules where warranted. For example, in order to promote access to credit, the Bureau engaged in further research to assess the impact of certain provisions implemented under the Dodd-Frank Act that modify general requirements for small creditors that operate predominantly in ''rural or underserved'' areas and published a notice of proposed rulemaking in the **Federal Register** in February 2015. The Bureau anticipates issuing a final rule in September 2015.

The Bureau also published a proposal in the **Federal Register** in December 2014, to amend various provisions of its mortgage servicing rules in both Regulation X, which implements RESPA, and Regulation Z. The proposal included further clarification of the applicability of certain provisions when the borrower is in bankruptcy, possible additional enhancements to loss mitigation requirements, proposed applicability of certain provisions to successors in interest, and other topics. As the Bureau develops a final rule, it is reviewing and considering public comments on the proposed rule, consulting with other agencies, conducting consumer testing of certain disclosures, and preparing to support implementation and consumer education efforts. The Bureau expects to issue a final rule in late spring 2016.

Further, the Bureau continues to participate in a series of interagency rulemakings to implement various Dodd-Frank Act amendments to TILA and the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) relating to mortgage appraisals. In April 2015, in conjunction with 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 Board, and the Federal Housing Finance Agency, the Bureau issued a final rule adopting certain minimum requirements for appraisal management companies. These joint agency efforts are continuing with further efforts to implement amendments to FIRREA concerning required quality control standards for the use of automated valuation models.

Bureau Long-Term Planning Efforts

The Bureau has also updated its long-term agenda to reflect its expectations beyond fiscal year 2016. As noted in these items, the Bureau intends to explore potential rulemakings to address important issues related to consumer reporting and student loan servicing. The Bureau has also eliminated a listing for certain mortgage-related rulemakings inherited from other agencies pursuant to the transfer of rulemaking authority under the Dodd-Frank Act in 2011. The Bureau remains interested in the subjects of these rulemakings but anticipates that it would develop new proposals rather than finalizing notices that are at least five years old.

With regard to consumer reporting, the Bureau continues to monitor the credit reporting market through its supervisory, enforcement, and research efforts, and to consider prior research, including a white paper the Bureau published on the largest consumer reporting agencies in December 2012, and reports on credit report accuracy produced by the Federal Trade Commission pursuant to the Fair and Accurate Credit Transactions Act. As this work continues, the Bureau will evaluate possible policy responses to issues identified, including potential additional rules or amendments to existing rules governing consumer reporting. Potential topics for consideration might include the accuracy of credit reports, including the processes for resolving consumer disputes, or other issues.

Further, in May 2015, the CFPB issued a request for information seeking comment from the public regarding student loan servicing practices, including those related to payment processing, servicing transfers, complaint resolution, co-signer release, and procedures regarding alternative repayment and refinancing options. In September 2015, the CFPB released a report regarding student loan servicing practices, based, in part, on comments submitted in response to the request for information. The CFPB will also continue to monitor the student loan servicing market for trends and developments. As this work continues, the Bureau will evaluate possible policy responses, including potential rulemaking. Possible topics for consideration might include specific acts or practices and consumer disclosures.

The Bureau has continued 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 implementing 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. While the Bureau considers the modernizing and streamlining effort to be important, it has determined that aspects of the inherited proposals to amend Regulation Z have become stale with the passage of several years since their issuance. At this point, the Bureau believes that any rulemaking it may undertake in the areas the proposals addressed would be best achieved

[1] 80 FR 8767 (Feb. 19, 2015).

through fresh initiatives that would begin with new proposals based on new reviews of the relevant markets and other appropriate outreach and fact gathering, followed by fresh analyses of any policy and legal issues or concerns presented. The CFPB has been evaluating further action regarding these pending proposals and, at this time, has determined that it will take no further action. The Bureau is continuing to assess the mortgage market on an ongoing basis and will revisit the need to initiate new proposals at a later date.

The Bureau also has begun planning to conduct assessments of significant rules it has adopted, pursuant to section 1022(d) of the Dodd-Frank Act. That section requires the Bureau to conduct such assessments to address, among other relevant factors, the effectiveness of the rules in meeting the purposes and objectives of Title X of the Dodd-Frank Act and the specific goals of the rules assessed, to publish a report of each assessment not later than five years after the effective date of the subject rule, and to invite public comment on recommendations for modifying, expanding, or eliminating the subject rule before publishing each report. The Bureau will provide further information about its expectations for the lookback process as its planning continues.

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CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Statement of Regulatory Priorities

The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of death and injury associated with consumer products. To achieve this goal, among other things, the CPSC:

- Develops mandatory product safety standards or bans when other efforts are inadequate to address a safety hazard, or where required by statute;
- obtains repair, replacement, or refunds 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 statutory mandates.

Unless directed otherwise by congressional mandate, when deciding which of these approaches to take in any specific case, the CPSC gathers and analyzes data about the nature and extent of the risk presented by the product. The Commission's rules at 16 CFR 1009.8 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;
- probability of exposure to the hazard; and
- additional criteria that warrant Commission attention.

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 requirements specified in the standard.

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FEDERAL TRADE COMMISSION (FTC)

Statement of Regulatory and Deregulatory Priorities

I. Regulatory and Deregulatory Priorities

Background

The Federal Trade Commission (FTC or Commission) is an independent agency charged by its enabling statute, the Federal Trade Commission Act (FTC 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 FTC Act and other statutes. In addition, the Commission is also charged with the responsibility of issuing and enforcing regulations under a number of statutes. The Commission is responsible for enforcing 16 trade regulation rules promulgated pursuant to the FTC Act. Other examples include the regulations enforced pursuant to credit, financial and marketing practice 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

[1] For example, the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN–SPAM Act) (15 U.S.C. 7701–7713) and the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6101–6108).

[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. 6201 *et seq.* and the Energy Independence and Security Act of 2007 (EISA)).

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, preventing and mitigating identity theft, 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 2014 Regulatory Plan was published.

(a) Protecting Consumer Privacy. As the nation's top enforcer on the consumer privacy beat, the FTC works to ensure that consumers can take advantage of the benefits of a dynamic and ever-changing digital marketplace without compromising their privacy. The FTC achieves that goal through civil law enforcement, policy initiatives, and consumer and business education. For example, the FTC's unparalleled experience in consumer privacy enforcement has addressed practices offline, online, and in the mobile environment by large, well-known companies and lesser-known players alike.

Data security is an important focus of the Commission's privacy work. Since 2002, the FTC has brought 53 cases against companies that have engaged in unfair or deceptive practices that the Commission alleged put consumers' personal data at unreasonable risk. The agency has been actively monitoring the mobile marketplace to safeguard data privacy and security. For instance, Credit Karma, Inc., and Fandango, LLC, settled charges that they misrepresented the security of their mobile apps and put the sensitive personal information of millions of people at risk.[4] Despite their security promises, these companies allegedly failed to take reasonable steps to secure their mobile apps, leaving people's sensitive personal information vulnerable to attackers who could intercept any of the information the apps sent or received. In addition, Snapchat, Inc., settled charges that it deceived its users when it touted an app's ability to send ''snaps'' that would ''disappear forever'' after a set time.[5] Moreover, the company's alleged failure to secure its Find Friends feature led to a breach that enabled attackers to access usernames and phone numbers for millions of users. The settlement prohibits future misrepresentations and requires the implementation of a comprehensive privacy program.

The ''Start With Security'' initiative helps businesses protect consumers' information through new guidance for businesses that draw on the lessons learned in the more than 50 data security cases brought by the FTC through the years, as well as a series of conferences to be held across the country aimed at small- and medium-sized businesses in various industries, with the first event held on September 9, 2015, in San Francisco, CA, and the second one to be held in Austin, TX, on November 5, 2015. Aimed at start-ups and developers, the September event brought together experts to provide information on security by design, common security vulnerabilities, strategies for secure development, and vulnerability response. The Austin event will provide similar practical tips and guidance for the Austin start-up community.

The business guidance, titled ''Start with Security A Guide for Business,'' was published mid-2015 and lays out ten key steps to effective data security, drawn from the alleged facts in the FTC's data security cases.[6] The document is designed to provide an easy way for companies to understand the lessons learned from those previous cases. It includes references to the cases, as well as plain-language explanations of the security principles at play. In addition to the new guidance, the FTC has also introduced a one-stop Web site that consolidates the Commission's data security information for businesses. It can be found at *www.ftc.gov/datasecurity*.

On January 27, 2015, the staff of the Commission released a report titled ''Internet of Things Privacy & Security in a Connected World'' [7] that recommended a series of concrete steps that businesses can take to enhance and protect consumers' privacy and security, as Americans start to reap the benefits from a growing world of Internet-connected devices. The Internet of Things universe is expanding quickly, and there are now over 25 billion connected devices in use worldwide, with that number set to rise significantly as consumer goods companies, auto manufacturers, healthcare providers, and other businesses continue to invest in connected devices, according to data cited in the report. In addition to the report, the FTC also released a new publication for businesses containing advice about how to build security into products connected to the Internet of Things. ''Careful Connections: Building Security in the Internet of Things'' encourages companies to implement a risk-based approach and take advantage of best practices developed by security experts, such as using strong encryption and proper authentication.[8]

(b) Protecting Children. Children increasingly use the Internet for entertainment, information and schoolwork. The FTC enforces the Children's Online Privacy Protection Act (COPPA) and the COPPA Rule to 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. For example, the FTC charged online review site Yelp Inc., and mobile app developer TinyCo, Inc., with improperly collecting children's information in violation of the COPPA Rule.[9] The FTC alleged that Yelp failed to implement a functional age-screen in its apps, which allowed children under 13 to register for the service, despite having an age-screen mechanism on its Web site. The Commission also alleged that many of TinyCo's apps, which used themes appealing to children, brightly colored animated characters, and simple language, were in fact directed at children under 13; TinyCo therefore was required to comply with the COPPA Rule when collecting children's information, such as email addresses. To resolve the Commission's allegations, Yelp paid $450,000 and TinyCo paid $300,000 in civil penalties.

[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] *In the Matter of Credit Karma,* Docket No. C–4480, Decision and Order, August 13, 2014; *In the Matter of Fandango,* Docket No. C–4481, Decision and Order, August 13, 2014.

[5] *In the Matter of Snapchat,* Docket No. C–4501, Decision and Order, December 23, 2014.

[6] The publication can be found at *https://www.ftc.gov/system/files/documents/plain-language/pdf0205-startwithsecurity.pdf.*

[7] *See* ''Internet of Things Privacy & Security in a Connected World FTC Staff Report (January 2015)'' at *https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-staff-report-november-2013-workshop-entitled-internet-things-privacy/150127iotrpt.pdf.*

[8] *See* ''Careful Connections: Building Security in the Internet of Things'' at *https://www.ftc.gov/system/files/documents/plain-language/pdf0199-carefulconnections-buildingsecurityinternetofthings.pdf.*

[9] *United States of America (on behalf of the FTC),* v. *Yelp Inc.,* No. 3:14–cv–04163 (N.D. CA.) (Stipulated Order For Permanent Injunction And Civil Penalty Judgment) (September 16, 2014); *United States of America (on behalf of the FTC),* v. *TinyCo, Inc.,* No: 3:14–cv–04164 (N.D. CA.) (Stipulated Order For Permanent Injunction And Civil Penalty Judgment) (September 16, 2014).

The Commission is actively litigating to protect children and their parents when children use mobile apps that appeal to children and offer virtual goods for sale. On August 1, 2014, the FTC filed a court complaint alleging that Amazon.com, Inc. billed parents and other account holders for millions of dollars in unauthorized in-app charges incurred by children.[10] Amazon offers many children's apps in its app store for download to mobile devices such as the Kindle Fire. The lawsuit seeks a court order requiring refunds to consumers for the unauthorized charges and permanently banning the company from billing parents and other account holders for in-app charges without their consent. This is the FTC's third case relating to children's in-app purchases; Apple and Google both settled FTC complaints concerning the issue in 2014.[11]

(c) Protecting Seniors. The Commission works vigilantly to fight telephone scams that harm millions of Americans. The agency has aggressively used law enforcement tools [12] as well as efforts to educate consumers about these scams and to find technological solutions that will make it more difficult for scammers to operate and hide from law enforcement. FTC education and outreach programs reach tens of millions of people every year. Among them is the ''Pass It On'' program that provides seniors with information, in English and Spanish, on a variety of scams targeting the elderly.[13] The agency also works with the Elder Justice Coordinating Council to help protect seniors and with the AARP Foundation, whose peer counselors provided fraud-avoidance advice last year to more than a thousand seniors who had filed complaints with the FTC about certain frauds, including lottery, prize promotion, and grandparent scams. The Commission is also promoting initiatives to make it harder for scammers to fake or ''spoof'' their caller Identification information and the more widespread availability of technology that will block calls from fraudsters, essentially operating as a spam filter for the telephone.

(d) Protecting Financially Distressed Consumers. Even as the economy recovers, some consumers continue to face financial challenges. The FTC acts to ensure that consumers are protected from deceptive and unfair credit practices and get the information they need to make informed financial choices. The Commission has continued its enforcement efforts by bringing law enforcement actions to curb deceptive and unfair practices in mortgage rescue, debt relief, auto financing and debt collection.

In June 2015, the Commission initiated a series of Debt Collection Dialogue hearings, with the first one in Buffalo co-hosted by the New York Attorney General's Office. The Buffalo event drew nearly 200 participants, most of them collection industry members. The second hearing was held on September 29, 2015, in Dallas, Texas. On November 18, 2015, the Commission plans to co-host the Atlanta event with the Georgia Attorney General's Office. At each event, the FTC and its state and federal law enforcement partners will discuss recent enforcement actions, consumer complaints about debt collection practices, and compliance issues. The speakers will welcome questions and comments from collection industry members and others who attend.

(e) Fighting Identity Theft. The issue of identity theft has been the top consumer complaint reported to the FTC for the past 15 years, and in 2014, the Commission received more than 330,000 complaints from consumers who were victims of identity theft. On May 14, 2015, the FTC launched *IdentityTheft.gov*, a new resource that makes it easier for identity theft victims to report and recover from identity theft. A Spanish version of the site is also available at *www.RobodeIdentidad.gov*. The new Web site provides an interactive checklist that walks people through the recovery process and helps them understand which recovery steps should be taken upon learning their identity has been stolen. It also provides sample letters and other helpful resources. In addition, the site offers specialized tips for specific forms of identity theft, including tax-related and medical identity theft. The site also has advice for people who have been notified that their personal information was exposed in a data breach.

Tax identity theft is increasingly a growing share of identity theft-related complaints. In January 2015, the FTC sponsored a Tax Identity Theft Awareness Week including, hosting a webinar, bilingual Twitter chats, and several Tax Identity Theft Awareness Week events across the country to raise awareness about tax identity theft and give people tips about how to respond to it. The FTC's Tax Identity Theft Awareness Week Web site [14] provided material for regional events held in the states with the highest reported rates of identity theft.

(f) Ensuring Consumers Benefit From New Technologies While Also Protecting Them.

• *Mobile Cramming.* The widespread adoption of mobile devices has provided many important benefits to consumers, including the convenience of paying for goods and services using a mobile phone. The Commission continues to prosecute crammers—third parties that place unwanted charges on consumers' phone bills—and this past year focused its attention on the role played by mobile carriers. AT&T Mobility, LLC and T-Mobile USA, Inc. agreed to pay $80 million and at least $90 million, respectively, to settle claims that they charged customers hundreds of millions of dollars for third-party subscriptions (such as ringtones and text messages) and pocketed a significant percentage of the charges.[15]

• *Cross Device Tracking.* The Commission will host a workshop on Nov. 16, 2015, to examine the privacy issues around the tracking of consumers' activities across their different information technology devices for advertising and marketing purposes, a practice known as ''cross-device tracking.'' As consumers use an increasingly diverse array of devices, from smart phones to tablets to wearable devices, they interact with platforms, applications, software and publishers in ways that were impossible to conceive even just a few years ago. The workshop will explore a number of questions about the potential benefits to consumers of effective cross-device tracking and examine the potential privacy and security risks.

(g) Promoting Competition in Health Care. The FTC continues to work to eliminate anticompetitive settlements featuring payments by branded drug firms to generic competitors to keep generic drugs off the market (so-called,

[10] *FTC* v. *Amazon.com, Inc.,* No. 2:14–cv–01038 (W.D. Wash.) (Complaint For Permanent Injunction And Other Equitable Relief filed on July 10, 2014) (Order Adopting Stipulated Protective Order entered January 12, 2015).

[11] *In the Matter of Apple Inc.,* Docket No. C–4444, Decision and Order, March 25, 2014; *In the Matter of Google Inc.,* Docket No. 122 3237, Proposed Agreement Containing Consent Order, September 4, 2014.

[12] The FTC has brought approximately 180 cases involving telemarketing fraud against more than 1100 defendants during the past decade.

[13] *See* Pass It On at *http://www.consumer.ftc.gov/features/feature-0030-pass-it-on#identity-theft.*

[14] See *http://www.consumer.ftc.gov/features/feature-0029-tax-identity-theft-awareness-week.*

[15] *Federal Trade Commission* v. *AT&T Mobility, LLC,* No. 1:14–cv–03227–HLM (N.D. Ga.) (Stipulated Order for Permanent Injunction and Monetary Judgment filed October 8, 2014); *Federal Trade Commission* v. *T-Mobile USA, Inc.,* No. 2:14–cv–0097–JLR (W.D. Wa.) (Stipulated Order for Permanent Injunction and Monetary Judgment filed December 22, 2014).

''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 shares in the monopoly profits preserved by avoiding competition. In a significant victory 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 under an antitrust ''rule of reason'' analysis. *FTC* v. *Actavis, Inc.,* 570 U.S. 756 (2013). Then, on June 17, 2015, the U.S. District Court for the Eastern District of Pennsylvania approved the Federal Trade Commission's record-setting $1.2 billion settlement with Cephalon Inc., which also prohibits Cephalon and the world's largest generic manufacturer, Teva Pharmaceutical Industries Ltd., which acquired Cephalon in 2012, from entering into most kinds of pay-for-delay deals. The underlying case against Cephalon involved paying four generic drug makers to hold off on launching their own version of the narcolepsy treatment drug Provigil.[16]

The FTC now has two active pay-for-delay litigations underway in federal courts. Both of them involve the blockbuster male testosterone replacement drug Androgel, including the *Actavis* case on remand to the U.S. District Court for the Northern District of Georgia and *FTC* v. *AbbVie, Inc.,* in the U.S. District Court for the Eastern District of Pennsylvania.[17]

Another key Commission enforcement priority is preventing mergers that would give health care providers leverage to raise rates charged to commercial health care plans for vital services. The Commission obtained a significant victory for consumers when the Ninth Circuit Court of Appeals upheld a lower court ruling that the combination of the two largest providers of adult primary care physician services in the Nampa, Idaho area would substantially reduce competition.[18] The decision upheld a district court decision, following an 18-day trial, that the St. Luke's Hospital/Saltzer Group merger violated the antitrust laws because it increased St. Luke's ability to demand higher reimbursement rates for its affiliated doctors from commercial health plans without offering benefits that could not be achieved in ways with less of an impact on competition. Moreover, in April 2014, in the first appellate decision in a health care provider merger in 15 years, the U.S. Court of Appeals for the Sixth Circuit upheld the Commission's 2012 decision finding that ProMedica Health System, Inc.'s acquisition of a rival, St. Luke's Hospital in the Toledo, Ohio area, violated the antitrust laws. The Commission's order requires ProMedica to divest St. Luke's Hospital to an FTC-approved buyer.

(h) Promoting Competition in FoodService Distribution Industry. Following a June 23, 2015 ruling by the U.S. District Court for the District of Columbia granting the Federal Trade Commission's request for a preliminary injunction, Sysco and US Foods abandoned their proposed merger, and the Commission dismissed its related administrative complaint.[19] FTC Chairwoman Ramirez commented, ''This proposed merger between the country's two largest foodservice distributors would have likely increased prices paid by restaurants, hotels, cafeterias, and hospitals across the country for food products and related services, and ultimately the prices paid by people eating at those establishments. The FTC is committed to maintaining vigorous competition in markets like this one that directly impact prices consumers pay for everyday purchases.''

(i) State Professional Boards. The FTC works to promote competition across the economy and advocates on behalf of Americans to help prevent occupational licensing requirements, which now govern a significant and growing segment of the economy, from unduly suppressing pro-consumer competition. On February 25, 2015, the Supreme Court affirmed the Commission's position in *North Carolina State Board of Dental Examiners* v. *Federal Trade Commission,* 135 S. Ct. 1101 (2015), by ruling that a state may not give private market participants unsupervised authority to suppress competition even if they act through a formally designated ''state agency.'' In this case, the North Carolina dental board's members, primarily dentists, were drawn from the very occupation they regulate, and they barred non-dentists from offering competing teeth whitening services to consumers. The Court's decision makes clear that state agencies constituted in this manner are subject to the federal antitrust laws unless the state's political processes explicitly authorize and supervise market-related activities by the state agencies.

(j) 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 is currently using its authority under Section 6(b) of the Federal Trade Commission Act to explore the impact of patent assertion entity (PAE) activities. Last year, the FTC received authority from the Office of Management and Budget to issue compulsory process orders to PAEs and other industry participants to develop a better understanding of PAE business models. The FTC currently is analyzing data received from respondents, and plans to issue a report summarizing its findings.

(k) Advertising for Homeopathic Products. The Commission hosted a public workshop on September 21, 2015, that examined advertising for over-the-counter (OTC) homeopathic products. During the last few decades, the homeopathic drug industry in the United States has grown considerably from a multimillion-dollar to a multibillion-dollar market. In that time, the homeopathic drug market has shifted from one based primarily on formulations prescribed for an individual user to mass-market formulations widely advertised and sold nationwide in major retail stores. Because of rapid growth in the marketing and consumer use of homeopathic products, the FTC hosted the workshop to evaluate the advertising for such products. The workshop brought together a variety of stakeholders, including medical professionals, industry representatives, consumer advocates, and government regulators.

(l) Alcohol Advertising. The Commission continues to support and monitor industry self-regulation of

[16] *FTC* v. *Cephalon, Inc.,* No. 2:08–CV–02141 (E.D. Pa.) (Stipulated Order for Permanent Injunction and Equitable Monetary Relief filed June 17, 2015).

[17] *FTC* v. *AbbVie, Inc.,* No. 2:14–cv–05151–RK (E.D. Pa.) (Complaint for Injunctive and Other Equitable Relief filed on September 8, 2014).

[18] *Saint Alphonsus Medical Center—Nampa, Inc., et al.* v. *St. Luke's Health System, Ltd.*, No. 1:12–CV–00560–BLW; *FTC and State of Idaho* v. *St. Luke's Health System, Ltd. and Saltzer Medical Group, P.A.,* No. 1:13–CV–00116–BLW, *aff'd.* 778 F.3d 775 (9th Cir. 2015).

[19] *FTC* v. *Sysco, USF Holding Corp., and US Foods, Inc.,* No. 1:15–cv–00256 (D.D.C.) (Memorandum Opinion of United States District Judge Amit P. Mehta Concluding That the Commission Is Likely To Prove That the Proposed Acquisition Violates Section 7 of the Clayton Act filed June 29, 2015).

alcohol marketing to reduce underage targeting. During the Spring of 2014, the FTC released its fourth and most recent report on self-regulation in the alcohol industry, which set out recommendations to further limit alcohol marketing to minors.[20] The Commission also continues to promote the ''We Don't Serve Teens'' consumer education program, supporting the legal drinking age.[21]

(m) Energy Prices. Few issues are more important to consumers and businesses than the prices they pay for gasoline to run their vehicles and energy to heat and light their homes and businesses. Given the impact of energy prices on consumer budgets, the energy sector continues to be a major focus of FTC law enforcement and study. Accordingly, the FTC works to maintain competition in energy industries, invoking all the powers at its disposal—including monitoring industry activities, investigating possible antitrust violations, prosecuting cases, and conducting studies—to protect consumers from anticompetitive conduct in the industry.[22] For example, the Commission recently challenged a proposed acquisition involving two energy companies supplying gasoline in Hawaii. In an administrative complaint issued with a negotiated settlement of charges, the Commission alleged that Par Petroleum's acquisition of Mid Pac Petroleum would likely have substantially lessened competition in the bulk supply of Hawaii-grade gasoline blendstock—which is gasoline before it is blended with ethanol to make finished gasoline.[23] In view of the fundamental importance of oil, natural gas, and other energy resources to the overall vitality of the United States and world economy, we expect that FTC review and oversight of the oil and natural gas industries will remain a centerpiece of our work for years to come.

(n) Remedy Study. The FTC is studying the effectiveness of the Commission's orders in merger cases where it required a divestiture or other remedy. The study will update and expand on the divestiture study the FTC issued in 1999. The new study, which was cleared by the Office of Management and Budget on August 12, 2015, will focus on 90 merger orders issued by the Commission between 2006 and 2012.[24]

(o) Protecting Consumers from Cross-Border Harm. The FTC continues to develop international enforcement cooperation to combat cross-border consumer fraud. The agency has used its statutory authority under the U.S. SAFE WEB Act and complementary tools to share evidence and provide investigative assistance. The agency also continues to participate actively in the International Consumer Protection and Enforcement Network (ICPEN), acting as the network Secretariat and working with foreign counterparts on *www.econsumer.gov*, a Web site in eight languages for filing international consumer complaints. The FTC has expanded its international complaints reporting to include worldwide data by region, and is working to share more such information with foreign law enforcement counterparts. In addition, FTC staff cooperates with foreign criminal enforcers through the International Mass Marketing Fraud Working Group, and with spam and cybercrime enforcers through the ''London Action Plan'' network.

The FTC also continues to advocate for global interoperability and strong privacy enforcement. The agency has brought at least 39 enforcement actionsto support the U.S.-EU Safe Harbor Framework (''Safe Harbor'') for cross-border data transfers. In light of the European Court of Justice's October 6, 2015 decision regarding Safe Harbor, the Commission will continue to work together with the U.S. Department of Commerce and European authorities to develop effective solutions that protect consumer privacy with respect to cross-border data transfers. The agency also continues to strengthen enforcement ties with foreign privacy counterparts. The FTC pursues these relationships both bilaterally, this year for example signing a Memorandum of Understanding with the Dutch data protection authority, and multilaterally, through networks like the Global Privacy Enforcement Network (GPEN) and GPEN Alert.[25]

The FTC strives to promote sound approaches to common issues by building relationships with sister agencies around the world. With over 130 jurisdictions enforcing competition laws, the FTC continues to lead efforts to develop strong mutual enforcement cooperation and sound policy internationally. For example, the FTC co-leads the International Competition Network's (ICN) Agency Effectiveness Working Group and its investigative process initiative. This project resulted in the ICN's adoption of Guidance on Investigative Process, which is the most comprehensive agency-led effort to date to articulate guidance on investigative principles and practices that promote procedural fairness and effective enforcement in the areas of transparency, meaningful engagement with parties, and confidentiality in antitrust investigations, The FTC also was a key drafter of the recently adopted Recommendation of the Organization for Economic Cooperation and Development (OECD) on international cooperation in competition investigations.

In fiscal year 2014, the Commission coordinated with antitrust agencies in 37 investigations, and it is on target to surpass that number in 2015. This included transactions such as Medtronic's acquisition of Covidien, in which we worked with antitrust agencies in multiple jurisdictions, including Canada, China, the European Union, Japan, and Mexico, to reach consistent results.[26] The FTC also participated in the U.S.-China Joint Committee on Commerce and Trade and Strategic and Economic Dialogue teams that recently negotiated commitments with China, including with regard to procedural fairness in anti-monopoly law proceedings. The FTC also played an active role in the Trans-Pacific Partnership and Transatlantic Trade and Investment Partnership agreement that was reached on October 5, 2015 after five years of negotiations.

(p) 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

[20] *See* Self-Regulation in the Alcohol Industry (March 2014), *available at http://www.ftc.gov/system/files/documents/reports/self-regulation-alcohol-industry-report-federal-trade-commission/140320alcoholreport.pdf.*

[21] More information can be found at *http://www.dontserveteens.gov/.*

[22] Information regarding FTC oil and gas industry initiatives is available at *https://www.ftc.gov/tips-advice/competition-guidance/industry-guidance/oil-and-gas.*

[23] *Par Petroleum Corp.,* FTC File No. 1410171 (F.T.C. Mar. 18, 2015) (proposed consent order), available at *https://www.ftc.gov/enforcement/cases-proceedings/141-0171/par-petroleum-mid-pac-petroleum.*

[24] For more information, see the Remedy Study weblink at *https://www.ftc.gov/policy/studies/remedy-study.*

[25] See October 26, 2015 press release titled ''FTC and Seven International Partners Launch New Initiative to Boost Cooperation in Protecting Consumer Privacy,'' at *https://www.ftc.gov/news-events/press-releases/2015/10/ftc-seven-international-partners-launch-new-initiative-boost.*

[26] See press release ''FTC Puts Conditions on Medtronic's Proposed Acquisition of Covidien'' dated November 26, 2014, at *https://www.ftc.gov/news-events/press-releases/2014/11/ftc-puts-conditions-medtronics-proposed-acquisition-covidien.*

Funeral Rule, 16 CFR 453, so that they can meet the rule's disclosure requirements. More than 485 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 2014 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 regulations relating to the Fair Credit Reporting Act.

FACTA Section 215 Study on Homeowners Insurance and Credit Scores. On March 27, 2009, the Commission issued 6(b) 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 FACTA. During the summer and fall of 2009, these nine insurers submitted responses to the Commission's requests. FTC staff examined the large policy-level and quote-level data files included in these submissions (containing millions of policies and quotes) and selected a sample for the study. The insurance companies then worked with their vendor to ensure the security of delivering the sample's personally identifiable information (PII) data set to the FTC's own and separate vendor of credit history information. That data was sent to the FTC's vendor, which then sent the credit history data for the sample, stripped of any PII, to the FTC. The FTC's vendor also sent PII data to the Social Security Administration, which in November 2014 provided the FTC with race and ethnicity data for the sample, which is essential for the Report. FTC Bureau of Economics staff expects to have a final draft of the Report ready to circulate to the Commission by the end of the 2015 calendar year. This study is not affected by the Consumer Financial Protection Act.

FACTA Section 319 Study on Improving Accuracy of Consumer Credit Reports. 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. In January 2015, the Commission issued the sixth and final report; a follow-up study of the credit report accuracy study issued by the FTC in 2012 that examined how many consumers had errors on at least one of three nationwide credit reports. The follow-up study issued in 2015 found that 37 percent of the follow-up study participants who originally disputed errors now accepted the disputed information as correct. The remaining participants believed the disputed information was still incorrect and half of those consumers planned to continue their dispute with the appropriate credit reporting agency. The final study recommends that credit reporting agencies (CRAs) review and improve the process they use to notify consumers about the results of dispute investigations, and that CRAs continue to explore efforts to educate consumers regarding their rights to review their credit reports and dispute inaccurate information.

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 are 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 or 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 long-standing 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 more than 15 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 (80 FR 5713, Feb. 3, 2015) during 2015:

(1) Contact Lens Rule, 16 CFR 315,

(2) Ophthalmic Practice Rules, 16 CFR 456, and

(3) Preservation of Consumers' Claims and Defenses Rule (Holder in Due Course Rule) 16 CFR 433, and during 2016:

(4) Standards for Safeguarding Customer Information, 16 CFR 314,

(5) CAN–SPAM Rule, 16 CFR 316,

(6) Labeling and Advertising of Home Insulation, 16 CFR 460, and

(7) Disposal of Consumer Report Information and Records, 16 CFR 682.

As set out below under *Ongoing Rule and Guide Reviews,* the Commission recently initiated reviews of the Hobby Rules, 16 CFR 304, the Telemarketing Sales Rule (TSR), 16 CFR 308, the Contact Lens Rule, 16 CFR 315, and the Eyeglass Rule, 16 CFR 456.

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 (or HSR Rules), 16 CFR 801–803. The Premerger Office is considering amendments to the Instructions to the HSR Form to update information related to NAICS (North American Industry Classification System) codes and recent rule changes and to allow the submission of filings on electronic media. The proposed amendments may be issued during the fourth quarter of 2015. The Premerger Office is also considering amendments to the HSR Rules regarding standards for the valuation of potentially reportable transactions. The proposed amendments may be issued during the second quarter of 2016.

Fuel Rating Rule, 16 CFR 306. First issued in 1979, the Fuel Rating Rule (or Automotive Fuel Ratings, Certification and Posting Rule) enables consumers to buy gasoline with an appropriate octane rating for their vehicle and establishes standard procedures for determining, certifying, and posting octane ratings. On March 27, 2014, the Commission proposed amendments to the Rule that would adopt and revise rating, certification, and labeling requirements for blends of gasoline with more than 10 percent ethanol and would allow an alternative octane rating method that would lower compliance costs. 79 FR 18850. The comment period closed on July 2, 2014. In the middle of November 2015, the Commission announced final rule amendments that require entities rate and certify all ethanol fuels to provide useful information to consumers about ethanol concentration and suitability for their cars and engines. Responding to the comments, the final amendments provide greater flexibility for businesses to comply with the ethanol labeling requirements, and do not adopt the alternative octane rating method proposed in the 2014 Notice of Proposed Rulemaking. **Federal Register** publication is expected by December 2015.

Energy Labeling Rule, 16 CFR 305. The Energy Labeling Rule is officially known as the Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act. On November 2, 2015, the Commission issued proposed amendments to the Rule to create requirements related to a new label database on the Department of Energy's Web site, redesign ceiling fan labels, improve and update the comparability ranges for refrigerator labels, revise central air conditioner labels in response to new Department of Energy enforcement requirements, improve water heater labels, and update current plumbing disclosures. 80 FR 67351. The comment period will close on January 11, 2016.[27]

Telemarketing Sales Rule (TSR), 16 CFR 308. Anti-Fraud Provisions—On May 21, 2013, the Commission proposed ''Anti-Fraud'' amendments to the TSR concerning, among other things, the misuse of novel payment methods by telemarketers and sellers. 78 FR 41200 (July 9, 2013). After a short extension, the comment period closed on August 8, 2013. In the middle of November 2015, the Commission announced a final rule action containing ''Anti-Fraud'' amendments. **Federal Register** publication is anticipated by December 2015.

Periodic Rule Review—On August 11, 2014, the Commission initiated periodic review of the TSR as set out on the 10-year review schedule. 79 FR 46732. The comment period as extended closed on November 13, 2014. 79 FR 61267 (Oct. 10, 2014). Staff anticipates making a recommendation to the Commission by the end of 2015.

Privacy Rule, 16 CFR 313. The Privacy Rule or Privacy of Consumer Financial Information Rule requires among other things that certain motor vehicle dealers provide an annual disclosure of their privacy policies to their customers by hand delivery, mail, electronic delivery, or through a Web site, but only with the consent of the consumer. On June 24, 2015, the Commission proposed amending the Rule to allow motor vehicle dealers instead to notify their customers that a privacy policy is available on their Web site, under certain circumstances. 80 FR 36267. The proposed amendment would also revise the scope and definitions in the Rule in light of the transfer of part of the Commission's rulemaking authority to the Consumer Financial Protection Bureau in the Dodd-Frank Wall Street Reform and Consumer Protection Act. The comment period closed on August 31, 2015. Staff anticipates that the Commission will issue a final rule amendment by early 2016.

Hobby Rules, 16 CFR 304. As part of the systematic rule review process, on July 14, 2014, the Commission requested public comments on, among other things, the economic impact and benefits of the Hobby Rules (Rules and Regulations under the Hobby Protection Act); possible conflict between the Rules and State, local, or other Federal laws or regulations; and the effect on the Rules of any technological, economic, or other industry changes. 79 FR 40691. The comment period closed on September 22, 2014. The Hobby Protection Act, 16 U.S.C. 2101–2106, prohibits manufacturing or importing imitation numismatic and collectible political items unless they are marked in accordance with regulations prescribed by the Federal Trade Commission. The implementing Rules prescribe that imitation political items—such as buttons, posters or coffee mugs—must be marked with the calendar year in which they were manufactured, and imitation numismatic items—including coins, tokens and paper money—must be marked with the word ''copy.'' Staff anticipates sending a recommendation to the Commission by early 2016.

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

[27] See *Final Actions* below for information about a separate completed rulemaking proceeding for the Energy Labeling Rule.

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.'' 77 FR 58338. On March 28, 2014, the Commission hosted a public roundtable in Washington, DC, that analyzed proposed changes to the Rule. Staff anticipates forwarding a recommendation to the Commission by fall 2015.

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. The Commission issued a Supplemental NPRM on November 28, 2014. 79 FR 70804. Staff anticipates forwarding a recommendation to the Commission by the end of 2015.

Contact Lens Rule, 16 CFR 315, and Eyeglass Rule, 16 CFR 456: As part of the systematic rule review process, on September 3, 2015, the Commission issued **Federal Register** notices seeking public comments about the Contact Lens Rule and the Eyeglass Rule (or Trade Regulation Rule on Ophthalmic Practice Rules). 80 FR 53272 (Contact Lens Rule) and 80 FR 53274 (Eyeglass Rule). The comment period extended until October 26, 2015. The Contact Lens Rule requires contact lens prescribers to provide prescriptions to their patients upon the completion of a contact lens fitting, and verify contact lens prescriptions to contact lens sellers authorized by consumers to seek such verification. Sellers may provide contact lenses only in accordance with a valid prescription that is directly presented to the seller or verified with the prescriber. The Eyeglass Rule requires that an optometrist or ophthalmologist must give the patient, at no extra cost, a copy of the eyeglass prescription immediately after the examination is completed. The Rule also prohibits optometrists and ophthalmologists from conditioning the availability of an eye examination, as defined by the Rule, on a requirement that the patient agrees to purchase ophthalmic goods from the optometrist or ophthalmologist.

Safeguards Rule (or Standards for Safeguarding Customer Information), 16 CFR 314: In 2016, the Commission plans to initiate periodic review of the Safeguards Rule as part of its ongoing systematic review of all rules and guides. The Safeguards Rule, as directed by the Gramm-Leach-Bliley Act (GLB), requires each financial institution to develop a written information security program that is appropriate to its size and complexity, the nature and scope of its activities, and the sensitivity of the customer information at issue.

(b) Guides

Jewelry Guides, 16 CFR 23. The Commission sought public comments on its Guides for the Jewelry, Precious Metals, and Pewter Industries, which are 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. The Commission is currently considering a staff recommendation and expects to take further action by early 2016.

Final Actions

Since the publication of the 2014 Regulatory Plan, the Commission has issued the following final rules or taken other actions to close other rulemaking proceedings.

The Fair Packaging and Labeling Act (FPLA) Rules, 16 CFR 500–502. In November 2015, the Commission concluded its periodic review of the FLPA Rules and issued final rule amendments that modernized the place-of-business listing requirement to incorporate online resources, eliminated obsolete references to commodities advertised using the terms ''cents off,'' ''introductory offer'' and ''economy size,'' and incorporated a more comprehensive metric chart. [Rule Review and Request for Comments. 79 FR 15272 (Mar. 19, 2014)] [NPRM, 80 FR 5491 (Feb. 2, 2015)]. The changes are effective 30 days after the date of publication in the **Federal Register**. The FPLA requires consumer commodities to be marked with statements of: (1) Identity; (2) net quantity of contents; and (3) name and place of the business of manufacturer, packer, or distributor. These requirements serve FPLA's stated purpose of ''enabling consumers to obtain accurate information as to the quantity of the contents and . . . to facilitate value comparisons.''

Consumer Warranty Rules, 16 CFR 701–703. On July 20, 2015, the Commission concluded its review of the Interpretations, Rules, and Guides under the Magnuson-Moss Warranty Act and announced it would keep the Rules and Guides in their present form (Rules at 16 CFR 701–703; Guides at 16 CFR 239) while modifying the Interpretations in 16 CFR 700.10 and 700.11(a). See 80 FR 42710 (Final Rule) (July 20, 2015); 76 FR 52596 (Rule Review; Request for Comments) (Aug. 23, 2011). The Commission revised Part 700.10 of the Interpretations to clarify that implied tying—warranty language that implies to a consumer that warranty coverage is conditioned on the use of select parts or service—is deceptive. It also revised Part 700.10 to state that, to the extent that the Warranty Act's service contract provisions apply to the insurance business, they are effective if they do not interfere with state laws regulating the business of insurance. For more background, the Rule Governing the Disclosure of Written Consumer Product Warranty Terms and Conditions, 16 CFR 701 (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 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), 16 CFR 703 (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. The review also included the related Guides for the Advertising of Warranties and Guarantees, 16 CFR 239, and the Interpretations of Magnuson-Moss Warranty Act, 16 CFR 700.

Cooling Off Rule, 16 CFR 429: On January 9, 2015, the Commission amended the Cooling-Off Rule (or Trade Regulation Rule Concerning Cooling Off Period for Sales Made at Homes or at Certain Other Locations), by increasing the exclusionary limit for all door-to-door sales at locations other than a buyer's residence from $25 up to $130. Under the final rule, the revised definition of door-to-door sale distinguishes between sales at a buyer's residence and those at other locations. The revised definition retains coverage for sales made at a buyer's residence that have a purchase price of $25 or more. 80 FR 1329 (Jan. 9, 2015). The final rule amendment was effective on March 13, 2015.

The Unavailability Rule, 16 CFR 424: On November 19, 2014, the Commission announced the completion of its review of the Unavailability Rule (or Rule on Retail Food Store Advertising and Marketing Practices) and the retention of the Rule in its current form. [Final Rule, 79 FR 70053 (Nov. 25, 2014); ANPRM, 76 FR 51308 (Aug. 12, 2011)]. The Unavailability Rule states that it is a violation of Section 5 of the Federal Trade Commission Act for retail stores of food, groceries, or other merchandise to advertise products for sale at a stated price if those stores do not have the advertised products in stock and readily available to customers during the effective period of the advertisement, unless the advertisement clearly discloses that supplies of the advertised products are limited or are available only at some outlets.

Energy Labeling Rule, 16 CFR 305: On December 29, 2014, the Commission issued a final rule updating label requirements for heating and cooling equipment and removed information from furnace labels about regional conservation standards. 79 FR 77868. The amendments were effective on April 6, 2015.[28] On November 2, 2015, the Commission issued final rule amendments to expand coverage of the Lighting Facts label, require room air conditioner labels on packaging instead of the units themselves, enhance the durability of appliance labels, and improve plumbing disclosure requirements. 80 FR 67285. This action completed the Commission's recent regulatory review of the Energy Labeling Rule.

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.[29] The Commission has no proposed rules that would have significant international impacts under the definition in Executive Order 13609. Also, there are no international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations under Executive Order 13609.

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[28] *See Ongoing Rule and Guide Reviews* for information about a separate ongoing rulemaking proceeding for the Energy Labeling Rule.

[29] Section 3(f) of Executive Order 12866 defines a regulatory action to be ''significant'' if it is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

NATIONAL INDIAN GAMING COMMISSION (NIGC)

Statement of Regulatory Priorities

In 1988, Congress adopted the Indian Gaming Regulatory Act (IGRA) (Pub. L. 100–497, 102 Stat. 2475) with a primary purpose of providing ''a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.'' IGRA established the National Indian Gaming Commission (NIGC or the Commission) to protect such gaming, amongst other things, as a means of generating tribal revenue.

At its core, Indian gaming is a function of sovereignty exercised by tribal governments. In addition, the Federal government maintains a government-to-government relationship with the tribes—a responsibility of the NIGC. Thus, while the Agency is committed to strong regulation of Indian gaming, the Commission is equally committed to strengthening government-to-government relations by engaging in meaningful consultation with tribes to fulfill IGRA's intent. The NIGC's vision is to adhere to principles of good government, including transparency to promote agency accountability and fiscal responsibility, to operate consistently to ensure fairness and clarity in the administration of IGRA, and to respect the responsibilities of each sovereign in order to fully promote tribal economic development, self-sufficiency, and strong tribal governments. The NIGC is fully committed to working with tribes to ensure the integrity of the industry by exercising its regulatory responsibilities

through technical assistance, compliance, and enforcement activities.

Retrospective Review of Existing Regulations

As an independent regulatory agency, the NIGC has been performing a retrospective review of its existing regulations well before Executive Order 13579 was issued on July 11, 2011. The NIGC, however, recognizes the importance of Executive Order 13579 and its regulatory review is being conducted in the spirit of Executive Order 13579, to identify those regulations that may be outmoded, ineffective, insufficient, or excessively burdensome and to modify, streamline, expand, or repeal them in accordance with input from the public. In addition, as required by Executive Order 13175, the Commission has been conducting government-to-government consultations with tribes regarding each regulation's relevancy, consistency in application, and limitations or barriers to implementation, based on the tribes' experiences. The consultation process is also intended to result in the identification of areas for improvement and needed amendments, if any, new regulations, and the possible repeal of outdated regulations.

The following Regulatory Identifier Numbers (RINs) have been identified as associated with the review:

RIN	Title
3141–AA32	Amendment of Definitions.
3141–AA55	Minimum Internal Control Standards.
3141–AA58	Amendment of Approval of Management Contracts.
3141–AA60	Class II Minimum Internal Control Standards.
3141–AA61	Self-Regulation of Class II Gaming.
3141–AA62	Buy Indian Goods and Services (BIGS) Rule.
3141–AA63	Tribal Background Investigations and Licensing.
3141–AA64	Class II Minimum Technical Standards.
3141–AA65	Privacy Act Procedures.

More specifically, 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; (iii) updates or revisions to its management contract regulations to address the current state of the industry; (iv) the review and revision of the minimum internal control standards for Class II gaming updates; (v) updates and revisions to its Self-Regulation of Class II Gaming regulations; (vi) regulation that would provide a preference to qualified Indian-owned businesses when purchasing goods or services for the Commission at a fair market price; (vii) finalized revisions to the background investigation and licensing regulations in order to streamline the process for submitting information and to distinguish the requirements for temporary and permanent licenses (viii) revisions to the minimum technical standards for gaming equipment used with the play of Class II games and, (ix) revisions to the existing Privacy Act Procedures in part 515 as a means to streamline internal processes.

The NIGC anticipates that the ongoing consultations with tribes will continue to play an important role in the development of the NIGC's rulemaking efforts.

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U.S. NUCLEAR REGULATORY COMMISSION'S FISCAL YEAR 2015 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. As part of its mission, 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: (1) The major rules that the NRC expects to publish in final form in fiscal year (FY) 2015 and FY 2016; (2) the other significant rulemakings that the NRC expects to publish in final form in FY 2015; and (3) the other significant rulemakings that the NRC expects to publish in final form in FY 2016 and beyond. Major rules include rules that are likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Other significant rulemakings include rules that are not economically significant but are considered important by the agency. For each major rule and other significant rulemaking, the NRC is including a citation, if available, to an applicable **Federal Register** (FR) notice that provides further information, a summary of the legal basis, an explanation of why the NRC is pursuing the major rule or other significant rulemaking, the schedule, and contact information.

B.1. Major Rules (FY 2015)

The NRC will have published one major rule in final form by the end of FY 2015.

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2015 (Regulation Identifier Number (RIN) 3150–AJ44)—Through this rule, the NRC will amend the licensing, inspection, and annual fees charged to its applicants and licensees. The proposed amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990, as amended, which requires the NRC to recover through fees approximately 90 percent of its budget authority in FY 2015, not including amounts appropriated for Waste Incidental to Reprocessing, the Nuclear Waste Fund, generic homeland security activities, and Inspector General services for the Defense Nuclear Facilities Safety Board. These fees represent the cost of NRC services provided to applicants and licensees. The proposed rule was published in the FR on March 23, 2015 (80 FR 15475), and the comment period ended on April 22, 2015.

B.2. Major Rules (FY 2016)

The NRC anticipates publishing one major rule in final form in FY 2016.

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2016—The NRC will update its requirement to recover approximately 90 percent of its budget authority in FY 2016.

C.1. Other Significant Rulemakings (FY 2015)

The NRC will have published nine other significant rulemakings in final form in FY 2015.

Economic Simplified Boiling-Water Reactor Design Certification (RIN 3150–AI85), was published on October 15, 2014 (79 FR 61943), and effective November 14, 2014.

Definition of a Utilization Facility (RIN 3150–AJ48), was published on October 17, 2014 (79 FR 62329), and effective on December 31, 2014.

Approval of American Society of Mechanical Engineers' Code Cases (RIN 3150–AI72), was published on November 5, 2014 (79 FR 65775), and effective on December 5, 2014.

Holtec International HI—STORM FLOOD/WIND System (RIN 3150–AJ40), was published on October 3, 2014 (79 FR 59623), and effective on December 17, 2014.

NAC International MAGNASTOR® System (RIN 3150–AJ39), was published on January 29, 2015 (80 FR 4757), and effective on April 14, 2015.

Holtec International HI—STORM 100 Cask System (RIN 3150–AJ47), was published on February 5, 2015 (80 FR 6430). Because the NRC received at least one significant adverse comment in response to the companion proposed rule (80 FR 6466), the agency withdrew the direct final rule on April 20, 2015 (80 FR 21639). The NRC will address the adverse comments received on the companion proposed rule in a pending final rule.

Holtec International HI—STORM FLOOD/WIND System (RIN 3150–AJ52), was published on March 19, 2015 (80 FR 14291). The final rule is scheduled to become effective on June 2, 2015, unless significant adverse comments are received.

NAC International MAGNASTOR® System (RIN 3150–AJ50), was published on April 15, 2015 (80 FR 20149). The final rule will be effective on June 29, 2015, unless significant adverse comments are received by May 15, 2015.

One Certificate of Compliance Rulemaking (RIN 3150–AJ58)—This rulemaking will allow power reactor licensees to store spent fuel in an approved cask design under a general license.

The NRC has proposed one other significant rulemaking in FY 2015.

Low-Level Radioactive Waste Disposal (RIN 3150–AI92), was published on March 26, 2015 (80 FR 16082). This proposed rule amends the NRC's regulations governing low-level radioactive waste (LLRW) disposal facilities to require new and revised site-specific technical analyses, to permit the development of site-specific criteria for LLRW acceptance based on the results of these analyses, to facilitate implementation, and to better align the requirements with current health and safety standards. The related guidance document, NUREG–2175, ''Guidance for Conducting Technical Analyses for 10 CFR part 61,'' was published for comment in the same issue of the FR (80 FR 15930). The proposed rule would affect licensees, license applicants, and the Agreement States. Comments on the proposed rule and draft NUREG are due by July 24, 2015.

C.2. Other Significant Rulemakings (FY 2016 and Beyond)

The other significant rulemakings that the NRC anticipates publishing in FY 2016 and beyond are listed below. Some of these regulatory priorities are a result of recommendations from the Fukushima Dai-ichi Near-Term Task Force. In 2011, the NRC established this task force 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 (the NRC's Agencywide Documents Access and Management System Accession No. ML111861807)).

Mitigation Strategies for Beyond Design Basis Events (RIN 3150–AJ49)—This proposed rule combines two activities for which documents have been published in the FR: Onsite Emergency Response Capabilities (RIN 3150–AJ11; NRC–2012–0031) and Station Blackout Mitigation Strategies (RIN 3150–AJ08; NRC–2011–0299). The rule would amend the NRC's regulations applicable to power reactors to provide requirements for the mitigation of beyond-design-basis events that includes station blackout mitigation strategies and enhanced onsite emergency response capabilities.

Performance-Based Emergency Core Cooling System Acceptance Criteria (RIN 3150–AH42; 79 FR 16105)—This 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.

Containment Protection and Release Reduction for Mark I and Mark II Boiling Water Reactors (RIN 3150–AJ26)—This proposed rule would amend the NRC's regulations to provide a performance-based option for filtering strategies with drywell filtration and severe accident management of boiling-water reactor Mark I and Mark II containments. The proposed rule would also define performance-based requirements to prevent the release of significant amounts of radioactive material from containment following the dominant severe accident sequences at boiling-water reactors with Mark I and Mark II containments and would establish acceptance criteria for confinement strategies.

Enhanced Weapons, Firearms Background Checks, and Security Event Notifications (RIN 3150–AI49)—This proposed rule would implement the NRC's authority under Section 161a of the Atomic Energy Act of 1954, as amended, and revise existing regulations governing security event notifications.

Medical Use of Byproduct Material—Medical Event Definitions, Training and Experience, and Clarifying Amendments (RIN 3150–AI63; 79 FR 42409)—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. The proposed rule would also make changes that would allow Associate Radiation Safety Officers to be named on a medical license and make other clarifications. Further, this rulemaking would 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].

Physical Protection for Category I, II, and III Special Nuclear Material (RIN 3150–AJ41)—This proposed rule would incorporate numerous post-September 11, 2001, security orders in regulations, develop a revised material attractiveness approach for special nuclear material, and update transportation security regulations.

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