## REGULATORY INFORMATION SERVICE CENTER

### Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions—Fall 2017

**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,'' Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' January 30, 2017, and Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' February 24, 2017. 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* website (or below, VI. How Can Users Get Copies of the Plan and the Agenda?).

The fall 2017 Unified Agenda publication appearing in the **Federal Register** includes 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 2017 Unified Agenda contains the Regulatory Plans of 30 Federal agencies and 60 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 67 Federal agencies. Agencies of the United States Congress are not included.

The fall 2017 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*.

*Cabinet Departments*

Department of State
Department of Veterans Affairs *

*Other Executive Agencies*

Agency for International Development
American Battle Monuments Commission
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 Aeronautics and Space Administration *
National Archives and Records Administration *
National Endowment for the Arts
National Endowment for the Humanities
National Mediation Board
National Science Foundation
Office of Government Ethics
Office of Management and Budget
Office of Personnel Management *
Office of the United States Trade Representative
Peace Corps
Pension Benefit Guaranty Corporation
Presidio Trust
Privacy and Civil Liberties Oversight Board
Railroad Retirement Board
Social Security Administration *
Tennessee Valley Authority

*Independent Agencies*

Council of the Inspectors General on Integrity and Efficiency
Defense Nuclear Facilities Safety Board
Farm Credit Administration
Federal Deposit Insurance Corporation
Federal Energy Regulatory Commission
Federal Housing Finance Agency
Federal Maritime Commission
Federal Trade Commission *
National Credit Union Administration
National Indian Gaming Commission *
National Labor Relations Board
National Transportation Safety Board
Postal Regulatory Commission
Special Inspector General for Afghanistan Reconstruction

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,'' 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 13771*

Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' January 30, 2017 (82 FR 9339) requires each agency to identify for elimination two prior regulations for every one new regulation issued, and the cost of planned regulations be

prudently managed and controlled through a budgeting process.

*Executive Order 13777*

Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' February 24, 2017 (82 FR 12285) requires each agency to designate an agency official as its Regulatory Reform Officer (RRO). Each RRO shall oversee the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. The Executive Order also directs that each agency designate a regulatory Reform Task Force.

*Executive Order 13563*

*Executive Order 13563,* ''Improving Regulation and Regulatory Review,'' January 18, 2011 (76 FR 3821) 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,'' 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,'' 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 2015.

*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.

*PL (or Pub. L.)*—A public law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated.

Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, Public Law 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 website. 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 website 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 29, 2017.

**John C. Thomas,**

*Executive Director.*

## Introduction to the Fall 2017 Regulatory Plan

Following statutory directions, the Executive Branch implements many federal policies through regulatory action in areas as diverse as homeland security, environmental protection, energy policy, transportation, federal land management, education, and commerce. Over many decades, federal agencies have imposed countless regulatory requirements on individuals, businesses, landowners, and state and local governments. Some of these regulations serve important public purposes. Other regulations, however, are outdated, duplicative, or unnecessary, yet they continue to impose costly burdens. President Trump has committed to reducing the regulatory burden on the American public in order to promote economic growth, job creation, and innovation.

This Fall 2017 Regulatory Plan reflects a fundamental shift. The Trump Administration recognizes that excessive and unnecessary federal regulations limit individual freedom and suppress the innovation and entrepreneurship that make America great. Starting with confidence in private markets and individual choices, this Administration is reassessing existing regulatory burdens. In the 2017 Plan, Agencies have identified regulatory actions ripe for reform and are working to eliminate or modify them. This Administration also approaches the imposition of new regulatory requirements with caution to ensure that regulations are consistent with law, necessary to correct a substantial market failure, and net beneficial to the public. Furthermore, the Plan, along with the Unified Agenda of Regulatory and Deregulatory Actions (''Agenda''), identifies the Administration's priorities in manner that is transparent and accessible to the public.

Our regulatory philosophy and approach emphasize the connection between limited government intervention and individual liberty. Regulatory policy should serve the American people by staying within legal limits and administering the law with respect for due process and fair notice. The 2017 Plan sets forth the Administration's roadmap for a more limited, effective, and accountable regulatory policy.

### Federal Regulatory Policy

The 2017 Plan both sets a new direction in regulatory policy and preserves many longstanding regulatory best practices. Stressing that ''it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations,'' President Trump directed all federal agencies to eliminate two regulations for each new one implemented and to reduce new regulatory costs to zero in Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs,'' January 30, 2017). He also created regulatory reform officers and regulatory reform taskforces in each agency in Executive Order 13777 (''Enforcing the Regulatory Reform Agenda,'' February 24, 2017). Within the Office of Management and Budget, the Office of Information and Regulatory Affairs (''OIRA'') implements federal regulatory policy and has led efforts to implement these presidential directives, working with agencies to identify deregulatory actions and eliminate regulatory burdens.

OIRA also continues to respect and pursue longstanding principles and practices of centralized regulatory review. These principles, set out in President Clinton's Executive Order 12866, emphasize that agencies should regulate only when necessary, when consistent with law, and in a manner that produces real net benefits for the American people. The Administration also takes seriously retrospective review and the imperative to evaluate the actual costs and benefits of existing regulations. The President's two-for-one directive and the creation of a regulatory cap requires that agencies eliminate unnecessary or excessively burdensome rules as part of their regulatory planning.

OIRA works with agencies to promote sound science and economic analysis. Agencies should develop improved regulatory impact analyses of the costs and benefits of their actions, relying on reasonable assumptions and public input. In some instances, analysis will require revisiting previous regulatory impact assessments to ensure that they

reflect the best possible estimate of costs and benefits. Moving forward, it requires rigor and fairness in assessing the actual impacts of new regulatory and deregulatory policies.

This Administration's regulatory philosophy also emphasizes the rule of law, including constitutional, statutory, and procedural limits on administrative action. For instance, OIRA requires agencies to indicate the legal authority for regulatory actions, whether from a statute or judicial order. We look closely at planned regulatory and deregulatory actions to ensure that they follow the law and the correct administrative procedures.

Moreover, the Administration has reinforced the importance of fair notice and due process. In particular, this means agencies should closely examine their use of sub-regulatory actions, such as guidance documents, enforcement manuals, interpretive rules, ''FAQs,'' and the like. Such documents can serve an important role in explaining existing statutory or regulatory requirements; however, they should not be used to impose new or additional legal obligations or requirements. Accordingly, this Administration has encouraged agencies to take a close look at existing guidance documents to assess whether some of them should be withdrawn or modified, or whether their requirements should go through a process of notice and comment rulemaking. Limiting guidance to its intended purpose of clarifying existing law rather than making new law will provide greater transparency about the regulatory process and ensure that regulated entities and the public have notice and an opportunity to comment on significant changes in regulatory requirements.

These specific policies rest on foundational principles of the proper role of the Executive Branch in our constitutional system of separation of powers. Agencies should administer the law found in statutes, not make new law, and they should respect the judicial role in enforcing limits on administrative power. Moreover, faithful execution of the laws requires the Administration be directly accountable for its regulatory policies and ensure that regulations and their enforcement benefit the American people.

**2018 Regulatory Priorities**

*Reducing regulatory burdens.* One of the primary priorities reflected in the 2017 Regulatory Plan is the reduction of regulatory burdens. Accordingly, in 2018, across the Administration agencies anticipate eliminating and streamlining approximately three regulations for each new one imposed. Moreover, agencies are set to substantially reduce overall regulatory costs. This Regulatory Plan reflects a new direction that recognizes the costs of accumulated regulatory burdens and looks for ways to reduce those burdens by modifying or eliminating regulations; revising or eliminating guidance documents; and streamlining information collections.

Agencies have taken several approaches to identifying burdens that can be minimized or eliminated. Regulatory reform task forces have brought together political leadership and career staff to review and revise existing regulations. Agencies have sought extensive public comments, both through written submissions and public listening sessions. Other agencies have studied specific problems of overregulation and drafted comprehensive reports evaluating existing regulations. Based on extensive experience across administrations, OIRA has also worked with the agencies to identify potential areas for reform. These efforts by the agencies, in consultation with the public and OIRA, have yielded notable progress, as reflected in the agency Regulatory Plans that follow.

*Efficacious new regulations.* Agencies have also planned new regulatory initiatives required by law or by a compelling public need. These actions should be guided by good regulatory practices, which include regulating only when necessary, carefully studying lawful alternatives, and engaging with the public and affected parties. Moreover, when proceeding with regulations, agencies should rely on sound science and thorough cost-benefit analysis. Unless specifically required by law, agencies should regulate only when the benefits substantially outweigh the costs, and OIRA will carefully examine each proposed regulation to ensure that it is the least burdensome regulatory approach that meets the relevant statutory standards.

*Transparency and public access.* This Administration remains committed to transparency in the regulatory process, public access to information about regulatory policy, and public participation in proposed rules. OIRA is working with agencies to ensure that items listed on the Plan and Agenda reflect carefully considered and current policy priorities. In addition, with this Regulatory Plan and Fall Agenda, OIRA has taken a number of steps to improve transparency. For instance, we have published the ''Inactive List,'' a list of regulations agencies might pursue in the future. Although maintained for many years, the Inactive list was not previously available to the public. Publishing the Inactive List online allows the public a more complete picture of anticipated agency actions.

OIRA has also implemented enhanced categorization and online search capabilities for the Agenda, so the public can identify actions anticipated to be regulatory or deregulatory and other detailed information. We hope these enhancements will further public understanding of proposed regulatory actions and encourage participation in the regulatory process.

**Conclusion**

The agency plans that follow push against the inertia of steadily expanding regulatory burdens and represent this Administration's commitment to reducing regulations that no longer benefit our society. The plans also send a clear message that the public can invest and plan for the future without the looming threat of burdensome and unnecessary new regulations. OIRA looks forward to working with the agencies and all interested stakeholders to deliver meaningful regulatory reform to the American people.

**Neomi Rao,**
*Administrator, Office of Information and Regulatory Affairs.*

## DEPARTMENT OF AGRICULTURE

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 1 | National Bioengineered Food Disclosure Standard | 0581–AD54 | Proposed Rule Stage. |
| 2 | NOP: Organic Livestock and Poultry Practices | 0581–AD75 | Proposed Rule Stage. |
| 3 | Lacey Act Implementation Plan: De Minimis Exception and Composite Articles | 0579–AD44 | Proposed Rule Stage. |
| 4 | National Environmental Policy Act Implementing Procedures | 0579–AC60 | Final Rule Stage. |
| 5 | Animal Welfare; Establishing De Minimis Exemptions From Licensing | 0579–AD99 | Final Rule Stage. |

## DEPARTMENT OF AGRICULTURE—Continued

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 6 | Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements. | 0584–AE53 | Final Rule Stage. |
| 7 | Modernization of Swine Slaughter Inspection | 0583–AD62 | Proposed Rule Stage. |
| 8 | Administrative Issuances; Involving the Public in the Formulation of Forest Service Directives (Rule). | 0596–AC65 | Final Rule Stage. |

## DEPARTMENT OF COMMERCE

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 9 | Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys in the Gulf of Mexico. | 0648–BB38 | Proposed Rule Stage. |
| 10 | Illegal, Unregulated, and Unreported Fishing; Fisheries Enforcement; High Seas Driftnet Fishing Moratorium Protection Act. | 0648–BG11 | Proposed Rule Stage. |
| 11 | Endangered and Threatened Species; Designation of Critical Habitat for Threatened Caribbean and Indo-Pacific Reef-Building Corals. | 0648–BG26 | Proposed Rule Stage. |
| 12 | Commerce Trusted Trader Program | 0648–BG51 | Proposed Rule Stage. |

## DEPARTMENT OF DEFENSE

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 13 | Earned Value Management Applicability (DFARS Case 2015–D038) | 0750–AJ10 | Proposed Rule Stage. |
| 14 | Contractor Purchasing System Review Threshold (DFARS Case 2017–D038) | 0750–AJ48 | Proposed Rule Stage. |
| 15 | Brand Name or Equal (DFARS Case 2017–D040) | 0750–AJ50 | Proposed Rule Stage. |
| 16 | Amendment to Mentor-Protégé Program (DFARS Case 2016–D011) | 0750–AJ05 | Final Rule Stage. |
| 17 | Use of the Government Property Clause (DFARS Case 2015–D035) | 0750–AJ11 | Final Rule Stage. |
| 18 | Repeal of Independent Research and Development Technical Interchange (DFARS Case 2017–D041). | 0750–AJ51 | Final Rule Stage. |
| 19 | Establishment of TRICARE Select and Other TRICARE Reforms | 0720–AB70 | Final Rule Stage. |

## DEPARTMENT OF EDUCATION

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 20 | Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance. | 1870–AA14 | Proposed Rule Stage. |
| 21 | Borrower Defense and Related Issues | 1840–AD26 | Proposed Rule Stage. |
| 22 | Program Integrity; Gainful Employment | 1840–AD31 | Proposed Rule Stage. |

## DEPARTMENT OF ENERGY

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 23 | Energy Conservation Standards and Definition for General Service Lamps | 1904–AD09 | Proposed Rule Stage. |
| 24 | Energy Conservation Standards for Residential Conventional Cooking Products | 1904–AD15 | Proposed Rule Stage. |

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage . |
|---|---|---|---|
| 25 | HIPAA Privacy Rule: Presumption of Good Faith of HealthCare Providers | 0945–AA09 | Proposed Rule Stage. |
| 26 | Health Information Technology: Interoperability and Certification Enhancements | 0955–AA01 | Proposed Rule Stage. |
| 27 | Certification of Opioid Treatment Programs | 0930–AA27 | Proposed Rule Stage. |
| 28 | Confidentiality of Substance Use Disorder Patient Records | 0930–AA26 | Final Rule Stage. |
| 29 | Mammography Quality Standards Act; Regulatory Amendments | 0910–AH04 | Proposed Rule Stage. |
| 30 | Medical Device De Novo Classification Process | 0910–AH53 | Proposed Rule Stage. |
| 31 | Requirement for Access or Safe Use of Certain Nonprescription Drug Products | 0910–AH62 | Proposed Rule Stage. |
| 32 | Medication Guides; Patient Medication Information | 0910–AH68 | Proposed Rule Stage. |
| 33 | Format and Content of Reports Intended to Demonstrate Substantial Equivalence | 0910–AH89 | Proposed Rule Stage. |
| 34 | 340B Drug Pricing Program Ceiling Price and Manufacturer Civil Monetary Penalties Regulation. | 0906–AB12 | Proposed Rule Stage. |

## DEPARTMENT OF HEALTH AND HUMAN SERVICES—Continued

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage . |
|---|---|---|---|
| 35 | National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table. | 0906–AB14 | Proposed Rule Stage. |
| 36 | Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs for Contract Year 2019 (CMS–4182–P). | 0938–AT08 | Proposed Rule Stage. |
| 37 | Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction (CMS–3346–P). | 0938–AT23 | Proposed Rule Stage. |
| 38 | Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and FY 2019 Rates (CMS–1694–P). | 0938–AT27 | Proposed Rule Stage. |
| 39 | Requirements for Long-Term Care Facilities: Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction (CMS–3347–P). | 0938–AT36 | Proposed Rule Stage. |
| 40 | Medicaid and CHIP Managed Care (CMS–2408–P) | 0938–AT40 | Proposed Rule Stage. |
| 41 | Adoption and Foster Care Analysis and Reporting System | 0970–AC72 | Prerule Stage. |
| 42 | Head Start Service Duration Requirements | 0970–AC73 | Proposed Rule Stage. |

## DEPARTMENT OF HOMELAND SECURITY

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 43 | Inadmissibility and Deportability on Public Charge Grounds | 1615–AA22 | Proposed Rule Stage. |
| 44 | Registration Requirement for Petitioners Seeking To File H–1B Petitions on Behalf of Aliens Subject to Numerical Limitations. | 1615–AB71 | Proposed Rule Stage. |
| 45 | Rescission of International Entrepreneur Rule | 1615–AC04 | Proposed Rule Stage. |
| 46 | EB–5 Immigrant Investor Regional Center Program | 1615–AC11 | Proposed Rule Stage. |
| 47 | Strengthening the H–1B Nonimmigrant Visa Classification Program | 1615–AC13 | Proposed Rule Stage. |
| 48 | Removing H–4 Dependent Spouses from the Class of Aliens Eligible for Employment Authorization. | 1615–AC15 | Proposed Rule Stage. |
| 49 | EB–5 Immigrant Investor Program Modernization | 1615–AC07 | Final Rule Stage. |
| 50 | Air Cargo Advance Screening (ACAS) | 1651–AB04 | Final Rule Stage. |
| 51 | Collection of Biometric Data Upon Entry to and Exit From the United States | 1651–AB12 | Final Rule Stage. |
| 52 | Implementation of the Electronic System for Travel Authorization (ESTA) at U.S. Land Borders—Automation of CBP Form I–94W. | 1651–AB14 | Final Rule Stage. |
| 53 | Vetting of Certain Surface Transportation Employees | 1652–AA69 | Proposed Rule Stage. |
| 54 | Amending Vetting Requirements for Employees With Access to a Security Identification Display Area (SIDA). | 1652–AA70 | Proposed Rule Stage. |
| 55 | Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees. | 1652–AA35 | Final Rule Stage. |
| 56 | Ronald Reagan Washington National Airport: Enhanced Security Procedures for Certain Operations. | 1652–AA49 | Final Rule Stage. |
| 57 | Security Training for Surface Transportation Employees | 1652–AA55 | Final Rule Stage. |
| 58 | Adjusting Program Fees for the Student and Exchange Visitor Program | 1653–AA74 | Proposed Rule Stage. |
| 59 | Apprehension, Processing, Care and Custody of Alien Minors | 1653–AA75 | Proposed Rule Stage. |
| 60 | Practical Training Reform | 1653–AA76 | Proposed Rule Stage. |
| 61 | Factors Considered When Evaluating a Governor's Request for Individual Assistance for a Major Disaster. | 1660–AA83 | Final Rule Stage. |

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 62 | Project Approval for Single Family Condominium (FR–5715) | 2502–AJ30 | Final Rule Stage. |
| 63 | Housing Opportunity Through Modernization Act of 2016 (FR–6057) | 2577–AD03 | Proposed Rule Stage. |

## DEPARTMENT OF THE INTERIOR

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 64 | Rescission of the 2015 BLM Hydraulic Fracturing Rule | 1004–AE52 | Final Rule Stage. |

## DEPARTMENT OF JUSTICE

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 65 | Public Safety Officers' Benefits Program Regulations | 1121–AA85 | Final Rule Stage. |

## DEPARTMENT OF LABOR

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 66 | Request for Information Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees. | 1235–AA20 | Proposed Rule Stage. |
| 67 | Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations. | 1205–AB85 | Proposed Rule Stage. |
| 68 | Tracking of Workplace Injuries and Illnesses | 1218–AD17 | Proposed Rule Stage. |
| 69 | Occupational Exposure to Beryllium | 1218–AB76 | Final Rule Stage. |
| 70 | Standards Improvement Project IV | 1218–AC67 | Final Rule Stage. |

## DEPARTMENT OF TRANSPORTATION

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 71 | Pilot Records Database (HR 5900) | 2120–AK31 | Proposed Rule Stage. |
| 72 | Orbital Debris Mitigation Methods for Launch Vehicle Upper Stages (Orbital Debris). | 2120–AK81 | Proposed Rule Stage. |
| 73 | Operations of Small Unmanned Aircraft Over People | 2120–AK85 | Proposed Rule Stage. |
| 74 | Pilot Professional Development | 2120–AJ87 | Final Rule Stage. |
| 75 | Transport Airplane Fuel Tank and System Lightning Protection | 2120–AK24 | Final Rule Stage. |
| 76 | Registration and Marking Requirements for Small Unmanned Aircraft | 2120–AK82 | Final Rule Stage. |
| 77 | Rear Seat Belt Reminder System | 2127–AL37 | Proposed Rule Stage. |
| 78 | Passenger Car and Light Truck Corporate Average Fuel Economy Standards MYs 2022–2025. | 2127–AL76 | Proposed Rule Stage. |
| 79 | Passenger Equipment Safety Standards Amendments | 2130–AC46 | Final Rule Stage. |
| 80 | Private Investment Project Procedures | 2132–AB27 | Proposed Rule Stage. |
| 81 | Public Transportation Agency Safety Plans | 2132–AB23 | Final Rule Stage. |
| 82 | Pipeline Safety: Class Location Requirements | 2137–AF29 | Prerule Stage. |
| 83 | Pipeline Safety: Safety of Hazardous Liquid Pipelines | 2137–AE66 | Final Rule Stage. |
| 84 | Pipeline Safety: Gas Transmission | 2137–AE72 | Final Rule Stage. |
| 85 | Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains. | 2137–AF08 | Final Rule Stage. |
| 86 | Hazardous Materials: Enhanced Safety Provisions for Lithium Batteries Transported by Aircraft. | 2137–AF20 | Final Rule Stage. |

## DEPARTMENT OF VETERANS AFFAIRS

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 87 | Prosthetic and Rehabilitative Items and Services | 2900–AP46 | Proposed Rule Stage. |
| 88 | Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V005, Parts 812 and 813). | 2900–AP58 | Proposed Rule Stage. |
| 89 | Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V004, Parts 811 and 832). | 2900–AP81 | Proposed Rule Stage. |
| 90 | Beneficiary Travel | 2900–AP89 | Proposed Rule Stage. |
| 91 | Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2015–V010). | 2900–AQ02 | Proposed Rule Stage. |
| 92 | Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principle (VAAR Case 2016–V002, Parts 829, 846 and 847). | 2900–AQ04 | Proposed Rule Stage. |
| 93 | Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principle (VAAR Case 2016–V003, Parts 844 and 845). | 2900–AQ05 | Proposed Rule Stage. |
| 94 | Authority of Health Care Providers to Practice Telehealth | 2900–AQ06 | Proposed Rule Stage. |
| 95 | Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V008). | 2900–AQ18 | Proposed Rule Stage. |
| 96 | Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V006). | 2900–AQ19 | Proposed Rule Stage. |
| 97 | Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2015–V011). | 2900–AQ20 | Proposed Rule Stage. |
| 98 | Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2015–V012). | 2900–AQ21 | Proposed Rule Stage. |
| 99 | Per Diem Paid to States for Care of Eligible Veterans in State Homes | 2900–AO88 | Final Rule Stage. |

## DEPARTMENT OF VETERANS AFFAIRS—Continued

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 100 | Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V001, Parts 803, 814 and 822). | 2900–AP50 | Final Rule Stage. |
| 101 | Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V002, Parts 816 and 828). | 2900–AP82 | Final Rule Stage. |
| 102 | Reimbursement for Emergency Treatment | 2900–AQ08 | Final Rule Stage. |

## ENVIRONMENTAL PROTECTION AGENCY

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 103 | State Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units. | 2060–AT67 | Prerule Stage. |
| 104 | Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration. | 2060–AT54 | Proposed Rule Stage. |
| 105 | Pesticides; Certification of Pesticide Applicators Rule; Reconsideration of the Minimum Age Requirements. | 2070–AK37 | Proposed Rule Stage. |
| 106 | Pesticides; Agricultural Worker Protection Standard; Reconsideration of Several Requirements. | 2070–AK43 | Proposed Rule Stage. |
| 107 | Clean Water Act Hazardous Substances Spill Prevention | 2050–AG87 | Proposed Rule Stage. |
| 108 | Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residues From Electric Utilities: Remand Rule. | 2050–AG88 | Proposed Rule Stage. |
| 109 | Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Reconsideration of Amendments. | 2050–AG95 | Proposed Rule Stage. |
| 110 | National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions. | 2040–AF15 | Proposed Rule Stage. |
| 111 | Second Action: Definition of 'Waters of the United States' | 2040–AF75 | Proposed Rule Stage. |
| 112 | Renewable Fuel Volume Standards for 2018 and Biomass Based Diesel Volume (BBD) for 2019. | 2060–AT04 | Final Rule Stage. |
| 113 | Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units. | 2060–AT55 | Final Rule Stage. |
| 114 | Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hardrock Mining Industry. | 2050–AG61 | Final Rule Stage. |
| 115 | Definition of ''Waters of the United States''—Recodification of Pre-existing Rule .. | 2040–AF74 | Final Rule Stage. |

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 116 | Federal Sector Equal Employment Opportunity Process | 3046–AB00 | Proposed Rule Stage. |
| 117 | Amendments to Regulations Under the Americans With Disabilities Act | 3046–AB10 | Proposed Rule Stage. |
| 118 | Amendments to Regulations Under the Genetic Information Nondiscrimination Act of 2008. | 3046–AB11 | Proposed Rule Stage. |

## SMALL BUSINESS ADMINISTRATION

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 119 | SBA Express Loan Program; Export Express Program | 3245–AG74 | Proposed Rule Stage. |
| 120 | Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business—Certification. | 3245–AG75 | Proposed Rule Stage. |
| 121 | Office of Women's Business Ownership: Women's Business Center Program | 3245–AG02 | Final Rule Stage. |

## SOCIAL SECURITY ADMINISTRATION

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 122 | Investigative Policies for Organizational Representative Payees | 0960–AH79 | Prerule Stage. |
| 123 | Revised Medical Criteria for Evaluating Musculoskeletal Disorders (3318P) | 0960–AG38 | Proposed Rule Stage. |
| 124 | Update to the Comprehensive Medical Listings—Revised Medical Criteria for Evaluating Digestive Disorders, Cardiovascular Disorders, and Skin Disorders. | 0960–AG65 | Proposed Rule Stage. |
| 125 | Minimum Monthly Withholding Amount for Recovery of Title II Benefit Overpayments (3752P). | 0960–AH42 | Proposed Rule Stage. |
| 126 | Removing Ability to Communicate in English as a Vocational Factor | 0960–AH86 | Proposed Rule Stage. |
| 127 | Use of Electronic Payroll Data To Improve Program Administration | 0960–AH88 | Proposed Rule Stage. |

SOCIAL SECURITY ADMINISTRATION—Continued

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 128 | Newer and Stronger Penalties (Conforming Changes) | 0960–AH91 | Proposed Rule Stage. |
| 129 | Privacy Act Exemption: Personnel Security and Suitability Program Files | 0960–AH97 | Proposed Rule Stage. |
| 130 | References to Social Security and Medicare in Electronic Communications | 0960–AI04 | Proposed Rule Stage. |
| 131 | Availability of Information and Records to the Public | 0960–AI07 | Proposed Rule Stage. |
| 132 | Privacy Act Exemption: Social Security Administration Violence and Reporting System (SSAvers). | 0960–AI08 | Proposed Rule Stage. |
| 133 | Redeterminations When There is a Reason To Believe Fraud or Similar Fault Was Involved in an Individual's Application for Benefits. | 0960–AI10 | Proposed Rule Stage. |
| 134 | Changes to the Requirements for Claimant Representation | 0960–AI22 | Proposed Rule Stage. |
| 135 | Making Permanent the Attorney Advisor Program | 0960–AI23 | Final Rule Stage. |

DOD/GSA/NASA (FAR)

| Sequence No. | Title | Regulation Identifier No. | Rulemaking stage |
|---|---|---|---|
| 136 | Federal Acquisition Regulation (FAR); FAR Case 2018–002, Protecting Life in Global Health Assistance. | 9000–AN62 | Proposed Rule Stage. |

NATIONAL INDIAN GAMING COMMISSION

| Sequence no. | Title | Regulation identifier no. | Rulemaking stage |
|---|---|---|---|
| 137 | Class II Minimum Internal Control Standards | 3141–AA60 | Proposed Rule Stage. |
| 138 | Minimum Internal Control Standards | 3141–AA55 | Final Rule Stage. |

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## DEPARTMENT OF AGRICULTURE

*Fall 2017 Statement of Regulatory Priorities*

Regulatory reform is one of the cornerstones of the Department of Agriculture's (USDA) strategy for creating a culture of consistent, efficient service to our customers, while reducing burdens and improving efficiency. USDA's regulatory reform efforts, combined with other reform efforts, will make it easier to invest, produce, and build in rural America, which will lead to the creation of jobs and enhanced economic prosperity. To achieve results, USDA is guided by the following comprehensive set of priorities through which the Department, its employees, and external partners will work to identify and eliminate regulatory and administrative barriers and improve business processes to enhance program delivery and reduce burdens on program participants. These priorities include:

➢ *Agricultural and Rural Prosperity Task Force:* Executive Order 13790—Promoting Agriculture and Rural Prosperity in America established the inter-Departmental Task Force chaired by Secretary Perdue to identify opportunities for the Federal government to work more effectively together for the benefit of rural Americans. The Task Force is examining barriers to economic prosperity in rural America and how innovation, infrastructure, and technology can assist agriculture and help rural communities thrive. The Task Force is examining regulations across the Federal government to identify obsolete, inefficient, or unnecessary regulations that impede economic growth.

➢ *Regulatory Reform Task Force (RRTF):* In response to Executive Order 13777—Enforcing the Regulatory Reform Agenda and Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs, which set forth expectations for reducing the regulatory burden on the public, the Department has established an internal RRTF to identify outdated regulations for elimination and administrative processes for streamlining. The USDA RRTF is comprised of senior agency managers representing all the major missions of the Department. USDA is also soliciting public comments on recommended reforms through July 2018.

➢ *Farm Bill Reform:* As the 2014 Farm Bill will soon expire, the Department is evaluating past practices to identify opportunities for policy and technical improvements, and to make research available so Congress can make facts-based, data-driven decisions to ensure a robust agricultural economy and increased opportunities in rural areas. Reauthorization of the Farm Bill provides an opportunity to introduce program reforms to eliminate obsolete and underperforming programs, simplify the administration of programs, and improve program outcomes.

➢ *Organizational Reform:* To ensure that USDA's programs, agencies, and offices best serve the Department's customers, USDA is implementing organizational changes that are targeted at improving customer service. Through these reforms, USDA is breaking down organizational barriers that have impeded the Department's ability to most effectively and efficiently support its customers across the Nation and around the world. Examples of the organizational reforms include the establishment of an Under Secretary for Trade and Foreign Agricultural Affairs to ensure that American agriculture benefits from new and expanded trade opportunities and the consolidation of administrative functions at the mission area level to eliminate inefficiencies.

These reforms and strategies allow the Department to best support the needs of its customers. Through the implementation of these improvements, USDA will be better positioned to remove obstacles, and give agricultural

producers every opportunity to prosper and feed a growing world population. These improvements support the accomplishment of USDA's mission to provide leadership on agriculture, food, natural resources, rural prosperity, nutrition, and related issues through fact-based, data-driven, and customer-focused decisions.

The Department's fall 2017 Statement of Regulatory Priorities reflects the Administration's commitment to regulatory reform and USDA's rigorous implementation of Executive Orders 13777 and 13771.

Executive Order 13777

Executive Order 13777 establishes a Federal policy to lower regulatory burdens on the American people by implementing and enforcing regulatory reform. The RRTF reviewed proposed, pending and existing regulations to determine the deregulatory and regulatory actions to include in the 2017 fall Regulatory Agenda. The RRTF identified over 270 reform initiatives, including 101 deregulatory actions that will save the public from unnecessary regulatory burdens. These actions were further evaluated to determine which ones should be made a priority based on the impact of the proposals and the ability to complete the action in FY 2018.

Executive Order 13777 also directed the Department to seek input from entities significantly affected by Federal regulations. To satisfy this requirement, the Department published a Request for Information (RFI) in the **Federal Register** on July 17, 2017, seeking public input on identifying regulatory reform initiatives (82 FR 32649). The RFI asked the public to identify regulations, guidance documents, or any other policy documents or administrative processes that need reform, as well as ideas on how to modify, streamline, expand, or repeal such items. While comments to the notice do not bind USDA to any further actions, all submissions will be reviewed and will significantly inform actions to repeal, replace, or modify existing regulations.

Executive Order 13771

Executive Order 13771 directs agencies to eliminate two existing regulations for every new regulation while limiting the total costs associated with an agency's regulations. Specifically, it requires a regulatory two-for-one wherein an agency must propose the elimination of two existing regulations for every new regulation it publishes. Moreover, the costs associated with the new regulation must be completely offset by cost savings brought about by deregulation.

The Department's 2017 fall Regulatory Agenda reflects the Department's commitment to regulatory reform and continues USDA's rigorous implementation of Executive Order 13771. The regulatory agenda identifies 76 rules, of which 44 rules are deregulatory. The remaining 32 rules are not subject to the offsetting or deregulatory requirements of Executive Order 13771. Of the total number of deregulatory actions, USDA has identified 29 final rules that will be completed in FY 2018 and will result in a cost savings. Although we have not estimated the savings for 26 of these actions, they are considered deregulatory actions that USDA will implement to meet the direction that an agency issues twice as many Executive Order 13771 deregulatory actions as new Executive Order 13771 regulatory actions.

USDA's 2017 fall Statement of Regulatory Priorities was developed to lower regulatory burdens on the American people by implementing and enforcing regulatory reform. These regulatory priorities will contribute to the mission of the Department, the achievement of the long-term goals the Department aims to accomplish. Highlights of how the Department's regulatory reform efforts contribute to the accomplishment of the Department's strategic goals include the following:

A primary goal of the Department is to ensure that programs are delivered efficiently, effectively, with integrity, and a focus on customer service: To achieve this, USDA is working to leverage the strength and talent of USDA employees with continued dedication to data-driven enterprise solutions through collaborative governance and human capital management strategies centered on accountability and professional development. USDA will reduce regulatory and administrative burdens hindering agencies from reaching the greatest number of stakeholders. Improved customer service and employee engagement within USDA will create a more effective and accessible organization for all stakeholders.

➢ *Streamline and expand public engagement in the development and modification of national forest management policies:* This final rule will provide greater opportunity for public participation in the formulation of standards, criteria and guidelines applicable to Forest Service programs by: (1) Expanding the scope of documents subject to such review; (2) utilizing technologies that were not available when these regulations were last amended in 1984 to ensure a broader swath of the interested public is notified of opportunities to review and comment on policy changes; and (3) increasing the efficiency of the directive revision process to reduce administrative costs and permit more frequent and timely updates. For more information about this rule, see RIN 0596–AC65.

➢ *Streamline National Environmental Policy Act (NEPA) implementing procedures:* The Animal and Plant Health Inspection Service (APHIS) and the Forest Service are adjusting procedures that set out the NEPA implementing procedures for each agency based on accumulated experience of the agencies. APHIS will issue a proposed rule to incorporate scientific data accumulated since 1995 on the environmental impact of covered actions, clarify categories of action for which APHIS would normally complete an environmental impact statement or an environmental assessment for an action, expand the list of actions subject to categorical exclusion from further environmental documentation, and set out an environmental documentation process for use in emergencies. For more information about this rule, see RIN 0579–AC60. The Forest Service will publish a proposed rule to eliminate outdated requirements and revise aspects of the analysis framework, scoping and public engagement, and determining significance. For more information about this rule, see RIN 0596–AD31.

➢ *Establish de minimis exemptions for applying for animal licenses and renewals under the Animal Welfare Act (AWA):* The Animal and Plant Health Inspection Service will issue a final rule to exempt entities with a small number of animals from the requirement to obtain an AWA license. This action will reduce regulatory burden on small entities while also allowing APHIS to target enforcement efforts where they are most needed. For more information about this rule, see RIN 0579–AD99. Coupled with this *de minimis* rule, APHIS is considering a proposed rule that would promote compliance with the AWA by (1) reducing licensing fees and (2) strengthening existing safeguards that prevent an individual whose license has been suspended or revoked, or who has a history of noncompliance, from obtaining a license or working with regulated animals. For more information about this rule, see RIN 0579–AE35

➢ *Establish de minimis levels for enforcing Lacey Act requirements:* The

Food, Conservation, and Energy Act of 2008 amended the Lacey Act to provide, among other things, that importers submit a declaration at the time of importation for certain plants and plant products. The declaration requirements of the Lacey Act became effective on December 15, 2008, and enforcement of those requirements is being phased in. APHIS will propose an exception to the declaration requirements for products containing composite plant materials, and establish an exception to the declaration requirement for products containing a minimal amount of plant materials. Both actions would relieve the burden on importers, while continuing to ensure that the declaration requirement fulfills the purposes of the Lacey Act. For more information about this rule, see RIN 0579–AD44.

➢ *Reduce the time it takes to issue housing loans.* The Housing Opportunity through Modernization Act of 2016 permits the Secretary to delegate authority to approve and execute single family housing loan guarantees directly to preferred lenders, those lenders whose loans have performed well and who have demonstrated strong underwriting capability. To take advantage of this authority, the Rural Housing Service (RHS) will propose to delegate loan approval authority to preferred lenders participating in the Single Family Housing Guaranteed Loan Program. Preferred lenders would be responsible for certifying that both the applicant and property meet all program requirements and eligible for the guarantee. The revisions are expected to shorten the loan approval and processing time by up to 12 days. For more information about this rule, see RIN 0575–AD08

The Department is making it a priority to maximize the ability of American agricultural producers to prosper by feeding and clothing the world: A strong and prosperous agricultural sector is essential to the well-being of the overall U.S. economy. America's farmers and ranchers ensure a safe and reliable food and fuel supply and support job growth and economic development. To maintain a strong agricultural economy, USDA will support farmers in starting and maintaining profitable farm and ranch businesses, as well as offer support to producers affected by natural disasters. The Department will continue to work to create new markets and support a competitive agricultural system by reducing barriers that inhibit agricultural opportunities and economic growth.

➢ *Withdrawal of Proposed Rule Regarding the Introduction of Certain Genetically Engineered Organisms:* APHIS withdrew its proposed rule to revise the Department's biotechnology regulations and will re-engage with stakeholders to determine the most effective, science-based approach for regulating the products of modern biotechnology while protecting plant health. APHIS issued the proposed rule on January 19, 2017, and received 208 public comments. APHIS will maintain and follow current biotechnology regulations for safely handling the importation, interstate movement, and environmental release of genetically engineered organisms as we re-engage with stakeholders to determine the most effective approach for regulating these products. For more information about this rule, see RIN 0579–AE15.

➢ *Implement the National Bioengineered Food Disclosure Standard:* This action is mandated by the National Bioengineered Food Disclosure Standard (Law), which requires USDA to develop a national standard and the procedures for its implementation within two years of the Law's enactment. Pursuant to the law, AMS will propose requirements that, if finalized, will serve as a national mandatory bioengineered food disclosure standard for bioengineered food and food that may be bioengineered. For more information about this rule, see RIN 0581–AD54.

➢ *Withdrawal of the Scope of Sections 202(a) and (b) of the Packers and Stockyards Act (Act) interim final rule:* On December 20, 2016, the Grain Inspection, Packers and Stockyards Administration (GIPSA) published an interim rule addressing the scope of sections 202(a) and (b) of the Act, which enumerate unlawful practices under the Act. The interim final rule was originally scheduled to become effective on February 21, 2017. The effective date of the final rule was delayed twice until October 19, 2017. On April 12, 2017, GIPSA published a proposed rule requesting comments whether the final rule should be allowed to go into effect. On October 18, 2017, GIPSA published a final rule withdrawing the December 20, 2016, interim final rule, ending the regulatory action. The interim final rule was found to conflict with case law in several U.S. Court of Appeals Circuits, which Congress has declined to overturn through legislation. Additionally, the interim final rule was improperly issued without adequate notice and opportunity for comment. For more information about this rule, see RIN 0580–AB28.

➢ *Re-evaluate the Organic Livestock and Poultry Program final rule:* Because of significant policy and legal issues within the final rule (0581–AD44), the public was asked to comment on which of the following four actions they believed would be best for USDA to take with regard to the disposition of the final rule (0581–AD44). The options were: Let the rule become effective on November 14, 2017; Suspend the rule indefinitely; Delay the effective date of the rule further, beyond the effective date of November 14, 2017; Withdraw the rule so that USDA would not pursue implementation of the rule. Comments were received on all four options. Based on the content of the comments received and the evaluation those comments generated, the option to delay the effective date further was chosen. For more information about this rule, see RIN 0581–AD74. USDA plans to propose the final disposition of 0581–AD44 in December 2017. For more information about this rule, see RIN 0581–AD75.

➢ *Updating plant pest regulations:* APHIS is planning to update regulations regarding the movement of plant pests to establish criteria governing the movement and environmental release of biological control organisms, and to establish regulations allowing the importation and movement in interstate commerce of certain types of plant pests without restriction by granting exceptions from permitting requirements for those pests. These updates would include the movement of soil. This action would clarify the factors that would be considered when assessing the risks associated with the movement of certain organisms and facilitates the movement of regulated organisms and articles in a manner that also protects U.S. agriculture. For more information about this rule, see RIN 0579–AC98.

➢ *Establishing a performance standard for authorizing the importation and interstate movement of fruits and vegetables:* APHIS would broaden the existing performance standard to provide for consideration of all new fruits and vegetables for importation into the United States using a notice-based process rather than through proposed and final rules. Likewise, APHIS would propose an equivalent revision of the performance standard governing the interstate movements of fruits and vegetables from Hawaii and the U.S. territories (Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands) and the removal of commodity-specific phytosanitary requirements from those regulations. This action will allow for the consideration of requests to authorize the importation or interstate movement of new fruits and vegetables

in a manner that enables a more flexible and responsive regulatory approach to evolving pest situations in both the United States and exporting countries. It will not, however, alter the science-based process in which the risk associated with importation or interstate movement of a given fruit or vegetable is evaluated or the manner in which risks associated with the importation or interstate movement of a fruit or vegetable are mitigated. For more information about this rule, see RIN 0579–AD71.

Providing all Americans access to a safe, nutritious, and secure food supply is USDA's most important responsibility, and it is one undertaken with great seriousness. USDA has critical roles in preventing foodborne illness and protecting public health, while ensuring Americans have access to food and healthful diet. The Department will continue to prevent contamination and limit foodborne illness by expanding its modernization of food inspection systems, and USDA's research, education, and extension programs will continue to provide information, tools, and technologies about the causes of foodborne illness and its prevention. USDA will continue to develop partnerships that support best practices in implementing effective nutrition assistance programs that ensure eligible populations have access to programs that support their food needs.

➢ *Increase flexibilities provided to school lunch program operators in meeting nutrition requirements:* The Food and Nutrition Service (FNS) plans to issue an interim final rule that provides flexibilities consistent with those currently available to Program operators participating in the Child Nutrition Programs beginning in School Year 2018–2019. These flexibilities include: (1) Providing operators the option to offer flavored, low-fat (1 percent fat) milk in the Child Nutrition Programs; (2) extending the State agencies' option to allow individual school food authorities to include grains that are not whole grain-rich in the weekly menu offered under the National School Lunch Program (NSLP) and School Breakfast Program (SBP); and (3) revising the sodium reduction timeline for the NSLP and SBP. For more information about this rule, see RIN 0584–AE53.

➢ *Improve effectiveness and efficiency of moving individuals into work:* The Food and Nutrition Act of 2008 (FNA) establishes a time limit for participation in SNAP of three months in three years for able-bodied adults without children who are not working. FNA allows states to waive the time limit under certain circumstances. FNS would request public input on a proposed framework for modifying ABAWD time-limit waivers with the goal of moving individuals to work as the best solution for poverty, and to advance this goal consistent with the structure and the intent of the act. For more information about this rule, see RIN 0584–AE57.

➢ *Provide regulatory flexibility for retailers in the Supplemental Nutrition Assistance Program (SNAP):* FNS will issue a proposed rule to modify the definition of the term ''variety'' as it pertains to the stocking requirements for certain SNAP authorized retail food stores to increase the number of items that qualify as acceptable varieties in the four staple food categories, meat, poultry, fish, and dairy products. This proposed change will provide retailers with more flexibility in meeting the enhanced SNAP eligibility requirements of the 2016 final rule and meet the requirements expressed in the Consolidated Appropriation Act of 2017. For more information about this rule, see RIN 0584–AE61.

➢ *Reduce the reporting burden for nutrition program operators:* FNS will withdraw the interim final rule provisions of the SNAP: Certification, Eligibility, and Employment and Training Provisions of the Food, Energy and Conservation Act of 2008 rule published on January 6, 2017. The interim final rule portion increased requirements for Group Living Arrangements and Drug and Alcohol Treatment Centers. Comments received on these changes indicated that the regulatory change presented significant technical and administrative challenges. For more information about this rule, see RIN 0584–AE54.

➢ *Modernize swine slaughter inspection:* The Food Safety and Inspection Service (FSIS) is proposing to establish a voluntary New Swine Inspection System (NSIS) for market-hog slaughter establishments, and mandatory provisions for all swine slaughtering establishments (*i.e.,* including those that also slaughter roaster swine, sows, and boars). NSIS will provide for increased offline inspection activities that are more directly related to food safety resulting in greater compliance with sanitation and Hazard Analysis and Critical Control Point (HACCP) regulations and reduce the risk of foodborne illness. NSIS would also provide incentives to establishments to improve their processing methods and to develop more efficient slaughter and dressing technologies. Additionally, FSIS is considering requiring establishments to implement written sanitary dressing plans to prevent contamination of carcasses throughout the slaughter and dressing operation; modernizing process control sampling programs; and sampling the slaughter environment for microbiological contamination. For more information about this rule, see RIN 0583–AD62.

➢ *Modernize egg products inspection:* FSIS is proposing to replace current regulations with HACCP Systems and Sanitation Standard Operating Procedures (SOPs), consistent with HACCP and Sanitation SOP requirements in the meat and poultry products inspection regulations. In addition, FSIS is proposing to remove the current requirements for prior approval by FSIS of egg products plant drawings, specifications, and equipment prior to their use in official plants, provide for the generic labeling of egg products, and require safe handling labels on shell eggs and egg products. The agency is also proposing to move from continuous inspection to daily inspection of establishments. For more information about this rule, see RIN 0583–AC58.

## USDA—AGRICULTURAL MARKETING SERVICE (AMS)

Proposed Rule Stage

### 1. National Bioengineered Food Disclosure Standard

*Priority:* Other Significant.
*E.O. 13771 Designation:* Other.
*Legal Authority:* Pub. L. 114–216; 7 U.S.C. 1621 to 1627
*CFR Citation:* 7 CFR 1285.
*Legal Deadline:* None.
*Abstract:* On July 29, 2016, the Agricultural Marketing Act of 1946 was amended to establish a National Bioengineered Food Disclosure Standard (Law) (Pub. L. 114–216). Pursuant to the law, this NPRM will propose requirements that, if finalized, will serve as a national mandatory bioengineered food disclosure standard for bioengineered food and food that may be bioengineered.
*Statement of Need:* This action is mandated by Public Law 114–216.
*Summary of Legal Basis:* The authority for this action is provided by the Agricultural Marketing Act of 1946 as amended by Public Law 114–216.
*Alternatives:* The alternatives will be identified during the drafting stage and the public will be given the opportunity to comment on alternatives.
*Anticipated Cost and Benefits:* This rule will fulfill the mandate of Public

Law 114–216. The specific costs and benefits will be determined during the drafting of the proposed rule. AMS is striving to fulfill the mandate while minimizing the burden on the regulated community.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 12/00/17 | |
| Final Action | 07/00/18 | |

*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.

*Agency Contact:* Arthur Neal, Deputy Administrator, Transportation and Marketing, Department of Agriculture, Agricultural Marketing Service, *Phone:* 202 692–1300.

*RIN:* 0581–AD54

## USDA—AMS

### 2. • NOP: Organic Livestock and Poultry Practices

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

*E.O. 13771 Designation:* Other.

*Legal Authority:* 7 U.S.C. 6501 to 6522

*CFR Citation:* 7 CFR 205.

*Legal Deadline:* None.

*Abstract:* The Organic Livestock and Poultry Practices final rule, published on January 19, 2017, adds provisions to the USDA organic regulations to address livestock and poultry living conditions, health care practices, and animal handling and transport, and during slaughter. The final rule was originally scheduled to become effective on March 20, 2017; the effective date was subsequently delayed to May 19, 2017. AMS published a notice further delaying the effective date to November 14, 2017. Per a document published on November 14, 2017, the January 2017 rule was further delayed to May 14, 2018. As stated within the November 2017 publication, this proposed rule requests public comments on: (1) The scope of the Secretary's authority under of the Organic Foods Production Act including 7 U.S.C. 6509; (2) whether the requirements in the final rule are the most innovative and least burdensome tool for meeting regulatory objectives; and, (3) whether the revised benefits calculations, which corrected a mathematical error in the final rule, justify the estimated costs.

*Statement of Need:* This action is needed to ensure only regulations that are properly supported by legislative authority and requirements of executive orders are met.

*Summary of Legal Basis:* AMS National Organic Program is authorized by the Organic Foods Production Act of 1990 (OFPA) to establish national standards governing the marketing of organically produced agricultural products (7 U.S.C. 6501–6522). The USDA organic regulations set the requirements for the organic certification of agricultural products (7 CFR part 205).

*Alternatives:* As AMS evaluates the concerns outlined in the abstract, the possible outcomes of the evaluation range from allowing the January 2017 final rule to become effective to withdrawing the January 2017 final rule.

*Anticipated Cost and Benefits:* AMS estimated that the discounted costs, transfers, and benefits of the January 2017 final rule, for three different producer response scenarios, would range from $8.2 to $31 million annually due to increased compliance and regulatory burdens. In addition, there is also an estimated $3.9 million undiscounted annual paperwork burden. AMS also estimated transfers ranging from $80 to $86 million annually caused by producers exiting the organic market. AMS estimates the benefits would range from $3.3 to $31.6 million for all producer response scenarios when the mathematical error is corrected.

*Risks:* This action is likely to be contentious.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 12/00/17 | |

*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:* Jennifer Tucker, Associate Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW, Washington, DC 20250, *Phone:* 202 720–3252.

*Related RIN:* Related to 0581–AD44, Related to 0581–AD74

*RIN:* 0581–AD75

## USDA—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)

Proposed Rule Stage

### 3. Lacey Act Implementation Plan: De Minimis Exception and Composite Articles

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 16 U.S.C. 3371 *et seq.*

*CFR Citation:* 7 CFR 357.

*Legal Deadline:* None.

*Abstract:* The Food, Conservation, and Energy Act of 2008 amended the Lacey Act to provide, among other things, that importers submit a declaration at the time of importation for certain plants and plant products. The declaration requirements of the Lacey Act became effective on December 15, 2008, and enforcement of those requirements is being phased in. We are proposing an exception to the declaration requirements for products containing composite plant materials. We are also proposing to establish an exception to the declaration requirement for products containing a minimal amount of plant materials. Both of these actions would relieve the burden on importers while continuing to ensure that the declaration requirement fulfills the purposes of the Lacey Act.

*Statement of Need:* Will update.

*Summary of Legal Basis:* Will update.

*Alternatives:* Will update.

*Anticipated Cost and Benefits:* Will update.

*Risks:* Will update.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 06/30/11 | 76 FR 38330 |
| ANPRM Comment Period End. | 08/29/11 | |
| NPRM | 12/00/17 | |

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

*Agency Contact:* Parul Patel, Senior Agriculturalist, Permitting and Compliance Coordination, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 60, Riverdale, MD 20737–1231, *Phone:* 301 851–2351.

*RIN:* 0579–AD44

## USDA—APHIS

Final Rule Stage

### 4. National Environmental Policy Act Implementing Procedures

*Priority:* Other Significant.
*E.O. 13771 Designation:* Deregulatory.
*Legal Authority:* 42 U.S.C. 4321 *et seq.*
*CFR Citation:* 7 CFR 372.
*Legal Deadline:* None.
*Abstract:* We are amending the regulations that set out our National Environmental Policy Act (NEPA) implementing procedures. The amendments will clarify when we will complete an environmental impact statement or an environmental analysis for an action, provide additional categories of actions for which we will prepare such documents, expand the list of actions subject to categorical exclusion from further environmental documentation, and set out an environmental documentation process that could be used in emergencies. The changes are intended to update the regulations and improve their clarity and effectiveness.

*Statement of Need:* APHIS' NEPA regulations were last amended in 1995. The Council on Environmental Quality's regulations for implementing NEPA at 40 CFR 1507.3(a) indicate that agencies ''shall continue to review their policies and procedures and in consultation with the Council to revise them as necessary to ensure full compliance with the purposes and provisions of the Act.'' Accordingly, we have evaluated our regulations and identified changes that would clarify the regulations, make them more consistent with NEPA, and allow us greater flexibility in fulfilling the requirements of NEPA and CEQ's NEPA implementing regulations while responding to immediate disease and pest threats or damage to the environment.

*Summary of Legal Basis:* The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), is the United States' basic charter for protection of the environment. Consistent with NEPA and with the requirements of CEQ's NEPA implementing regulations, APHIS' NEPA regulations provide guidance, sources of information and assistance, definitions, classifications of action, identification of major planning and decision points, opportunities for public involvement, and methods of processing different types of environmental documents.

*Alternatives:* Leaving the regulations unchanged would be unsatisfactory because it would perpetuate the current situation; *i.e.,* one in which the current regulations, last amended in 1995, are outdated and in need of clarification. Another alternative would be to establish criteria for categorical exclusion that are less (or more) restrictive, thus increasing (or decreasing) the number of actions eligible for categorical exclusion.

*Anticipated Cost and Benefits:* APHIS has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities. Some entities will experience time and money savings, but the savings should benefit only a few entities each year. The proposal would also serve to clarify the regulations and make the NEPA process more transparent, which, although beneficial, should not have a significant economic impact on affected entities.

*Risks:* Not Applicable.
*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/20/16 | 81 FR 47051 |
| NPRM Comment Period End. | 09/19/16 | |
| Final Rule | 03/00/18 | |

*Regulatory Flexibility Analysis Required:* No.
*Government Levels Affected:* None.
*Additional Information:* Additional information about APHIS and its programs is available on the internet at *http://www.aphis.usda.gov.*
*Agency Contact:* Eileen Sutker, APHIS Federal NEPA Contact, Environmental and Risk Analysis Services, PPD, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 149, Riverdale, MD 20737–1238, *Phone:* 301 851–3043.
*RIN:* 0579–AC60

## USDA—APHIS

### 5. Animal Welfare; Establishing De Minimis Exemptions From Licensing

*Priority:* Other Significant.
*E.O. 13771 Designation:* Deregulatory.
*Legal Authority:* 7 U.S.C. 2131 to 2159
*CFR Citation:* 9 CFR 1 to 3.
*Legal Deadline:* None.
*Abstract:* In the 2014 Farm Bill, Congress amended the Animal Welfare Act (AWA) to provide the Secretary of Agriculture with the authority to determine what facilities and activities involving AWA regulated animals are de minimis and therefore exempt from licensure and oversight. We are amending the AWA regulations to enact this new provision. This change provides APHIS with the flexibility to exempt from licensing those dealers and exhibitors who provide adequate levels of humane care to their animals, allowing us to target our enforcement resources where they are most needed. Dealers and exhibitors operating at or below the threshold will be exempted from APHIS licensing and oversight under the AWA.

*Statement of Need:* A 2014 Farm Bill amendment to the Animal Welfare Act provides the Secretary of Agriculture with the authority to determine when animal dealers and exhibitors are not required to obtain a license under the Act, if the size of the business conducting AWA-related activities is determined by the Secretary to be de minimis. This rule is necessary to establish the thresholds for what constitutes a de minimis level of activity.

*Summary of Legal Basis:* The Agricultural Act of 2014 Farm Bill (Pub. L. 113–79), section 12308, which amended section 3 of the Animal Welfare Act (7 U.S.C. 2133).

*Alternatives:*

*Anticipated Cost and Benefits:* By the very nature of this proposal, all entities that would be affected are considered small. The entities most likely to be affected by this proposal are businesses engaged in AWA-related exhibition activities that have small numbers of regulated animals. This proposed rule would relieve regulatory responsibilities for some currently licensed entities and reduce the cost of business for those entities. Those currently licensed exhibitors, breeders, and dealers who are under the proposed de minimis thresholds would no longer be subject to licensing, animal identification and recordkeeping requirements.

*Risks:* Establishing de minimis thresholds in this proposal would allow APHIS to direct inspection and enforcement efforts on higher risk entities.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 08/04/16 | 81 FR 51386 |
| NPRM Comment Period End. | 11/02/16 | |
| Final Rule | 02/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.
*Small Entities Affected:* Businesses.
*Government Levels Affected:* Federal.
*Additional Information:* Additional information about APHIS and its programs is available on the internet at *http://www.aphis.usda.gov.*
*Agency Contact:* Kay Carter-Corker, Director, National Policy Staff, Animal

Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 84, Riverdale, MD 20737, *Phone:* 301 851–3748.

*RIN:* 0579–AD99

## USDA—FOOD AND NUTRITION SERVICE (FNS)

Final Rule Stage

### 6. Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 42 U.S.C. 1758; 42 U.S.C. 1766; 42 U.S.C. 1772; 42 U.S.C. 1773; 42 U.S.C. 1779

*CFR Citation:* 7 CFR 210.10; 7 CFR 210.11; 7 CFR 215.7a; 7 CFR 220.8; 7 CFR 226.20.

*Legal Deadline:* None.

*Abstract:* This interim final rule provides flexibilities consistent with those currently available by Congressional directive to program operators participating in the Child Nutrition Programs for School Year 2018–2019. These flexibilities include: (1) Providing operators the option to offer flavored, low-fat (one percent fat) milk in the Child Nutrition Programs; (2) extending the State agencies' option to allow individual school food authorities to include grains that are not whole grain-rich in the weekly menu offered under the National School Lunch Program (NSLP) and School Breakfast Program (SBP); and (3) revising the sodium reduction timeline for the NSLP and SBP.

*Statement of Need:* Will update.

*Summary of Legal Basis:* Will update.

*Alternatives:* Will update.

*Anticipated Cost and Benefits:* Will update.

*Risks:* Will update.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 11/30/17 | 82 FR 56703 |
| Interim Final Rule Comment Period End. | 01/29/18 | |
| Interim Final Rule Effective. | 07/01/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*Additional Information:* School Lunch—NSLA Section 9(a)(1)—42 U.S.C. 1758(a)(1). Child and Adult Care Food Program—NSLA Section 17(g)—42 U.S.C. 1766(g) Special Milk Program—Child Nutrition Act Section 3(a)(1)—42 U.S.C. 1772(a)(1). School Breakfast Program—Child Nutrition Act Section 4(e)(1)(A)—42 U.S.C. 1773(e)(1)(A). Smart Snacks in Schools—Child Nutrition Act Section 10(b)—42 U.S.C. 1779(b).

*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–AE53

## USDA—FOOD SAFETY AND INSPECTION SERVICE (FSIS)

Proposed Rule Stage

### 7. Modernization of Swine Slaughter Inspection

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

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

*CFR Citation:* 9 CFR 301, 309, 310, and 314.

*Legal Deadline:* None.

*Abstract:* The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations to establish a new inspection system for swine slaughter establishments demonstrated to provide greater public health protection than the existing inspection system. The Agency is also proposing several changes to the regulations that would affect all establishments that slaughter swine, regardless of the inspection system under which they operate.

*Statement of Need:* The proposed action is necessary to improve food safety, improve compliance with the Humane Methods of Slaughter Act, improve the effectiveness of market hog slaughter inspection, make better use of the Agency's resources, and remove unnecessary regulatory obstacles to innovation.

*Summary of Legal Basis:*

*Alternatives:* The Agency is considering alternatives such as: (1) A mandatory New Swine Slaughter Inspection System (NSIS) for market hog slaughter establishments and (2) a voluntary NSIS for market hog establishments, under which FSIS would conduct the same offline inspection activities as traditional inspection.

*Anticipated Cost and Benefits:* The proposed regulations are expected to benefit establishments by removing unnecessary regulatory obstacles to innovation and allowing establishments more flexibility in line configuration. The proposed changes are also expected to reduce establishments' sampling costs. Additionally, the proposed regulations are expected to improve the effectiveness of market hog slaughter inspection, leading to a reduction in the number of human illnesses attributed to products derived from market hogs. The proposed actions make better use of the Agency's resources, which is expected to reduce the Agency's personnel and training budgetary requirements. Establishments are expected to incur increased labor and recordkeeping costs.

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 11/00/17 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Agency Contact:* Matthew Michael, Director, Issuances Staff, Department of Agriculture, Food Safety and Inspection Service, Office of Policy and Program Development, 1400 Independence Avenue SW, Washington, DC 20250–3700, *Phone:* 202 720–0345, *Fax:* 202 690–0486, *Email: matthew.michael@fsis.usda.gov.*

*RIN:* 0583–AD62

## USDA—FOREST SERVICE (FS)

Final Rule Stage

### 8. Administrative Issuances; Involving the Public in the Formulation of Forest Service Directives (Rule)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 16 U.S.C. 1612(a)

*CFR Citation:* 7 CFR 2.7; 36 CFR 200.4; 36 CFR 216.

*Legal Deadline:* None.

*Abstract:* This procedural final rule will provide greater opportunity for public participation in the formulation of standards, criteria and guidelines applicable to Forest Service programs by: (1) Expanding the scope of documents subject to such review; (2) utilizing technologies that were not available when these regulations were last amended in 1984 to ensure a broader swath of the interested public is notified of opportunities to review and comment on policy changes; and (3) increasing the efficiency of the directive revision process to reduce administrative costs and permit more frequent and timely updates. Consistent with 5 U.S.C. 553(d)(1), this rule is issued as a final rule as it imposes no additional burdens on any governmental

entity or the public but expands the ability of such parties to comment upon the issuance of Agency policies set forth in Forest Service rules and guidance.

*Statement of Need:* Will update.

*Summary of Legal Basis:* Will update.

*Alternatives:* Will update.

*Anticipated Cost and Benefits:* Will update.

*Risks:* Will update.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Final Rule ..... | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Michael Migliori, Department of Agriculture, Forest Service, Washington, DC 20250, *Phone:* 202 205–2496, *Email: mmigliori@fs.fed.us.*

*RIN:* 0596–AC65

**BILLING CODE: 3410–90–P**

## DEPARTMENT OF COMMERCE (DOC)

*Statement of Regulatory and Deregulatory Priorities*

Established in 1903, the Department of Commerce (Commerce) is one of the oldest Cabinet-level agencies in the Federal Government. Commerce's mission is to create the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and environmental stewardship. Commerce has 12 operating units, which are responsible for managing a diverse portfolio of programs and services, ranging from trade promotion and economic development assistance to broadband and the National Weather Service.

Commerce touches Americans daily, in many ways—making possible the daily weather reports and survey research; facilitating technology that all of us use in the workplace and in the home each day; supporting the development, gathering, and transmission of information essential to competitive business; enabling the diversity of companies and goods found in America's and the world's marketplace; and supporting environmental and economic health for the communities in which Americans live.

Commerce has a clear and compelling vision for itself, for its role in the Federal Government, and for its roles supporting the American people, now and in the future. To achieve this vision, Commerce works in partnership with businesses, universities, communities, and workers to:

1. 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;

2. Support entrepreneurship and commercialization by enabling community development and strengthening minority businesses and small manufacturers;

3. Maintain U.S. economic competitiveness in the global marketplace by promoting exports, ensuring a level playing field for U.S. businesses, advancing free, fair, and reciprocal trade, and ensuring that technology transfer is consistent with our nation's economic and security interests;

4. Provide effective management and stewardship of our nation's resources and assets to ensure sustainable economic opportunities; and

5. Make informed policy decisions and enable better understanding of the economy by providing accurate economic and demographic data.

Commerce is a vital resource base, tireless advocate, and Cabinet-level voice for job creation. This Regulatory Plan tracks the most important regulations that implement these policy and program priorities, as well as new efforts by the Department to remove unnecessary regulatory burdens on external stakeholders.

*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 pre-regulatory or regulatory actions for FY 2018. During the next year, NOAA plans to publish five 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.

Commerce has implemented Executive Order 13771 working through its Regulatory Reform Task Force established under Executive Order 13777 to identify and prioritize deregulatory actions that each bureau within the Department can take to reduce and remove regulatory burdens on stakeholders.

In Fiscal Year 2018, Commerce expects to publish approximately 2 regulatory actions and over 30 deregulatory actions, far exceeding the requirement under Executive Order 13771 to publish two deregulatory actions for every one regulatory action. Additionally, Commerce's Regulatory Reform Task Force will continue working to execute directives under Executive Orders 13783 and 13807 to streamline regulatory process and permitting reviews for new energy and infrastructure projects. To that end, Commerce may have other deregulatory actions to implement that do not currently appear in the agenda.

Regulatory reform and agency streamlining are key elements to Commerce's agenda for the next year. Senior policy analysis, performance measurements, and employee evaluations will incorporate these priorities as the Department continues to regulate private industry through multiple bureaus within the agency.

*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; conserving, protecting, and recovering threatened and endangered marine and anadromous species and marine mammals 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 the impacts of a changing climate 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 2018, a number of the regulatory and deregulatory 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, upon request, the incidental take of marine mammals by U.S. citizens who engage in a specified activity (*e.g.,* oil and gas development, pile driving) within a specified geographic region. NMFS authorizes incidental take under the MMPA if we find that the taking would be of small numbers, have no more than a ''negligible impact'' on those marine mammal species or stock, and would not have an ''unmitigable adverse impact'' on the availability of the species or stock for ''subsistence'' uses. NMFS also initiates rulemakings under the MMPA to establish a management regime to reduce marine mammal mortalities and injuries as a result of interactions with fisheries. In addition, 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, and 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 ESA. 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, Federal agencies consult with NMFS on any proposed action authorized, funded, or carried out by that agency that may affect listed species or designated critical habitat, or that may affect proposed species or critical habitat. These interagency consultations are designed to assist Federal agencies in fulfilling their duty to ensure Federal actions do not jeopardize the continued existence of a species or destroy or adversely modify critical habitat, while still allowing Federal agencies to fulfill their respective missions (*e.g.,* permitting infrastructure projects or oil and gas exploration, conducting military readiness activities).

*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 four 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 four regulatory plan actions is provided below.

Additionally, NMFS is undertaking a series of rulemakings that are considered deregulatory, as defined by Executive Order 13771. Such actions directly benefit the regulated community by increasing access, providing more economic opportunity, reducing costs, and/or increasing flexibility. A specific example of such an action is the Commerce Trusted Trader Program, as described below. Other examples include actions implementing FMPs that alleviate or reduce previous requirements.

*1. Illegal, Unregulated, and Unreported Fishing; Fisheries Enforcement; High Seas Driftnet Fishing Moratorium Protection Act (0648–BG11):* The U.S. is a signatory to the Port State Measures Agreement (PSMA). The agreement is aimed at combatting illegal, unreported and unregulated (IUU) fishing activities by increased port inspection for foreign fishing vessels and closing seafood markets to the products of illegal fishing. Benefits of the rule will accrue when IUU vessels are denied entry to the U.S., and illegal seafood products are precluded from the U.S. supply chain, thereby maintaining higher prices and market share for legitimate producers of fishery products.

*2. Commerce Trusted Trader Program (0648–BG51):* Under the Magnuson-Stevens Fishery Conservation and Management Act, importation of fish products taken in violation of foreign law and regulation is prohibited. To enforce this prohibition, NMFS has implemented the Seafood Import Monitoring Program (81 FR 88975, December 9, 2016) which requires U.S. importers to report on the origin of fish products and to keep supply chain records. The Commerce Trusted Trader Program will establish a voluntary program for certified seafood importers that provides benefits such as reduced targeting and inspections, and enhanced streamlined entry into the United States. The program will require that a Commerce Trusted Trader establish a secure supply chain and maintain the records necessary to verify the legality of all designated product entering into U.S. commerce, but it will excuse the Commerce Trusted Trader from entering that data into the International Trade Data System prior to entry, as required by Seafood Import Monitoring Program. This program is deregulatory in nature because it reduces reporting costs at entry and reduces recordkeeping costs due to flexibility in archiving.

*3. Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys in the Gulf of Mexico (0648–BB38):* The Marine Mammal Protection Act (MMPA) prohibits the ''take'' (*e.g.,* behavioral harassment, injury, or mortality) of marine mammals with certain exceptions, including through the issuance of incidental take authorizations. Where there is a reasonable likelihood of an activity resulting in the take of marine mammals—as is the case for certain methods of geophysical exploration, including the use of airgun arrays (*i.e.,* ''seismic surveys'')—action proponents must ensure that take occurs in a lawful manner. However, there has not previously been any analysis of industry survey activities in the Gulf of Mexico conducted pursuant to requirements of MMPA, and industry operators have been, and currently are, conducting their work without MMPA incidental take authorizations. In support of the oil and gas industry, the Bureau of Ocean Energy Management has requested 5-year incidental take regulations, which would provide a regulatory framework under which individual companies could apply for project-specific Letters of Authorization. Providing for industry compliance with the MMPA through the requested regulatory framework, versus companies pursuing individual authorizations, would be the most efficient way to achieve such compliance for both industry and for NMFS, and would provide regulatory certainty for industry operators.

*4. Endangered and Threatened Species; Designation of Critical Habitat for Threatened Caribbean and Indo-Pacific Reef-building Corals (0648–BG26):* Caribbean and Indo-Pacific reef building corals were listed under the Endangered Species Act (ESA) in September 2014. Section 4 of the ESA requires that critical habitat be specified to the maximum extent prudent and determinable at the time a species is listed (16 U.S.C. 1533(b)(6)(C)). The ESA also requires that we publish final critical habitat rules within one year of proposed rules. At the time these corals were listed, we were unable to determine what areas met the statutory definition of critical habitat. We subsequently published a proposed rule to designate critical habitat. This action would designate new critical habitat for twelve corals (Dendrogyra cylindrus, Orbicella annularis, Orbicella faveolata, Orbicella franksi, Mycetophyllia ferox, Acropora globiceps, Acropora jacquelineae, Acropora retusa, Acropora speciosa, Euphyllia paradivisa, Isopora crateriformis, and Seriatopora aculeata) and revise the 2008 critical habitat designation for two corals (Acropora palmata and Acropora cervicornis).

*BIS*

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's Regulatory Plan Action

BIS maintains the EAR, including the Commerce Control List (CCL). The CCL describes commodities, software, and technology that are subject to licensing requirements for specific reasons for control. The Department of State, Directorate of Defense Trade Controls (DDTC), maintains the International Traffic in Arms Regulations (ITAR), including the United States Munitions List (USML), which describes defense articles subject to State's licensing jurisdiction.

In Fiscal Year 2018, BIS plans to publish a proposed rule describing how articles the President has determined no longer warrant control under USML Category I (Firearms, Close Assault Weapons and Combat Shotguns), Category II (Guns and Armament), and Category III (Ammunition/Ordnance) would be controlled on the CCL and by the EAR. This proposed rule will be published in conjunction with a DDTC proposed rule that would amend the list of articles controlled by those USML Categories to describe more precisely items warranting continued control on that list.

The changes that will be described in these proposed rules are based on a review of those categories by the Department of Defense, which worked with the Departments of State and Commerce in preparing the amendments. The review was focused on identifying the types of articles that are now controlled on the USML that are either (i) inherently military and otherwise warrant control on the USML or (ii) if of a type common to non-military firearms applications, possess parameters or characteristics that provide a critical military or intelligence advantage to the United States, and are almost exclusively available from the United States. If an article satisfies one or both of those criteria, the article will remain on the USML. If an article does not satisfy either criterion, it will be identified in the new Export Control Classification Numbers (ECCNs) included in the BIS proposed rule. Thus, the scope of the items that will be described in the proposed rule is essentially commercial items widely available in retail outlets and less sensitive military items.

Although the firearms and other items described in the proposed rule are widely used for sporting applications, BIS will not propose to ''de-control'' these items. BIS would require licenses to export or reexport to any country a firearm or other weapon that would be added to the CCL by the proposed rule. Rather than decontrolling firearms and other items, in publishing the proposed rule, BIS, working with the Departments of Defense and State, is trying to reduce the procedural burdens and costs of export compliance on the U.S. firearms industry while allowing the U.S. Government to control firearms appropriately and to make better use of its export control resources.

*United States Patent Trademark Office*

The United States Patent and Trademark Office's (USPTO) mission is to foster innovation, competitiveness and economic growth, domestically and abroad by delivering high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and delivering intellectual property information and education worldwide.

Major Programs and Activities

USPTO is the Federal agency for granting U.S. patents and registering trademarks. In doing this, the USPTO fulfills the mandate of Article I, Section 8, Clause 8, of the Constitution that the legislative branch ''promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.'' The USPTO registers trademarks based on the commerce clause of the Constitution (Article I, Section 8, Clause 3). Under this system of protection, American industry has flourished. New products have been invented, new uses for old ones discovered, and employment opportunities created for millions of Americans. The strength and vitality of the U.S. economy depends directly on effective mechanisms that protect new ideas and investments in innovation and creativity. The continued demand for patents and trademarks underscores the ingenuity of American inventors and entrepreneurs. The USPTO is at the cutting edge of the nation's technological progress and achievement.

The USPTO advises the President of the United States, the Secretary of Commerce, and U.S. government agencies on intellectual property (IP) policy, protection, and enforcement; and promotes the stronger and more effective IP protection around the world. The USPTO furthers effective IP protection for U.S. innovators and entrepreneurs worldwide by working with other agencies to secure strong IP provisions in free trade and other international agreements. It also provides training, education, and capacity building programs designed to foster respect for IP and encourage the development of strong IP enforcement regimes by U.S. trading partners. USPTO administers regulations located at title 37 of the Code of Federal Regulations concerning its patent and trademark services, and the other functions it performs.

USPTO's Regulatory Plan Action

*Final Rule:* Setting and Adjusting Patent Fees during Fiscal Year 2017 (RIN 0651–AD02): The Leahy-Smith America Invents Act (AIA), enacted in 2011, provided USPTO with the authority to set and adjust its fees for

patent and trademark services. In early 2013, USPTO issued a final rule, ''Setting and Adjusting Patent Fees'' (RIN 0651–AC54, 78 FR 4212, Jan. 18, 2013), in which USPTO for the first time set a new fee structure for patent services using the authority provided by Section 10 of the AIA. Since then, USPTO has conducted an internal biennial fee review, in which it undertook internal consideration of the current fee structure, and considering ways that the structure might be improved, including rulemaking pursuant to the USPTO's fee setting authority. This fee review process involved public outreach, including, as required by the Act, public hearings held by the USPTO's Public Advisory Committees (which were held in late 2015), as well as public comment and other outreach to the user community and public in general. In October 2016, USPTO published an NPRM proposing the setting and adjusting of patent fees. The comment period for that propose rule closed on December 2, 2016. Per E.O. 12866, this NPRM was determined to be economically significant. USPTO has reviewed all public comments received and considered made revisions to its proposed fee adjustments based on those comments. USPTO is now in the process of preparing a final rule that will set and adjust patent fees. In this final rule, the USPTO will set and adjust Patent fee amounts to provide the Office with a sufficient amount of aggregate revenue to recover its aggregate cost of operations while helping the Office maintain a sustainable funding model, reduce the current patent application backlog, decrease patent pendency, improve quality, and upgrade the Office's business information technology capability and infrastructure. USPTO anticipates publishing this rule in the fall of 2017, with new fees to be effective 60 days after the rule publishes.

*The Economic Development Administration*

The Economic Development Administration (EDA) provides assistance to economically distressed communities in order to stimulate commercial growth, improve infrastructure, and generate employment opportunities. Over the next year, EDA will continue to implement grants and assistance programs that achieve the agency's mission, in line with statutory authority, and also support the President's agenda. Accordingly, EDA's regulatory activities target new efforts to streamline and simplify agency process.

EDA's Regulatory Action Plan

EDA published a final rule that focused on improving and modernizing EDA's oversight of its Revolving Loan Fund (RLF) Program under the Public Works and Economic Development Act of 1965, as amended (PWEDA). The RLF Program provides grants to eligible recipients, such as local governments and non-profit organizations, to operate lending programs that offer low-interest loans and flexible repayment terms, primarily to small businesses in distressed communities that are unable to obtain traditional bank financing. The final rule implemented a risk-based oversight approach that has improved EDA oversight of the RLF Program, consistent with recommendations from the Department's Office of Inspector General. In particular, EDA's shift to a modern risk analysis system concentrates EDA's limited oversight resources on those RLFs at greatest risk and simultaneously reduced compliance burdens on successful RLFs.

EDA's transition to risk-based monitoring of the RLF Program is expected to result in more efficient and effective oversight of the RLF Program through reduced reporting, compliance, and monitoring costs of approximately $960,000 each year. For this reason, the final rule was a ''deregulatory action'' under Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' These regulatory changes were necessary regardless of whether EDA continues to operate or if EDA were to be eliminated by Congress as requested in the President's Fiscal Year 2018 Budget because the Department is under an obligation to administer and monitor RLF grants in perpetuity under current statutory authorities. The regulatory changes made by the Final Rule would enable EDA or the Department to more efficiently manage the residual RLF portfolio going forward.

The final rule also effectuated important, but less comprehensive, updates to other parts of EDA's regulations implementing PWEDA that enable EDA or the Department to more effectively oversee the non-RLF grant portfolio, even in the event of EDA's elimination by Congress. These non-RLF PWEDA regulations ensure that grantees continue to use projects for the purpose originally funded and to eventually execute releases of the Federal interest in the property at the expiration of the useful life, often 20 years after the date of the grant award.

## DOC—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA)

Proposed Rule Stage

### 9. Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys in the Gulf of Mexico

*Priority:* Other Significant.
*E.O. 13771 Designation:* Regulatory.
*Legal Authority:* 16 U.S.C. 1361 *et seq.*
*CFR Citation:* 50 CFR 217.
*Legal Deadline:* None.
*Abstract:* The National Marine Fisheries Service is taking this action in response to an October 17, 2016, application from the U.S. Department of the Interior (DOI) and the Bureau of Ocean Energy Management (BOEM) to promulgate regulations and issue Letters of Authorization to take marine mammals incidental to oil and gas industry sponsored seismic surveys for purposes of geophysical exploration on the Outer Continental Shelf in the Gulf of Mexico from approximately 2018 through 2023. BOEM states that underwater activities associated with sound sources (*i.e.,* airguns, boomers, sparkers, and chirpers) may expose marine mammals in the area to noise and pressure.

*Statement of Need:* The Marine Mammal Protection Act (MMPA) prohibits the ''take'' (*e.g.,* behavioral harassment, injury, or mortality) of marine mammals with certain exceptions, including through the issuance of incidental take authorizations. Where there is a reasonable likelihood of an activity resulting in the take of marine mammals—as is the case for certain methods of geophysical exploration, including the use of airgun arrays (*i.e.,* ''seismic surveys'')—action proponents must ensure that take occurs in a lawful manner. However, there has not previously been any analysis of industry survey activities in the Gulf of Mexico conducted pursuant to requirements of MMPA, and industry operators have been, and currently are, conducting their work without MMPA incidental take authorizations. In support of the oil and gas industry, the Bureau of Ocean Energy Management (BOEM) has requested five-year incidental take regulations, which would provide a regulatory framework under which individual companies could apply for project-specific letters of authorization. Providing for industry compliance with the MMPA through the requested regulatory framework, versus companies pursuing individual authorizations would be the most efficient way to

achieve such compliance for both industry and for NMFS, and would provide regulatory certainty for industry operators.

*Summary of Legal Basis:* Marine Mammal Protection Act.

*Alternatives:* While the MMPA does not require consideration of alternatives in rulemaking, the regulatory impact analysis considers a more stringent and less stringent regulatory alternative. The more stringent alternative would require more mitigation of industry authorization-holders. The less stringent alternative is the basis for the proposed rule. As an alternative to regulation, individual companies could request specific permits known as incidental harassment authorizations (IHA). However, these permits require approximately six to nine months to obtain (compared with an anticipated less than three months to obtain letters of authorization under a rule), are information-intensive in terms of the required application, and require a public comment period. They also must be renewed on a yearly basis, whereas a Letter of Authorization lasts for five years.

*Anticipated Cost and Benefits:* The proposed rule would include mitigation, monitoring, and reporting requirements, as required by the MMPA. However, as the proposed rule would alleviate other current regulatory requirements that would otherwise be expected to cost 37.8 to 230 million dollars per year, it is estimated to result in a net annualized savings of 8 to 123 million dollars (the range of values reflects ranges of projected future activity levels). The proposed rule would result in additional indirect (non-monetized) costs as a result of the imposition of time-area restrictions on survey effort. However, these costs are expected to be minimal, as two of three proposed restrictions are in areas with low to no levels of activity and a third, which has been in place under current baseline conditions, is seasonal and therefore may be planned around. The proposed rule would also result in certain non-monetized benefits. The protection of marine mammals afforded by this rule (pursuant to the requirements of the MMPA) would benefit the regional economic value of marine mammals via tourism and recreation to some extent, as mitigation measures applied to geophysical survey activities in the GOM region are expected to benefit the marine mammal populations that support this economic activity in the GOM. The proposed rule would also afford significant benefit to the regulated industry by providing an efficient framework within which compliance with the MMPA, and the attendant regulatory certainty, may be achieved. Cost savings may be generated in particular by the reduced administrative effort required to obtain an LOA under the framework established by a rule compared to what would be required to obtain an incidental harassment authorization (IHA) under section 101(a)(5)(D) of the MMPA. Absent the rule, survey operators in the GOM would likely be required to apply for an IHA. Although not monetized, NMFS' analysis indicates that the upfront work associated with the rule (*e.g.,* analyses, modeling, process for obtaining LOA) would likely save significant time and money for operators.

*Risks:* Absent the rule, oil and gas industry operators would face a highly uncertain regulatory environment due to the imminent threat of litigation. BOEM currently issues permits under a stay of ongoing litigation, in the absence of the proposed rule the litigation would continue and NMFS would be added as a defendant. The IHA application process that would be available to companies would be more expensive and time-consuming.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/17 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal.

*Energy Effects:* Statement of Energy Effects planned as required by Executive Order 13211.

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400.

*RIN:* 0648–BB38

## DOC—NOAA

### 10. Illegal, Unregulated, and Unreported Fishing; Fisheries Enforcement; High Seas Driftnet Fishing Moratorium Protection Act

*Priority:* Other Significant.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* Pub. L. 114–81

*CFR Citation:* 50 CFR 300.

*Legal Deadline:* None.

*Abstract:* This proposed rule will make conforming amendments to regulations implementing the various statutes amended by the Illegal, Unreported and Unregulated Fishing Enforcement Act of 2015 (Pub. L. 114–81). The Act amends several regional fishery management organization implementing statutes as well as the High Seas Driftnet Fishing Moratorium Protection Act. It also provides authority to implement two new international agreements the Antigua Convention, which amends the Convention for the establishment of an Inter-American Tropical Tuna Commission, and the United Nations Food and Agriculture Organization Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing (Port State Measures Agreement), which restricts the entry into U.S. ports by foreign fishing vessels that are known to be or are suspected of engaging in illegal, unreported, and unregulated fishing. This proposed rule will also implement the Port State Measures Agreement. To that end, this proposed rule will require the collection of certain information from foreign fishing vessels requesting permission to use U.S. ports. It also includes procedures to designate and publicize the ports to which foreign fishing vessels may seek entry and procedures for conducting inspections of these foreign vessels accessing U.S. ports. Further, the rule establishes procedures for notification of: The denial of port entry or port services for a foreign vessel, the withdrawal of the denial of port services if applicable, the taking of enforcement action with respect to a foreign vessel, or the results of any inspection of a foreign vessel to the flag nation of the vessel and other competent authorities as appropriate.

*Statement of Need:* The United States is a signatory to the Port State Measures Agreement (PSMA). The agreement is aimed at combatting illegal, unreported and unregulated (IUU) fishing activities by increased port inspection for foreign fishing vessels and closing seafood markets to the products of illegal fishing.

*Summary of Legal Basis:* Magnuson-Stevens Fishery Conservation and Management Act.

*Alternatives:* Alternatives to taking action at the port would include taking action at sea against IUU fishing vessels and in the supply chain against IUU fishing products. At-sea monitoring and inspection is part of an overall strategy to combat IUU fishing, but it is extremely expensive and resources are limited. Likewise, tracing and removing illegal products already released into the market would be difficult and resource intensive. Preventing entry of IUU fishing vessels into ports or

investigating fishing vessels at the port is an efficient and effective approach to combatting illegal activity.

*Anticipated Cost and Benefits:* The anticipated costs will be minimal in that foreign vessels requesting permission to visit U.S. ports will have to include more information about the vessel and its cargo when they submit an electronic notice of arrival to the U.S. Coast Guard. Based on the information submitted, NMFS may deny port privileges for vessels known to have engaged in illegal fishing or to meet the vessel to conduct an inspection. The minimal additional data elements required of foreign fishing vessels will be submitted electronically through the existing U.S. Coast Guard system for notices of Arrival and Departure, thus reporting costs are not anticipated to affect shipping patterns, port usage, or international commerce. In addition, vessel inspections will be coordinated and planned based on the notice of arrival submitted prior to entry into port, thus delays for inspection will be minimal and not result in significant costs to legitimate vessels. Benefits of the rule will accrue when IUU vessels are denied entry, and illegal seafood products are precluded from the U.S. supply chain, thereby maintaining higher prices and market share for legitimate producers of fishery products.

*Risks:* If the port entry reporting and inspection provisions of this rule were not implemented, there is an increased risk of IUU fishing vessels entering U.S. ports and/or the products of IUU fishing infiltrating the U.S. supply chain. In addition, the U.S. would be out of compliance with its international obligation under the PSMA.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/17 | |

*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.

*Agency Contact:* John Henderschedt, Director, Office for International Affairs and Seafood Inspection, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 10362, Silver Spring, MD 20910, *Phone:* 301 427–8314, *Email: john.henderschedt@noaa.gov.*

*RIN:* 0648–BG11

## DOC—NOAA

### 11. Endangered and Threatened Species; Designation of Critical Habitat for Threatened Caribbean and Indo-Pacific Reef-Building Corals

*Priority:* Other Significant.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 16 U.S.C. 1531 *et seq.*

*CFR Citation:* 50 CFR 226.

*Legal Deadline:* Final, Statutory, September 10, 2016, Statutory deadline for final critical habitat designation of listed Indo–Pacific corals.

*Abstract:* On September 10, 2014, the National Marine Fisheries Service listed 20 species of reef-building corals as threatened under the Endangered Species Act, 15 in the Indo-Pacific and five in the Caribbean. Of the 15 Indo-Pacific species, seven occur in U.S. waters of the Pacific Islands Region, including in American Samoa, Guam, the Commonwealth of the Mariana Islands, and the Pacific Remote Island Areas. This proposed rule would designate critical habitat for the seven species in U.S. waters (Acropora globiceps, Acropora jacquelineae, Acropora retusa, Acropora speciosa, Euphyllia paradivisa, Isopora crateriformis, and Seriatopora aculeata). The proposed designation would cover coral reef habitat around 17 island or atoll units in the Pacific Islands Region, including four in American Samoa, one in Guam, seven in the Commonwealth of the Mariana Islands, and five in Pacific Remote Island Areas, containing essential features that support reproduction, growth, and survival of the listed coral species. This rule also proposes to designate critical habitat for the five Caribbean corals and proposed to revise critical habitat for two, previously-listed corals, Acropora palmata and Acropora cervicornis.

*Statement of Need:* Caribbean and Indo-Pacific reef building corals were listed under the Endangered Species Act (ESA) in September 2014. Section 4 of the ESA requires that critical habitat be specified to the maximum extent prudent and determinable at the time a species is listed (16 U.S.C. 1533(b)(6)(C)). The ESA also requires that we publish final critical habitat rules within one year of proposed rules. At the time these corals were listed, we were unable to determine what areas met the statutory definition of critical habitat. We subsequently published a proposed rule to designate critical habitat. This action would designate new critical habitat for twelve corals (Dendrogyra cylindrus, Orbicella annularis, Orbicella faveolata, Orbicella franksi, Mycetophyllia ferox, Acropora globiceps, Acropora jacquelineae, Acropora retusa, Acropora speciosa, Euphyllia paradivisa, Isopora crateriformis, and Seriatopora aculeata) and revise the 2008 critical habitat designation for two corals (Acropora palmata and Acropora cervicornis).

*Summary of Legal Basis:* Endangered Species Act.

*Alternatives:* During the formulation of the final rule, pursuant to section 4(b)(2) of the ESA, we will evaluate the impacts of designating all and any parts of the proposed critical habitat. We are required to analyze the economic, national security, and other relevant impacts of designating critical habitat. Through this process, we have discretion to exclude areas from the final designation as long as such exclusions do not result in the extinction these coral species. Based on our draft impacts analysis supporting the proposed rule, we excluded one area in Florida, one area in Guam, and two areas in the Commonwealth of the Northern Mariana Islands for national security impacts. We also completed an Initial Regulatory Flexibility Analysis and analyzed a ''no action'' alternative, an alternative in which some of the identified critical habitat areas are designated, and an alternative in which all critical habitat areas identified.

*Anticipated Cost and Benefits:* The primary benefit of designation is the protection afforded under section 7 of the Endangered Species Act, requiring all Federal agencies to insure their actions are not likely to destroy or adversely modify designated critical habitat. In addition to these protections, the designation may also result in other forms of benefits including, but not limited to: Educational awareness and outreach benefits, benefits to tourism and recreation, and improved or sustained habitat quality. Costs specifically associated with the designation of critical habitat stem mainly from Federal agencies' requirement to consult with NMFS, under section 7 of the ESA, to insure that any action they carry out, permit (authorize), or fund will not result in the destruction or adverse modification of critical habitat of a listed species.

*Risks:* If critical habitat is not designated, listed corals will not be protected to the extent provided for in the ESA, posing a legal risk to the agency and a risk to the species' continued existence and recovery.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Federal.

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400.

*Related RIN:* Merged with 0648–BG20

*RIN:* 0648–BG26

## DOC—NOAA

### 12. Commerce Trusted Trader Program

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

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

*CFR Citation:* 50 CFR 300.

*Legal Deadline:* None.

*Abstract:* This rule will establish a voluntary Commerce Trusted Trader Program for importers, aiming to provide benefits such as reduced targeting and inspections and enhanced streamlined entry into the United States for certified importers. Specifically, this rule would establish the criteria required of a Commerce Trusted Trader, and identify specifically how the program will be monitored and by whom. It will require that a Commerce Trusted Trader establish a secure supply chain and maintain the records necessary to verify the legality of all designated product entering into U.S. commerce, but will excuse the Commerce Trusted Trader from entering that data into the International Trade Data System prior to entry, as required by Seafood Import Monitoring Program (finalized on December 9, 2016). The rule will identify the benefits available to a Commerce Trusted Trader, detail the application process, and specify how the Commerce Trusted Trader will be audited by third-party entities while the overall program will be monitored by the National Marine Fisheries Service.

*Statement of Need:* Under the Magnuson-Stevens Fishery Conservation and Management Act, importation of fish products taken in violation of foreign law and regulation is prohibited. To enforce this prohibition, NMFS has implemented the Seafood Import Monitoring Program (81 FR 88975, December 9, 2016) which requires U.S. importers to report on the origin of fish products and to keep supply chain records. The Commerce Trusted Trader Program would reduce the burden on importers by reducing the reporting requirements and allowing more flexible approaches to keep supply chain records.

*Summary of Legal Basis:* Magnuson-Stevens Fishery Conservation and Management Act.

*Alternatives:* The Seafood Import Monitoring Program is aimed at preventing the infiltration of illegal fish products into the U.S. market. Alternatives to reduce the reporting and recordkeeping burden for U.S. importers were considered during the course of that rulemaking. Collecting less information at import about the origin of products would increase the likelihood of illegal products entering the supply chain. However, working with individual traders to secure the supply chain will be an economical approach to ensure that illegal products are precluded and records will be kept as needed for post-entry audits.

*Anticipated Cost and Benefits:* The costs of the Commerce Trusted Trader Program will be minimal in that applicants to the program will have a small application fee and will incur the costs for an independent audit of several entries on an annual basis. Benefits of Trusted Trader status will include reduced reporting costs at entry and reduced recordkeeping costs due to flexibility in archiving.

*Risks:* Risks of not implementing a Commerce Trusted Trader Program would include increased compliance costs to industry and potential increased incidence of illegal seafood infiltrating the U.S. market.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/17 | |

*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:* John Henderschedt, Director, Office for International Affairs and Seafood Inspection, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 10362, Silver Spring, MD 20910, *Phone:* 301 427–8314, *Email: john.henderschedt@noaa.gov*.

*Related RIN:* Related to 0648–BF09

*RIN:* 0648–BG51

BILLING CODE 3510–12–P

## DEPARTMENT OF DEFENSE

*Statement of Regulatory Priorities*

Background

The mission of the Department of Defense (DoD) is to provide the military forces needed to deter war and to protect the security of our country.

The Department is America's oldest and largest government agency. Today, DoD is not only in charge of the military, but it also employs a civilian force of thousands. With over 1.3 million men and women on active duty and 742,000 civilian personnel, the Department is the nation's largest employer. Another 826 thousand serve in the National Guard and Reserve forces and more than 2 million military retirees and their family members receive benefits. Our military service members and civilians operate in every time zone and in every climate with more than 450,000 employees overseas, both afloat and ashore.

To accomplish this mission, DoD's physical plant consists of more than several hundred thousand individual buildings and structures located at more than 5,000 different locations or sites. These sites range from the very small in size such as unoccupied sites supporting a single navigational aid that sits on less than one-half acre, to the Army's vast White Sands Missile Range in New Mexico with over 3.6 million acres, or the Navy's large complex of installations at Norfolk, Virginia with more than 78,000 employees.

DoD trains and equips the armed forces through our three military departments: The Army, Navy and Air Force. The Marine Corps, mainly an amphibious force, is part of the Department of the Navy. The primary job of the military departments is to train and equip their personnel to perform warfighting, peacekeeping and humanitarian/disaster assistance tasks.

- The Army defends the land mass of the United States, its territories, commonwealths, and possessions; it operates in more than 50 countries.
- The Navy maintains, trains, and equips combat-ready maritime forces capable of winning wars, deterring aggression, and maintaining freedom of the seas.
- The Air Force provides a rapid, flexible, and when necessary, air and space capability that routinely participates in peacekeeping, humanitarian, and aeromedical evacuation missions.
- The U.S. Marine Corps maintains ready expeditionary forces, sea-based and integrated air-ground units for contingency and combat operations, and

the means to stabilize or contain international disturbance.

• National Guard and Reserve forces are taking on new and more important roles, at home and abroad, as we transform our national military strategy.

An all-service or ''joint'' service office supports the Chairman of the Joint Chiefs of Staff in his capacity as the principal military advisor to the President, the National Security Council, and the Secretary of Defense. The unified commanders are the direct link from the military forces to the President and the Secretary of Defense.

The Secretary of Defense exercises his authority over how the military is trained and equipped through the Service secretaries; but uses a totally different method to exercise his authority to deploy troops and exercise military power. This latter authority is directed, with the advice of the Chairman of the Joint Chiefs of Staff, to the nine unified commands.

The Department of Defense contributes to homeland security through its military missions overseas, homeland defense, and support to civil authorities. The Department is also responsible for homeland defense which is the protection of US sovereignty, territory, domestic population, and critical defense infrastructure against external threats and aggression, or other threats as directed by the President.

Homeland Defense includes missions such as domestic air defense, maritime intercept operations, and land-based defense of critical infrastructure and assets Defense support of civil authorities, often referred to as civil support, can include Federal military forces, the Department's career civilian and contractor personnel, and DoD agency and component assets, for domestic emergencies and for designated law enforcement and other activities. The Department of Defense provides defense support of civil authorities when directed to do so by the President or Secretary of Defense.

The Office of the Secretary of Defense helps the Secretary plan, advise, and carry out the nation's security policies as directed by both the Secretary of Defense and the President. The rulemakings discussed in this regulatory statement comes out of the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics (OUSD(AT&L)) and the Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)). These Offices are described below:

• OUSD(AT&L)—procurement of goods and services; research and development; developmental testing; contract administration; logistics, maintenance, and sustainment support; and maintenance of the defense industrial base of the United States.

• OUSD(P&R)—readiness; National Guard and Reserve component affairs; health affairs; training; and personnel requirements and management, including equal opportunity, morale, welfare, recreation, and quality of life matters.

This Regulatory Plan tracks the most important regulations implementing the Department's policy and program priorities, as well as new efforts by the Department to remove unnecessary regulatory burdens on external stakeholders.

DoD's Regulatory Philosophy and Principles

The Department's rulemaking program strives to be responsive, efficient, and transparent. As noted in Executive Order 13609, ''Promoting International Regulatory Cooperation'' (May 1, 2012), 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.

DoD, 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.

Executive Order 13777, ''Enforcing the Regulatory Reform Agenda'' (February 24, 2017), required DoD to appoint a Regulatory Reform Officer to oversee the implementation of regulatory reform initiatives and policies and establish a Regulatory Reform Task Force (Task Force) to review and evaluate existing regulations and make recommendations to the agency head regarding their repeal, replacement, or modification, consistent with applicable law.

Those reform initiatives and policies include Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs'' (January 30, 2017), section 6 of Executive Order 13563, ''Improving Regulation and Regulatory Review'' (January 18, 2011), and Executive Order 12866. DoD is implementing a three phase effort to review, implement, and sustain its regulations:

• Phase I: Utilizing the DoD Task Force, assess all 716 existing, codified DoD regulations to include 350 solicitation provisions and contract clauses. The Task Force will present recommendations for the repeal, replacement, or modification to the Secretary of Defense on a quarterly basis through the end of December 2018.

• Phase II: Upon Secretary of Defense approval, DoD will begin implementing the elimination of regulations. Implementation requires drafting, internal coordination, review by the Office of Management and Budget, and providing for notice and comment, as required by law.

• Phase III: DoD will incorporate into its policies a requirement for component's to sustain review of both new regulatory actions and existing regulations.

As a result of the ongoing review, evaluation, and recommendations of its Task Force, DoD has identified priority regulatory and deregulatory actions that reduce costs to the public by eliminating unnecessary, ineffective, and duplicative regulations.

Acquisition, Technology, and Logistics/Defense Procurement and Acquisition Policy, Personnel and Readiness/Health Affairs, and the Army Corps of Engineers will be planning actions that are considered the ''most important'' significant pre-regulatory or regulatory actions for FY 2018. During the next year, these DoD Components plan to publish eight rulemaking actions that are designated as significant actions. Further information on these actions is provided below.

DoD has implemented Executive Order 13771 through its Regulatory Reform Task Force established under Executive Order 13777 to identify and prioritize deregulatory actions that each component or Service can take to reduce and remove regulatory burdens on stakeholders.

In Fiscal Year 2018, DoD expects to publish more deregulatory actions than regulatory actions. Exact figures are not yet available as the regulations reported in this edition of the Unified Agenda are still under evaluation for classification

under Executive Order 13771. Additionally, the Department Regulatory Reform Task Force will continue working to execute directives under Executive Orders 13783 and 13807 to streamline regulatory process and permitting reviews. To that end, DoD may have other actions which do not currently appear in the Agenda. DoD focuses its regulatory resources on the most serious acquisition, health, and personnel and readiness risks as discussed below.

Acquisition, Technology, and Logistics/Defense Procurement and Acquisition Policy (DPAP)

DPAP is responsible for all contracting and procurement policy matters in the Department and uses the Defense Acquisition Regulation System (DARS) to develop and maintain acquisition rules and to facilitate the acquisition workforce as they acquire the goods and services. Significant rules are highlighted below.

Rulemakings that are expected to have high net benefits well in excess of costs.

*Use of the Government Property Clause (DFARS Case 2015–D035).*

This rule will amend the DFARS to expand the use of Federal Acquisition Regulation (FAR) clause 52.245–1, Government Property, in certain purchase orders for repair. This FAR clause is used in contracts to require contractors comply with basic property receipt and record keeping requirements. This ensures the Government is able to track, report, and manage Government-furnished property. ''Government-furnished property'' is property in the possession of, or directly acquired by, the Government and subsequently furnished to the contractor for performance of a contract. It includes, but is not limited to, spares and property furnished for repair, maintenance, overhaul, or modification. Currently, the FAR clause is not required for use in purchase orders for repair, when the unit acquisition cost of the Government-furnished property to be repaired is less than the simplified acquisition threshold (currently $150,000). However, the unit cost of the item to be repaired alone is not an indicator of the criticality or sensitivity of the item. For example, firearms, body armor, night vision equipment, computers, or cryptological devices may individually be valued at less than $150,000, but accountability of these items is of vital importance to the Department. Not using the FAR clause in purchase orders for repair, significantly increases the risk of misuse or loss of Government-furnished property items. In order to strengthen the management and accountability of Government-furnished property provided to contractors, this rule will amend the DFARS to require use of the FAR clause 52.245–1 in all DoD purchase orders for repair, regardless of the unit acquisition cost of the individual items to be repaired.

Rulemakings that promote Open Government and use disclosure as a regulatory tool.

*Brand Name or Equal (DFARS Case 2015–D041).*

This rule proposes to amend the DFARS to implement section 888 of the NDAA for FY 2017. Section 888 requires that competition not be limited through the use of specifying brand name, brand name or equivalent descriptions, or proprietary specifications and standards, unless a justification for such specifications is provided and approved in accordance with 10 U.S.C. 2304(f). Currently, if the Government intends to procure specific ''brand name'' products, the contracting officer must prepare a brand name justification and obtain the appropriate approvals based on the estimated dollar value of the contracts (see FAR 6.302–1(c) and 6.304). However, a justification is not required to use ''brand name or equal'' descriptions in a solicitation. Rather, contracting officers are required to include in their solicitation a description of the salient physical, functional, or performance characteristics of the brand name item that an ''equal'' item must meet. The contracting officer will also include FAR provision 52.211–6, Brand Name or Equal, in solicitations, which informs potential offerors that offers of ''equal'' products must meet the salient characteristic specified in this solicitation. To implement section 888, this rule proposes to amend the DFARS to require contracting officers to take the additional step of preparing and obtaining an approval of a justification for use of ''brand name or equal'' descriptions, prior to including those descriptions in a solicitation. Contracting officers will include the justification with the posting of the solicitation, which will promote transparency with industry and presents an opportunity to increase competition.

*Amendment to Mentor-Protégé Program (DFARS Case 2016–D011).*

This rule amends Appendix I of the DFARS I to implement changes to the Pilot Mentor-Protégé Program provided by section 861 of the NDAA for FY 2016. This Program was originally established under section 831 of the NDAA for FY 1991. Under this program, eligible companies approved as ''mentor firms'' will enter into agreements with eligible ''protégé firms.'' The mentor firms provide developmental assistance to protégé firms to perform as subcontractors or suppliers on Government contracts. In return, the mentor firms may receive credit against applicable subcontracting goals under contracts with DoD or other Federal agencies. This rule amends Appendix I of the DFARS to implement the amendments to the Program provided by section 861. Specifically, the rule will require mentor firms to report additional information on the assistance they have provided to their protégé firms. DoD's Office of Small Business Programs will use this information to support decisions regarding whether to continue particular mentor-protégé agreements. In addition, this rule adds new eligibility criteria for both mentor and protégé firms and will limit the period of time a protégé firm can participate in the Program, as well as the number of mentor-protégé agreements to which a protégé can be a party. Finally, this rule also extends the Program for three years.

Rulemakings that streamline regulations and reduce unjustified burdens.

*Earned Value Management Applicability (DFARS Case 2015–D038).*

This rule proposes to amend the DFARS to clarify DoD's policy for Earned Value Management System (EVMS) application on DoD contracts. ''Earned value management system'' means a project management tool that effectively integrates the project scope of work with cost, schedule, and performance elements for optimum project planning and control. Implemented properly, an EVMS will measure progress against a baseline and provide an early warning of cost overruns and schedule delays for major acquisitions. Currently, an EVMS is required for major acquisitions for development, in accordance with OMB Circular A–11 (see FAR 34.201(a)). However, individual agencies may require an EVMS on other acquisitions, as specified in their agency procedures. DoD applies the EVMS requirement to cost or incentive contracts and subcontracts valued at $20 million or more, and requires the EVMS comply with the guidelines in the American National Standards Institute/Electronic Industries Alliance Standard 748, Earned Value Management Systems (ANSI/EIA–748). In addition, for DoD cost or incentive contracts and subcontracts valued at $50 million or more, the EVMS must be determined by the cognizant Federal agency to be compliant with ANSI/EIA–748. This

DFARS rule proposes the clarify that EVMS requirements are applicable to DoD cost reimbursement or incentive fee contracts that have a dollar value of $20 million or more (inclusive of all options) and a period of performance of 18 months or longer. In addition, the rule raises the threshold for a formal EVMS system compliance determination by the Defense Contract Management Agency from $50 million to $100 million. It is expected that this rule will reduce the number of contracts subject to EVMS requirements, as well as the number of contractor EVMS reviews to determine compliance.

*Contractor Purchasing System Review Threshold (DFARS Case 2017–D038).*

This rule proposes to amend the DFARS to raise the threshold for determining when a contractor purchasing system review (CPSR) is required. Per FAR subpart 44.3, the Government will conduct a CPRS in order to evaluate the efficiency and effectiveness with which a prime contractor spends Government funds and complies with Government policy when subcontracting. During a CPSR, the Government will pay special attention to certain aspects of a prime contractor's subcontracting program. For example, the Government will review the degree of price competition obtained by a prime contractor on subcontracts, whether the prime contractor is complying with Government Cost Accounting Standards, and whether the appropriate contract types are being used on subcontracts (see FAR 44.303). Currently, if a contractor's sales to the Government are expected to exceed $25 million during the next 12 months, then the administrative contracting officer (ACO) will determine whether there is a need for a CPSR (see FAR 44.302(a)). This rule proposes to amend the DFARS to raise the ACO determination dollar threshold to $50 million for DoD contracts. It is expected that this rule may reduce the number of CPSRs conducted by DoD and, in turn, alleviate the burden on contractors associated with participating in the CPSR.

Rules modifying, streamlining, expanding, or repealing making DOD's regulatory program more effective or less burdensome in achieving the regulatory objectives.

*Repeal of Independent Research and Development Technical Interchange (DFARS Case 2017–D041).*

This final rule will amend the DFARS to remove a requirement for major contractors to have a technical interchange with the Government prior to generating independent research and development (IR&D) costs. DoD published a final rule, effective November 4, 2016, that revised DFARS 231.205–18(c)(iii)(C)(4) to require major contractors to engage in and document a technical interchange with a DoD employee, prior to generating IR&D costs for IR&D projects initiated in fiscal year 2017 and later, in order for those costs to be allowable. This requirement causes the contractor to expend time preparing for a discussion, contacting appropriate Government personnel, discussing the IR&D project, and documenting the conversation. Since contractors commonly pool all of their IR&D project costs to develop a single billing rate, this requirement would necessitate contractors having to discuss all of the IR&D projects contained in their billing rate. While some contractors may have a single project, many have close to 100 or more, which could be significantly burdensome. This regulation is being repealed pursuant to action taken by the DoD Regulatory Reform Task Force in accordance with E.O. 13777. Repealing the technical interchange prerequisite from the DFARS, will not only reduce the burden imposed on major contractors, but also free these contractors to pursue IR&D projects without including the Government in those preliminary decisions.

*Personnel and Readiness/Health Affairs*

The mission of DoD's health program is to enhance the Department of Defense and our nation's security by providing health support for the full range of military operations and sustaining the health of all those entrusted to our care by creating a world-class health care system that supports the military mission by fostering, protecting, sustaining and restoring health.

TRICARE is the health care program for uniformed service members including active duty and retired members of the: U.S. Army, U.S. Air Force, U.S. Navy, U.S. Marine Corps, U.S. Coast Guard, the Commissioned Corps of the U.S. Public Health Service and the Commissioned Corps of the National Oceanic and Atmospheric Association and their families around the world. It serves 9.5 million individuals worldwide. It 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.

For this component, DoD is highlighting the following rule.

*Establishment of TRICARE Select and Other TRICARE Reforms, RIN 0720–AB70.* This final rule implements the primary features of section 701 and partially implements several other sections of the National Defense Authorization Act for Fiscal Year 2017 (NDAA–17). This final rule advances all four components of the Military Health System's quadruple aim of improved readiness, better care, better health, and lower cost. The aim of improved readiness is served by reinforcing the vital role of the TRICARE Prime health plan to refer patients, particularly those needing specialty care, to military medical treatment facilities (MTFs) in order to ensure that military health care providers maintain clinical currency and proficiency in their professional fields. The objective of better care is enhanced by a number of improvements in beneficiary access to health care services, including increased geographical coverage for the TRICARE Select provider network, reduced administrative hurdles for TRICARE Prime enrollees to obtain urgent care services and specialty care referrals, and promotion of high value services and medications. The goal of better health is advanced by expanding TRICARE coverage of preventive care services, treatment of obesity, high-value care, and telehealth. And the aim of lower cost is furthered by refining cost-benefit assessments for TRICARE plan specifications that remain under DoD's discretion and adding flexibilities to incentivize high-value health care services.

Army Corps of Engineers

The United States Army Corps of Engineers (USACE), is a major Army command made up of some 37,000 civilian and military personnel, making it one of the world's largest public engineering, design, and construction management agencies. Although generally associated with dams, canals and flood protection in the United States, USACE is involved in a wide range of public works throughout the world. The Corps of Engineers provides outdoor recreation opportunities to the public, and provides 24% of U.S. hydropower capacity.

The corps' mission is to ''Deliver vital public and military engineering services; partnering in peace and war to strengthen our Nation's security, energize the economy and reduce risks from disasters.'' The most visible missions include:

- Planning, designing, building, and operating locks and dams. Other civil engineering projects include flood

control, beach nourishment, and dredging for waterway navigation.

• Design and construction of flood protection systems through various federal mandates.

• Design and construction management of military facilities for the Army, Air Force, Army Reserve and Air Force Reserve and other Defense and Federal agencies.

• Environmental regulation and ecosystem restoration.

In 2015, the Environmental Protection Agency and the Department of the Army (''the agencies'') published the ''Clean Water Rule: Definition of 'Waters of the United States' '' (80 FR 37054, June 29, 2015). On October 9, 2015, the U.S. Court of Appeals for the Sixth Circuit stayed the 2015 rule nationwide pending further action of the court. On February 28, 2017, the President signed the ''Executive Order on Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule'' which instructed the agencies to review the 2015 rule and rescind or replace it as appropriate and consistent with law. On July 27, 2017, the agencies published a **Federal Register** notice proposing to withdraw (STEP 1 of a comprehensive 2-STEP process) the 2015 Clean Water Rule (CWR) and reinstate pre-existing regulations and guidance (1986 regulations plus 2003 *SWANCC* and 2008 *Rapanos* Guidance); the initial 30-day comment period was extended an additional 30 days to September 28, 2017.

The Executive Order further directs that EPA and the Army ''shall consider interpreting the term 'navigable waters' ''in a manner consistent with Supreme Court Justice Scalia's opinion'' in Rapanos indicating that Clean Water Act jurisdiction includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters. Later this fiscal year, after considering the comments received in response to the STEP 1 FRN, the agencies plan to propose a new definition to replace the definition and regulatory approach codified in the 2015 CWR. Over the past few months the agencies have been having meetings and holding webinars with Tribes, States, and organizations that request them to explain the 2-STEP process, what the Scalia Opinion means, and some of the options for developing a new definition of Waters of the United States. These briefing and listening sessions will continue through November 2017. Until the new rule is finalized, the agencies will continue to implement the regulatory definition in place prior to the 2015 CWR consistent with the SWANCC and Rapanos Guidance, while the 6th Circuit Court stay of the 2015 CWR is still in effect or the EPA and Army complete rulemaking to amend the effective date of the 2015 CWR.

## DOD—DEFENSE ACQUISITION REGULATIONS COUNCIL (DARC)

Proposed Rule Stage

### 13. Earned Value Management Applicability (DFARS Case 2015–D038)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 41 U.S.C. 1303

*CFR Citation:* 48 CFR 234; 48 CFR 252.

*Legal Deadline:* None.

*Abstract:* DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify DoD's policy for Earned Value Management System (EVMS) application on DoD contracts, beyond the basic triggers of contract types and dollar values. Specifically, the rule:

• Clarifies that EVMS requirements are applicable to all DoD contracts, task orders, and delivery orders, that are cost reimbursement or incentive fee; have a value of $20 million or more (inclusive of all options); and have a period of performance of 18 months or longer;

• Clarifies that, with the exception of a contractor EVMS under the cognizance of the Naval Sea Systems Command, where system approval is not delegated to the Defense Contract Management Agency (DCMA), DCMA is responsible for approving a contractor's EVMS;

• Removes the reference to American National Standards Institute (ANSI) guidelines and states that EVMS must comply with guidelines in Electronic Industries Alliance (EIA) Standard 748 (EIA–748);

• Raises the threshold for a formal earned value management system compliance determination by the Defense Contract Management Agency from $50 million to $100 million; and

• Clarifies that EVMS requirements apply unless the requirements package includes a determination of earned value management nonapplicability or a waiver signed by the component acquisition executive.

This rule will not increase costs for contractors. DoD expects that this rule will decreases costs for contractors by increasing the dollar threshold for formal EVMS compliance determinations from $50 million to $100 million, and providing for earned value management non-applicability determinations and waivers. DoD estimates that this rule will reduce the number of contractor reviews by nearly 20 percent with very little risk to the Government, since over 97 percent of the contract dollars will still be covered by the increased threshold.

*Statement of Need:* This rule is necessary to ensure proper application of EVMS requirements in DoD contracts, task orders, and delivery orders based on contract type and period of performance, and increase the contractual threshold for an approved earned value management system from $50 million to $100 million.

*Summary of Legal Basis:* This rule is proposed under the authority at 41 U.S.C. 1303, functions and authority, which provides the authority to issue and maintain the Federal Acquisition Regulation and executive agency implementing regulations.

*Alternatives:* No alternatives were considered.

*Anticipated Cost and Benefits:* Based on the DoD Performance Assessments and Root Cause Analyses (PARCA) Earned Value Management Division's assessment of DoD application of earned value management, the reduction in DoD EVMS compliance surveillance will allow for the valuable repurposing of an estimated 50 personnel to support other essential priorities and missions, resulting in direct savings to the Department in excess of $3 million. Furthermore, corresponding savings in reduced DoD contractor overhead costs are conservatively estimated at two to three times the DoD savings (One contractor alone in PARCA's study estimated approximately $6 million company-wide savings annually). Since the actual cost impact is difficult to quantify, DoD is conservatively estimating annualized savings of $10 million.

*Risks:* Failure to implement this rule will perpetuate the unproductive regulatory earned value management compliance requirements on industry for certain types of contracts where such oversight is unnecessary.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/00/18 | |
| NPRM Comment Period End. | 03/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* Federal.

*Agency Contact:* Jennifer Hawes, Defense Acquisition Regulations System, Department of Defense, 3060 Defense Pentagon, Room 3B941,

Washington, DC 20301–3060, *Phone:* 571 372–6115, *Email: jennifer.l.hawes2.civ@mail.mil.*

*RIN:* 0750–AJ10

## DOD—DARC

### 14. • Contractor Purchasing System Review Threshold (DFARS CASE 2017–D038)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 41 U.S.C. 1303

*CFR Citation:* 48 CFR 244.

*Legal Deadline:* None.

*Abstract:* DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement to establish a higher dollar threshold for conducting contractor purchasing system reviews. This rule proposes, in lieu of the threshold at Federal Acquisition Regulation 44.302(a), the administrative contracting officer shall determine the need for a contractors purchasing system review if a contractor's sales to the Government are expected to exceed $50 million during the next 12 months. This rule is not expected to increase costs for contractors; rather, the rule may reduce the number of contractor purchasing system reviews conducted by the Government, thus alleviating burden on contractors.

*Statement of Need:* There is a need to increase the threshold for a contractor purchasing system review from $25 to $50 million to reduce the administrative burden on contractors and the Government for maintaining and reviewing an approved contractor purchasing system.

*Summary of Legal Basis:* This rule is proposed under the authority at 41 U.S.C. 1303, Functions and authority, which provides the authority to issue and maintain the Federal Acquisition Regulation and executive agency implementing regulations.

*Alternatives:* No alternatives to this action are being considered at this time.

*Anticipated Cost and Benefits:* Implementing this rule provides a net annualized savings of approximately $12 million. This estimate is based on data available in the Federal Procurement Data System (FPDS) data for fiscal year 2016, which indicates that 958 unique vendors received awards valued at $25 million or more, but less than $50 million, that were subject to the purchasing system review. Removing this requirement would relieve these contractors from the time and cost burden required to establish, maintain, audit, document, and train for an approved purchasing system.

*Risks:* If this rule is not finalized, the public will continue to experience additional costs to comply with this rule at the current threshold.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/17 | |
| NPRM Comment Period End. | 02/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* Federal.

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

*RIN:* 0750–AJ48

## DOD—DARC

### 15. • Brand Name or Equal (DFARS Case 2017–D040)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 41 U.S.C. 1303; Pub. L. 113–291, sec. 888; 10 U.S.C. 2304(f)

*CFR Citation:* 48 CFR 206; 48 CFR 211.

*Legal Deadline:* Final, Statutory, December 23, 2016, Effective upon enactment.

*Abstract:* DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement to implement section 888 of the National Defense Authorization Act for FY 2017, which requires that competition not be limited through the use of specifying brand names or brand name or equivalent descriptions, or proprietary specifications and standards, unless a justification for such specifications is provided and approved in accordance with 10 U.S.C. 2304(f). This rule affects the internal operating procedures of the Government, and is not expected to increase costs for contractors or offerors.

*Statement of Need:* This case is necessary to ensure contracting officers comply with section 888 of the NDAA for FY 2015 (Pub. L. 113–291). Specifically, it will ensure contracting officers properly justify for the use of brand name and brand name or equivalent descriptions, or proprietary specifications or standards.

*Summary of Legal Basis:* This rule is proposed under the authority at 41 U.S.C. 1303, Functions and authority, which provides the authority to issue and maintain the Federal Acquisition Regulation and executive agency implementing regulations. In addition, this rule is necessary to implement the statutory amendments made by section 888 of the NDAA for FY 2017.

*Alternatives:* There are no viable alternatives that are consistent with the stated objectives of the statute.

*Anticipated Cost and Benefits:* The Department does not expect this proposed rule to have any cost impact on contractors or offerors. Rather, preparing a justification for the use of brand name descriptions or specifications provides increased transparency into the acquisition planning and source selection strategy process for department goods and services.

*Risks:* If this rule is not finalized, the department will not be in compliance with section 888 of the NDAA for FY 2017, therefore losing an opportunity to increase competition, expand the defense industrial base and secure reduced pricing.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/18 | |
| NPRM Comment Period End. | 05/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* Federal.

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

*RIN:* 0750–AJ50

## DOD—DARC

Final Rule Stage

### 16. Amendment to Mentor-Protégé Program (DFARS Case 2016–D011)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 41 U.S.C. 1303; Pub. L. 114–92, sec. 861

*CFR Citation:* 48 CFR 219; 48 CFR, ch. 2, app I.

*Legal Deadline:* None.

*Abstract:* DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement to implement section 861 of the National Defense Authorization Act for FY 2016, which provides the following amendments to the DoD Pilot Mentor-Protégé Program (''the Program''):

• Requires mentor firms to report assistance provided to or obtained for

protégé firms; new subcontracts awarded to protégé firms; any extensions, increases in the scope of work, or additional, unreported payments to protégé firms; all Federal contracts awarded to the mentor and protégé firms as a joint venture; whether the terms of the mentor-protégé agreement have changed; and a narrative describing the success assistance provided under the Program has had in addressing the protégé firm's developmental needs, the impact on DoD contracts, and addressing any problems encountered.

- Requires mentor firms and protégé firms to meet new eligibility criteria.
- Limits the number of mentor-protégé agreements to which a protégé firm may be a party to one at a time.
- Limits the period of time during which a protégé firm may participate in mentor-protégé agreements under the Program to five years.
- Requires mentor-protégé agreements to address the benefits of the agreement to DoD and goals for additional awards for which the protégé firm can compete outside the Program.
- Removes business development assistance using mentor firm personnel and cash in exchange for an ownership interest in the protégé firm from the types of assistance that a mentor firm may provide to a protégé firm.
- Prohibits reimbursement of any fee assessed by the mentor firm for certain services provided to the protégé firm while participating in a joint venture with the protégé firm.

One respondent submitted a public comment on the proposed rule. This rule will slightly increase the costs for contractors participating in the program by introducing new reporting requirements, as required by the statute; however, these costs are offset by benefits offered by the Program. For example, the Program provides incentives to both mentor and protégé firms. Mentor firms may receive credit toward the goals in their small business subcontracting plan for the funds they spend on developmental assistance for their protégé firms. The Program offers protégé firms the opportunity to learn about contracting with DoD and to receive subcontracts from an established, successful DoD contractor.

*Statement of Need:* This final rule amends the DFARS to implement section 861 of the National Defense Authorization Act (NDAA) for Fiscal Year 2016, which provides amendments to the DoD Pilot Mentor-Protégé Program (the Program). These amendments include new reporting requirements that will provide information to DoD's Office of Small Business Programs to support decisions regarding continuation of particular mentor-protégé agreements; a three-year extension of the Program; and changes to the requirements for business development assistance provided by a mentor firm and for the reimbursement of fees assessed by the mentor firm. This rule is needed to implement these statutory requirements.

*Summary of Legal Basis:* This rule is proposed under the authority at 41 U.S.C. 1303, Functions and authority, which provides the authority to issue and maintain the Federal Acquisition Regulation and executive agency implementing regulations. In addition, this rule is necessary to implement the statutory amendments made to the mentor protege program by section 861 of the NDAA for FY 2016.

*Alternatives:* There are no viable alternatives that are consistent with the stated objectives of the statute.

*Anticipated Cost and Benefits:* The annualized cost to the public is anticipated to be approximately $20,000 over the next four years, after which the Program is scheduled to end. Nearly all of these costs are borne by mentor firms. The anticipated cost is based on the number of firms currently participating in the Program, the number of new mentor applications DoD receives each year, and the number of new mentor-protégé agreements submitted for DoD approval each year under the Program. The Government estimated the cost of various activities mentor and protégé firms must perform to comply with the rule, including submission of reports.

The anticipated costs are offset by benefits offered by the Program. For mentor firms, these benefits include credit toward the goals in their small business subcontracting plans for the developmental assistance they provide to their protégé firms. Participation in the Program as a mentor is one way for mentors to demonstrate a good-faith effort to comply with their subcontracting plans. For protégé firms, the benefits of the Program include an opportunity to gain assistance from a successful mentor that will enable them to grow and develop as a business. Such assistance will help them obtain subcontracts with DoD contractors and eventually contracts with DoD.

*Risks:* If this rule is not finalized, all developmental assistance provided under the Program will end on September 30, 2018. As of that date, mentor firms will no longer be able to receive credit toward the goals in their small business subcontracting plans for developmental assistance provided to protégé firms. Protégé firms will no longer have the opportunity to learn about contracting with DoD from a mentor who is a successful DoD contractor. In addition, the Government will lose access to a pool of potential new contractors and subcontractors, therefore losing an opportunity to strengthen and diversify the defense industrial base.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 09/23/16 | 81 FR 65610 |
| NPRM Comment Period End. | 11/22/16 | |
| Final Action | 03/00/18 | |
| Final Action Effective. | 03/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* Federal.

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

*RIN:* 0750–AJ05

## DOD—DARC

### 17. Use of the Government Property Clause (DFARS Case 2015–D035)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 41 U.S.C. 1303

*CFR Citation:* 48 CFR 245.

*Legal Deadline:* None.

*Abstract:* DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement to expand the prescription for use of Federal Acquisition Regulation (FAR) clause 52.245–1, Government Property, to apply to all purchase orders for repair, maintenance, overhaul, or modification to Government property regardless of the acquisition cost of the items to be repaired. Currently, the FAR clause is optional for use in purchase orders for repair when the acquisition cost of the item to be repaired is less than the simplified acquisition threshold; however, acquisition cost alone is not an indicator of the criticality or sensitivity of the property. The acquisition cost of individual items of firearms, body armor, night-vision equipment, computers, or cryptologic devices may be below the simplified acquisition threshold, but the accountability requirements for these items are fairly stringent. Requiring the clause in all purchase orders for repair, regardless of the acquisition cost of the item to be repaired, will ensure DoD has

better accountability and insight into military reparable assets.

One respondent submitted comments on the proposed rule. This rule will increase costs for contractors, including small entities, who receive purchase orders for repair of Government property, because these contractors will be required to comply with the reporting requirements associated with Government property clause. However, the rule also provides the contractors with the protections of the Government Property clause (where the Government self-insures the property provided to the contractor), and provides DoD better accountability of its property.

*Statement of Need:* The rule is required to achieve greater accountability of Government furnished property (GFP) and decrease the risk of misuse or loss of Government property. Accountability of assets is an important part of audit readiness. This rule facilitates DoD's goal of achieving full accountability and visibility of equipment provided to contractors as GFP, including critical and sensitive equipment items. This rule closes an existing accountability gap by treating purchase orders for repair, maintenance, overhaul, or modification of GFP no different from other contractual instruments involving repair of GFP, such as delivery orders awarded under Basic Ordering Agreements or issued under Indefinite Delivery Contracts.

The rule also enables compliance with DoD Instruction 4161.02 entitled Accountability and Management of Government Contract Property, which requires DoD components to use electronic transactions when transferring GFP to a contractor and upon the return of the property to DoD. Use of FAR clause 52.245–1, Government Property, in conjunction with associated DFARS clauses, creates an electronic end-to-end process for GFP management.

*Summary of Legal Basis:* This rule is proposed under the authority at 41 U.S.C. 1303, Functions and authority, which provides the authority to issue and maintain the Federal Acquisition Regulation and executive agency implementing regulations.

*Alternatives:* There are no viable alternatives that would provide tracking and accountability of GFP provided to contractors for repair that would provide full visibility of Government assets and integrate with existing GFP procedures and electronic systems. The rule reflects marketplace practices, which limits the consideration of alternatives. Many of the requirements contained in FAR 52.245–1, *e.g.,* receiving reports, discrepancy reports and property records, are typical commercial practices, and so not unduly burdensome. For example, customary commercial practice is to create receiving reports and keep records for incoming assets regardless of the source of such assets. In addition, the policy at FAR 45.103(b) permits contractors to use their own existing property management procedures, practices, and systems to account for and manage Government property.

*Anticipated Cost and Benefits:* The annual estimated cost to the public is based on Federal Procurement Data System transaction data for fiscal year 2015 for purchase orders for repairs of Government equipment. Using this baseline, costs were calculated for contractor reporting, record keeping, and compliance costs. Some contractors may be required to setup a property management system; however, this impact is minimal since contractors may use their own existing practices and systems. The annualized cost is estimated to be approximately $350,000.

Benefits of this rule accrue to both contractors and the Government resulting from improved accountability of GFP, which should reduce losses and mitigate potential property ownership issues. This will serve to minimize contract disputes, claims, and litigation; thereby reducing administrative costs for both contractors and the Government. Accountability of GFP facilitates proper disposition and adjudication of all property during contract closeout and should result in prompt contract payment.

*Risks:* This rule addresses an accountability gap in managing and accounting for Government assets and should mitigate the risk of loss of Government property. Some equipment requiring repairs that would now be covered by this rule are deemed critical and sensitive, *e.g.,* firearms, body armor, night-vision equipment, computers, and cryptologic devices. Loss or theft of such devices could have far reaching consequences.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 10/21/16 | 81 FR 73002 |
| NPRM Comment Period End. | 12/20/16 | |
| Final Action | 02/00/18 | |
| Final Action Effective. | 02/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* Federal.

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

*RIN:* 0750–AJ11

## DOD—DARC

### 18. • Repeal of Independent Research and Development Technical Interchange (DFARS Case 2017–D041)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 41 U.S.C. 1303

*CFR Citation:* 48 CFR 231.

*Legal Deadline:* None.

*Abstract:* DoD is issuing a final rule to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to remove the requirement at DFARS 231.205–18(c)(iii)(C)(4) for contractors to conduct a technical interchange with a DoD Government employee before independent research and development (IR&D) costs are generated for IR&D projects initiated in FY 2017 or later, as a prerequisite for those costs to be determined allowable. This rule is expected to decrease costs for contractors and offerors.

*Statement of Need:* This action is necessary relieve excess burden experienced by industry when deciding to invest in innovative technologies that may benefit the Department.

*Summary of Legal Basis:* This rule is proposed under the authority at 41 U.S.C. 1303, Functions and authority, which provides the authority to issue and maintain the Federal Acquisition Regulation and executive agency implementing regulations.

*Alternatives:* No alternatives to this action are being considered at this time.

*Anticipated Cost and Benefits:* Implementing this rule provides a net annualized savings of approximately $2 million. This estimate is based on data available in the Federal Procurement Data System (FPDS) data for FY 2016, which indicates that 307 unique vendors were awarded a non-commercial, cost-type contract subject to cost accounting standards and certified cost and pricing data. IR&D costs are most commonly included in non-commercial, cost-type contracts that are subject to certified cost and pricing data and cost accounting standards. Public comments on the case implementing this requirement in the Defense Federal Acquisition Regulation Supplement indicate that a contractor may invest in numerous IR&D projects that would be incorporated into their proposed IR&D rate. Removing this requirement would relieve contractors

from the time burden of preparing for a discussion, locating the appropriate Government contact, discussing with the Government, and documenting a technical interchange for an IR&D project.

*Risks:* If this rule is not finalized, the public will experience additional costs to comply with this rule, as well as the possibility of not being reimbursed for IR&D costs under a Government contract.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Final Action ..... | 01/00/18 | |
| Final Action Effective. | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* Federal./

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

*RIN:* 0750–AJ51

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

Final Rule Stage

### 19. Establishment of Tricare Select and Other Tricare Reforms

*Priority:* Other Significant.

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 10 U.S.C. ch. 55; NDAA–17 sec. 701; NDAA–17 sec. 706; NDAA–17 sec. 715; NDAA–17 sec. 718; NDAA–17 sec. 729

*CFR Citation:* 32 CFR 199.

*Legal Deadline:* Other, Statutory, June 23, 2017, NDAA 17 section 718. Other, Statutory, January 1, 2018, NDAA 17 section 729.

*Abstract:* This interim final rule implements the primary features of section 701 and partially implements several other sections of the National Defense Authorization Act for Fiscal Year 2017 (NDAA–17). The law makes significant changes to the TRICARE program, especially to the health maintenance organization (HMO)-like health plan, known as TRICARE Prime; to the preferred provider organization health plan, previously called TRICARE Extra and now to be called TRICARE Select; and to the third health care option, known as TRICARE Standard, which will be terminated as of December 31, 2017, and replaced by TRICARE Select. The statute also adopts a new health plan enrollment system under TRICARE and new provisions for access to care, high value services, preventive care, and healthy lifestyles. In implementing the statutory changes, this interim final rule makes a number of improvements to TRICARE. Specifically, this rule will enhance beneficiary access to health care services, including increased geographic coverage for the TRICARE Select provider network, reduced administrative hurdles for TRICARE Prime enrollees to obtain urgent care services and specialty care referrals, and promotion of high value services and medications and telehealth services. It will also expand TRICARE coverage of preventive care services and prevention and treatment of obesity and refining cost-benefit assessments for TRICARE plan specifications that remain under DoD's discretion.

*Statement of Need:* This interim final rule implements the primary features of section 701 and partially implements several other sections of the National Defense Authorization Act for Fiscal Year 2017 (NDAA–17). The law makes significant changes to the TRICARE program, especially to the health maintenance organization (HMO)-like health plan, known as TRICARE Prime; to the preferred provider organization health plan, previously called TRICARE Extra and now to be called TRICARE Select; and to the third health care option, known as TRICARE Standard, which will be terminated as of December 31, 2017, and replaced by TRICARE Select. The statute also adopts a new health plan enrollment system under TRICARE and new provisions for access to care, high-value services, preventive care, and healthy lifestyles. In implementing the statutory changes, this interim final rule makes a number of improvements to TRICARE.

In implementing section 701 and partially implementing several other sections of NDAA–17, this interim final rule advances all four components of the Military Health System's quadruple aim of stronger readiness, better care, healthier people, and smarter spending. The aim of stronger readiness is served by reinforcing the vital role of the TRICARE Prime health plan to refer patients, particularly those needing specialty care, to military medical treatment facilities in order to ensure that military health care providers maintain clinical currency and proficiency in their professional fields. The objective of better care is enhanced by a number of improvements in beneficiary access to health care services, including geographical coverage for the TRICARE Select provider network, reduced administrative hurdles for TRICARE Prime enrollees to obtain urgent care services and specialty care referrals, and promotion of high-value services and medications and telehealth services. The goal of healthier people is advanced by expanding TRICARE coverage of preventive care services and prevention and treatment of obesity. And the aim of smarter spending is furthered by sharpening cost-benefit assessments for TRICARE plan specifications that remain under the DoD's discretion.

*Summary of Legal Basis:* This interim final rule is required to implement or partially implement several sections of NDAA–17, including 701, 706, 715, 718, and 729. The legal authority for this rule also includes chapter 55 of title 10, United States Code.

*Alternatives:* None.

*Anticipated Cost and Benefits:* This rule is not anticipated to have an annual effect on the economy of $100M or more, thus it is not an economically significant rule under the Executive Order and the Congressional Review Act. The rule includes estimated program costs associated with implementation that include administrative startup costs ($11M) information systems changes ($10M). Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, seeks to control costs associated with the government imposition of private expenditures required to comply with Federal regulations and to reduce regulations that impose such costs. Consistent with the analysis of transfer payments under OMB Circular A–4, this interim final rule does not involve regulatory costs subject to E.O. 13771.

*Risks:* The rule does not impose any risks. The risks lie in not implementing statutorily required changes.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 09/29/17 | 82 FR 45438 |
| Interim Final Rule Comment Period End. | 11/28/17 | |
| Final Action ..... | 04/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Mark Ellis, Department of Defense, Office of Assistant Secretary for Health Affairs, 5111 Leesburg Pike, Suite 810A, Falls Church, VA 22041, *Phone:* 703 681–0039.

*RIN:* 0720–AB70

**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 families 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 data, 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 2017–18 school year, about 56 million students will attend an estimated 133,000 elementary and secondary schools in approximately 13,600 districts, and about 20 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, evaluations, data gathering and reporting, and monitoring related to our programs, we are committed to working closely with affected persons and groups. We know that improving education starts with allowing greater decision-making authority at the State and local levels while also recognizing that the ultimate form of local control occurs when parents and students are empowered to choose their own educational paths forward. Our core mission includes this empowerment of local education, serving the most vulnerable, and facilitating equal access for all, to ensure all students receive a high-quality education, and complete it with a well-considered and attainable path to a sustainable career.

Toward these ends, 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 committed to reducing burden with regard to regulations, guidance, and information collections, reducing the burden on information providers involved in our programs, and making information easily accessible to the public. To that end and consistent with Executive Order 13777 (''Enforcing the Regulatory Reform Agenda''), we are in the process of reviewing all of our regulations and guidance to modify and rescind items that: (1) Eliminate jobs, or inhibit job creation; (2) are outdated, unnecessary, or ineffective; (3) impose costs that exceed benefits; (4) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies; (5) are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or (6) derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

### II. Regulatory and Deregulatory Priorities

*Proposed Rulemakings*

The following actions are the significant new rulemaking actions the Department is planning for the coming year. Because we are just now beginning the rulemaking process for these regulations, we have limited information about the potential costs and benefits and therefore whether these would be considered regulatory or deregulatory actions under Executive Order 13771.

*Postsecondary Education/Federal Student Aid*

The Secretary is planning two new rulemakings in the area of higher education and Federal Student Aid under the Higher Education Act of 1965, as amended (HEA). In 2014, we completed a rulemaking to establish regulations governing certain postsecondary educational programs that prepare students for gainful employment in a recognized occupation, and in 2016, we completed a rulemaking to establish regulations governing, among other issues, borrower defenses to repayment of student loans. In the two new rulemakings, described below, we are planning to revisit these regulations with the goals of alleviating unnecessary regulatory burdens and ensuring appropriate protections for students, institutions, the taxpayers, and the Federal government. Through the use of the negotiated rulemaking process, we will receive input from a diverse range of interests and affected parties and will have the opportunity to reach consensus on a set of regulations that best meets those parties' needs and our overall goals.

More specifically, the Secretary plans to establish new regulations governing

the William D. Ford Federal Direct Loan (Direct Loan) Program regarding the standard and the process for determining whether a borrower has a defense to repayment on a loan based on an act or omission of a school. We also may amend other sections of the Direct Loan Program regulations, including those that codify our current policy regarding the impact that discharges have on the 150 percent Direct Subsidized Loan Limit; and the Student Assistance General Provisions regulations providing the financial responsibility standards and disclosure requirements for schools. In addition, we may amend the discharge provisions in the Federal Perkins Loan, Direct Loan, Federal Family Education Loan, and Teacher Education Assistance for College and Higher Education Grant programs.

The Secretary is also commencing rulemaking to amend the gainful employment regulations, including those provisions relating to institutional eligibility, reporting, and disclosures.

*Civil Rights/Title IX*

The Secretary is planning a new rulemaking to address significant issues under Title IX of the Education Amendments of 1972, as amended. In this action, we seek to clarify schools' obligations in redressing sex discrimination, including complaints of sexual misconduct, and the procedures by which they must do so.

*Deregulatory Actions*

The Department anticipates issuing a number of deregulatory actions in the upcoming fiscal year. We have thus far been focusing our deregulatory efforts on eliminating outdated regulations. In many instances, our deregulatory actions are being taken because legislation has superseded our regulations. For example, we are planning to rescind a number of sections from our Office of Elementary and Secondary Education regulations to clarify which regulations were superseded by the recently enacted Every Student Succeeds Act. These deregulatory actions, such as rescinding the Adequate Yearly Progress regulations at 34 CFR 200.13–22, will clarify for our stakeholders and the general public which of our regulations are still in effect, and which have been rescinded. Similarly, we are planning to rescind a number of the Office of Special Education and Rehabilitative Services regulations issued by the Department's former National Institute on Disability and Rehabilitation Research (NIDRR). Congress transferred NIDRR to the Department of Health and Human Services, and this deregulatory action will rescind regulations that the Department no longer administers, thereby avoiding confusion. The unified agenda identifies other deregulatory actions that provide cost savings and clarity.

**III. Regulatory Review**

As stated previously, the Department is undertaking a comprehensive regulatory reform effort pursuant to Executive Order 13777, focusing on rescinding and modifying all outdated, unnecessary, or ineffective regulations, guidance, and information collections. Section 3(e) of the Executive Order requires the Department, as part of this effort, to ''seek input and other assistance, as permitted by law, from entities significantly affected by Federal regulations, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, and trade associations'' on regulations that meet some or all of the criteria above.

Consistent with section 3(e), on June 22, 2017, the Department published a **Federal Register** notice soliciting such input from the public to inform its evaluation of existing regulations and guidance. We specified in the notice that we are particularly interested in regulatory provisions that are unduly costly or unnecessarily burdensome. The public's comments will be closely reviewed and considered as part of our overall regulatory reform initiative.

**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 the behavior or manner of compliance a regulated entity must adopt.
- Encourage flexibility, to the extent possible and as needed to enable institutional forces to achieve desired results.

## ED—OFFICE FOR CIVIL RIGHTS (OCR)

Proposed Rule Stage

**20. • Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance**

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 20 U.S.C. 1681 *et seq.*

*CFR Citation:* 34 CFR 106.

*Legal Deadline:* None.

*Abstract:* The Secretary plans to issue a notice of proposed rulemaking to clarify schools' obligations in redressing sex discrimination, including complaints of sexual misconduct, and the procedures by which they must do so.

*Statement of Need:* This regulatory action will address issues regarding schools' obligations under Title IX of the Education Amendments of 1972, as amended, to redress sex discrimination.

*Summary of Legal Basis:* 20 U.S.C. 1681, *et seq.*

*Alternatives:* These will be presented in a Notice of Proposed Rulemaking and discussed in the Final Regulations.

*Anticipated Cost and Benefits:* These will be presented in a Notice of Proposed Rulemaking and discussed in the Final Regulations.

*Risks:* These will be presented in a Notice of Proposed Rulemaking and discussed in the Final Regulations.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.
*Government Levels Affected:* Undetermined.
*Federalism:* Undetermined.
*URL For Public Comments: www.regulations.gov.*
*Agency Contact:* Alejandro Reyes, Department of Education, Office for Civil Rights, 400 Maryland Avenue SW, Room 4E213, Washington, DC 20202, *Phone:* 202 453–7100, *Email: t9ocrcomments@ed.gov.*
*RIN:* 1870–AA14

## ED—OFFICE OF POSTSECONDARY EDUCATION (OPE)

Proposed Rule Stage

### 21. Borrower Defense and Related Issues

*Priority:* Economically Significant. Major under 5 U.S.C. 801.
*E.O. 13771 Designation:* Other.
*Legal Authority:* 20 U.S.C. 1082(a)(5), (a)(6); 20 U.S.C.1087(a); 20 U.S.C. 1087e(h); 20 U.S.C. 1221e–3; 20 U.S.C. 1226a–1; 20 U.S.C. 1234(a); 31 U.S.C. 3711
*CFR Citation:* 34 CFR 30; 34 CFR 668; 34 CFR 674; 34 CFR 682; 34 CFR 685; 34 CFR 686; and other sections as applicable.
*Legal Deadline:* None.
*Abstract:* The Secretary plans to establish new regulations governing the William D. Ford Federal Direct Loan (Direct Loan) Program regarding the standard and the process for determining whether a borrower has a defense to repayment on a loan based on an act or omission of a school. We also may amend other sections of the Direct Loan Program regulations, including those that codify our current policy regarding the impact that discharges have on the 150 percent Direct Subsidized Loan Limit; and the Student Assistance General Provisions regulations providing the financial responsibility standards and disclosure requirements for schools. In addition, we may amend the discharge provisions in the Federal Perkins Loan (Perkins Loan), Direct Loan and Federal Family Education Loan (FFEL) program regulations.
*Statement of Need:* The Secretary is initiating negotiated rulemaking to revise current regulations governing borrower defenses to loan repayment.
*Summary of Legal Basis:* Section 492 of the HEA requires that, before publishing any proposed regulations to implement programs authorized under title IV of the HEA, the Secretary obtain public involvement in the development of the proposed regulations. After obtaining advice and recommendations from the public, the Secretary conducts negotiated rulemaking to develop the proposed regulations. Section 455(h) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1087e(h), authorizes the Secretary to specify in regulation which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a Direct Loan.
*Alternatives:* These will be identified through the negotiated rulemaking process, presented in a Notice of Proposed Rulemaking, and discussed in the Final Regulations.
*Anticipated Cost and Benefits:* These will be identified through the negotiated rulemaking process, in a Notice of Proposed Rulemaking and discussed in the Final Regulations.
*Risks:* These will be identified through the negotiated rulemaking process, in a Notice of Proposed Rulemaking and discussed in the Final Regulations.
*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice of Intention to Commence Negotiated Rulemaking. | 06/16/17 | 82 FR 27640 |
| NPRM ..... | 05/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.
*Small Entities Affected:* Businesses, Governmental Jurisdictions.
*Government Levels Affected:* Federal, Local, State.
*Federalism:* Undetermined.
*URL For More Information: www.regulations.gov.*
*URL For Public Comments: www.regulations.gov.*
*Agency Contact:* Annmarie Weisman, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW, Room 6W245, Washington, DC 20202, *Phone:* 202 453–6712, *Email: annmarie.weisman@ed.gov.*
*RIN:* 1840–AD26

## ED—OPE

### 22. • Program Integrity; Gainful Employment

*Priority:* Economically Significant. Major under 5 U.S.C. 801.
*E.O. 13771 Designation:* Other.
*Legal Authority:* 20 U.S.C. 1001; 20 U.S.C. 1002; 20 U.S.C. 1003; 20 U.S.C. 1088; 20 U.S.C. 1091; 20 U.S.C. 1094; 20 U.S.C. 1099(b); 20 U.S.C. 1099(c)
*CFR Citation:* 34 CFR 668.
*Legal Deadline:* None.
*Abstract:* The Secretary plans to amend regulations on institutional eligibility under the Higher Education Act of 1965, as amended (HEA), and the Student Assistance General Provisions, including the regulations governing whether certain postsecondary educational programs prepare students for gainful employment in a recognized occupation, and the conditions under which these educational programs remain eligible under the Federal Student Aid programs authorized under title IV of the HEA.
*Statement of Need:* The Secretary is initiating negotiated rulemaking to revise the gainful employment regulations published by the Department on October 31, 2014 (79 FR 64889).
*Summary of Legal Basis:* Section 492 of the HEA requires that, before publishing any proposed regulations to implement programs authorized under title IV of the HEA, the Secretary obtain public involvement in the development of the proposed regulations. After obtaining advice and recommendations from the public, the Secretary conducts negotiated rulemaking to develop the proposed regulations. Section 431 of the Department of Education Organization Act provides authority to the Secretary, in relevant part, to inform the public regarding federally supported education programs; and collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving the intended purposes of such programs. 20 U.S.C. 1231a.
*Alternatives:* These will be identified through the negotiated rulemaking process, presented in a Notice of Proposed Rulemaking, and discussed in the Final Regulations.
*Anticipated Cost and Benefits:* These will be identified through the negotiated rulemaking process, presented in a Notice of Proposed Rulemaking, and discussed in the Final Regulations.
*Risks:* These will be identified through the negotiated rulemaking process, presented in a Notice of Proposed Rulemaking, and discussed in the Final Regulations.
*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice of Intention to Commence Negotiated Rulemaking. | 06/16/17 | 82 FR 27640 |

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 06/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Small Entities Affected:* Businesses, Governmental Jurisdictions.

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

*URL For Public Comments: www.regulations.gov.*

*Agency Contact:* Annmarie Weisman, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW, Room 6W245, Washington, DC 20202, *Phone:* 202 453–6712, *Email: annmarie.weisman@ed.gov.*

*RIN:* 1840–AD31

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

*Statement of Regulatory and Deregulatory Priorities*

The Department of Energy (DOE or The Department) 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 ensure America's security and prosperity by addressing its energy, environmental, and nuclear challenges through transformative science and technology solutions.

Through its regulatory and deregulatory activities, the Department works to ensure it both achieves its critical mission, and implements the administration's initiative to reduce regulation and control regulatory costs as outlined in Executive Order (E.O.) 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' As such, the Department strives to act in a prudent and financially responsible manner in the expenditure of funds, from both public and private sources, and manages appropriately the costs associated with private expenditures required for compliance with DOE regulations. Ultimately, DOE aims to promote meaningful regulatory burden reduction, while at the same time achieve its regulatory objectives and statutory obligations.

Regulatory and Deregulatory Priorities

DOE's regulatory and deregulatory priorities reflect the Department's efforts to achieve meaningful burden reduction while continuing to achieve the Department's statutory obligations.

DOE's regulatory priorities reflect the Department's statutory obligations. The Energy Policy and Conservation Act (EPCA) requires DOE to review its appliance efficiency standards at least once every six years to determine whether a new standard can be implemented at a level that achieves the maximum improvement in energy efficiency that is technologically feasible and economically justified. The Department continues to work to meet these obligations.

DOE is also engaging in a number of deregulatory activities aimed at reducing regulatory costs and burdens. These activities include expediting the approval process for applicants proposing to export small volumes of natural gas and taking a number of actions to right-size the safety requirements for persons conducting activities that affect, or may affect, the safety of DOE nuclear facilities.

Aggregate Number of Anticipated Regulatory and Deregulatory Actions

For fiscal year 2017 and 2018 DOE plans to implement 7 regulatory actions and 16 deregulatory actions. DOE is largely focusing its resources on pursuing the deregulatory actions listed in the Regulatory Agenda. While none of the rulemakings listed as regulatory actions in DOE's regulatory agenda meet the Regulatory Plan criterion of ''most important significant regulatory actions'' of the agency, DOE is placing one action in its Regulatory Plan, for the purpose of transparency and due to the non-trivial costs of the proposed action: Energy Conservation Standards for Residential Conventional Cooking Products. At the 7% and 3% discount rate the primary annualized cost for this rule is expected to be 42.6 million and 42.3 million dollars respectively. The primary annualized benefits at the 7% and 3% discount rate are expected to be 126 million and 178 million respectively.

In all its rulemakings, as required by E.O. 12866, ''Regulatory Planning and Review,'' DOE ensures that the net benefits of any rule it publishes outweigh the costs of the rulemaking. Further, DOE will not issue a rule if that rule contains unjustified burdens.

Retrospective Analyses of Existing Rules

As part of its efforts to comply with Section 6 of E.O. 13563, ''Improving Regulation and Regulatory Review,'' which requires agencies to conduct a retrospective review of existing rules to identify rules that are ''outmoded, ineffective, insufficient, or excessively burdensome,'' and to determine whether such regulations should be ''modified, streamlined, expanded, or repealed'' DOE issued a request for information (RFI) on May 30, 2017, 82 FR 24582. Among other issues, this RFI requested insight from the public as to what regulations may meet the definition of E.O. 13563. DOE is reviewing all 132 comments received to gain a better insight into possible regulations that can be modified, streamlined, expanded or repealed. As required by Executive Order 13777, ''Enforcing the Regulatory Reform Agenda'', DOE also has established a regulatory reform task force, tasked with the mission of identifying regulations in need of reform, as specified in the order. The task force's activities are intended to assist DOE in meeting the objectives of E.O. 13563.

## DOE—ENERGY EFFICIENCY AND RENEWABLE ENERGY (EE)

Proposed Rule Stage

### 23. Energy Conservation Standards and Definition for General Service Lamps

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

*Unfunded Mandates:* This action may affect the private sector under Public Law 104–4.

*E.O. 13771 Designation:* Other.

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

*CFR Citation:* 10 CFR 430.

*Legal Deadline:* Final, Judicial, Date will be determined based on prior actions required by the settlement agreement.

*Abstract:* The Department will issue a supplemental notice of proposed rulemaking that includes a proposed determination with respect to whether to amend or adopt standards for general service light-emitting diode (LED) lamps and that may include a proposed determination with respect to whether to amend or adopt standard for compact fluorescent lamps. According to the Settlement agreement between NEMA vs DOE, DOE will use its best efforts to issue GSL SNOPR within five months of publishing the final rule on vibration service and rough service lamps.

*Statement of Need:* DOE is directed under EPCA to determine when to establish standards for GSL's, and that DOE complete the rulemaking by January 1, 2017.

*Summary of Legal Basis:* Amendments to EPCA in the Energy Independence and Security Act of 2007 (EISA) directed DOE to conduct two rulemaking cycles to evaluate energy conservation standards for GSL's (42 U.S.C. 6295(i)(6)(A)–(B)). Furthermore, pursuant to EPCA, any new or amended energy conservation standard that the

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 in the statute.

*Anticipated Cost and Benefits:* DOE finds that the benefits to the Nation of the proposed energy standards for General Service Lamps outweigh the burdens. DOE estimates that energy savings will be .85 quads over 30 years and the net benefit to the Nation will be between $4.4 billion and $9.1 billion.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Framework Document Availability; Notice of 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. | 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 | |
| Notice of Public Meeting; Webinar. | 03/15/16 | 81 FR 13763 |
| NPRM | 03/17/16 | 81 FR 14528 |
| NPRM Comment Period End. | 05/16/16 | |
| Notice of Public Meeting; Webinar. | 10/05/16 | 81 FR 69009 |
| Proposed Definition and Data Availability. | 10/18/16 | 81 FR 71794 |
| Proposed Definition and Data Availability Comment Period End. | 11/08/16 | |
| Final Rule Adopting a Definition for GSL. | 01/19/17 | 82 FR 7276 |
| Final Rule Adopting a Definition for GSL Effective. | 01/01/20 | |
| Final Rule Adopting a Definition for GSL Including IRL. | 01/19/17 | 82 FR 7322 |
| Final Rule Adopting a Definition for GSL Including IRL Effective. | 01/01/20 | |
| GSL Supplemental NPRM. | 03/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

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

*URL For More Information: 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.*

*Agency Contact:* Lucy DeButts, Buildings Technologies Office, EE–5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Washington, DC 20585, *Phone:* 202 287–1604, *Email: lucy.debutts@ee.doe.gov.*

*RIN:* 1904–AD09

## DOE—EE

### 24. Energy Conservation Standards For Residential Conventional Cooking Products

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

*Unfunded Mandates:* This action may affect the private sector under Public Law 104–4.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 42 U.S.C. 6295(m)(1); 42 U.S.C. 6292 (a)(10); 42 U.S.C. 6295(h)

*CFR Citation:* 10 CFR 429; 10 CFR 430.

*Legal Deadline:* Other, Statutory, Subject to 6-year-look-back at 6295(m).

*Abstract:* EPCA, as amended by EISA 2007, requires the Secretary to determine whether updating the statutory energy conservation standards for residential conventional cooking products would yield a significant savings in energy use and is technically feasible and economically justified. DOE is reviewing to make such determination.

*Statement of Need:* 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 conventional cooking products. EPCA also requires the U.S. Department of Energy (DOE) to determine whether more-stringent, amended standards would be technologically feasible and economically justified, and would save a significant amount of energy. DOE is proposing new and amended energy conservation standards for residential conventional cooking products, specifically conventional cooking tops and conventional ovens.

*Summary of Legal Basis:* EPCA provides that not later than 6 years after issuance of any final rule establishing or amending a standard, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking including new proposed energy conservation standards (42 U.S.C. 6295(m)(1)). In accordance with this statutory provision, DOE proposes new and amended energy conservation standards for residential conventional cooking products.

*Alternatives:* Additional compliance flexibilities may be available through other means. EPCA provides that a manufacturer whose annual gross revenue from all of its operations does not exceed $8 million may apply for an exemption from all or part of an energy conservation standard for a period not longer than 24 months after the effective date of a final rule establishing the standard (42 U.S.C. 6295(t)). Additionally, section 504 of the Department of Energy Organization Act, 42 U.S.C. 7194, provides authority for the Secretary to adjust a rule issued under EPCA in order to prevent special hardship, inequity, or unfair distribution of burdens that may be imposed on that manufacturer as a result of such rule.

*Anticipated Cost and Benefits:* Using a 7-percent discount rate for benefits and costs, the estimated cost of the proposed standards for consumer

conventional cooking products is $42.6 million per year in increased equipment costs, while the estimated annual benefits are $120.3 million in reduced equipment operating costs.

Using a 3-percent discount rate for all benefits and costs, the estimated cost of the proposed standards for consumer conventional cooking products is $42.3 million per year in increased equipment costs, while the estimated annual benefits are $163.3 million in reduced operating costs.

The industry net present value (INPV) is the sum of the discounted cash flows to the industry from the reference year through the end of the analysis period (2017 to 2049). Using a real discount rate of 9.1 percent, DOE estimates that the INPV for manufacturers of consumer conventional cooking products is $1,241.6 million in 2016 dollars. Under the proposed standards, DOE expects that manufacturers may experience a reduction of up to 4.7 percent of their INPV, which is approximately $58.4 million in 2016.

The cumulative net present value (NPV) of total consumer benefits of the standards for consumer conventional cooking products ranges from $1.08 billion (at a 7-percent discount rate) to $2.63 billion (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased product costs for consumer conventional cooking products purchased in 2020–2049.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Request for Information (RFI). | 02/12/14 | 79 FR 8337 |
| RFI Comment Period End. | 03/14/14 | |
| RFI Comment Period Extended. | 03/03/14 | 79 FR 11714 |
| RFI Comment Period Extended End. | 04/14/14 | |
| NPRM and Public Meeting. | 06/10/15 | 80 FR 33030 |
| NPRM Comment Period Extended. | 07/30/15 | 80 FR 45452 |
| NPRM Comment Period Extended End. | 09/09/15 | |
| Supplemental NPRM. | 09/02/16 | 81 FR 60784 |
| SNPRM Comment Period End. | 10/03/16 | |
| SNPRM Comment Period Extended. | 09/30/16 | 81 FR 67219 |
| SNPRM Comment Period Extended End. | 11/02/16 | |
| Supplemental NPRM. | 10/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Undetermined.

*URL For More Information: www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=85.*

*URL For Public Comments: www.regulations.gov/#!docketDetail;D=EERE-2014-BT-STD-0005.*

*Agency Contact:* Stephanie Johnson, General Engineer, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Building Technologies Office, EE5B, Washington, DC 20002, *Phone:* 202 287–1943, *Email: stephanie.johnson@ee.doe.gov.*

*RIN:* 1904–AD15

**BILLING CODE 6450–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

*Statement of Regulatory Priorities for Fiscal Year 2018*

The Department of Health and Human Services (HHS) carries out a wide array of activities in order to fulfill its mission of protecting and promoting the health and well-being of the American people. From supporting cutting-edge research and disease surveillance to regulating products and facilities to administering programs that help our citizens most in need of access to health care and social services, HHS's work has a clear impact on the daily life of all Americans.

In order to successfully carry out its mission, HHS is committed to a regulatory agenda that is focused on better meeting the needs of the individuals served by its programs, empowering individuals and communities by reducing the burden of compliance, and maximizing the impact of federal investments. Through its rulemakings in the coming fiscal year, HHS will take concrete steps towards streamlining its regulations and improving the transparency, flexibility, and accountability of its regulatory processes in order to realize a future where science, health care, and human services are fundamentally person-centered.

### I. More Effectively Meeting the Needs of Individuals

In order to better serve the American people through its programs, HHS will propose a number of regulatory actions aimed at improving service delivery through meaningful information sharing, supporting consumer autonomy and decision-making, and better aligning programs with the most current science.

*Improving Service Delivery Through Meaningful and Appropriate Information Sharing*

In order to deliver quality health care and human services, stronger and clearer regulatory systems that promote the judicious sharing of personally identifiable information among care teams, individuals, and families are necessary, while protecting the confidentiality and security of that information. The Office of Civil Rights (OCR), the Office of the National Coordinator for Health Information Technology (ONC), and the Substance Abuse and Mental Health Services Administration (SAMHSA) intend to promulgate rules related to the sharing of electronic data and records. In particular, OCR plans to propose a rule clarifying information sharing with family members when patients are incapacitated.

*Supporting Consumer Autonomy*

Integral to a person-centered approach to health care is the concept of autonomy and personal responsibility: Providing consumers with the information they need and choices so they can take responsibility for their health and better direct their own care. In order to provide patients with information that is useful, actionable, and comprehensible, the Food and Drug Administration (FDA) plans to amend its regulations regarding the information patients receive for outpatient-administered prescription drugs. To encourage more consumer-directed care, FDA also plans to propose regulations to facilitate access to more treatments for common conditions by using new approaches, including new technologies, to assist consumers in self-selection and use of products that have previously been available only by prescription.

*Aligning Programs With Scientific Advancements*

In order to best respond to the needs of patients, it is crucial that HHS regulations and programs reflect current science. HHS is fulfilling this need by updating regulations so that the Department can utilize the full spectrum

of current scientific thinking when carrying out program activities. Specifically, the Health Resources and Services Administration (HRSA) plans to revise the Vaccine Injury Table to include vaccines that the Centers for Disease Control and Prevention (CDC) recommends for administration to pregnant women. This revision will allow injuries related to these vaccines to be eligible for the National Vaccine Injury Compensation Program. Additionally, FDA intends to propose a new rule that will modernize mammography quality by recognizing new technologies, making improvements in facility processes, and the reporting of breast density, which is now widely recognized as a risk factor for breast cancer.

**II. Empowering Individuals and Communities Through Reducing Regulatory Burden**

In order to make HHS programs more person-centered, the rulemakings described above must be accompanied by serious efforts to decrease the burden of complying with Federal regulations. Regulatory burden can result from a variety of sources, including reporting requirements, outdated restrictions, requirements and/or conditions not required by the authorizing statutes, and a lack of clear regulatory guidelines. HHS is committed to streamlining and clarifying its regulations to reduce unnecessary burden while continuing to protect the public health and to meet the human services needs of the American people.

*Minimizing Duplication and Burdensome Requirements*

The Department recognizes the burden that requirements for many of its programs place on States, territories, tribes, local governments, industry, providers and facilities, caseworkers, grant recipients, and individuals. HHS plans to actively engage stakeholders in transparent, deliberative processes to ensure that the Department strikes an appropriate balance between reducing burden and continuing to administer high-quality programs. For example, The Administration for Children and Families (ACF) plans to issue an Advanced Notice of Proposed Rulemaking seeking public comment on its 2016 Final Rule on the Adoption and Foster Care Analysis and Reporting System (AFCARS), which doubled reporting requirements for States and tribes. Through careful consideration of all comments submitted by the public during this process, ACF believes it can streamline the 2016 Rule so that States and tribes are able to devote less time and fewer resources to administrative work and redirect those efforts to the children they serve.

The Centers for Medicare & Medicaid Services (CMS) plans to propose changes to the current Conditions of Participation (CoPs) or Conditions for Coverage (CfCs) that health care organizations must meet in order to begin and continue participating in the Medicare and Medicaid programs. These changes will simplify and streamline the current regulations by reducing the frequency of certain required activities and, where appropriate, revising timelines for certain requirements for providers and suppliers. These changes will also increase provider flexibility and reduce excessively burdensome regulations, while allowing providers to focus on providing high-quality health care to their patients. Ultimately, these proposals balance patient safety and quality, while also providing broad regulatory relief for providers and suppliers.

Through initiatives to eliminate regulatory burdens that negatively impact the doctor-patient relationship, the Department will take steps to remove duplicative requirements, streamline data collection and reporting requirements, and make meaningful reforms to programs that limit access to care. For example, CMS plans to finalize the physician fee schedule, which will eliminate the redundant reporting of the modifier in the professional claim to reduce burden for eligible practitioners. The Inpatient Prospective Payment System (IPPS), which HHS has finalized for fiscal year 2018, also reduces the electronic quality reporting measures from eight to four measures, to reduce burden for eligible practitioners and ensure they are spending more time caring for the patient rather than in front of a computer screen. HHS intends to continue building on this progress in the next fiscal year rule.

*Eliminating Outdated Restrictions and Obsolete Regulations*

In addition to minimizing regulatory burden, HHS realizes that many of its regulations may contain provisions that are outdated, obsolete, or otherwise not applicable to the current environment. HHS has resolved to reform its processes so that those providing care and other services to Americans are able to thrive within the State and federal regulatory environment. As an early step in this broader effort, CMS plans to issue a proposed rule that will remove unnecessary and outdated requirements from the conditions of participation for the Medicare and Medicaid programs for Long-Term Care facilities. Currently, these requirements often impede the delivery of quality care and divert resources away from facility residents.

*Providing Necessary Regulatory Clarity to Industry Stakeholders*

While the above rulemakings seek to correct overregulation, in some cases, HHS programs lack the necessary regulations in order to make their processes transparent and predictable. For example, in the context of FDA's tobacco program, rulemaking is needed to clarify for industry what is required to be included in premarket applications and the procedures that will be followed in submitting and reviewing these submissions as part of a comprehensive framework to regulate nicotine and tobacco and advance the public health. In addition, FDA is updating important rules for medical device applications so the rules reflect risk-based and least burdensome pathways to market for devices, including new and innovative devices. These rules will fill gaps to ensure that manufacturers in these sectors know how to bring innovative products to market that may save lives or reduce health risks. FDA intends to begin rulemaking this fiscal year to fill these regulatory gaps so that these processes become more fair, efficient, and predictable.

In response to extensive outreach to physician stakeholders, HHS anticipates a number of changes associated with private practice physicians and their arrangements with Medicare Advantage Organizations (MAOs). Of the nearly 200 regulatory burdens reported by more than 30 trade associations, 12 percent of the groups requested clarity with regards to the ways MAOs audit physicians and their practices. CMS plans on issuing a Part C and D rule for Contract Year 2019, that responds to these concerns. The rule will also seek comment on ways to improve MAO audits of solo practitioners and their practices.

**III. Maximizing the Impact of Every Federal Dollar Spent**

In order to truly protect and promote the health and wellbeing of the American people, HHS must ensure that each and every taxpayer dollar it spends is used wisely and managed responsibly. HHS's efforts to reduce burden and move toward more person-centered programs must be coupled with a department-wide determination to do more with the resources that it has. By doing so, HHS hopes to use taxpayer funds responsibly to reach as many Americans in need as possible

directly through its programs and to empower its community partners to do the same.

*Protecting the Integrity of HHS Programs*

A key component of maximizing the impact of HHS's investments—and protecting taxpayer dollars—is program integrity. Without consistent efforts to identify fraud, waste, and abuse and respond accordingly, the Department cannot be certain that its funds are going toward their intended use nor can it maintain the public's confidence in its programs. As such, the Department is committed to keeping program integrity a priority in the coming years. This year, CMS plans to finalize a rule that will implement crucial authorities provided by Congress to deny or revoke a provider or supplier's Medicare enrollment in certain circumstances specified in the rule. Additionally, HRSA plans to publish an NPRM imposing civil monetary penalties on drug manufacturers who knowingly and intentionally charge 340B program participants a price higher than the program ceiling price.

*Promoting Flexibility for States, Grantees, and Regulated Entities*

Alongside program integrity activities, HHS intends to enhance regulatory flexibility so that its State and community partners are able to better tailor their programs to fit the needs of the people they serve. Particularly in the context of the Secretary's three clinical priorities—combatting the opioid crisis, childhood obesity, and serious mental illness—the Department has begun looking seriously at its programs to see how it can maximize the number of people reached through amending its regulations to remove or change regulatory limitations on grantees and regulated entities. Specifically, SAMHSA plans to publish an NPRM exploring ways that it could better facilitate the ability of individuals with an Opioid Use Disorder to access interim maintenance treatment while they are waiting to begin a comprehensive treatment plan. In addition, ACF plans to consider revising minimum service duration requirements for Head Start center-based programs. Rulemaking carried out in 2016 nearly doubled the current minimum. If revised again, center-based Head Start programs would likely be able to serve more children and choose a duration that better reflects the needs and daily schedules of the families they serve.

As a way of promoting flexibility for States, CMS also plans to propose a rule related to Medicaid and CHIP Managed Care. This rule would streamline the regulatory framework and provide burden reductions to ensure state Medicaid agencies are able to work effectively with CMS to design, develop, and deploy managed care programs that meet the state population's needs. These changes support state flexibility, local leadership, and innovation in the delivery of care.

In the coming fiscal year, HHS plans to consider a number of regulatory and deregulatory actions intended to make its processes more flexible, efficient, and transparent. In order to fully realize the potential of these efforts, HHS recognizes the need for a collaborative rulemaking process where the concerns of stakeholders are appropriately considered. By working with its community partners to understand the challenges that they face under HHS's current regulatory structures and where there are opportunities for improvement, the Department hopes to modernize and streamline its regulations to better serve the needs of the American people.

## HHS—OFFICE FOR CIVIL RIGHTS (OCR)

Proposed Rule Stage

### 25. • HIPAA Privacy Rule: Presumption of Good Faith of Healthcare Providers

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* Health Insurance Portability and Accountability (HIPAA) Act of 1996, Pub. L. 104–191

*CFR Citation:* 45 CFR 164.510.

*Legal Deadline:* None.

*Abstract:* The proposed rule would modify the HIPAA Privacy Rule to clarify that healthcare providers are presumed to be acting in the individual's best interests when they share information with an incapacitated patient's family members unless there is evidence that a provider was acted in bad faith.

*Statement of Need:* HIPAA allows medical professionals to share protected health information with an individual's loved ones in emergency or dangerous situations but misunderstandings to the contrary persist and create obstacles to family support that is crucial to the proper care, treatment, and recovery of people experiencing a crisis situation. Therefore, the Department, through the Office for Civil Rights (OCR) intends to propose regulatory changes to the HIPAA Privacy Rule to clarify that healthcare providers are presumed to be acting in the individual's best interests when they share information with an incapacitated patient's family members, unless there is evidence that a provider acted in bad faith. OCR by delegation from the Secretary, has broad authority under HIPAA to make modifications to the Privacy Rule, as provided by section 264 of HIPAA (codified at 42 U.S.C. and 1320d–2(note)).

*Summary of Legal Basis:* OCR has broad authority under the HIPAA statute to make modifications to the Privacy Rule, within the statutory constraints of the HITECH Act and other applicable law (*e.g.,* the Administrative Procedures Act).

*Alternatives:* The alternative is to not issue a proposed rule.

*Anticipated Cost and Benefits:* The proposed rule will not create any new requirements or costs for regulated entities or the public. It will provide assurances to health care providers about their ability to make disclosures that are in the best interests of patients.

*Risks:* OCR has not identified any risks associated with this proposal. OCR currently defers to a healthcare provider's professional judgment in these circumstances and has never taken enforcement action against a healthcare provider who shared information in good faith, thus, the proposed regulatory change will not decrease the privacy protections for individuals' protected health information, or significantly alter HIPAA enforcement policy.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*Agency Contact:* Andra Wicks, Health Information Privacy Specialist, Department of Health and Human Services, Office for Civil Rights, 200 Independence Avenue SW, Washington, DC 20201, *Phone:* 202 774–3081, *TDD Phone:* 800 537–7697, *Email: andra.wicks@hhs.gov.*

*RIN:* 0945–AA09

## HHS—OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY (ONC)

Proposed Rule Stage

### 26. • Health Information Technology: Interoperability and Certification Enhancements

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* Pub. L. 114–255

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* The proposed rule would update certain provisions of the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act) and implement certain provisions of the 21st Century Cures Act (Cures Act) including provisions related to conditions of certification and maintenance of certification for a health information technology (IT) developer or entity, the voluntary certification of health IT for use by pediatric health providers, health information network voluntary attestation to their adoption of a trusted exchange framework and common agreement in support of network-to-network exchange, and provisions related to reasonable and necessary activities that do not constitute information blocking.

*Statement of Need:* In part, Title IV of the 21st Century Cures Act requires the Secretary to engage in notice and comment rulemaking that would help advance interoperability and the exchange of health information, including by addressing information blocking. The interoperability of health information is central to the efforts of the Department of Health and Human Services to enhance and protect the health and well-being of all Americans.

*Summary of Legal Basis:* The proposed provision would be implemented under the authority of the Public Health Service Act, as amended by the HITECH Act and the Cures Act.

*Alternatives:* ONC will consider different options to improve interoperability and access to electronic health information so that the benefits to providers, patients, and payers are maximized and the economic burden to health IT developers, providers, and other stakeholders is minimized.

*Anticipated Cost and Benefits:* The majority of costs for this proposed rule will be incurred by health IT developers in terms of meeting new requirements and continual compliance with the regulations. We expect, however, that through implementation and compliance with the regulations the market particularly providers, patients, and payers will benefit greatly from increased interoperability and access to electronic heath information (*e.g.,* the need for less interfaces or making health information more accessible at lower costs). Other proposed changes are aimed at relieving some administrative burdens for health IT developers.

*Risks:* None identified at this time.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses, Governmental Jurisdictions, Organizations.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*Agency Contact:* Michael Lipinski, JD, Director, Division of Federal Policy and Regulatory Affairs, Department of Health and Human Services, Office of the National Coordinator for Health Information Technology, Mary E. Switzer Building, 330 C Street SW, Washington, DC 20201, *Phone:* 202 690–7151.

*RIN:* 0955–AA01

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

Proposed Rule Stage

### 27. • Certification of Opioid Treatment Programs

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

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* Sec. 303(g) of the Controlled Substances Act (CSA); (21 U.S.C. 823(g)) establishes procedures for determining whether a health care practitioner can dispense opioid drugs for the purpose of treating opioid use disorders

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* This proposed rule would delete outmoded requirements for transitional certification and add new language permitting private, for-profit entities to serve as opioid treatment programs.

*Statement of Need:* SAMHSA plans to promulgate a rule to remove the transitional certification provisions that are now outdated. Additionally, updating language to permit private, for-profit entities to serve as opioid treatment programs could improve patient access to this treatment.

*Summary of Legal Basis:* Section 303(g) of the Controlled Substances Act (CSA) (21 U.S.C. 823(g) establishes procedures for determining whether a healthcare practitioner can dispense opioid drugs for the purpose of treating opioid use disorders. HHS has adopted regulations at 42 CFR part 8 to provide additional details. These regulations were most recently substantively revised in July 2016 (81 FR 44712).

*Alternatives:* The alternatives include not making these changes or making only one of the above changes rather than both (*i.e.,* either updating the regulatory language to permit private, for-profit entities to serve as OTPs or removing the transitional certification provisions but not both of these changes).

*Anticipated Cost and Benefits:* Eliminating outmoded transition regulations will make the regulations less confusing. In addition, permitting private, for-profit entities to qualify for certification potentially will broaden access to opioid treatment programs. SAMHSA is unsure how to quantify costs and benefits for these changes.

*Risks:* Some advocates may argue that controversies about patient brokering raise questions about whether private, for-profit entities would best uphold the interests of patients but SAMHSA has no specific information that permitting private, for-profit entities to manage OTPs will increase risks to patients.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 10/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*Agency Contact:* Chris Carroll, Director of Health Care Financing and Systems Integration, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 1 Choke Cherry Road, Rockville, MD 02857, *Phone:* 240 276–1765, *Email: christopher.carroll@samhsa.hhs.gov.*

*RIN:* 0930–AA27

## HHS—SAMHSA

Final Rule Stage

### 28. Confidentiality of Substance Use Disorder Patient Records

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 42 U.S.C. 290dd–2

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* The action would finalize the proposed additional clarifications to the part 2 regulations which were included in the Supplemental NPRM published on January 18, 2017, (82 FR 5485). This proposed to permit lawful holders and their contractors and subcontractors' to, under certain

circumstances, use and disclose part 2-covered data for purposes of carrying out payment, healthcare operations, and other healthcare related activities.

*Statement of Need:* This action should improve information sharing for purposes of carrying out payment, healthcare operations, and other healthcare related activities.

*Summary of Legal Basis:* The governing statute, 42 U.S.C. 290dd–2, establishes that records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) of this section, be confidential. The statute requires that HHS issue regulations, which are codified at 42 CFR part 2. SAMHSA. This final rule will adopt changes proposed in the SNPRM.

*Alternatives:* Based on public comments, SAMHSA anticipates that these modifications will enhance efficiency of such payment and health care operations as claims processing, business management, training and customer service. The alternative would be not to finalize these changes in which case it would remain unclear in some cases as to when and whether part 2 programs could work with contractors or subcontractors on payment and health care operations activities.

*Anticipated Cost and Benefits:* The changes proposed will make it easier for part 2 programs to work with contractors, subcontractors, and legal representatives on payment and healthcare operations activities. SAMHSA also will develop an abbreviated notice of redisclosure that may make it easier for some entities to use electronic health records.

*Risks:* None known.

This rule, if finalized, would permit lawful holders of part 2 information to work with contractors, subcontractors and legal representatives to make additional disclosures of part 2 information for certain payment and health care operations purposes when initial patient consent is obtained. The rule includes language which provides that the contractor and any subcontractor or legal representative are or will be fully bound by the provisions of part 2 upon receipt of the patient identifying data, and, as such that each disclosure shall be accompanied by a required redisclosure notice. SAMHSA does not believe the additional disclosures permitted will increase risks of data breaches or other risks to patients.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Final Action ..... | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*Agency Contact:* Chris Carroll, Director of Health Care Financing and Systems Integration, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 1 Choke Cherry Road, Rockville, MD 02857, *Phone:* 240 276–1765, *Email: christopher.carroll@samhsa.hhs.gov.*

*RIN:* 0930–AA26

## HHS—Food and Drug Administration (FDA)

### Proposed Rule Stage

### 29. Mammography Quality Standards Act; Regulatory Amendments

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

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 360i; 21 U.S.C. 360nn; 21 U.S.C. 374(e); 42 U.S.C. 263b

*CFR Citation:* 21 CFR 900.

*Legal Deadline:* None.

*Abstract:* FDA is proposing to amend its regulations governing mammography. The amendments would update the regulations issued under the Mammography Quality Standards Act of 1992 (MQSA). FDA is taking this action to address changes in mammography technology and mammography processes that have occurred since the regulations were published in 1997 and to address breast density reporting to patient and healthcare providers.

*Statement of Need:* FDA is proposing to update the mammography regulations that were issued under the Mammography Quality Standards Act of 1992 (MQSA) and the Federal Food, Drug, and Cosmetic Act (FD&C Act). FDA is taking this action to address changes in mammography technology and mammography processes.

FDA is also proposing updates to modernize the regulations by incorporating current science and mammography best practices, including addressing breast density reporting to patients and health care providers.

These updates are intended to improve the delivery of mammography services.

*Summary of Legal Basis:* Mammography is an X-ray imaging examination device that is regulated under the authority of the FD&C Act. FDA is proposing these amendments to the mammography regulations (set forth in 21 CFR part 900) under section 354 of the Public Health Service Act (42 U.S.C. 263b), and sections 519, 537, and 704(e) of the FD&C Act (21 U.S.C. 360i, 360nn, and 374(e)).

*Alternatives:* The Agency will consider different options so that the health benefits to patients are maximized and the economic burdens to mammography facilities are minimized.

*Anticipated Cost and Benefits:* The primary public health benefits of the rule will come from the potential for earlier breast cancer detection, improved morbidity and mortality, resulting in reductions in cancer treatment costs. The primary costs of the rule will come from industry labor costs and costs associated with supplemental testing and biopsies.

*Risks:* If a final regulation does not publish, the potential reduction in fatalities and earlier breast cancer detection, resulting in reduction in cancer treatment costs, will not materialize to the detriment of public health.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 10/00/18 | |

*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:* Erica Blake-Payne, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, WO 66, Room 5522, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–3999, *Fax:* 301 847–8145, *Email: erica.payne@fda.hhs.gov.*

*RIN:* 0910–AH04

## HHS—FDA

### 30. Medical Device De Novo Classification Process

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

*E.O. 13771 Designation:* Deregulatory.
*Legal Authority:* 21 U.S.C. 513; 21 U.S.C. 701
*CFR Citation:* 21 CFR 860.
*Legal Deadline:* None.
*Abstract:* De novo classification decreases regulatory burdens because manufacturers can use a less burdensome application pathway under the FD&C Act to market their devices. The proposed rule would establish procedures and criteria for the de novo process and would make it more transparent and predictable for manufacturers.
*Statement of Need:* FDA is taking this action to implement amendments to the De Novo classification process in the FD&C Act that were enacted by the Food and Drug Administration Modernization Act of 1997 (FDAMA), and the Food and Drug Administration Safety and Innovation Act of 2012 (FDASIA), and the 21st Century Cures Act of 2016 (Cures).
*Summary of Legal Basis:* The FD&C Act (21 U.S.C. 301 *et seq.*), as amended, establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act established three categories (classes) of medical devices based on the regulatory controls sufficient to provide reasonable assurance of safety and effectiveness of the device. In 1997, Congress enacted section 513()(2) to include a De Novo classification process for some devices for which reasonable assurance of safety and effectiveness could be established through the De Novo process. FDASIA and cures expanded and modified this process.
*Alternatives:* The De Novo classification process is based on authority from the FD&C Act. The De Novo classification program must continue because it is required by statute. If the proposed rule is not finalized, then procedures and details about the application process and handling of De Novo applications might be unclear to potential applicants, and the program may not be as efficient as it might be.
*Anticipated Cost and Benefits:* By classifying the requirements for the De Novo classification process. FDA expects that the rule would reduce the time and costs associated with preparing and reviewing De Novo requests, and would generate net benefits in the form of cost savings for both private and government sectors.
*Risks:* If the proposed rule is not finalized, then some aspects of the De novo classification process may not be clear, and potential applicants may miss the opportunity for using this less burdensome process when seeking premarket clearance. This could potentially delay getting new medical devices to the market and to patients.
*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/18 | |

*Regulatory Flexibility Analysis Required:* No.
*Small Entities Affected:* No.
*Government Levels Affected:* None.
*Agency Contact:* Jean M. Olson, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Health and Human Services, 10903 New Hampshire Avenue, Building 66, Room 5508, Silver Spring, MD 20993, *Phone:* 301 796–6579.
*RIN:* 0910–AH53

## HHS—FDA

### 31. • Requirement for Access or Safe use of Certain Nonprescription Drug Products

*Priority:* Economically Significant. Major status under 5 U.S.C. 801 is undetermined.
*Unfunded Mandates:* Undetermined.
*E.O. 13771 Designation:* Deregulatory.
*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 352; 21 U.S.C. 355; 21 U.S.C. 371; 42 U.S.C. 262; 42 U.S.C. 264; . . .
*CFR Citation:* 21 CFR 314.56; 21 CFR 201.67.
*Legal Deadline:* None.
*Abstract:* The proposed rule is intended to increase access to a wider variety of nonprescription drug products. Under the proposed rule, an applicant could submit an application to FDA for approval of a nonprescription drug product with a requirement that ensures consumers' appropriate self-selection, appropriate actual use, or both in order to obtain the drug without a prescription.
*Statement of Need:* Nonprescription products have traditionally been limited to drugs that can be labeled with information for consumers to safely and appropriately self-select and use the drug product without supervision of a health care provider. There are certain prescription medications that may have comparable risk-benefit profiles to over-the-counter medications in selected populations. However, appropriate consumer selection and use may be difficult to achieve in the nonprescription setting based solely on information that may be included in labeling. FDA is proposing regulations that would allow for approval of a nonprescription drug product that would have additional requirements that could be met by consumers to obtain the drug without a prescription. The proposed rule outlines a framework for the use of innovative approaches to assist consumers with nonprescription drug product self-selection or use. This pathway should lead to approval of a wider range of nonprescription drug products.
*Summary of Legal Basis:* FDA's proposed revisions to the regulations regarding labeling and applications for nonprescription drug products labeling are authorized by the FD&C Act (21 U.S.C. 321 *et seq.*) and by the Public Health Service Act (42 U.S.C. 262 and 264).
*Alternatives:* FDA evaluated various requirements for new drug applications to assess flexibility of nonprescription drug product design through drug labeling for appropriate self-selection and appropriate use.
*Anticipated Cost and Benefits:* The benefits of the proposed rule would include increased consumer access to drug products which could translate to a reduction in under treatment of certain diseases and conditions. Benefits to industry would arise from the flexibility in drug product approval. The proposed rule would impose costs arising from the development of an innovative approach to assist consumers with nonprescription drug product self-selection or use.
*Risks:* None.
*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 08/00/18 | |

*Regulatory Flexibility Analysis Required:* No.
*Small Entities Affected:* Businesses.
*Government Levels Affected:* None.
*Agency Contact:* Chris Wheeler, Supervisory Project Manager, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, Building 51, Room 3330, Silver Spring, MD 20993, *Phone:* 301 796–0151, *Email: chris.wheeler@fda.hhs.gov.*
*RIN:* 0910–AH62

## HHS—FDA

### 32. • Medication Guides; Patient Medication Information

*Priority:* Economically Significant. Major status under 5 U.S.C. 801 is undetermined.
*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C 321 *et seq.*; 42 U.S.C. 262; 42 U.S.C. 264; 21 U.S.C. 371

*CFR Citation:* 21 CFR 208; 21 CFR 606.123 (new); 21 CFR 310.501 and 310.515 (removal); 21 CFR 201.57 (a)(18) (revision); 21 CFR 201.809(f)(2) (revision); 21 CFR 314.70(b)(2)(v)(B) (revision); 21 CFR 610.60(a)(7) (removal); . . .

*Legal Deadline:* None.

*Abstract:* The proposed rule would amend FDA medication guide regulations to require a new form of patient labeling, Patient Medication Information, for submission to and review by the FDA for human prescription drug products used, dispensed, or administered on an outpatient basis. The proposed rule would include requirements for Patient Medication Information development, consumer testing, and distribution. The proposed rule would require clear and concise written prescription drug product information presented in a consistent and easily understood format to help patients use their prescription drug products safely and effectively.

*Statement of Need:* Patients may currently receive one or more types of written patient information regarding prescription drug products. Research has shown that frequently the information received is duplicative, incomplete, conflicting, or difficult to read and understand and such information is not sufficient to meet the needs of patients. Patient Medication Information is a new type of one-page Medication Guide that FDA is proposing to require for certain prescription drug products. Patient Medication Information is intended to improve public health by providing clear, concise, accessible, and useful written prescription drug product information, delivered in a consistent and easily understood format, to help patients use prescription drug products safely and effectively and potentially reduce adverse drug reactions due to incorrect use and improve health outcomes.

*Summary of Legal Basis:* FDA's proposed revisions to the regulations regarding format and content requirements for prescription drug labeling are authorized by the FD&C Act (21 U.S.C. 321 *et seq.*) and by the Public Health Service Act (42 U.S.C. 262 and 264).

*Alternatives:* FDA evaluated providing additional guidance to entities that supply patients information about prescription drugs and various formats for patient medication information.

*Anticipated Cost and Benefits:* The monetary benefit of the proposed rule stems from an increase in medication adherence due to patients having more complete and understandable information about their prescription drug products. The proposed rule would impose costs that stem from developing and approving Patient Medication Information.

*Risks:* The current system does not consistently provide patients with useful written information to help them use their prescription drug products safely and effectively. The proposed rule would require FDA- approved Patient Medication Information for certain prescription drug products used, dispensed, or administered on an outpatient basis.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/ 00/ 0;18 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Agency Contact:* Chris Wheeler, Supervisory Project Manager, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, Building 51, Room 3330, Silver Spring, MD 20993, *Phone:* 301 796–0151, *Email: chris.wheeler@fda.hhs.gov.*

*RIN:* 0910–AH68

## HHS—FDA

### 33. • Format and Content of Reports Intended To Demonstrate Substantial Equivalence

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 387; 42 U.S.C. 4332

*CFR Citation:* 21 CFR 1107.

*Legal Deadline:* None.

*Abstract:* This proposed rule would establish the format and content of reports intended to demonstrate substantial equivalence (SE) in tobacco products and would provide information as to how the Agency will review and act on these submissions.

*Statement of Need:* The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), requires premarket submissions for new tobacco products. Substantial equivalence reports are one type of premarket submission that manufacturers of new tobacco products may use to obtain marketing authorization for a new tobacco product. This regulation is necessary to provide information to manufacturers to aid them in preparing and submitting substantial equivalence reports.

*Summary of Legal Basis:* Section 905(j) of the FD&C Act, as amended by the Tobacco Control Act, provides for the submission of substantial equivalence reports and authorizes FDA to prescribe the form and manner of these reports. Section 910 of the FD&C Act mandates the premarket review of new tobacco products, establishes definitions of substantial equivalence and characteristics, and requires health information as part of a submission under section 905(j) of the FD&C Act. Section 909 establishes record and report requirements for tobacco products. Sections 701 and 704 of the FD&C Act authorize the promulgation of regulations to implement the FD&C Act and inspections.

*Alternatives:* In addition to the benefits and costs of the proposed rule, FDA assessed the benefits and costs of several alternatives to the proposed rule: (1) Extending the effective date of the rule, (2) allowing for more deficiency letters and review cycles, and (3) allowing for only one review cycle.

*Anticipated Cost and Benefits:* The costs of the rule are compliance costs on affected entities, *e.g.,* to read and understand the rule, to revise internal procedures, and fill out a form for substantial equivalence reports. The quantified benefits of the proposed rule are cost-savings resulting from shorter FDA review times and fewer staff to review substantial equivalence reports. The cost savings to the government is expected to be larger than the compliance cost for industry and the net result is an overall net positive benefit from this proposed rule. The qualitative benefits of the rule include additional clarity to industry about the requirements for the content and format of substantial equivalence reports, as well as the establishment of procedures for substantial equivalence report review and communication with applicants. These changes make the substantial equivalence marketing pathway clearer for both FDA and applicants.

*Risks:* Premarket submissions for new tobacco products are required by the FD&C Act. But to prepare premarket submissions such as substantial equivalence reports intended to meet those requirements, manufacturers need more information about content and

format requirements. This rule provides more information on content and format requirements and describes possible FDA actions on the substantial equivalence report.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*Agency Contact:* Annette L. Marthaler, 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:* 877 287–1426, *Email: ctpregulations@fda.hhs.gov*.

*RIN:* 0910–AH89

## HHS—HEALTH RESOURCES AND SERVICES ADMINISTRATION (HRSA)

Proposed Rule Stage

### 34. • 340B Drug Pricing Program Ceiling Price and Manufacturer Civil Monetary Penalties Regulation

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

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* Pub. L. 102–585: Veterans HealthCare Act of 1992

*CFR Citation:* 42 CFR 10.

*Legal Deadline:* None.

*Abstract:* This proposed rule would amend the definition of 'knowingly and intentionally' at section 10.3 and amend section 10.10(b) regarding 340B ceiling price. The sections being amended were included in a final rule that published on January 5, 2017 (82 FR 1210; RIN 0906–AA89). The January 5, 2017, final rule set forth the calculation of the ceiling price and application of civil monetary penalties.

*Statement of Need:* This statutorily required rule defines the standards and methodology for the calculation of ceiling prices within the 340B Program and imposes civil monetary penalties on drug manufacturers who knowingly and intentionally charge a covered entity a price above the 340B ceiling price.

*Summary of Legal Basis:* This rule would implement provisions of section 340B of the Public Health Service Act (PHSA), referred to as the 340B Drug Pricing Program or the 340B Program.

*Alternatives:* None. This rule implements statutory requirements.

*Anticipated Cost and Benefits:* This proposed rule will not have economic impacts of $100 million or more in any 1 year, and, therefore, has not been designated an economically significant rule under section 3(f)(1) of Executive Order 12866. This proposed rule proposes to modify current policy regarding calculation of the 340B ceiling price.

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/17 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*Agency Contact:* CAPT Krista Pedley, Department of Health and Human Services, Health Resources and Services Administration, Health Services and Resources Administration, 5600 Fishers Lane, 10C–03, Rockville, MD 20857, *Phone:* 301 443–5294, *Email: krista.pedley@hrsa.hhs.gov*.

*Related RIN:* Related to 0906–AA89

*RIN:* 0906–AB12

## HHS—HRSA

### 35. • National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table

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

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 21st Century Cures Act; FR 114–255

*CFR Citation:* 42 CFR 100.

*Legal Deadline:* None.

*Abstract:* This proposed rule would revise the Vaccine Injury Table to include vaccines recommended by the Centers for Disease Control and Prevention for routine administration in pregnant women. The addition of this category of vaccines to the Vaccine Injury Table is necessary to allow related injury claims to be eligible for adjudication through the Vaccine Injury Compensation Program.

*Statement of Need:* This statutorily required regulation revises the Vaccine Injury Table to include vaccines recommended by the Centers for Disease Control and Prevention for routine administration in pregnant women. This category of vaccines must be added to the Table for such injury claims to be eligible for adjudication through the Vaccine Injury Compensation Program.

*Summary of Legal Basis:* This rule would implement provisions of the National Vaccine Injury Compensation Program (the Program), as required by the Public Health Service (PHS) Act, as amended.

*Alternatives:* None. This rule implements statutory requirements.

*Anticipated Cost and Benefits:* An estimate of costs of this regulation is not available at this time. There are no anticipated costs to this regulation.

*Risks:* This category of vaccines must be added to the Table for such injury claims to be eligible for adjudication through the Vaccine Injury Compensation Program.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 09/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Undetermined.

*Agency Contact:* Tamara Overby, Deputy Director, Division of Injury Compensation Programs, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, 08N142, Rockville, MD 20857, *Phone:* 301 443–3766, *Email: toverby@hrsa.gov*.

*RIN:* 0906–AB14

## HHS—CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS)

Proposed Rule Stage

### 36. Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs for Contract Year 2019 (CMS–4182–P)

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

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* Pub. L. 114–198, sec. 702; Pub. L. 114–255, secs. 17005 & 17006; 42 U.S.C. 1302; 42 U.S.C. 1395hh

*CFR Citation:* 42 CFR 417; 42 CFR 422; 42 CFR 423; 42 CFR 483; . . .

*Legal Deadline:* None.

*Abstract:* This proposed rule would set forth programmatic and operational changes to the Medicare Advantage (MA) and prescription drug benefit programs for contract year 2019.

*Statement of Need:* This rule is necessary to make revisions to the MA program (Part C) and Prescription Drug Benefit Program (Part D), and other changes to the regulations based on our continued experience in the administration of the Part C and Part D programs.

*Summary of Legal Basis:* This rule addresses multiple sections of the Social Security Act (including secs. 1102 and 1871) and the Public Health Service Act. It also implements section 704 of the Comprehensive Addiction and Recovery Act (CARA) and sections 17005 and 17006 of the 21 st Century Cures Act.

*Alternatives:* This rule proposes approaches to improve the quality, accessibility and affordability of the Medicare Part C and Part D programs and to improve the CMS customer experience. The Agency will consider options that support these improvements.

*Anticipated Cost and Benefits:* The rule includes changes that support innovative approaches by Medicare Advantage (MA) organizations and Part D sponsors in administering the benefit and that prevent improper provision of services, implementing changes in line with the Comprehensive Addiction and Recovery Act of 2016 and the 21st Century Cures Act. We believe the proposed changes will result in a reduction of burden to MA Organizations and Part D Sponsors and generate program savings. 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, changes will not be in place for contract year 2019.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/00/17 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses, Governmental Jurisdictions, Organizations.

*Government Levels Affected:* Federal.

*Agency Contact:* Christian Bauer, Director, Division of Part D Policy, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C1–26–16, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–6043, *Email: christian.bauer@cms.hhs.gov*.

*RIN:* 0938–AT08

## HHS—CMS

### 37. • Regulatory Provisions To Promote Program Efficiency, Transparency, and Burden Reduction (CMS–3346–P)

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

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 42 U.S.C. 263a, 273, 1302, 1320a–7, 1320b–8,1395, 1395eee(f),1395hh, 1395i, 1395rr, 1396r, 1396u–4(f)); 42 U.S.C. 273; 42 U.S.C. 1302; 42 U.S.C. 1320a–7; 42 U.S.C. 1320b–8; 42 U.S.C. 1395; 42 U.S.C. 1395eee(f); 42 U.S.C. 1395hh; 42 U.S.C. 1395i; 42 U.S.C. 1395rr; 42 U.S.C. 1396r; 42 U.S.C. 1396u–4(r)

*CFR Citation:* 42 CFR 403; 42 CFR 405; 42 CFR 416; 42 CFR 418; . . .

*Legal Deadline:* None.

*Abstract:* This proposed rule would reform Medicare regulations that CMS has identified as unnecessary, obsolete, or excessively burdensome on healthcare providers and suppliers. This rule would increase the ability of healthcare professionals to devote resources to improving patient care by eliminating or reducing requirements that impede quality patient care or that divert resources away from providing high quality patient care.

*Statement of Need:* CMS is committed to transforming the healthcare delivery system, and the Medicare program, by putting an additional focus on patient-centered care and working with providers, physicians, and patients to improve outcomes. We seek to reduce burdens for hospitals, physicians, and patients, improve the quality of care, decrease costs, and ensure that patients and their providers and physicians are making the best healthcare choices possible.

We are therefore proposing changes to the current Conditions of Participation (CoPs) or Conditions for Coverage (CfCs) that would simplify and streamline the current regulations and thereby increase provider flexibility and reduce excessively burdensome regulations, while also allowing providers to focus on providing high-quality healthcare to their patients.

*Summary of Legal Basis:* Sections 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

*Alternatives:* From within the entire body of CoPs and CfCs, the most viable candidates for reform were those identified by stakeholders, by recent research, or by experts as unusually burdensome if not changed. This subset of the universe of standards is the focus of this proposed rule. For all of the proposed provisions, we considered not making these changes or changing them in other manners.

*Anticipated Cost and Benefits:* This rule would create ongoing cost savings to providers and suppliers in many areas and significant additional health benefits. Other changes we have proposed would clarify existing policy and relieve some administrative burdens.

*Risks:* Our estimates of the effects of this regulation are subject to significant uncertainty. While we are confident that these reforms will provide flexibilities to facilities that will yield major cost savings, there are uncertainties about the magnitude of these effects.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses, Organizations.

*Government Levels Affected:* None.

*Agency Contact:* Alpha-Banu Huq, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, MS: S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–8687, *Email: alpha-banu.huq@cms.hhs.gov*.

*RIN:* 0938–AT23

## HHS—CMS

### 38. • Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and FY 2019 Rates (CMS–1694–P) (Section 610 Review)

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Deregulatory.

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

*CFR Citation:* 42 CFR 412; 42 CFR 413.

*Legal Deadline:* NPRM, Statutory, April 1, 2018. Final, Statutory, August 1, 2018.

*Abstract:* This annual proposed rule would revise the Medicare hospital inpatient and long-term care hospital prospective payment systems for operating and capital-related costs. This proposed rule would implement changes arising from our continuing experience with these systems.

*Statement of Need:* CMS annually revises the Medicare hospital inpatient prospective payment systems (IPPS) for operating and capital-related costs to implement changes arising from our continuing experience with these systems. In addition, we describe the proposed changes to the amounts and factors used to determine the rates for Medicare hospital inpatient services for operating costs and capital-related costs. Also, CMS annually updates the

payment rates for the Medicare prospective payment system (PPS) for inpatient hospital services provided by long-term care hospitals (LTCHs). The rule solicits comments on the proposed IPPS and LTCH payment rates and new policies. CMS will issue a final rule containing the payment rates for the FY 2019 IPPS and LTCHs at least 60 days before October 1, 2018.

*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, 2018.

*Alternatives:* This proposed rule will provide descriptions of the statutory provisions that are addressed, identify the proposed policies, and present rationales for our decisions and alternatives that were considered.

*Anticipated Cost and Benefits:* Total expenditures will be adjusted for FY 2019; however, at this time, the impact is expected to affect transfers only and not contain costs/benefits outside of Medicare spending.

*Risks:* If this regulation is not published timely, inpatient hospital and LTCH services will not be paid appropriately beginning October 1, 2018.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/18 | |

*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:* C4–08–06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–6504, *Email: donald.thompson@cms.hhs.gov*.

*RIN:* 0938–AT27

## HHS—CMS

### 39. • Requirements for Long-Term Care Facilities: Regulatory Provisions To Promote Program Efficiency, Transparency, and Burden Reduction (CMS–3347–P)

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* Sec. 1819 and 1919 of the Social Security Act; sec. 1819(d)(4)(B) and 1919(d)(4)(B) of the Social Security Act; sec. 1819(b)(1)(A) and 1919(b)(1)(A) of the Social Security Act

*CFR Citation:* 42 CFR 483; 42 CFR 488.

*Legal Deadline:* None.

*Abstract:* This proposed rule would reform the requirements that long-term care facilities must meet to participate in the Medicare and Medicaid programs, that CMS has identified as unnecessary, obsolete, or excessively burdensome on facilities. This rule would increase the ability of healthcare professionals to devote resources to improving resident care by eliminating or reducing requirements that impede quality care or that divert resources away from providing high quality care.

*Statement of Need:* CMS is committed to transforming the healthcare delivery system, and the Medicare program, by putting an additional focus on patient-centered care and working with providers, physicians, and patients to improve outcomes. We seek to reduce burdens for long-term care facilities; healthcare professionals and residents; improve the quality of care; decrease costs; and, ensure that residents and their providers are making the best healthcare choices possible.

We are therefore proposing revisions to the requirements that long-term care facilities must meet to participate in the Medicare and Medicaid programs that would increase the ability of healthcare professionals to devote resources to improving resident care by eliminating or reducing requirements that impede quality care or that divert resources away from providing high quality care.

*Summary of Legal Basis:* This proposed rule is in accordance with the January 30, 2017 Executive Order Reducing Regulation and Controlling Regulatory Costs (E.O. 13771).

*Alternatives:* For all of the proposed provisions, we considered not making these changes. Specifically, we considered the impact that any revisions would have on the health and safety of residents in long-term care facilities and if such revisions would realistically be burden reducing for facilities. Ultimately, we believe that the proposed revisions will be burden reducing and do not impede on the health and safety of residents.

*Anticipated Cost and Benefits:* This proposed rule would create ongoing cost savings to long-term care facilities in many areas. In addition, various proposals would clarify existing policy and relieve some administrative burdens.

*Risks:* Our estimates of the effects of this regulation are subject to significant uncertainty. While we are confident that these reforms would provide flexibilities to facilities that will yield major cost savings, there are uncertainties about the magnitude of these effects.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 06/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal.

*Agency Contact:* Ronisha Blackstone, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, *MS:* S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–6882, *Email: ronisha.blackstone@cms.hhs.gov*.

*RIN:* 0938–AT36

## HHS—CMS

### 40. • Medicaid and CHIP Managed Care (CMS–2408–P)

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 42 U.S.C. 1302

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

*Legal Deadline:* None.

*Abstract:* This proposed rule would streamline the regulatory framework and provide burden reductions to ensure state Medicaid agencies are able to work effectively with CMS to design, develop, and deploy managed care programs that meet the state population's needs.

*Statement of Need:* This proposed rule would advance CMS' efforts to streamline Medicaid and CHIP managed care and reflects a broader strategy to relieve regulatory burdens; support state flexibility and local leadership; empower the patient-doctor relationship

in health care; and promote transparency, flexibility, and innovation in the delivery of care.

*Summary of Legal Basis:* Section 1102 of the Social Security Act (42 U.S.C. 1302).

*Alternatives:* The HHS letter to the nation's governors on March 14, 2017, committed to a review of the managed care regulations in order to prioritize beneficiary outcomes and State priorities. We are reviewing the managed care regulations in accordance with this commitment and recommending appropriate rulemaking.

*Anticipated Cost and Benefits:* This proposed rule is intended to streamline the federal requirements for Medicaid and CHIP managed care. We anticipate that these changes will likely be economically significant.

*Risks:* The current revisions of the regulations are intended to ensure that the regulatory framework is efficient and feasible for States to implement in a cost effective manner and address the risks identified in previous rulemaking. This would ensure that States operating State Medicaid and CHIP managed care programs can implement program and fiscal integrities without undue administrative burdens.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 08/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses, Governmental Jurisdictions, Organizations.

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

*Agency Contact:* James Golden, Director, Division of Managed Care Plans, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicaid and CHIP Services, *MS:* S2–14–26, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–7111, *Email: james.golden@cms.hhs.gov*.

*RIN:* 0938–AT40

## HHS—ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF)

Prerule Stage

### 41. • Adoption and Foster Care Analysis and Reporting System

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* Sections 474(f), 479 and 1102 of the Social Security Act

*CFR Citation:* 45 CFR 1355.

*Legal Deadline:* None.

*Abstract:* This advanced notice of proposed rulemaking seeks public suggestions in particular from state and tribal title IV–E agencies and Indian tribes, tribal organizations and consortiums, for streamlining the Adoption and Foster Care Analysis and Reporting System (AFCARS) data elements and removing any undue burden related to reporting AFCARS.

*Statement of Need:* The reporting requirements for the Adoption and Foster Care Analysis and Reporting System (AFCARS) have doubled in the past year. In an effort to ensure that an appropriate balance is achieved between reporting burden and administering high-quality programs that provide services to children and families. By engaging in this rulemaking process, the public and stakeholders will be afforded an opportunity to provide input on what data collections are most useful to the administration of child welfare programs.

*Summary of Legal Basis:* Section 479 of the Social Security Act requires HHS regulate a national data collection system which provides comprehensive information on adopted and foster children and their parents.

*Alternatives:* None. This rule implements statutory requirements.

*Anticipated Cost and Benefits:* An estimate of costs to states to modify their existing data systems is not available at this time.

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 10/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Kathleen McHugh, ACYF/Children's Bureau, Department of Health and Human Services, Administration for Children and Families, Washington, DC 20013, *Phone:* 202 401–5789, *Email: kmchugh@acf.dhhs.gov*.

*RIN:* 0970–AC72

## HHS—ACF

Proposed Rule Stage

### 42. • Head Start Service Duration Requirements

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

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* Section 641A of the Head Start Act

*CFR Citation:* 45 CFR 1302.

*Legal Deadline:* None.

*Abstract:* This rule would address the requirement in the Head Start Program Performance Standards (HSPPS) that increases service duration for all Head Start center-based programs to a minimum of 1,020 hours.

*Statement of Need:* The Head Start Program Performance Standards (HSPPS) regulation includes two requirements that increase service duration for all Head Start center-based programs. The first requirement, effective on August 1, 2019, requires center-based programs to operate 50 percent of their slots for 1,020 annual hours. The second requirement, effective August 1, 2021, requires center-based programs to operate 100 percent of their slots for 1,020 annual hours. Each requirement will go into effect unless the Secretary acts to lower each percentage 18 months prior to its respective effective date. The Secretary, through the HSPPS regulation, has the authority to lower the 50 percent requirement through a public notice. Elimination of the 1,020 annual hour requirements allows maximum flexibility for Head Start grantees. Programs could choose to operate for longer than the 448-hour minimum based on demonstrated need in their communities, but it would not be a requirement. The Head Start Act allows programs to convert part-day slot to full-day or full-working-day slots.

*Summary of Legal Basis:* HHS believes that the Secretary could not yet make a defensible determination to reduce the second requirement of 100 percent, based on an assessment of the availability of sufficient funding to mitigate a substantial reduction in funded enrollment, because the effective date of the 100 percent requirement is several budget cycles away. With several years before the 100 percent requirement would go into effect, there is sufficient time to complete the regulatory notice and comment process and to issue a final rule eliminating these duration requirements.

*Alternatives:* None. The service duration requirements were codified in regulation and in order to remove the 100 percent requirement a regulation must be issued.

*Anticipated Cost and Benefits:* The estimated cost of the 100 percent Head Start center-based duration requirement (effective August 1, 2021) is approximately $1.2 billion.

*Risks:* Without additional funding, this requirement would likely result in a loss of between 130,000 and 140,000 Head Start slots.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 08/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*Agency Contact:* Colleen Rathgeb, Division Director, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW, Washington, DC 20447, *Phone:* 202 358–3263, *Email: collen.rathgeb@acf.hhs.gov*.

*RIN:* 0970–AC73

**BILLING CODE 4150–03–P**

## DEPARTMENT OF HOMELAND SECURITY (DHS)

### Fall 2017 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. The DHS mission statement provides the following: ''With honor and integrity, we will safeguard the American people, our homeland, and our values.''

Fulfilling this mission 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.

Leading a unified national effort, DHS has five core missions: (1) Prevent terrorism and enhance security, (2) secure and manage our borders, (3) enforce *and administer our immigration laws,* (4) safeguard and secure cyberspace, and (5) ensure resilience to disasters. In addition, we must specifically focus on maturing and strengthening the homeland security enterprise itself.

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 mission, see the DHS website at *http://www.dhs.gov/our-mission*.

The regulations we have summarized below in the Department's fall 2017 regulatory plan and agenda support the Department's responsibility areas. These regulations will improve the Department's ability to accomplish its mission. Also, the regulations we have identified in this year's regulatory plan continue to address legislative initiatives such as the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Public Law 110–53 (Aug. 3, 2007).

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.

*Executive Order 13771 Requirements*

In fiscal year 2018, DHS plans to finalize the following actions:

- 0 Executive Order 13771 regulatory actions*;*
- 15 Executive Order 13771 deregulatory actions (including information collections);
- 5 Executive Order 13771-exempt regulations; and
- 9 regulations for which we are unsure of their Executive Order 13771 designation. (*Note:* These are regulations that we designated as ''other'' in the newly-created Executive Order 13771 designation data field in the Unified Agenda entries).

We provide further information about these actions in the DHS Regulatory Plan and Unified Agenda.

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 regulations have on small businesses. DHS and its components continue to emphasize the use of plain language in our regulatory documents to promote a better understanding of regulations and to promote increased public participation in the Department's regulations.

The fall 2017 regulatory plan for DHS includes regulations from several 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), the Federal Emergency Management Agency (FEMA), and the Transportation Security Administration (TSA). Below is a discussion of the regulations that comprise the DHS fall 2017 regulatory plan.

### United States Citizenship and Immigration Services

U.S. Citizenship and Immigration Services (USCIS) is the government agency that oversees lawful immigration to the United States. USCIS's role is to efficiently adjudicate and manage petitions, applications, and requests for immigration benefits for foreign nationals seeking lawful immigration status in the United States and for individuals seeking to become citizens of the United States, and other matters within the jurisdiction of the agency, in a manner that detects, deters, and prevents fraud, protects the jobs and working conditions of American workers as appropriate, and ensures the national security, public safety, and welfare of the American people. In the coming year, USCIS will promulgate several regulatory and deregulatory actions to directly support these commitments and goals.

*Rescission of International Entrepreneur Rule.* USCIS will propose to rescind the final rule published in the **Federal Register** on January 17, 2017. The final rule established a program that would allow for consideration of parole into the United States, on case-by-case basis, of certain inventors, researchers, and entrepreneurs who had established a U.S. start-up entity, and who had 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.

*Removing H–4 Dependent Spouses from the Class of Aliens Eligible for Employment Authorization.* USCIS will

also propose to rescind the final rule published in the **Federal Register** on February 25, 2015. The 2015 final rule amended DHS regulations by extending eligibility for employment authorization to certain H–4 dependent spouses of H–1B nonimmigrants who are seeking employment-based lawful permanent resident status.

*H–1B Nonimmigrant Program and Petitioning Process Regulations.* In order to improve U.S. worker protections as well as to address the requirements of Executive Order 13788, *Buy American and Hire American,* USCIS proposes to issue regulations with the focus of improving the H–1B nonimmigrant program and petitioning process. Such initiatives include a proposed rule that would establish an electronic registration program for H–1B petitions subject to annual numerical limitations and would improve the H–1B numerical limitation allocation process (*Registration Requirement for Petitioners Seeking to File H–1B Petitions on Behalf of Aliens Subject to Numerical Limitations);* and a proposed rule that would revise the definition of specialty occupation to increase focus on truly obtaining the best and brightest foreign nationals via the H–1B program and would revise the definition of employment and employer-employee relationship to help better protect U.S. workers and wages. (*Strengthening the H–1B Nonimmigrant Visa Classification Program.*)

*Heightened Screening and Vetting of Immigration Programs Regulations.* USCIS will propose regulations guiding the inadmissibility determination whether an alien is likely at any time to become a public charge under section 212(a)(4) of the Immigration and Nationality Act. (*Inadmissibility and Deportability on Public Charge Grounds.*)

*Employment Creation Immigrant Regulations.* USCIS will amend its regulations modernizing the employment-based, fifth preference (EB–5) immigrant investor category based on current economic realities and to reflect statutory changes made to the program. (*EB–5 Immigrant Investor Program Modernization*). In addition, USCIS will propose to update its regulations for the EB–5 Immigrant Investor Regional Center Program to better reflect realities for regional centers and EB–5 immigrant investors, to increase predictability and transparency in the adjudication process, to improve operational efficiency, and to enhance program integrity. (*EB–5 Immigrant Investor Regional Center Program.*)

**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 the $4.5 trillion maritime transportation system, including maritime safety, security, and stewardship. The Coast Guard 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 with maritime stakeholders. Consistent standards of universal application and enforcement, which encourage safe, efficient, and responsible maritime commerce, are vital to the success of the maritime industry. 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 Coast Guard does not have significant regulatory actions planned for the coming fiscal year; however, the Coast Guard is highlighting the following Executive Order 13771 deregulatory action.

*Marine Casualty Reporting Property Damage Thresholds.* This rule would raise the monetary property damage threshold for reporting a marine casualty, and for reporting a type of marine casualty called a ''serious marine incident.'' Currently, whether and how a marine casualty must be reported to the Coast Guard depends in part on the dollar value of the property damage resulting from the casualty. The dollar threshold amounts date to the 1980s and have not been updated to keep pace with inflation; consequently, relatively minor casualties must be reported and may require mandatory drug and alcohol testing. Updating the thresholds would reduce a reporting burden on vessel owner and operators, and reduce the Coast Guard resources expended to investigate minor incidents. (*Note:* There is no associated Regulatory Plan entry for this rule, because this rule is non-significant under Executive Order 12866. There is an entry, however, in the Unified Agenda.)

**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 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 regulations during the next fiscal year that are intended to improve security at our borders and ports of entry. During the upcoming year, CBP will also be working on various projects to streamline CBP processing, reduce duplicative processes, reduce various burdens on the public, and automate various paper forms. Below are descriptions of CBP's planned actions for fiscal year 2018.

*Air Cargo Advance Screening (ACAS).* To address ongoing aviation security threats, CBP intends to amend its regulations pertaining to the submission of advance air cargo data to implement a mandatory Air Cargo Advance Screening (ACAS) program for any inbound aircraft required to make entry under the CBP regulations that will have commercial cargo aboard. The ACAS program will require the inbound carrier or other eligible party to electronically transmit specified advance cargo data (ACAS data) to CBP for air cargo transported onboard U.S.-bound aircraft as early as practicable, but no later than prior to loading of the cargo onto the aircraft. The ACAS program will enhance the security of the aircraft and passengers on U.S.-bound flights by enabling CBP to perform targeted risk assessments on the air cargo prior to the aircraft's departure for the United States. These risk assessments will identify and prevent high-risk air cargo from being loaded on the aircraft that could pose a risk to the aircraft during flight. CBP, in cooperation with TSA, has been operating ACAS as a voluntary pilot program since 2010 and intends to publish an interim final rule in the next fiscal year to implement ACAS as a regulatory program.

*Collection of Biometric Data Upon Entry to and Departure from the United States.* DHS is required by statute to develop and implement an integrated, automated entry and exit data system to match records, including biographic data and biometric identifiers, of aliens entering and departing the United States. In addition, Executive Order 13780, *Protecting the Nation from Foreign Terrorist Entry into the United* States, states that DHS is to expedite the completion and implementation of a biometric entry-exit tracking system. Although the current regulations provide that DHS may require certain aliens to provide biometrics when entering and departing the United States, they only authorize DHS to collect biometrics from certain aliens upon departure under pilot programs at land ports and at up to 15 airports and seaports. To provide the legal framework for DHS to begin a comprehensive biometric entry-exit system, DHS intends to issue an interim final rule in the next fiscal year to amend the regulations to remove the references to pilot programs and the port limitation. In addition, to facilitate the implementation of a seamless biometric entry-exit system that uses facial recognition, this rule would also provide that all travelers may be required to provide photographs upon entry or departure.

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. The Department of the Treasury retained certain regulatory authority of the U.S. Customs Service relating to customs revenue function. In addition to its plans to continue issuing regulations to enhance border security, CBP, in the coming year, expects to continue to issue regulatory documents that will facilitate legitimate trade and implement trade benefit programs. For a discussion of CBP regulations regarding the customs revenue function, see the regulatory plan of the Department of the Treasury.

*Implementation of the Electronic System for Travel Authorization (ESTA) at U.S. Land Borders—Automation of CBP Form I–94W.* During the next fiscal year, CBP intends to amend DHS regulations to implement the ESTA requirements under section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007, for aliens who intend to enter the United States under the Visa Waiver Program (VWP) at land ports of entry. Currently, aliens from VWP countries must provide certain biographic information to U.S. CBP officers at land ports of entry on a paper I–94W Nonimmigrant Visa Waiver Arrival/Departure Record (Form I–94W). Under this rule, these VWP travelers will instead provide this information to CBP electronically through ESTA prior to application for admission to the United States. Travelers will bear opportunity costs and CBP will bear information technology costs as a result of this rule. Both travelers and CBP, however, will enjoy opportunity cost savings as a result of this rule, resulting in an overall net savings. In addition, the public will benefit from improved security.

*Modernization of the Customs Brokers Regulations.* CBP will issue a proposed rule to amend the requirements for customs brokers. Specifically, CBP will propose to simplify the broker permitting framework by eliminating district permits and the corresponding district permit requirements. Additionally, CBP will propose to update the responsible supervision and control oversight framework to better reflect the modern business environment. (*Note:* There is no associated Regulatory Plan entry for this rule, because this rule is non-significant under Executive Order 12866. There is an entry, however, in the Unified Agenda.)

*Automation of CBP Form I–418 for Vessels.* CBP intends to issue this rule amending the regulations regarding the submission of Form I–418, *Passenger List—Crew List.* Currently, the master or agent of every commercial vessel arriving in the United States, with limited exceptions, must submit a paper Form I–418, along with certain information regarding longshore work, to CBP at the port where immigration inspection is performed. Most commercial vessel operators are also required to submit a paper Form I–418 to CBP at the final U.S. port prior to departing for a foreign port. Under this rule, most vessel operators would be required to electronically submit the data elements on Form I–418 to CBP through the National Vessel Movement Center in lieu of submitting a paper form. This rule would eliminate the need to file the paper Form I–418 in most cases. This will result in an opportunity cost savings for vessel operators as well as a reduction in their printing and storage costs. (*Note:* There is no associated Regulatory Plan entry for this rule, because this rule is not significant under Executive Order 12866. There is an entry, however, in the Unified Agenda.)

**Federal Emergency Management Agency**

The Federal Emergency Management Agency's (FEMA's) mission is to support our citizens and first responders to ensure that as a Nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards. FEMA's ethos is to serve the Nation by helping its people

and first responders, especially when they are most in need.

FEMA is working on various deregulatory actions in the coming fiscal year. FEMA will propose to remove outdated regulations that require publication of community loss of eligibility notices in the **Federal Register**. (*Removal of* **Federal Register** *Publication Requirement for Community Loss of Eligibility Notices under the National Flood Insurance Program. Note:* There is no associated Regulatory Plan entry for this rule, because this rule is non-significant under Executive Order 12866. There is an entry, however, in the Unified Agenda.) FEMA will also issue other deregulatory actions, such as removing regulations with sunset programs, which will result in general cleanup of the Code of Federal Regulations.

*Factors Considered When Evaluating a Governor's Request for Individual Assistance for a Major Disaster.* In addition, FEMA plans to promulgate this significant regulation during the fiscal year. The Sandy Recovery Improvement Act of 2013 requires the FEMA Administrator to review, update, and revise through rulemaking the individual assistance factors FEMA uses to measure the severity, magnitude, and impact of a disaster. FEMA published a proposed rule on November 12, 2015, and now plans to issue a final rule.

**Federal Law Enforcement Training Center**

The Federal Law Enforcement Training Center (FLETC) does not have any significant regulations planned for fiscal year 2018.

**United States Immigration and Customs Enforcement**

Immigration and Customs Enforcement (ICE) is the principal criminal investigative arm of DHS 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 2018, ICE will focus rulemaking efforts on three priority regulations: Increasing the fees paid to the Student and Exchange Visitor Program (SEVP) to recover costs for services; *Flores* Settlement Agreement provisions; and comprehensive reform of practical training for foreign students with an F or M visa.

Below are ICE's significant regulatory actions for the coming fiscal year:

*Adjusting Program Fees for the Student and Exchange Visitor Program.* ICE will propose to adjust the fees that the Student and Exchange Visitor Program (SEVP) charges individuals and organizations. In 2016, SEVP conducted a comprehensive fee study and determined that current fees do not recover the full costs of the services provided. ICE has determined that adjusting fees is necessary to fully recover the increased costs of SEVP operations, program requirements, and to provide the necessary funding to sustain initiatives critical to supporting national security. DHS will propose to adjust its fees for individuals and organizations to establish a more equitable distribution of costs and to establish a sustainable revenue level. The SEVP fee schedule was last adjusted in a rule published on September 26, 2008.

*Apprehension, Processing, Care, and Custody of Alien Minors.* ICE will issue a proposed rule related to the detention, processing, and release of alien children. In 1985, a class-action suit challenged the policies of the former Immigration and Naturalization Service (INS) relating to the detention, processing, and release of alien children; the case eventually reached the U.S. Supreme Court. The Court upheld the constitutionality of the challenged INS regulations on their face and remanded the case for further proceedings consistent with its opinion. In January 1997, the parties reached a comprehensive settlement agreement, referred to as the *Flores* Settlement Agreement (FSA). The FSA was to terminate five years after the date of final court approval; however, the termination provisions were modified in 2001, such that the FSA does not terminate until forty-five days after publication of regulations implementing the agreement. Since 1997, intervening statutory changes, including passage of the Homeland Security Act (HSA) and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), have significantly changed the applicability of certain provisions of the FSA. The proposed rule will codify the substantive terms of the FSA and enable the U.S. Government to seek termination of the FSA and litigation concerning its enforcement. Through this rule, DHS will create a pathway to ensure the humane detention of family units while satisfying the goals of the FSA. The rule will also implement related provisions of the TVPRA.

*Practical Training Reform.* ICE will issue a proposed rule that improves protections of U.S. workers who may be negatively impacted by employment of nonimmigrant students on F and M visas. The rule will be a comprehensive reform of practical training options; it is intended to reduce fraud and abuse.

**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. Although NPPD does not plan to finalize any significant regulations within the next fiscal year, NPPD will undertake reviews of its existing regulations in accordance with Executive Order 13771. NPPD is also working on several future rulemaking projects, as reflected in the Unified Agenda.

**Transportation Security Administration**

The Transportation Security Administration (TSA) protects the Nation's transportation systems to ensure freedom of movement for people and commerce. TSA applies an intelligence-driven, risk-based approach to all aspects of TSA's mission. This approach results in layers of security to mitigate risks effectively and efficiently. TSA uses established processes, working with stakeholders, to review programs, requirements, and procedures for appropriate modifications based upon changes in the environment, whether those changes result from an evolving threat or enhancements available through new technologies.

For the coming fiscal year, TSA is prioritizing deregulatory actions and regulatory actions that are required to meet statutory mandates and that are necessary for national security. Below are the planned TSA actions for fiscal year 2018.

*Security Training for Surface Transportation Employees.* TSA will finalize a rule requiring higher-risk public transportation agencies (including rail mass transit and bus systems), railroad carriers (freight and passenger), and over-the-road bus (OTRB) owner/operators to conduct security training for frontline employees. This regulation will implement mandates of the *Implementing Regulations of the 9/11 Commission Act of 2007,* (9/11 Act), which addressed recommendations of the 9/11 Commission for enhancing the nation's security based upon vulnerabilities identified in the aftermath of September 11, 2001. In compliance with the definition of

frontline employees in pertinent provisions of the 9/11 Act, the rule will include identification of which employees are required to receive security training and the content of that training. The final rule will also propose definitions for transportation security-sensitive materials, as required by section 1501 of the 9/11 Act.

*Vetting of Certain Surface Transportation Employees.* TSA will propose a rule requiring security threat assessments for security coordinators and other frontline employees of certain public transportation agencies (including rail mass transit and bus systems), railroads (freight and passenger), and OTRB owner/operators. The NPRM will also propose provisions to implement TSA's statutory requirement to recover its cost of vetting through user fees. TSA is in the process of determining the costs and benefits of this rulemaking. While many stakeholders conduct background checks on their employees, their actions are limited based upon the data they can access. Through this rule, TSA will be able to conduct a more thorough check against terrorist watch-lists of individuals in security-sensitive positions.

*Amending Vetting Requirements for Employees with Access to a Security Identification Display Area.* The Aviation Security Act of 2016 mandates that TSA consider modifications to the list of disqualifying criminal offenses and criteria, develop a waiver process for approving the issuance of credentials for unescorted access, and propose an extension of the look back period for disqualifying crimes. Based on these requirements, and current intelligence pertaining to the ''insider threat'', TSA will propose revisions that enhance the eligibility requirements and disqualifying criminal offenses for individuals seeking or having unescorted access to any Security Identification Display Area of an airport.

*Protection of Sensitive Security Information.* Through a joint rulemaking with the Department of Transportation (DOT), TSA will streamline existing requirements to protect sensitive security information (SSI). This action finalizes an Interim Final Rule for a statutorily-required regulation related to national security. The rule amends TSA's and DOT's regulations to provide three options for the SSI distribution statement, one significantly abbreviated, to address concerns that the current marking requirements are unduly burdensome. TSA is considering further deregulatory action to align the requirement for the handling of Federal Flight Deck Officer (FFDO) names consistent with the handling of Federal Air Marshal names (two names listed together qualify as SSI). The modification to TSA's SSI regulations would protect lists of FFDO names, rather than a single FFDO name. (*Note:* There is no associated Regulatory Plan entry for this rule, because this rule is non-significant under Executive Order 12866. There is an entry, however, in the Unified Agenda.)

*Ronald Reagan Washington National Airport: Enhanced Security Procedures for Certain Operations.* This IFR reopened Ronald Reagan Washington National Airport (DCA) to general aviation (GA) aircraft operations after an approximately four-year closure (from September 2001 to August 2005) with measures in place to minimize the security risk to vital government assets in the Washington, DC metropolitan area. While prohibiting GA access to DCA imposes an economic hardship on these operations, access without appropriate security measures increases the risk of an airborne strike originating from DCA. Under the requirements of this regulation, aircraft operations into and out of DCA must have and implement a DCA Access Standard Security Program (DASSP) approved by TSA.

In response to recommendations from industry submitted through the Aviation Security Advisory Committee (ASAC), TSA is assessing the risks associated with eliminating a requirement to have an armed security officer on flights accessing DCA. The DASSP requires each aircraft operating into or out of DCA with passengers to have onboard at least one armed security officer. The only exception to this requirement is for flights with a Federal Air Marshal on board. After this requirement was put in place, TSA implemented the Secure Flight program, which provides for vetting of passengers against the Terrorist Screening Database. The requirement for an armed security officer could be modified, and TSA could accept other alternative procedures, including Secure Flight vetting, that provide commensurate levels of security at lower costs. These procedures could include a requirement to limit passengers and crewmembers to those with a Known Traveler Number (KTN). A critical dependency for this proposed repeal of the armed security officer requirement would be the ability of DHS/TSA to quickly process requests for KTNs and the willingness of the regulated parties to bear the cost of obtaining a KTN.

This rule would streamline TSA's regulations to eliminate a burden no longer necessary under the current operating environment, and result in a net benefit, most likely to small businesses providing GA services. Finalizing this rule will ensure the continued balance between providing access and ensuring vital government assets in the Washington, DC metropolitan area. The security requirements in the final rule are necessary to defeat the threat posed by members of terrorist groups to vital U.S. assets and security in a manner that protects the nation's transportation systems to ensure freedom of movement for people and commerce.

*Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees.* This rule would streamline regulations and reduce burden for the alien flight student program (AFSP). This action finalizes an IFR for a national security rule that is required to implement a statutory requirement. The AFSP program requires security threat assessments for aliens seeking flight training in the United States and imposes additional security measures on the flight schools training these individuals. In response to recommendations from industry through the ASAC, TSA is considering revising these requirements to reduce costs and industry burden. For example, reporting and recordkeeping requirements for the program are estimated at an annual cost of $7.4 million, discounted at 7 percent. These costs include maintaining paper records on alien flight students. TSA is considering an electronic recordkeeping platform where all flight providers would upload required student information to a TSA-managed website. Also at industry's request, TSA is considering changing the interval for security threat assessments of alien flight students, eliminating the requirement for a new security threat assessment for each ''training event.'' A related change to the current information collection request pertaining to the AFSP program will be part of this deregulatory action.

**United States Secret Service**

The United States Secret Service does not have any significant regulations planned for fiscal year 2018.

**DHS Regulatory Plan for Fiscal Year 2018**

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

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

Proposed Rule Stage

### 43. Inadmissibility and Deportability on Public Charge Grounds

*Priority:* Other Significant.
*E.O. 13771 Designation:* Fully or Partially Exempt.
*Legal Authority:* 8 U.S.C. 1101 to 1103; 8 U.S.C. 1182 and 1183; . . .
*CFR Citation:* 8 CFR 212; 8 CFR 237; 8 CFR 245a.18.
*Legal Deadline:* None.
*Abstract:* The Department of Homeland Security (DHS) will propose regulatory provisions guiding the inadmissibility determination on whether an alien is likely at any time to become a public charge under section 212(a)(4) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(a)(4). DHS proposes to add a regulatory provision, which would define the term public charge and would outline DHS's public charge considerations.
*Statement of Need:* To ensure that foreign nationals coming to the United States or adjusting status to permanent residence, either temporarily or permanently, have adequate means of support while in the United States, and that foreign nationals do not become dependent on public benefits for support.
*Summary of Legal Basis:* INA 212(a)(4).
*Alternatives:*
*Anticipated Cost and Benefits:* DHS is currently considering the specific cost and benefit impacts of the proposed provisions. In general, DHS anticipates that by clarifying the meaning of public charge some stakeholders would incur costs. The anticipated costs to individuals requesting immigration benefits are associated with the opportunity cost of time to complete and file required forms and documentation, and possible costs associated with any additional background checks. DHS anticipates there will be benefits associated with ensuring that foreign nationals coming to the United States have adequate means of support and do not become dependent on public assistance.
*Risks:*
*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/26/99 | 64 FR 28676 |
| NPRM Comment Period End. | 07/26/99 | |
| NPRM | 07/00/18 | |

*Regulatory Flexibility Analysis Required:* No.
*Small Entities Affected:* No.
*Government Levels Affected:* Federal.
*Additional Information:* CIS No. 1989–99. Transferred from RIN 1115–AF45.
*Agency Contact:* Mark Phillips, Chief, Residence and Naturalization Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW, Washington, DC 20529, *Phone:* 202 272–8377, *Email: mark.phillips@uscis.dhs.gov.*
*RIN:* 1615–AA22

## DHS—USCIS

### 44. Registration Requirement for Petitioners Seeking To File H–1B Petitions on Behalf of Aliens Subject to Numerical Limitations

*Priority:* Other Significant.
*E.O. 13771 Designation:* Other.
*Legal Authority:* 8 U.S.C. 1184(g)
*CFR Citation:* 8 CFR 214.
*Legal Deadline:* None.
*Abstract:* The Department of Homeland Security proposes to amend its regulations governing petitions filed on behalf of alien workers subject to annual numerical limitations. This rule proposes to establish an electronic registration program for petitions subject to numerical limitations for the H–1B nonimmigrant classification. This action is being considered because the demand for H–1B specialty occupation workers by U.S. companies has often exceeded the numerical limitation. This rule is intended to allow USCIS to more efficiently manage the intake and lottery process for these H–1B petitions. The Department published a proposed rule on this topic in 2011. The Department intends to publish an additional proposed rule in 2018. The proposal may include a modified selection process, as outlined in section 5(b) of Executive Order 13788, Buy American and Hire American.
*Statement of Need:* This regulation would help to streamline the process for administering the H–1B cap process and to ensure that H–1B visas are awarded to the most skilled or highest-paid petition beneficiaries.
*Summary of Legal Basis:*
*Alternatives:* DHS is currently in the process of considering policies that align with our overarching goals of ensuring the allocation of H–1B cap numbers are provided to the best and brightest foreign national beneficiaries, and ensuring that the operational process is as efficient as possible.
*Anticipated Cost and Benefits:* While DHS is currently in the process of assessing the costs and benefits of the policy changes under consideration, DHS believes that in aggregate the proposed changes would result in better resource management and predictability for both USCIS and petitioning employers. DHS anticipates that implementing a pre-registration process could benefit the regulated public by potentially reducing the cost and time involved in petitioning for H–1B nonimmigrants, through an up-front cap selection process where only those employers who have obtained a cap number would be required to submit the entire Petition for a Nonimmigrant Worker, Form I–129.
*Risks:*
*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 03/03/11 | 76 FR 11686 |
| NPRM Comment Period End. | 05/02/11 | |
| NPRM | 02/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.
*Small Entities Affected:* Businesses.
*Government Levels Affected:* None.
*Additional Information:* USCIS 2443–08. Includes Retrospective Review under E.O. 13563.
*URL For More Information: www.regulations.gov.*
*URL For Public Comments: www.regulations.gov.*
*Agency Contact:* Kevin Cummings, Division 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, *Phone:* 202 272–8377, *Fax:* 202 272–1480, *Email: kevin.j.cummings@uscis.dhs.gov.*
*RIN:* 1615–AB71

## DHS—USCIS

### 45. Rescission of International Entrepreneur Rule

*Priority:* Other Significant.
*E.O. 13771 Designation:* Other.
*Legal Authority:* 8 U.S.C. 1182(d)(5)(A)
*CFR Citation:* 8 CFR 212.5.
*Legal Deadline:* None.
*Abstract:* On January 17, 2017, DHS published the International Entrepreneur Final Rule (the IE final rule) in the **Federal Register** at 82 FR 5238, with an original effective date of July 17, 2017. On July 11, 2017, DHS published a final rule at 82 FR 31887 delaying the effective date of the IE final

rule until March 14, 2018, to allow for a full review of the rule. This notice of proposed rulemaking (NPRM) will propose to rescind the IE final rule. The NPRM will solicit public comments on the proposal to rescind the IE final rule.

*Statement of Need:* DHS is reviewing the IE final rule in light of issuance of Executive Order 13767, Border Security and Immigration Enforcement.

*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:* The economic costs of the IE final rule would have resulted from the filing costs of principal applicants applying for parole and from the associated filing costs of dependents of principal applicants. Therefore, this proposal to withdraw the IE final rule would result in those costs not being realized. This withdrawal of the IE final rule would also result in time saved by DHS adjudicators, as they would not be required to process the relevant parole applications. Furthermore, DHS would also save from expending any additional costs in technology and related systems updates that would otherwise be necessary.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 08/31/16 | 81 FR 60129 |
| NPRM Comment Period End. | 10/17/16 | |
| Final Rule | 01/17/17 | 82 FR 5238 |
| Final Rule Effective. | 07/17/17 | |
| Final Rule Delay of Effective Date. | 07/11/17 | 82 FR 31887 |
| NPRM | 11/00/17 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

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

*URL For More Information:* *www.regulations.gov*.

*URL For Public Comments:* *www.regulations.gov*.

*Agency Contact:* Kevin Cummings, Division 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, *Phone:* 202 272–8377, *Fax:* 202 272–1480, *Email: kevin.j.cummings@uscis.dhs.gov*.

*RIN:* 1615–AC04

## DHS—USCIS

### 46. EB–5 Immigrant Investor Regional Center Program

*Priority:* Other Significant.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 8 U.S.C. 1153(b)(5); Pub. L. 102–395, secs. 610 and 601(a); Pub. L. 107–273, sec. 11037; Pub. L. 101–649, sec. 121(a); Pub. L. 105–119, sec. 116; Pub. L. 106–396, sec. 402; Pub. L. 108–156, sec. 4; Pub. L. 112–176, sec. 1; Pub. L. 114–113, sec. 575; Pub. L. 114–53, sec. 131; Pub. L. 107–273

*CFR Citation:* 8 CFR 204; 8 CFR 216.

*Legal Deadline:* None.

*Abstract:* The Department of Homeland Security (DHS) is considering making regulatory changes to the EB–5 Immigrant Investor Regional Center Program. DHS issued an Advance Notice of Proposed Rulemaking (ANPRM) to seek comment from all interested stakeholders on several topics, including: (1) The process for initially designating entities as regional centers, (2) a potential requirement for regional centers to utilize an exemplar filing process, (3) continued participation requirements for maintaining regional center designation, and (4) the process for terminating regional center designation. While DHS has gathered some information related to these topics, the ANPRM sought additional information that can help the Department make operational and security updates to the Regional Center Program while minimizing the impact of such changes on regional center operations and EB–5 investors.

*Statement of Need:* Based on decades of experience operating the program, DHS has determined that program changes are needed to better reflect business realities for regional centers and EB–5 immigrant investors, to increase predictability and transparency in the adjudication process for stakeholders, to improve operational efficiency for the agency, and to enhance program integrity.

*Summary of Legal Basis:*

*Alternatives:*

*Anticipated Cost and Benefits:* DHS is still in the process of reviewing potential changes it would propose to the regional center process. DHS may propose to implement an exemplar filing requirement for all designated regional centers that would require regional centers to file exemplar project requests. An exemplar filing requirement could cause some projects to not go forward, but DHS is still in the process of assessing the impacts on the number of projects that may be affected. DHS anticipates that any proposed changes to the regional center program would increase overall program efficiency and predictability for both USCIS and EB–5 stakeholders.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 01/11/17 | 82 FR 3211 |
| ANPRM Comment Period End. | 04/11/17 | |
| NPRM | 10/00/18 | |

*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:* Lori S. MacKenzie, Division Chief, Operations Policy & Stakeholder Communications, Immigrant Investor Program, Department of Homeland Security, U.S. Citizenship and Immigration Services, 131 M Street NE, Washington, DC 20529–2200, *Phone:* 202 357–9214, *Email: lori.s.mackenzie@uscis.dhs.gov*.

*RIN:* 1615–AC11

## DHS—USCIS

### 47. • Strengthening the H–1B Nonimmigrant Visa Classification Program

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 8 U.S.C. 1184

*CFR Citation:* 8 CFR 214.2(h)(4).

*Legal Deadline:* None.

*Abstract:* The Department of Homeland Security (DHS) will propose to revise the definition of specialty occupation to increase focus on obtaining the best and the brightest foreign nationals via the H–1B program,

and revise the definition of employment and employer-employee relationship to better protect U.S. workers and wages. In addition, DHS will propose additional requirements designed to ensure employers pay appropriate wages to H–1B visa holders.

*Statement of Need:* The purpose of these changes is to ensure that H–1B visas are awarded only to individuals who will be working in a job which meets the statutory definition of specialty occupation. In addition, these changes are intended to ensure that the H–1B program supplements the U.S. workforce and strengthens U.S. worker protections.

*Summary of Legal Basis:*

*Alternatives:*

*Anticipated Cost and Benefits:* DHS is still considering the cost and benefit impacts of the proposed provisions. In general, DHS anticipates that there may be some filing fees and opportunity costs of time in preparing and filing forms for the eligible population. DHS also anticipates benefits in the form of reduced fraud and abuses of the current H–1B program.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 10/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*URL For More Information:* *www.regulations.gov*.

*URL For Public Comments:* *www.regulations.gov*.

*Agency Contact:* Kevin Cummings, Division 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, *Phone:* 202 272–8377, *Fax:* 202 272–1480, *Email: kevin.j.cummings@uscis.dhs.gov*.

*RIN:* 1615–AC13

## DHS—USCIS

### 48. • Removing H–4 Dependent Spouses From the Class of Aliens Eligible for Employment Authorization

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 6 U.S.C. 112; 8 U.S.C. 1103(a); 8 U.S.C. 1184(a)(1); 8 U.S.C. 1324a(H)(3)(B)

*CFR Citation:* 8 CFR 214; 8 CFR 274a.

*Legal Deadline:* None.

*Abstract:* On February 25, 2015, DHS published a final rule extending eligibility for employment authorization to certain H–4 dependent spouses of H–1B nonimmigrants who are seeking employment-based lawful permanent resident (LPR) status. DHS is publishing this notice of proposed rulemaking to amend that 2015 final rule. DHS is proposing to remove from its regulations certain H–4 spouses of H–1B nonimmigrants as a class of aliens eligible for employment authorization.

*Statement of Need:* DHS is reviewing the 2015 final rule in light of issuance of Executive Order 13788, Buy American and Hire American.

*Summary of Legal Basis:* The Secretary of Homeland Security (Secretary) has the authority to amend this regulation under 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 addition, section 214(a)(1) of the INA, 8 U.S.C. 1184(a)(1), provides the Secretary with authority to prescribe the time and conditions of nonimmigrants' admissions to the United States. Also, section 274A(h)(3)(B) of the INA, 8 U.S.C. 1324a(h)(3)(B), recognizes the Secretary's discretionary authority to extend employment authorization.

*Alternatives:*

*Anticipated Cost and Benefits:* DHS anticipates that there would be two primary impacts that DHS can estimate: The cost-savings accruing to forgone future filings by H–4 spouses, and labor turnover costs that employers of H–4 workers could incur.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/00/18 | |

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

*Related RIN:* Related to 1615–AB92

*RIN:* 1615–AC15

## DHS—USCIS

Final Rule Stage

### 49. EB–5 Immigrant Investor Program Modernization

*Priority:* Other Significant.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 8 U.S.C. 1153(b)(5)

*CFR Citation:* 8 CFR 204.6; 8 CFR 216.6.

*Legal Deadline:* None.

*Abstract:* In January 2017, the Department of Homeland Security (DHS) proposed to amend its regulations governing the employment-based, fifth preference (EB–5) immigrant investor classification. In general, under the EB–5 program, individuals are eligible to apply for lawful permanent residence in the United States if they make the necessary investment in a commercial enterprise in the United States and create or, in certain circumstances, preserve 10 permanent full-time jobs for qualified U.S. workers. This rule sought public comment on a number of proposed changes to the EB–5 program regulations. Such proposed changes included: Raising the minimum investment amount; allowing certain EB–5 petitioners to retain their original priority date; changing the designation process for targeted employment areas; and other miscellaneous changes to filing and interview processes.

*Statement of Need:* The proposed regulatory changes are necessary to reflect statutory changes and codify existing policies, more accurately reflect existing and future economic realities, improve operational efficiencies to provide stakeholders with a higher level of predictability and transparency in the adjudication process, and enhance program integrity by clarifying key eligibility requirements for program participation and further detailing the processes required. Given the complexities involved in adjudicating benefit requests in the EB–5 program, along with continued program integrity concerns and increasing adjudication processing times, DHS has decided to revise the existing regulations to modernize key areas of the program.

*Summary of Legal Basis:* The Immigration Act (INA) authorizes the Secretary of Homeland Security (Secretary) to administer and enforce the immigration and nationality laws including establishing regulations

deemed necessary to carry out his authority, and section 102 of the Homeland Security Act, 6 U.S.C. 112, authorizes the Secretary to issue regulations. 8 U.S.C. 1103(a), INA section 103(a). INA section 203(b)(5), 8 U.S.C. 1153(b)(5), also provides the Secretary with authority to make visas available to immigrants seeking to engage in a new commercial enterprise in which the immigrant has invested and which will benefit the United States economy and create full-time employment for not fewer than 10 U.S. workers. Further, section 610 of Public Law 102–395 (8 U.S.C. 1153 note) created the Immigrant Investor Pilot Program and authorized the Secretary to set aside visas for individuals who invest in regional centers created for the purpose of concentrating pooled investment in defined economic zones, and was last amended by Public Law 107–273.

*Alternatives:*

*Anticipated Cost and Benefits:* Due to data limitations and the complexity of EB–5 investment structures, it is difficult to quantify and monetize the costs and benefits of the proposed provisions, with the exception of application costs for dependents who would file the Petition by Entrepreneur to Remove Conditions on Permanent Resident Status (Form I–829) separately from principal investors, and familiarization costs to review the rule.

The proposal to raise the investment amounts and reform the targeted employment area (TEA) geography could deter some investors from participating in the EB–5 program. The increase in investment could reduce the number of investors as they may be unable or unwilling to invest at the higher proposed levels of investment. On the other hand, raising the investment amounts increases the amount invested by each investor and thereby potentially increases the total economic benefits of U.S. investment under this program. The proposed TEA provision would rule out TEA configurations that rely on a large number of census tracts indirectly linked to the actual project tract by numerous degrees of separation, and may better target investment capital to areas where unemployment rates are the highest.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 01/13/17 | 82 FR 4738 |
| NPRM Comment Period End. | 04/11/17 | |
| Final Action | 02/00/18 | |

*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:* Lori S. MacKenzie, Division Chief, Operations Policy & Stakeholder Communications, Immigrant Investor Program, Department of Homeland Security, U.S. Citizenship and Immigration Services, 131 M Street NE, Washington, DC 20529–2200, *Phone:* 202 357–9214, *Email: lori.s.mackenzie@uscis.dhs.gov*.

*Related RIN:* Related to 1205–AB69

*RIN:* 1615–AC07

## DHS—U.S. CUSTOMS AND BORDER PROTECTION (USCBP)

Final Rule Stage

### 50. Air Cargo Advance Screening (ACAS)

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

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 19 U.S.C. 2071 note

*CFR Citation:* 19 CFR 122.

*Legal Deadline:* None.

*Abstract:* To address ongoing aviation security threats, CBP intends to amend its regulations pertaining to the submission of advance air cargo data to implement a mandatory Air Cargo Advance Screening (ACAS) program for any inbound aircraft required to make entry under the CBP regulations that will have commercial cargo aboard. The ACAS program will require the inbound carrier or other eligible party to electronically transmit specified advance cargo data (ACAS data) to CBP for air cargo transported onboard U.S.-bound aircraft as early as practicable, but no later than prior to loading of the cargo onto the aircraft. The ACAS program will enhance the security of the aircraft and passengers on U.S.-bound flights by enabling CBP to perform targeted risk assessments on the air cargo prior to the aircraft's departure for the United States. These risk assessments will identify and prevent high-risk air cargo from being loaded on the aircraft that could pose a risk to the aircraft during flight.

*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 departure.

*Summary of Legal Basis:* The Trade Act of 2002 authorizes CBP to promulgate regulations providing for the mandatory transmission of electronic cargo information by way of a CBP-approved electronic data interchange (EDI) system before the cargo is brought into or departs the United States by any mode of commercial transportation. Under the Trade Act, the required cargo information is that which is reasonably necessary to ensure cargo safety and security pursuant to the laws enforced and administered by CBP.

*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 U.S.-bound aircraft. 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. To address ongoing aviation security threats, CBP is transitioning the ACAS pilot program into an ongoing mandatory regulatory 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 receiving the data earlier.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 01/00/18 | |

*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, Branch Chief, Advance Data Programs and Cargo Initiatives, 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

### 51. Collection of Biometric Data Upon Entry to and Exit From the United States

*Priority:* Other Significant.

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 8 U.S.C. 1365a; 8 U.S.C. 1365b

*CFR Citation:* 19 CFR 215.8; 19 CFR 235.1.

*Legal Deadline:* None.

*Abstract:* The Department of Homeland Security (DHS) is required by statute to develop and implement an integrated, automated entry and exit data system to match records, including biographic data and biometric identifiers, of aliens entering and departing the United States. In addition, Executive Order 13780, Protecting the Nation from Foreign Terrorist Entry into the United States, published in the **Federal Register** at 82 FR 13209, states that DHS is to expedite the completion and implementation of a biometric entry-exit tracking system. Although the current regulations provide that DHS may require certain aliens to provide biometrics when entering and departing the United States, they only authorize DHS to collect biometrics from certain aliens upon departure under pilot programs at land ports and at up to 15 airports and seaports. To provide the legal framework for CBP to begin a comprehensive biometric entry-exit system, DHS is amending the regulations to remove the references to pilot programs and the port limitation. In addition, to facilitate the implementation of a seamless biometric entry-exit system that uses facial recognition, DHS is amending the regulations as they pertain to the provision of photographs upon entry and exit.

*Statement of Need:* This rule is necessary to provide the legal framework for DHS to begin implementing a comprehensive biometric entry-exit system. Collecting biometrics at departure will allow CBP and DHS to know with better accuracy whether aliens are departing the country when they are required to depart, reduce visa fraud, and improve CBP's ability to identify criminals and known or suspected terrorists before they depart the United States.

*Summary of Legal Basis:* Numerous Federal statutes require DHS to create an integrated, automated biometric entry and exit system that records the arrival and departure of aliens, compares the biometric data of aliens to verify their identity, and authenticates travel documents presented by such aliens through the comparison of biometric identifiers. *See, e.g.,* Immigration and Naturalization Service Data Management Improvement Act of 2002, the Intelligence Reform and Terrorism Prevention Act of 2004, and the 2016 Consolidated Appropriations Act. In addition, Executive Order 13780, Protecting the Nation from Foreign Terrorist Entry into the United States, states that DHS is to expedite the completion and implementation of a biometric entry-exit tracking system.

*Alternatives:*

*Anticipated Cost and Benefits:* This rule will allow CBP to know with greater certainty whether foreign visa holders depart the country when required. It will also prevent visa fraud and allow CBP to more easily identify criminals or terrorists when they attempt to leave the country. The technology used to implement this rule could also eventually be used to modify entry and exit procedures to reduce processing and wait times. This rule imposes opportunity and technology acquisition and maintenance costs on CBP and opportunity costs on the traveling public.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 04/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*Agency Contact:* Michael Hardin, Deputy Director, Department of Homeland Security, U.S. Customs and Border Protection, Customs and Border Protection, Entry/Exit Policy and Planning, 1300 Pennsylvania Avenue NW, Office of Field Operations, 5th Floor, Washington, DC 20229, *Phone:* 202 325–1053, *Email: michael.hardin@cbp.dhs.gov.*

*RIN:* 1651–AB12

## DHS—USCBP

### 52. Implementation of the Electronic System for Travel Authorization (ESTA) at U.S. Land Borders—Automation of CBP Form I–94W

*Priority:* Other Significant.

*E.O. 13771 Designation:* Other.

*Legal Authority:* Pub. L. 110–53

*CFR Citation:* 8 CFR 212.1; 8 CFR 217.2; 8 CFR 217.3; 8 CFR 217.5; 8 CFR 286.9.

*Legal Deadline:* None.

*Abstract:* This rule amends Department of Homeland Security (DHS) regulations to implement the Electronic System for Travel Authorization (ESTA) requirements under section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007, for aliens who intend to enter the United States under the Visa Waiver Program (VWP) at land ports of entry. Currently, aliens from VWP countries must provide certain biographic information to U.S. Customs and Border Protection (CBP) officers at land ports of entry on a paper I–94W Nonimmigrant Visa Waiver Arrival/Departure Record (Form I–94W). Under this rule, these VWP travelers will instead provide this information to CBP electronically through ESTA prior to application for admission to the United States. DHS has already implemented the ESTA requirements for aliens who intend to enter the United States under the VWP at air or sea ports of entry.

*Statement of Need:* This rule is necessary to implement the Electronic System for Travel Authorization (ESTA) under section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007 for aliens who intend to enter the United States under the Visa Waiver Program at land ports of entry. ESTA was implemented at air and sea ports of entry in 2008. At that time, however, CBP did not have the ability to implement the program at land ports of entry. This rule will ensure that ESTA is now implemented at all ports of entry.

*Summary of Legal Basis:*

*Alternatives:*

*Anticipated Cost and Benefits:* In addition to fulfilling a statutory mandate, the ESTA Land rule will strengthen national security through enhanced traveler vetting, streamline entry processing through Form I–94W automation, reduce inadmissible traveler arrivals, and produce a consistent, modern VWP admission policy in all U.S. travel environments, which will benefit VWP travelers, CBP, and the public. The rule will also introduce time and fee costs to VWP

travelers required to complete an ESTA application.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 04/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*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–AB14

## DHS—TRANSPORTATION SECURITY ADMINISTRATION (TSA)

Proposed Rule Stage

### 53. Vetting of Certain Surface Transportation Employees

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 49 U.S.C. 114; Pub. L. 110–53, secs. 1411, 1414, 1512, 1520, 1522, and 1531

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* Other, Statutory, August 3, 2008, Background and immigration status check for all public transportation frontline employees is due no later than 12 months after date of enactment.

Other, Statutory, August 3, 2008, Background and immigration status check for all railroad frontline employees is due no later than 12 months after date of enactment.

Sections 1411 and 1520 of Public Law 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), (121 Stat. 266, Aug. 3, 2007), require background checks of frontline public transportation and railroad employees not later than one year from the date of enactment. Requirement will be met through regulatory action.

*Abstract:* The 9/11 Act requires vetting of certain railroad, public transportation, and over-the-road bus employees. Through this rulemaking, the Transportation Security Administration (TSA) intends to propose the mechanisms and procedures to conduct the required vetting. This regulation is related to 1652–AA55, Security Training for Surface Transportation Employees.

*Statement of Need:* Employee vetting 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:*

*Alternatives:*

*Anticipated Cost and Benefits:* TSA is in the process of determining the costs and benefits of this rulemaking.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*URL For More Information: www.regulations.gov.*

*URL For Public Comments: www.regulations.gov.*

*Agency Contact:* Chandru (Jack) Kalro, Deputy Director, Surface Division, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–1145, *Email: surfacefrontoffice@tsa.dhs.gov.*

Alex Moscoso, Chief Economist, Economic Analysis Branch–Cross Modal Division, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–5839, *Email: alex.moscoso@tsa.dhs.gov.*

Laura Gaudreau, Attorney–Advisor, Regulations and Security Standards, Department of Homeland Security, Transportation Security Administration, Office of Chief Counsel, 601 South 12th Street, Arlington, VA 20598–6002, *Phone:* 571 227–1088, *Email: laura.gaudreau@tsa.dhs.gov.*

*Related RIN:* Related to 1652–AA55

*RIN:* 1652–AA69

## DHS—TSA

### 54. Amending Vetting Requirements for Employees With Access to a Security Identification Display Area (SIDA)

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Other.

*Legal Authority:* Pub. L. 114–190, sec. 3405

*CFR Citation:* 49 CFR 1524.209.

*Legal Deadline:* Final, Statutory, January 11, 2017, Rule for individuals with unescorted access to any Security Identification Display Area (SIDA) due 180 days after date of enactment.

According to sec, 3405 of Title III of the FAA Extension, Safety, and Security Act, 2016 (Aviation Security Act of 2016), Public Law 114–190 (130 Stat. 615, July 15, 2016), a final rule revising the regulations under 49 U.S.C. 44936 is due 180 days after the date of enactment.

*Abstract:* As required by the Aviation Security Act of 2016, the Transportation Security Administration (TSA) will propose a rule to revise its regulations, with current knowledge of insider threat and intelligence, to enhance the eligibility requirements and disqualifying criminal offenses for individuals seeking or having unescorted access to any SIDA of an airport. Consistent with the statutory mandate, TSA will consider adding to the list of disqualifying criminal offenses and criteria, develop a waiver process for approving the issuance of credentials for unescorted access, and propose an extension of the look back period for disqualifying crimes.

*Statement of Need:* Employee vetting is an important and effective tool for averting or mitigating potential attacks by those with malicious intent who wish to target aviation and plan or perpetrate actions that may cause significant injuries, loss of life, or economic disruption. Enhancing eligibility standards for airport workers will improve transportation and national security.

*Summary of Legal Basis:*

*Alternatives:*

*Anticipated Cost and Benefits:* TSA is in the process of determining the costs and benefits of this rulemaking.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 09/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*Agency Contact:* Alex Moscoso, Chief Economist, Economic Analysis Branch—Cross Modal Division, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry

Engagement, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–5839, *Email: alex.moscoso@tsa.dhs.gov.*

John Vergelli, Senior Counsel, Regulations and Security Standards, Department of Homeland Security, Transportation Security Administration, Office of Chief Counsel, 601 South 12th Street, Arlington, VA 20598–6002, *Phone:* 571 227–4416, *Email: john.vergelli@tsa.dhs.gov.*

*Related RIN:* Related to 1652–AA11

*RIN:* 1652–AA70

## DHS—TSA

Final Rule Stage

### 55. Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 6 U.S.C. 469(b); 49 U.S.C. 114; 49 U.S.C. 44939; 49 U.S.C. 46105

*CFR Citation:* 49 CFR 1552.

*Legal Deadline:* Final, Statutory, February 10, 2004, sec. 612(a) of Vision 100 requires TSA to issue an interim final rule within 60 days of enactment of Vision 100.

Requires the Transportation Security Administration (TSA) to establish a process to implement the requirements of sec. 612(a) of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108–176, Dec. 12, 2003; 117 Stat. 2490), including the fee provisions, not later than 60 days after the enactment of the Act.

*Abstract:* The interim final rule (IFR) was published and effective on September 20, 2004. The IFR created a new part 1552, Flight Schools, in title 49 of the Code of Federal Regulations (CFR). This IFR applies to flight schools and to individuals who apply for or receive flight training. TSA subsequently issued exemptions and interpretations in response to comments on the IFR and questions raised during operation of the program since 2004. TSA also issued a fee notice on April 13, 2009. This regulation requires flight schools to notify TSA when aliens, and other individuals designated by TSA, apply for flight training or recurrent training. TSA is considering a final rule that would change the frequency of security threat assessments from a high-frequency event-based interval to a time-based interval, clarify the definitions and other provisions of the rule, and enable industry to use TSA-provided electronic recordkeeping systems for all documents required to demonstrate compliance with the rule.

*Statement of Need:* In the years since TSA published the IFR, members of the aviation industry, the public, and Federal oversight organizations have identified areas where the Alien Flight Student Program (AFSP) could be improved. TSA's internal procedures and processes for vetting applicants also have improved and advanced. Publishing a final rule that addresses external recommendations and aligns with modern TSA vetting practices would streamline the AFSP application, vetting, and recordkeeping process for all parties involved.

*Summary of Legal Basis:*

*Alternatives:*

*Anticipated Cost and Benefits:* TSA is considering revising the requirements of the AFSP to reduce costs and industry burden. For example, reporting and recordkeeping requirements for the program are estimated at an annual cost of $7.4 million, discounted at seven percent. This cost includes maintaining paper records on alien flight students. TSA is considering an electronic recordkeeping platform where all flight providers would upload certain information to a TSA-managed website. Also at industry's request, TSA is considering changing the interval for a security threat assessment of each alien flight student, eliminating the requirement for a security threat assessment for each separate training event. This change would result in an annual savings, although there may be additional start-up and record retention costs for the agency as a result of these revisions. The benefits of these deregulatory actions would be immediate cost savings to flight schools and alien students without compromising the security profile.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule; Request for Comments. | 09/20/04 | 69 FR 56324 |
| Interim Final Rule Effective. | 09/20/04 | |
| Interim Final Rule; Comment Period End. | 10/20/04 | |
| Notice—Information Collection; 60-Day Renewal. | 11/26/04 | 69 FR 68952 |
| Notice—Information Collection; 30-Day Renewal. | 03/30/05 | 70 FR 16298 |
| Notice—Information Collection; 60-Day Renewal. | 06/06/08 | 73 FR 32346 |
| Notice—Information Collection; 30-Day Renewal. | 08/13/08 | 73 FR 47203 |
| Notice—Alien Flight Student Program Recurrent Training Fees. | 04/13/09 | 74 FR 16880 |
| Notice—Information Collection; 60-Day Renewal. | 09/21/11 | 76 FR 58531 |
| Notice—Information Collection; 30-Day Renewal. | 01/31/12 | 77 FR 4822 |
| Notice—Information Collection; 60-Day Renewal. | 03/10/15 | 80 FR 12647 |
| Notice—Information Collection; 30-Day Renewal. | 06/18/15 | 80 FR 34927 |
| Final Rule ..... | 09/00/18 | |

*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:* Johannes Knudsen, Program Manager, Alien Flight Student Program, Department of Homeland Security, Transportation Security Administration, Office of Intelligence and Analysis, 601 South 12th Street, Arlington, VA 20598–6010, *Phone:* 571 227–2188, *Email: johannes.knudsen@tsa.dhs.gov.*

Alex Moscoso, Chief Economist, Economic Analysis Branch—Cross Modal Division, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–5839, *Email: alex.moscoso@tsa.dhs.gov.*

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*Related RIN:* Related to 1652–AA61

*RIN:* 1652–AA35

## DHS—TSA

### 56. Ronald Reagan Washington National Airport: Enhanced Security Procedures for Certain Operations

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 49 U.S.C. 114; 49 U.S.C. 40113; 49 U.S.C. 41718 note; 49 U.S.C. 44901 to 44905; 49 U.S.C. 44916 to 44918; 49 U.S.C. 46105

*CFR Citation:* 49 CFR 1520; 49 CFR 1540; 49 CFR 1562.

*Legal Deadline:* None.

*Abstract:* The interim final rule (IFR), published by the Transportation Security Administration (TSA) on July 19, 2005, created a new part 1562, subpart B, for General Aviation (GA), in title 49 of the Code of Federal Regulations (CFR). The IFR restored access to Ronald Reagan Washington National Airport (DCA) for passenger aircraft operations not otherwise regulated under 49 CFR 1546.101(a) or (b) (foreign air carriers) or 49 CFR part 1544 (U.S. air carriers operating under a full security program). From September 11, 2001, until the IFR became effective on August 18, 2005, GA aircraft operations had been prohibited at DCA. The IFR reopened access to the extent requirements are met to maintain the security of critical Federal Government and other assets in the Washington, DC metropolitan area. In general, this rule requires GA aircraft operators to adopt and carry out security measures that are comparable to the security measures required of regularly scheduled, commercial aircraft. This rule also established security procedures for GA aircraft operators and gateway airport operators, and security requirements relating to crewmembers, passengers, and armed security officers onboard aircraft operating to or from DCA. TSA plans to take final action on the IFR to respond to the public comments and close out this rulemaking. TSA is also considering a recommendation from the Aviation Security Advisory Committee to remove the armed security officer requirement for flights operating under the DCA Access Standard Security Program to the extent other security safeguards are in effect, such as all passengers onboard the flight having a Department of Homeland Security Known Traveler Number (KTN).

*Statement of Need:* The purpose of this regulation is to allow GA aircraft operations access to DCA without decreasing the security of vital government assets in the Washington, DC metropolitan area. Prohibiting GA access to DCA imposes an economic hardship on these operations. But access, without appropriate security measures, increases the risk that an airborne strike initiated from DCA, located moments away from vital national assets, could occur. While TSA recognizes that such an impact may not cause substantial damage to property or a large structure, it could potentially result in an undetermined number of fatalities and injuries, as well as reduced tourism. The resulting tragedies would adversely impact the regional economies. Finalizing the IFR will ensure the continued balance between these interests; providing access without decreasing security of the vital government assets in the Washington, DC metropolitan area. The security requirements in the final rule are necessary to defeat the threat posed by members of terrorist groups to vital U.S. assets and security, in a manner that protects the nation's transportation systems to ensure freedom of movement.

*Summary of Legal Basis:*

*Alternatives:*

*Anticipated Cost and Benefits:* If TSA repeals the requirement for an ASO, with acceptance of alternative procedures in its place, this modification is likely to provide commensurate levels of security at lower costs. To the extent these alternative procedures include a requirement for all passengers and crewmembers to have a KTN, there is a dependency linked to the ability of DHS/TSA to quickly process requests for KTNs and the willingness of the regulated parties (or their passengers) to bear the cost of obtaining a KTN. The benefits of the repeal of the ASO requirement would be cost savings to DASSP operators from no longer having to hire an ASO. DASSP operators would receive a cost savings from no longer hiring an ASO for each departure from or arrival into DCA.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule; Request for Comments. | 07/19/05 | 70 FR 41586 |
| Interim Final Rule Effective. | 08/18/05 | |
| Interim Final Rule; Comment Period End. | 09/19/05 | |
| Notice—Information Collection; Approval and 60-Day Renewal. | 08/26/05 | 70 FR 50391 |
| Notice—Information Collection; 30-Day Renewal. | 10/26/05 | 70 FR 61831 |
| Notice—Information Collection; 60-Day Renewal. | 10/20/08 | 73 FR 62304 |
| Notice—Information Collection; 30-Day Renewal. | 12/29/08 | 73 FR 79499 |
| Notice—Information Collection; 60-Day Renewal. | 02/29/12 | 77 FR 12321 |
| Notice—Information Collection; 30-Day Renewal. | 04/27/12 | 77 FR 25188 |
| Notice—Information Collection; 60-Day Renewal. | 01/03/16 | 81 FR 943 |
| Notice—Information Collection; 30-Day Renewal. | 03/17/16 | 81 FR 14470 |
| Final Rule ..... | 06/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses, Organizations.

*Government Levels Affected:* None.

*URL For More Information:* *www.regulations.gov.*

*URL For Public Comments:* *www.regulations.gov.*

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*Related RIN:* Related to 1652–AA08

*RIN:* 1652–AA49

## DHS—TSA

### 57. Security Training for Surface Transportation Employees

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

*E.O. 13771 Designation:* Other.

*Legal Authority:* 49 U.S.C. 114; Pub. L. 110–53, secs. 1405, 1408, 1501, 1512, 1517, 1531, and 1534

*CFR Citation:* 49 CFR 1500; 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 Public Law 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), (121 Stat. 266, Aug. 3, 2007), interim final regulations for public transportation agencies are due 90 days after the date of enactment (Nov. 1, 2007), and final regulations are due one year after the date of enactment. According to sec. 1517 of the 9/11 Act, final regulations for railroads and over-the-road buses are due no later than six months after the date of enactment.

*Abstract:* The 9/11 Act requires security training for employees of higher-risk freight railroad carriers, public transportation agencies (including rail mass transit and bus systems), passenger railroad carriers, and over-the-road bus (OTRB) companies. This final rule implements the regulatory mandate. Owner/operators of these higher-risk railroads, systems, and companies will be required to train employees performing security-sensitive functions, using a curriculum addressing preparedness and how to observe, assess, and respond to terrorist-related threats and/or incidents. As part of this rulemaking, the Transportation Security Administration (TSA) is expanding its current requirements for rail security coordinators and reporting of significant security concerns (currently limited to freight railroads, passenger railroads, and the rail operations of public transportation systems) to include the bus components of higher-risk public transportation systems and higher-risk OTRB companies. TSA is also adding a definition for Transportation Security-Sensitive Materials (TSSM). Other provisions are being amended or added, as necessary, to implement these additional requirements.

*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 1402, 1408, 1501, 1517, 1531, 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 sought public comment on alternatives in which the final rule could carry out the requirements of the statute.

*Anticipated Cost and Benefits:* Owner/operators will incur costs for training their employees, developing a training plan, maintaining training records, and participating in inspections for compliance. Some owner/operators will also incur additional costs associated with assigning security coordinators and reporting significant security incidents to TSA. TSA will incur costs associated with reviewing owner/operators' training plans, registering owner/operators' security coordinators, responding to owner/operators' reported significant security incidents, and conducting inspections for compliance with this rule. In the NPRM, TSA estimated the annual cost from this regulation to be approximately $22 million, discounted at 7 percent. As part of TSA's risk-based security, benefits include mitigating potential attacks by heightening awareness of employees on the frontline. In addition, by designating security coordinators and reporting significant security concerns to TSA, TSA has a direct line for communicating threats and receiving information necessary to analyze trends and potential threats across all modes of transportation.

*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 | 12/16/16 | 81 FR 91336 |
| NPRM Comment Period End. | 03/16/17 | |
| Final Rule | 09/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* Local.

*URL For More Information:* *www.regulations.gov.*

*URL For Public Comments:* *www.regulations.gov.*

*Agency Contact:* Chandru (Jack) Kalro, Deputy Director, Surface Division, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–1145, *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—U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (USICE)

Proposed Rule Stage

### 58. • Adjusting Program Fees for the Student and Exchange Visitor Program

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 8 U.S.C. 1372; 8 U.S.C. 1762; 8 U.S.C. 1101; 8 U.S.C. 1356; 31 U.S.C 901–903; 31 U.S.C. 902; . . .

*CFR Citation:* 8 CFR 214.

*Legal Deadline:* None.

*Abstract:* ICE will propose to adjust fees that the Student and Exchange Visitor Program (SEVP) charges individuals and organizations. In 2017,

SEVP conducted a comprehensive fee study and determined that current fees do not recover the full costs of the services provided. ICE has determined that adjusting fees is necessary to fully recover the increased costs of SEVP operations, program requirements, and to provide the necessary funding to sustain initiatives critical to supporting national security. ICE will propose to adjust its fees for individuals and organizations to establish a more equitable distribution of costs and to establish a sustainable revenue level. The SEVP fee schedule was last adjusted in a rule published on September 26, 2008.

*Statement of Need:* The Student and Exchange Visitor Program (SEVP) conducted a comprehensive fee study in 2017 and determined that current fees, most recently adjusted in 2008, do not recover the full costs of the services provided. ICE has determined that adjusting fees is necessary to fully recover the increased costs of SEVP operations, program requirements, and to provide the necessary funding to implement and sustain initiatives critical to supporting national security. ICE will propose to adjust its fees for individuals and organizations to establish a more equitable distribution and sustainable level of costs relevant to services.

*Summary of Legal Basis:*

*Alternatives:*

*Anticipated Cost and Benefits:* ICE is in the process of assessing the costs, benefits, and transfers of this rule. In order to recover the full cost of its budget for the services it provides, SEVP proposes to increase the amounts of its fees for SEVP certified schools and for those schools that will seek SEVP certification, for F and M nonimmigrant students, and for J nonimmigrant exchange visitors. The fee adjustment would allow to continue to maintain and improve SEVIS in order to uphold the integrity of the U.S. immigration laws regarding student and exchange visitors.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

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

*Federalism:* Undetermined.

*Agency Contact:* Sharon Snyder, Unit Chief, Policy and Response Unit, Department of Homeland Security, U.S. Immigration and Customs Enforcement, Potomac Center North STOP 5600, 500 12th Street SW, Washington, DC 20536–5600, *Phone:* 703 603–5600.

*RIN:* 1653–AA74

## DHS—USICE

### 59. • Apprehension, Processing, Care and Custody of Alien Minors

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 8 U.S.C. 1103; 8 U.S.C. 1182; 8 U.S.C. 1225 to 1227; 8 U.S.C. 1362

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* In 1985, a class-action suit challenged the policies of the former Immigration and Naturalization Service (INS) relating to the detention, processing, and release of alien children; the case eventually reached the U.S. Supreme Court. The Court upheld the constitutionality of the challenged INS regulations on their face and remanded the case for further proceedings consistent with its opinion. In January 1997, the parties reached a comprehensive settlement agreement, referred to as the Flores Settlement Agreement (FSA). The FSA was to terminate five years after the date of final court approval; however, the termination provisions were modified in 2001, such that the FSA does not terminate until forty-five days after publication of regulations implementing the agreement.

Since 1997, intervening statutory changes, including passage of the Homeland Security Act (HSA) and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), have significantly changed the applicability of certain provisions of the FSA. The proposed rule will codify the substantive terms of the FSA and enable the U.S. Government to seek termination of the FSA and litigation concerning its enforcement. Through this rule, ICE will create a pathway to ensure the humane detention of family units while satisfying the goals of the FSA. The rule will also implement related provisions of the TVPRA.

*Statement of Need:* In 1985, a class-action suit challenged the policies of the former INS relating to the detention, processing, and release of alien children; the case eventually reached the U.S. Supreme Court. The Court upheld the constitutionality of the challenged INS regulations on their face and remanded the case for further proceedings consistent with its opinion. In January 1997, the parties reached a comprehensive settlement agreement, referred to as the FSA. The FSA was to terminate five years after the date of final court approval; however, the termination provisions were modified in 2001, such that the FSA does not terminate until forty-five days after publication of regulations implementing the agreement.

Since 1997, intervening legal changes including passage of the HSA and TVPRA have significantly changed the applicability of certain provisions of the FSA. The proposed rule will codify the substantive terms of the FSA and enable the U.S. Government to seek termination of the FSA and litigation concerning its enforcement. Through this rule, ICE will create a pathway to ensure the humane detention of family units while satisfying the goals of the FSA. The rule will also implement related provisions of the TVPRA.

*Summary of Legal Basis:*

*Alternatives:*

*Anticipated Cost and Benefits:* ICE is in the process of determining the costs and benefits which would be incurred by regulated entities and individuals, as well as the costs and benefits to ICE for ensuring compliance with the requirements of this rule.

ICE expects to incur costs related to new or additional procedures for immigration proceedings for alien minors. Benefits include enhancing the process and protections for alien minors. This regulation will also strengthen DHS efforts to combat human trafficking of minors. Other benefits are enabling the U.S. Government to seek termination of the FSA and litigation concerning its enforcement, as well as bringing clarity and certainty to the process of addressing alien minors.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 09/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*Agency Contact:* Sara Shaw, Deputy Assistant Director, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Washington, DC 20536, *Phone:* 202 732–3994, *Email: sara.shaw@ice.dhs.gov.*

*RIN:* 1653–AA75

## DHS—USICE

### 60. • Practical Training Reform

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Other.

*Legal Authority:* Not Yet Determined

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* ICE will propose this rule to improve protections of U.S. workers who may be negatively impacted by employment of nonimmigrant students on F and M visas. The rule is a comprehensive reform of practical training options intended to reduce fraud and abuse.

*Statement of Need:* ICE will prepare this rule to improve protections of U.S. workers who may be negatively impacted by employment of nonimmigrant students on F and M visas. The rule would implement new requirements that would reduce fraud and abuse in the practical training programs. The proposed provisions include increased oversight of the schools and students participating in the program to ensure compliance with requirements of the program.

*Summary of Legal Basis:*

*Alternatives:*

*Anticipated Cost and Benefits:* ICE is in the process of assessing the costs and benefits that would be incurred by regulated entities and individuals, as well as the costs and benefits to the public at large. ICE, SEVP certified schools, nonimmigrant students who participate in practical training, and their employers for practical training would incur costs for increased oversight requirements. This rule is intended to decrease the incidence of immigrant employment fraud and improve the integrity of nonimmigrant student employment opportunities.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 10/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*Agency Contact:* Sharon Snyder, Unit Chief, Policy and Response Unit, Department of Homeland Security, U.S. Immigration and Customs Enforcement, Potomac Center North STOP 5600, 500 12th Street SW, Washington, DC 20536–5600, *Phone:* 703 603–5600.

*RIN:* 1653–AA76

## DHS—FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

Final Rule Stage

### 61. Factors Considered When Evaluating a Governor's Request for Individual Assistance for a Major Disaster

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 42 U.S.C. 5121 to 5207

*CFR Citation:* 44 CFR 206.48(b).

*Legal Deadline:* Final, Statutory, January 29, 2014, Section 1109 of the Sandy Recovery Improvement Act of 2013, Public Law 113–2.

The Sandy Recovery Improvement Act of 2013 (SRIA) requires the Administrator of the Federal Emergency Management Agency (FEMA), in cooperation with representatives of State, tribal, and local emergency management agencies, to review, update, and revise through rulemaking the individual assistance factors FEMA uses to measure the severity, magnitude, and impact of a disaster (not later than 1 year after enactment).

*Abstract:* FEMA is issuing a final rule to revise its regulations to comply with Section 1109 of SRIA. SRIA requires FEMA, in cooperation with State, local, and Tribal emergency management agencies, to review, update, and revise through rulemaking the Individual Assistance factors FEMA uses to measure the severity, magnitude, and impact of a disaster. FEMA published a Notice of Proposed Rulemaking on the matter on November 12, 2015.

*Statement of Need:* On January 29, 2013, SRIA was enacted into law (Pub. L. 113–2). Section 1109 of SRIA requires FEMA, in cooperation with State, local, and Tribal emergency management agencies, to review, update, and revise through rulemaking the factors found at 44 CFR 206.48 that FEMA uses to determine whether to recommend provision of Individual Assistance (IA) during a major disaster. These factors help FEMA measure the severity, magnitude, and impact of a disaster, as well as the capabilities of the affected jurisdictions.

FEMA is issuing this final rule to comply with SRIA and to provide clarity on the IA factors that FEMA currently considers in support of its recommendation to the President on whether a major disaster declaration authorizing IA is warranted. The additional clarity may reduce delays in the declaration process by decreasing the back and forth between States and FEMA during the declaration process.

*Summary of Legal Basis:* FEMA has authority for this final rule pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). 42 U.S.C. 5121 *et seq.* Section 401 of the Stafford Act lays out the procedures for a declaration for FEMA's major disaster assistance programs when a catastrophe occurs in a State. The specific changes in this final rule comply with section 1109 of SRIA, Public Law 113–2.

*Alternatives:*

*Anticipated Cost and Benefits:* The 2015 NPRM proposed to codify current declaration considerations and introduced new factors that FEMA would use when reviewing and recommending a major disaster declaration request that includes IA. Codifying the factors that capture FEMA's current declaration practice and considerations would not result in additional costs. However, the new factors would have small burden increases associated with obtaining the additional information. FEMA does not anticipate the rule would impact the number of major disaster declaration requests received that include IA or the amount of IA assistance provided, and therefore there would be no impact to transfer payments.

FEMA estimated the 10-year present value total cost of the proposed rule would be $15,806 and $13,302 if discounted at 3 and 7 percent, respectively. The annualized cost of the proposed rule would be $1,853 at 3 percent and $1,894 at 7 percent. (All amounts in the NPRM are presented in 2013 dollars.) Benefits of the proposed rule include clarifying FEMA's existing practices, reducing processing time for requests due to clarifications, and providing States with notice of the new information FEMA is proposing to consider as part of the IA declarations process.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 11/12/15 | 80 FR 70116 |
| NPRM Comment Period End. | 01/11/16 | |
| Final Rule ..... | 09/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

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

*Additional Information:* Docket ID FEMA–2014–0005.

*URL For More Information:* *www.regulations.gov.*

*URL For Public Comments:* *www.regulations.gov.*

*Agency Contact:* Mark Millican, Individual Assistance Division, Department of Homeland Security, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472–3100, *Phone:* 202 212–3221, *Email: fema-ia-regulations@fema.dhs.gov.*

*RIN:* 1660–AA83

**BILLING CODE 9110–9B–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Fall 2017 Statement of Regulatory Priorities for Fiscal Year 2018

*Introduction*

The Regulatory Plan for the Department of Housing and Urban Development (HUD) for Fiscal Year (FY) 2018 highlights the most significant regulations and policy initiatives that HUD seeks to complete during the upcoming fiscal year. As the federal agency that serves as the nation's housing agency, committed to addressing the housing needs of Americans, promoting economic and community development, and enforcing the nation's fair housing laws, HUD plays a significant role in the lives of families and in communities throughout America. The Department's programs help to provide decent, safe, and sanitary housing, and create suitable living environments for all Americans. HUD also provides housing and other essential support to a wide range of individuals and families with special needs, including homeless individuals, the elderly, and persons with disabilities.

HUD's regulatory plan for FY2018 reflects the leadership and vision of Secretary Carson who has directed HUD, consistent with Executive Order 13771, entitled ''Reducing Regulation and Controlling Regulatory Costs,'' to identify and eliminate or streamline regulation that are wasteful, inefficient or unnecessary. Executive Order 13771 directs that agencies manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations. Toward this end, Executive Order 13771 directs that for every one new regulation issued, at least two prior regulations be identified for elimination and requires that the cost of planned regulations be prudently managed and controlled. Consistent with this policy goal, the Secretary has also led HUD's implementation of Executive Order 13777, entitled ''Enforcing the Regulatory Reform Agenda.'' The Executive Order 13777 supplements and reaffirms the rulemaking principles of Executive Order 13771 by directing each agency to establish a Regulatory Reform Task Force to evaluate existing regulations to identify those that merit repeal, replacement, modification, are outdated, unnecessary, or are ineffective, eliminate or inhibit job creation, impose costs that exceed benefits, or derive from or implement Executive Orders that have been rescinded or significantly modified. HUD's Regulatory Reform Task Force has been hard at work to provide recommendations on which regulations to repeal, modify or keep to ensure those that remain effectively manage scarce federal resources, adequately protect low-income families and facilitate the development of affordable housing and provide the provide the opportunity for families to become self-sufficient. As a result, HUD's Fall 2017 Unified Agenda of Regulatory and Deregulatory Actions lists two anticipated regulatory actions and eleven deregulatory actions.

The rules highlighted in HUD's regulatory plan for FY2018 reflect HUD's efforts to fulfill its mission and improve performance, including by removing regulations that HUD has determined are outdated, unnecessary, or are ineffective.

*Implementing the Housing Opportunity Through Modernization Act of 2016*

Regulatory Priority: Deregulation

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) (Pub. L. 114–201, approved July 29, 2016) amended the United States Housing Act of 1937 (1937 Act) and other housing laws to modify multiple HUD programs, along with the Department of Agriculture's Single Family Housing Guaranteed Loan Program. Significant amendments included setting a maximum income level for continued occupancy in public housing, expanding the availability of Family Unification Program vouchers for children aging out of foster care, changes to the housing quality standards for Section 8 Voucher units, multiple changes to the Project-Based Voucher (PBV) program, modifying requirements for mortgage insurance for condominiums under the Federal Housing Administration, creating a Special Assistant for Veterans Affairs in HUD, and changing the allocation formula for the Housing Opportunities for Persons With AIDS (HOPWA) program.

On October 24, 2016, at 81 FR 73030, HUD issued a notice in the **Federal Register** announcing which provisions of the statute were self-implementing and which would require further action by HUD. This was followed up by a notice for comment on November 29, 2016 (81 FR 85996) seeking public input on the best way to determine the income limit for public housing residents.

HUD published another notice in the **Federal Register** on January 18, 2017 (82 FR 5458), utilizing authority granted by HOTMA to implement certain provisions by notice, but also soliciting public comment on HUD's implementation methods. That notice implemented new statutory provisions regarding certain inspection requirements for both housing choice voucher (HCV) tenant-based and PBV assistance (found in § 101(a)(1) of HOTMA), the definition of public housing agency (PHA)-owned housing (§ 105 of HOTMA), and changes to the PBV program at large (§ 106 of HOTMA) by providing the additional information needed for PHAs and owners to use those provisions. The notice also implemented and provided guidance on the statutory change to the HCV housing assistance payment (HAP) calculation for families who own manufactured housing and are renting the manufactured home space (§ 112 of HOTMA).

Many of the statutory provisions in HOTMA are intended to streamline administrative processes and reduce burdens on PHAs and private owners. The January 18, 2017, notice implemented provisions that reduced the number and frequency of inspections required before allowing a family to move into a unit, limited the definition of PHA-owned housing and therefore reduced requirements for getting third parties involved in inspections, and reduced some of the requirements for submission to HUD for PHAs looking to project-base voucher assistance in projects currently under contract or previously assisted under a different form of assistance. Other provisions in HOTMA not yet implemented increase a PHA's ability to access databases to ease the burden of verifying income and also allow a family to self-certify as to the value of their assets when their assets are valued at less than $50,000.

HUD further intends to implement the new HOTMA provisions in such a way as to align policies and procedures across program offices, to include multifamily programs and programs that are administered by the Office of Community Planning and Development. Alignment will reduce disparities between the programs and better enable PHAs and owners to use multiple forms

of assistance to best serve their communities.

HUD intends to complete this rulemaking in Fiscal Year 2018.

*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 pursued in FY 2018. HUD expects that the neither the total economic costs nor the total efficiency gains will exceed $100 million.

*HUD Office:* Offices of the Assistant Secretary for Public and Indian Housing, Assistant Secretary for Housing, and Assistant Secretary for Community Planning and Development, HUD.

*Rulemaking Stage:* Proposed Rule.

*Priority:* Significant.

*Legal Authority:* 42 U.S.C. 1437a; 42 U.S.C. 1437f; 42 U.S.C. 3535(d); Pub. L. 114–201, 130 Stat. 782

*CFR Citation:* 24 CFR parts 5, 92, 574, 576, 583, 850, 880, 882, 884, 886, 891, 960,982, 983.

*Legal Deadline:* None.

*Abstract:* Through this rule, HUD proposes to codify the changes the Housing Opportunity Act of 2016 (HOTMA) made to the U.S. Housing Act of 1937 that affect the Section 8 Project-Based Rental Assistance (PBRA), Housing Choice Voucher (HCV) and Public Housing programs. The areas most impacted by HOTMA include unit inspections in the HCV program, project-based voucher assistance in the HCV program; income and rent calculations for Public Housing, HCV, and multifamily housing programs, and operating fund and capital fund flexibility in public housing.

Many of the statutory provisions in HOTMA are intended to streamline administrative processes and reduce burdens on PHAs and private owners. The January 18, 2017, notice implemented provisions that reduced the number and frequency of inspections required before allowing a family to move into a unit, limited the definition of PHA-owned housing and therefore reduced requirements for getting third parties involved in inspections, and reduced some of the requirements for submission to HUD for PHAs looking to project-base voucher assistance in projects currently under contract or previously assisted under a different form of assistance. Other provisions in HOTMA not yet implemented increase a PHA's ability to access databases to ease the burden of verifying income and also allow a family to self-certify as to the value of their assets when their assets are valued at less than $50,000, which reduces the work required to determine the family's annual income.

HUD CPD programs that have mimicked provisions in the U.S. Housing Act of 1937 that were changed by HOTMA will also be affected. Alignment will reduce disparities between the programs and better enable PHAs and owners to use multiple forms of assistance to best serve their communities.

*Statement of Need*

HOTMA provided HUD the authority to implement some statutory changes by notice, but not all of the changes included that authority. For those changes that were implemented by notice, HUD must make conforming changes to the regulations.

*Alternatives:* None.

*Anticipated Costs and Benefits*

Many of the changes included additional flexibilities for public housing agencies (PHAs) and private owners, such as allowing for alternative inspection methods to reduce duplicative inspections, reducing paperwork requirements for project-basing vouchers in PHA-owned properties, and allowing for longer-term housing assistance payments contracts. The rule will also provide for more timely reviews of significant changes in family income to ensure the effective provision of assistance.

Compliance costs are expected to be minimal and one-time as PHAs and owners shift their practices to meet the new requirements.

*Risks:* Reduced oversight of unit quality could increase the amount of poor housing quality, but the increased flexibilities will allow HUD, PHAs, and private owners to better direct resources to entities that pose higher risks, improving the overall quality and effectiveness of the programs.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Federal Register Notice. | 10/24/2016 | 81 FR 73030 |
| Federal Register Notice. | 01/18/2017 | 82 FR 5458 |
| Next Action ..... | 06/00/2018 | |

*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:* Danielle Bastarache, Deputy Assistant Secretary, Office of Policy, Programs and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing, 451 Seventh Street SW, Room 3178, Washington, DC 20410, *Phone:* 202 402–5264.

*RIN:* 2577–AD03

## HUD—OFFICE OF HOUSING (OH)

Final Rule Stage

### 62. Project Approval for Single Family Condominium (FR–5715)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 12 U.S.C. 1707, 1709, 1710; 12 U.S.C. 1715b; 12 U.S.C. 1715y; 12 U.S.C. 1715z–16; 12 U.S.C. 1715u; 42 U.S.C. 3535(d)

*CFR Citation:* 24 CFR 203.

*Legal Deadline:* None.

*Abstract:* Through this rule, HUD will amend its policies and procedures for projects to be approved as condominiums in which individual units would be eligible for mortgage insurance. Insurance of condominiums in approved projects was first authorized by the Housing and Economic Recovery Act (HERA) of 2008. HERA moved the insurance of a single unit condominium unit in a project without a blanket mortgage from Section 234 of the National Housing Act. There are no existing regulations under section 203. While HERA permitted the program to be operated via guidance pending the issuance of regulations, more recently, the Housing Opportunity Through Modernization Act of 2016, Public Law 114–201 (HOTMA) contains specific provisions regarding condominiums under section 203. Relevant to this rule, HOTMA requires: changes in requirements for project recertification; requests for exceptions to the commercial space percentage requirement to be made either through the HUD review process or through the lender review and approval process; and for HUD to issue guidance, by rule, notice, or mortgagee letter, regarding the percentage of units that must be owner-occupied, including as a secondary residence. The rule also includes a savings provision preserving section 234 insurance where the project has a blanket mortgage.

*Statement of Need:* The Housing Opportunities through Modernization Act of 2016 requires HUD to issue regulations on the commercial space requirements for condominium projects; these regulations would be codified in HUD's Code of Federal Regulations

(CFR) volume. Having one portion of the basic program rules codified in the CFR and others not codified would be confusing and unfriendly to the public. Additionally, the current program rules are overly rigid. The rule will add needed flexibility and logically codify the basic rules of the program, similar to HUD's other single-family programs.

*Summary of Legal Basis:* The legal basis (in addition to HUD's general rulemaking authority under 42 U.S.C. 3535(d)) is the definition of mortgage in section 201 of the Act (12 U.S.C. 1707), which definition also applies to section 203 of the Act (12 U.S.C. 1709). The definition was revised by the Housing and Economic Recovery Act of 2008 (Pub. L. 110–289, approved July 30, 2008) to include a mortgages on a one-family unit in a multifamily project, and an undivided interest in the common areas and facilities which serve the project (this is the arrangement that characterizes the large majority of condo projects). More recently, the Housing Opportunity Through Modernization Act (Pub. L. 114–201, approved July 29, 2016), requires HUD to: Streamline the condominium recertification process; issue regulations to amend the limitations on commercial space to allow such requests to be processed under either HUD or lender review and to consider factors relating to the economy for the locality in which such project is located or specific to project, including the total number of family units in the project. HUD will be addressing these issues through the regulation.

*Alternatives:* None.

*Anticipated Cost and Benefits:* The rule will produce cost savings of $1 million per year by reducing the paperwork required for recertification of an approved project. There are some costs associated with qualifying to participate in the Direct Endorsement Lender Review and Approval Process (DELRAP). However, HUD anticipates that many provisions of the rule, such as single-unit approvals, flexible standards, and a longer interval for condominium approvals would reduce or eliminate the compliance costs of the rule.

*Risks:* The DELRAP process (which gives underwriting responsibility to qualified lenders) and single unit approvals (which allow HUD to insure mortgages in unapproved condominium projects) could increase the risk of defaults. However, the rule would add safeguards to fully mitigate these risks. The participating DELRAP lenders would have to meet qualification standards, and HUD would monitor their performance on an ongoing basis, and would have authority to take corrective actions if a lender's performance is deficient. In addition, single unit approvals would require that HUD not insure mortgages in an unapproved project if the percentage of such mortgages exceeds an amount determined by the Commissioner to be necessary for the protection of the insurance fund.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 09/28/16 | 81 FR 66565 |
| NPRM Comment Period End. | 11/28/16 | |
| Final Action | 03/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*URL For Public Comments: www.regulations.gov/searchResults?rpp=25&po=0&s=FR-5715&fp=true&ns=true.*

*Agency Contact:* Elissa Saunders, Director, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, Office of Housing, 451 Seventh Street, Washington, DC 20410, *Phone:* 202 708–2121.

*RIN:* 2502–AJ30

## HUD—OFFICE OF PUBLIC AND INDIAN HOUSING (PIH)

Proposed Rule Stage

### 63. • Housing Opportunity Through Modernization Act of 2016 (FR–6057)

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

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* Pub. L. 114–201; 130 Stat. 782

*CFR Citation:* 24 CFR 5; 24 CFR 92; 24 CFR 574; 24 CFR 576; 24 CFR 583; 24 CFR 850; 24 CFR 880; 24 CFR 882; 24 CFR 884; 24 CFR 886; 24 CFR 891; 24 CFR 960; 24 CFR 982; 24 CFR 983.

*Legal Deadline:* None.

*Abstract:* Through this rule, HUD proposes to codify the changes the Housing Opportunity Act of 2016 (HOTMA) made to the U.S. Housing Act of 1937 that affect the Section 8 Project-Based Rental Assistance (PBRA), Housing Choice Voucher (HCV) and Public Housing programs. The areas most impacted by HOTMA include unit inspections in the HCV program, project-based voucher assistance in the HCV program; income and rent calculations for Public Housing, HCV, and multifamily housing programs, and operating fund and capital fund flexibility in public housing. HUD CPD programs that have mimicked provisions in the U.S. Housing Act of 1937 that were changed by HOTMA will also be affected.

*Statement of Need:* HOTMA provided HUD the authority to implement some statutory changes by notice, but not all of the changes included that authority. For those changes that were implemented by notice, HUD must make conforming changes to the regulations.

*Summary of Legal Basis:* 42 U.S.C. 1437a; 42 U.S.C. 1437f; 42 U.S.C. 3535(d).

*Alternatives:* None.

*Anticipated Cost and Benefits:* Many of the changes included additional flexibilities for public housing agencies (PHAs) and private owners, such as allowing for alternative inspection methods to reduce duplicative inspections, reducing paperwork requirements for project-basing vouchers in PHA-owned properties, and allowing for longer-term housing assistance payments contracts. The rule will also provide for more timely reviews of significant changes in family income to ensure the effective provision of assistance. Compliance costs are expected to be minimal and one-time as PHAs and owners shift their practices to meet the new requirements.

*Risks:* Reduced oversight of unit quality could increase the amount of poor housing quality, but the increased flexibilities will allow HUD, PHAs, and private owners to better direct resources to entities that pose higher risks, improving the overall quality and effectiveness of the programs.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 06/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Local, State.

*Agency Contact:* Danielle Bastarache, Deputy Assistant Secretary, Office of Policy & Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing, 451 7th Street SW, Washington, DC 20410, *Phone:* 202 402–5264.

*RIN:* 2577–AD03

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## DEPARTMENT OF THE INTERIOR REGULATORY PLAN

*Introduction*

The U.S. Department of the Interior (Interior) serves the American people by managing one in every five acres of land in the United States, as well as on the Outer Continental Shelf. Interior manages these resources under a legal framework that includes regulations that ultimately affect many American's lives and livelihoods. Interior's Office of Natural Resources Revenue (ONRR) collects over $10 billion dollars annually from onshore and offshore energy production, one of the Federal Government's largest sources of non-tax revenue.

Interior manages more than 500 million acres of Federal lands, including more than 400 park units, more than 500 wildlife refuges, and more than a billion submerged offshore acres. Hundreds of millions of people visit Interior-managed lands each year for camping, hiking, hunting, and other outdoor recreation, which supports local communities and their economies. Interior provides access on public lands for energy development, which creates jobs and stimulates the U.S. economy. Interior manages water projects that are a lifeline and economic engine for many communities in the West; and manages forests and fights wildfires.

*Regulatory Reform*

President Trump has made it a priority of his administration to reform regulatory requirements that negatively impact our economy while maintaining environmental standards. Since day one, Secretary Zinke has been committed to regulatory reform. Interior is playing a key role in regulatory reform and, pursuant to Executive Order 13777, has established a Regulatory Reform Task Force to make Interior's regulations work better for the American people. Interior continues to encourage and seek public input on these regulatory reform efforts. *See (82 FR 28429, June 22, 2017) and https://www.doi.gov/regulatory-reform.* Interior is committed to a conservation ethic that also recognizes that unnecessary regulations create harmful economic consequences on the U.S. economy. Therefore, Interior expects to reduce regulatory burdens, promote effective and efficient regulations, and respect property rights as it implements its regulatory agenda for fiscal year 2018.

*Regulatory and Deregulatory Priorities*

Interior's regulatory and deregulatory priorities focus on:

- Promoting American Energy Independence
- Increasing outdoor recreation opportunities for all Americans
- Enhancing conservation stewardship
- Improving management of species and their habitats
- Upholding trust responsibilities to the federally recognized American Indian and Alaska Native tribes and addressing the challenges of economic development.

Promoting American Energy Independence

In Executive Order 13783, Promoting Energy Independence and Economic Growth (March 28, 2017), President Trump announced it was in the national interest to promote clean and safe development of our Nation's vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation. The Executive Order directed the executive departments and agencies to immediately review existing regulations that potentially burden the development or use of domestically produced energy resources and appropriately suspend, revise, or rescind those that unduly burden the development of domestic energy resources beyond the degree necessary to protect the public interest or otherwise comply with the law. Interior's review and actions are included in its Final Report on Actions that Potentially Burden Domestic Energy (Final Energy Report). This report is available on the internet at *https://www.doi.gov/sites/doi.gov/files/uploads/interior_energy_actions_report_final.pdf.*

Among the actions that Interior identified and explained more fully in the Final Energy Report are the following:

- BLM published a proposed rule on July 25, 2017 (82 FR 24464), to rescind the final rule entitled ''Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands,'' 80 FR 16128 (March 26, 2015).
- BLM will review and revise the final rule entitled ''Waste Prevention, Production Subject to Royalties, and Resource Conservation,'' 81 FR 83008 (November 18, 2016).
- The U.S. Fish and Wildlife Service will review the final rule entitled ''Management of Non-Federal Oil and Gas Rights,'' 81 FR 79948 (November 14, 2016); and
- the Bureau of Safety and Environmental Enforcement and/or the Bureau of Ocean Energy Management will review
  - The proposed rule ''Offshore Air Quality Control, Reporting, and Compliance'' published on April 5, 2016. See 81 FR 19717;
  - The final rule ''Oil and Gas and Sulfur Operations in the Outer Continental Shelf—Blowout Preventer Systems and Well Control,'' published on April 29, 2016. See 81 FR 25887, and
  - The final rule ''Oil and Gas and Sulfur Operations on the Outer Continental Shelf—Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf,'' published on July 15, 2016. See 81 FR 46478.

Increasing Outdoor Recreation for All Americans, Enhancing Conservation Stewardship, and Improving Management of Species and Their Habitat

On March 2, 2017, Secretary Zinke signed Secretarial Order (S.O.) 3347, Conservation Stewardship and Outdoor Recreation, which established a goal to enhance conservation stewardship, increase outdoor recreation, and improve the management of game species and their habitat. In S.O. No. 3356, Hunting, Fishing, Recreational Shooting, and Wildlife Conservation Opportunities and Coordination with States, Tribes, and Territories (September 15, 2017), Interior announced continued efforts to enhance conservation stewardship; increase outdoor recreation opportunities for all Americans, including opportunities to hunt and fish; and improve the management of game species and their habitats for this generation and beyond.

To help meet these goals, S.O. 3356 directs, among other actions, Interior bureaus and offices to:

- Work cooperatively with state, tribal, and territorial wildlife agencies to ensure that hunting and fishing regulations for Department lands and waters complement the regulations on the surrounding lands and waters to the extent legally practicable;
- in close coordination and cooperation with the appropriate state, tribal, or territorial wildlife agency, begin the necessary process to modify regulations in order to advance shared wildlife conservation goals/objectives that align predator management programs, seasons, and methods of take permitted on all Department-managed lands and waters with corresponding programs, seasons, and methods established by state, tribal, and territorial wildlife management agencies to the extent legally practicable; and

• create a plan to update all existing regulations to be consistent with the Order.

Upholding Trust Responsibilities to the Federally Recognized American Indian and Alaska Native Tribes and Addressing the Challenges of Economic Development

BIA is committed to identifying opportunities to promote economic growth and the welfare of the people BIA serves by removing barriers to the development of energy and other resources in Indian country.

*Aggregate Deregulatory and Significant Regulatory Actions*

Interior has made substantial progress reducing its regulatory burdens upon the American public. After a thorough review of existing regulations planned for publication, Interior removed 154 regulatory actions from its Spring 2017 Agenda of Regulatory Actions. This reduced its previous inventory of 321 by almost half. In fiscal year 2018, Interior expects to finalize 28 deregulatory actions, resulting in more than a billion net present dollars (present value) of deregulatory cost savings. Interior does not currently expect to publish any significant regulatory actions during the next year that are subject to E.O. 13771. Throughout this document, the terms ''deregulatory action'' and ''significant regulatory action'' refer to actions that are subject to E.O. 13771.

*Bureaus and Offices Within the Department of the Interior*

The following sections give an overview of some of the major deregulatory and regulatory priorities of DOI bureaus and offices.

Indian Affairs

The Bureau of Indian Affairs (BIA) enhances the quality of life, promotes economic opportunity, and protects and improves the trust assets of approximately 1.9 million American Indians, Indian tribes, and Alaska Natives. BIA also provides quality education opportunities to students in Indian schools. BIA 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.

Deregulatory and Regulatory Actions

In the coming year, BIA's regulatory plan focuses on priorities that ease regulatory burdens on Tribes, American Indians and Alaska Natives, and others subject to BIA regulations, in accordance with Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, and E.O. 13777, Enforcing the Regulatory Reform Agenda. BIA has identified one deregulatory action on the current Agenda that would streamline the right-of-way process for governmental entities seeking a waiver of the requirement to obtain a bond in certain cases. BIA has one significant regulatory action on the Agenda that would revise existing regulations governing off-reservation trust acquisitions to establish new items that must be included in an application and threshold criteria that must be met for off-reservation acquisitions before National Environmental Policy Act (NEPA) compliance will be required. The rule would also reinstate the 30-day delay for taking land into trust following a decision by the Secretary or Assistant Secretary. This rule is expected to have de minimis economic impacts and therefore likely exempt from offset requirements under E.O. 13771.

Because many of its existing regulations require compliance with the NEPA, BIA will examine whether it can streamline NEPA implementation, in accordance with E.O. 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects, and S.O. 3355, Streamlining National Environmental Policy Act Reviews and Implementation of Executive Order 13807.

Bureau of Land Management

The Bureau of Land Management (BLM) manages more than 245 million acres of public land, primarily located in 12 Western states including Alaska. The BLM also administers 700 million acres of sub-surface mineral estate throughout the nation, creating jobs throughout the country and generating non-tax royalty revenue for the Federal government. As stewards, BLM has a multiple-use mission to provide opportunities for economic growth through energy development, ranching, mining, and logging, as well as outdoor recreation activities such as camping, hunting, and fishing, while also supporting conservation efforts. Public lands provide valuable tangible goods and materials the American people use every day to heat their homes, build their roads, and feed their families. The BLM works hard to be a good neighbor in the communities it serves, and is committed to keeping public landscapes healthy and productive.

Deregulatory and Regulatory Actions

BLM has identified the following four deregulatory actions for the coming year with total estimated cost savings of at least $156 million:

• Rescission of the 2015 BLM Hydraulic Fracturing Rule (RIN 1004–AE51)

• Waste Prevention, Production Subject to Royalties, and Resource Conservation; Delay and Suspension of Implementation Dates for Certain Requirements (RIN 1004–AE54)

• Revision or Rescission of the 2016 Waste Prevention, Production Subject to Royalties, and Resource Conservation rule (RIN 1004–AE53)

• Resource Management Planning (RIN 1004–AE39—CRA nullification conforming rule)

BLM has no significant regulatory actions subject to E.O. 13771 planned in FY 2018.

• *Rescission of the 2015 BLM Hydraulic Fracturing Rule*

In March 2015, the BLM finalized a rule that would impose requirements on operators using hydraulic fracturing on Federal and Indian oil and gas leases. However, before the rule became effective, a U.S. Federal District Court granted a preliminary injunction and then set aside the rule, preventing the BLM from implementing it. The rule has never gone into effect. The Court of Appeals for the Tenth Circuit, however, vacated the district court's decision in September 2017. If there are no further proceedings in the Tenth Circuit, the mandate will issue to the district court on November 13, 2017. If that were to happen, the BLM would need to decide how to phase in compliance with the rule. The rescission of these requirements would not leave hydraulic fracturing operations unregulated, as operators still need to comply with other Federal regulations and requirements, state regulations, and tribal regulations, where applicable.

This is a good example of a regulation that is a prime candidate for regulatory reform because of the multiple regulations by authorities at the Federal, State, and tribal levels. The BLM found that all 32 states with Federal oil and gas operations leases currently have laws or regulations to address hydraulic fracturing. Furthermore, since the 2015 final rule, more companies are using state-level resources to ensure compliance with other applicable Federal and state-level regulations. This redundancy makes the BLM rule an unnecessary regulatory burden, irrespective of whether BLM even has the authority to regulate hydraulic fracturing.

Secretary of the Interior Ryan K. Zinke issued Secretarial Order No. 3349 entitled, ''American Energy Independence'' on March 29, 2017, which, among other things, directed the BLM to proceed expeditiously to propose to rescind the 2015 final rule. Upon further review of the 2015 final rule, as directed by Executive Order 13783, and Secretarial Order No. 3349, the BLM determined that the 2015 final rule unnecessarily burdens industry with compliance costs and information requirements that duplicate regulatory programs of many states and some tribes. As a result, on July 25, 2017 BLM proposed to rescind, in its entirety, the 2015 final rule. Rescinding the hydraulic fracturing rule will reduce regulatory burdens by enabling oil and gas operations to operate under one set of regulations within each state or tribal lands, rather than two.

• *Waste Prevention, Production Subject to Royalties, and Resource Conservation; Delay and Suspension of Implementation Dates for Certain Requirements*

Executive Order 13783 required Interior to review the final rule entitled, ''Oil and Gas, Waste Prevention, Production Subject to Royalties, and Resource Conservation,'' 81 FR 83008 (Nov. 18, 2016), also known as the ''Venting and Flaring'' rule. S.O. 3349 also ordered the BLM to review the rule. During the review, the BLM found that parts of the rule imposed unnecessary burdens on industry. It published a proposed rule in the **Federal Register** on October 5, 2017, seeking comment on temporarily suspending or delaying certain requirements until January 17, 2019.

A temporary suspension or delay, if implemented, would avoid compliance costs on operators for requirements that may be rescinded or significantly revised in the near future. For certain requirements in the 2016 rule that have yet to be implemented, the proposed rule would temporarily postpone the implementation dates. For certain requirements in the 2016 rule that are currently in effect, the proposed rule would temporarily suspend them. This would give the BLM sufficient time to review the 2016 final rule and consider revising or rescinding its requirements. This will also provide industry additional time to plan for and engineer responsive infrastructure modifications that will comply with the regulation. It will lower the cost of compliance and spread the cost over more time.

• *Revision or Rescission of the 2016 Waste Prevention, Production Subject to Royalties, and Resource Conservation rule*

During the review of the Venting and Flaring rule, the BLM determined that the rule is inconsistent with the policy stated in E.O. 13783 that ''it is in the national interest to promote clean and safe development of our nation's vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.'' Consistent with this finding, the BLM intends to issue a proposed rule that would eliminate overlap with the Environmental Protection Agency's (EPA) Clean Air Act authorities and clarify requirements related to the beneficial use of gas on Federal and Indian lands.

• *Resource Management Planning*

The BLM published the Planning 2.0 Rule on December 12, 2016 (81 FR 89580). The rule became effective on January 11, 2017. However, President Trump signed a resolution of disapproval under the Congressional Review Act (CRA), which was signed into law as Public Law 115–12 on March 27, 2017. Under the terms of the Congressional Review Act, the rule is ''treated as though such rule had never taken effect.'' 5 U.S.C. 801(f). The BLM is publishing a rule to remove nullified language from the Code of Federal Regulations to conform the Code of Federal Regulations to the CRA resolution. OMB views actions under the CRA as deregulatory for purposes of E.O. 13771. Some commenters expressed concern that the nullified rule would have moved decisions to the BLM Director in Washington, DC and away from states and local communities that are most affected by land use decisions.

Bureau of Ocean Energy Management

BOEM is committed to the Administration proposition that ''A brighter future depends on energy policies that stimulate our economy, ensure our security, and protect our health.'' In accordance with Executive Order 13783 of March 28, 2017, *Promoting Energy independence and Economic Growth,* BOEM is committed to the safe and orderly development of our offshore energy land and mineral resources, with the goal of avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation. BOEM is committed to identifying regulatory and deregulatory opportunities and policies that lower costs and stimulate development. BOEM continues to strengthen U.S. energy security and energy independence. BOEM creates jobs, benefits local communities, and strengthens the economy by offering opportunities to develop the conventional and renewable energy and mineral resources of the Outer Continental Shelf (OCS).

Deregulatory and Regulatory Actions

BOEM is carefully analyzing two Interior rules related to offshore energy that are identified in E.O. 13795 (Implementing an America-First Offshore Energy Strategy). To implement that Executive Order, Interior issued S.O. 3350, America-First Offshore Energy Strategy, which enhances opportunities for energy exploration, leasing, and development on the OCS; establishes regulatory certainty for OCS activities; and enhances conservation stewardship, thereby providing jobs, energy security, and revenue for the American people. That order also provides deadlines for review of the rules identified in the E.O. Specifically, S.O. 3350 directs BOEM to:

• Immediately cease all activities to promulgate the ''*Offshore Air Quality Control, Reporting, and Compliance*'' proposed rule, published on April 5, 2016 (81 FR 19717). As directed, BOEM also provided a report explaining the effects of not issuing a new rule addressing offshore air quality, and providing options for revising or withdrawing the proposed rule. BOEM withdrew the proposed rule and is now considering best options going forward.

• Promptly review, in consultation with the Bureau of Safety and Environmental Enforcement (BSEE), the final rule ''*Oil and Gas and Sulfur Operations on the Outer Continental Shelf—Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf,*'' published on July 15, 2016 (81 FR 46478), for consistency with the policy set forth in section 2 of the Executive Order and provide a report summarizing the review and providing recommendations on whether to suspend, revise, or rescind the rule. In coordination with BSEE and consultation with stakeholders, BOEM will decide whether it should proceed with deregulatory options that could allow operators to continue operating later into the drilling season, providing jobs, strengthening the economy, and supporting the development of America's energy reserves.

BOEM has no significant regulatory actions planned for fiscal year 2018.

Streamlining Renewable Energy Regulations

Since renewable energy regulations were promulgated in 2009, BOEM has made substantial progress moving forward with the planning and

implementation of seven lease sales, the issuance of twelve commercial leases, with a thirteenth in progress, and the processing of a number of significant project survey and site assessment plans. BOEM has worked closely with industry and solicited public input throughout the early stages of its program to help identify several regulatory improvements that: (1) Simplify and clarify requirements; (2) reduce the regulatory burden on industry by providing more flexibility in developing proposals and acquiring needed authorizations; (3) defer certain planning and development costs on industry; and (4) resolve contradictions and administrative inconsistencies. Overall, the proposed regulatory improvements are corrective, and will facilitate the efficient business development of renewable energy resources on the OCS.

Compliance With Executive, Secretary, and Statutory Mandates

BOEM will continue to be responsive to the various regulatory reform initiatives, including identifying and acting upon any regulations, orders, guidance, policies or any similar actions that could potentially burden the development or utilization of domestically produced energy sources.

Bureau of Safety and Environmental Enforcement

The Bureau of Safety and Environmental Enforcement's (BSEE) mission is to promote offshore conservation, development and production of offshore energy resources while ensuring that offshore operations are safe and environmentally responsible. BSEE's priorities in fulfillment of its mission are to: (1) Promote and regulate offshore energy development using the full range of authorities, policies, and tools to ensure safety and environmental responsibility; and (2) build and sustain the organizational, technical, and intellectual capacity within and across BSEE's key functions in order to keep pace with offshore industry technology improvements, innovate in economically sound regulation and enforcement, and reduce risk through appropriate risk assessment and regulatory and enforcement actions.

Consistent with the directions in Executive Orders (E.O.s) issued in March 2017 (*E.O. 13783—Promoting Energy Independence and Economic Growth*) and in April 2017 (*E.O. 13795—Implementing an America-First Offshore Energy Strategy*), as well as with the President's January 30, 2017 E.O. on *Reducing Regulation and Controlling Regulatory Costs,* BSEE is reviewing existing regulations to determine whether they may potentially burden the development or use of domestically produced energy resources, constrain economic growth, or prevent job creation. BSEE is well-positioned to help maintain the Nation's position as a global energy leader and foster energy security and resilience for the benefit of the American people, while ensuring that any such activity is performed in a safe and environmentally sustainable manner.

Deregulatory and Regulatory Actions

BSEE has identified the following four deregulatory actions under E.O. 13771 as high priorities:

• *Well Control and Blowout Prevention Systems Rule Revision*

In April 2016, BSEE issued a final rule entitled ''Oil and Gas and Sulfur Operations in the Outer Continental Shelf-Blowout Preventer Systems and Well Control.'' BSEE will propose a rule to reduce regulatory burdens and encourage job-creating development, while still ensuring safe and environmentally sustainable offshore operations. Among the changes it is considering are:

○ Revising the requirements for sufficient accumulator capacity and remotely-operated vehicle (ROV) capability to both open and close rams on subsea Blowout Preventers (BOPs) (*i.e.,* to only require capability to close the rams);

○ Revising the requirement to shut in platforms when a lift boat approaches within 500 feet;

○ Extending the 14-day interval between pressure testing of BOP systems to 21 Days in appropriate situations;

○ Clarifying that the requirement for weekly testing of two BOP control stations means testing one station (not both stations) per week;

○ Simplifying testing pressures for verification of ram closure; and

○ Revising or deleting the requirement to submit test results to BSEE District Managers within 72 hours.

• *Exploratory Drilling on the Arctic Outer Continental Shelf Rule*

In July 2016, BSEE and BOEM jointly issued a final rule entitled ''Oil and Gas and Sulfur Operations on the Outer Continental Shelf—Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf.'' BSEE is reviewing its provisions in the joint rule to identify potential opportunities reduce regulatory burdens while still ensuring safe and environmentally sustainable offshore operations. Some of the revisions BSEE is considering are:

○ Eliminating the requirement for capture of water-based muds and cuttings;

○ Eliminating the requirement for a cap and flow system and containment dome that are capable of being located at the well site within 7 days of loss of well control;

○ Eliminating the reference to the expected return of sea ice from the requirements to be able to drill a relief well within 45 days of loss of well control; and

○ Eliminating the reference to equivalent technology from the mudline cellar requirement.

BOEM and BSEE are also exploring joint options that would allow greater flexibility for operators to continue to drill later into the Arctic drilling season. If they are successful in implementing this strategy, exploration of the Nation's Arctic oil and gas reserves will increase while providing appropriate safety and environmental protection.

BOEM and BSEE will engage stakeholders before proposing rulemaking and the list of potential areas for proposed reform may be adjusted based on feedback received.

• *Production Safety Systems Rule*

In September 2016, BSEE issued a final rule entitled ''Oil and Gas and Sulfur Operations on the Outer Continental Shelf-Oil and Gas Production Safety Systems.'' BSEE is reviewing the rule to identify opportunities to reduce regulatory burdens while still ensuring safe and environmentally sustainable offshore operations. If BSEE identifies areas for deregulation, it plans to tier a proposed rule behind the Well Control Rule and Arctic rule in terms of potential burden reduction.

In addition to the rules previously identified, BSEE is reviewing the remainder of its regulations to identify other requirements that could be modified to increase efficiency, streamline processes, reduce industry burden, and maximize energy resources while ensuring offshore operations are performed in a safe and environmentally sustainable manner.

BSEE has no significant regulatory actions subject to E.O. 13771 planned for fiscal year 2018.

Office of Natural Resources Revenue

For the benefit of all Americans, the Office of Natural Resources Revenue (ONRR) collects, accounts for, and verifies natural resource and energy revenues due to States, American Indians, and the U.S. Treasury. This revenue goes to State governments, as

well as several Federal funds that support projects at the local and national levels, including support for critical infrastructure projects and to develop public outdoor recreation areas. ONRR disburses 100% of revenue collected from resource extraction on American Indian lands back to the Indian Tribes and individual Indian landowners.

Deregulatory and Regulatory Actions

ONRR finalized the repeal of its Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform rule on September 6, 2017. ONRR plans one deregulatory action for fiscal year 2018, the repeal of its rule on service of official correspondence.

ONRR has no significant regulatory actions subject to E.O. 13771 planned for fiscal year 2018.

ONRR also will seek ideas to reduce the Federal regulatory burden through advice received from the reinstatement of key committees that will assess and advise ONRR on royalty policies and regulatory actions related to natural resource and energy revenues.

Office of Surface Mining Reclamation and Enforcement

The Office of Surface Mining Reclamation and Enforcement (OSMRE) was created by the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Under SMCRA, OSMRE 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 OSMRE 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.'' OSMRE seeks to develop and maintain a regulatory program that provides a safe, cost-effective, and environmentally sound supply of coal to help support the Nation's economy and local communities.

Deregulatory and Regulatory Actions

• Stream Protection.

The Stream Protection rule was nullified under the Congressional Review Act. OSMRE will conform the Code of Federal Regulations to the Congressional action and will consider options to protect resources in a way that does not unnecessarily burden the American people. OSMRE estimates that this action will result in deregulatory cost savings of approximately $82 million. See 82 FR 54924 (November 17, 2017).

OSMRE is reviewing additional actions to reduce burdens on coal development, including, for example, reviewing the state program amendment process to reduce the time it takes to formally amend an approved regulatory program.

OSMRE has no significant regulatory actions planned for fiscal year 2018.

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;

• 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 acres of land and water from the Caribbean to the remote Pacific in National Wildlife Refuge System, which protects and conserves fish and wildlife and their habitats, and allows the public to engage in outdoor recreational activities.

Deregulatory and Regulatory Actions

During the next year, FWS regulatory priorities will include:

• *Regulations under the Endangered Species Act (ESA).*

FWS will take multiple regulatory actions under the ESA to prevent the extinction of and facilitate recovery of both domestic and foreign animal and plant species. Accordingly, FWS will add species to, remove species from, and reclassify species on the Lists of Endangered and Threatened Wildlife and Plants and designate critical habitat for certain listed species, in accordance with the National Listing Workplan. The Workplan enables us to prioritize our workload based on the needs of candidate and petitioned species, while providing greater clarity and predictability about the timing of listing determinations to state wildlife agencies, non-profit organizations, and other diverse stakeholders and partners, with the goal of encouraging proactive conservation so that federal protections are not needed in the first place. The Workplan represents the conservation priorities of the U.S. Fish and Wildlife Service (Service) based on our review of scientific information. In addition, FWS, jointly with the National Marine Fisheries Service, will improve how the ESA is administered and reduce unneeded burdens. FWS will review opportunities to create efficiencies and streamline the consultation process and the listing and delisting process.

□ *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.

To become more efficient and timely, the FWS is reviewing public input and considering whether additional regulatory changes would be appropriate to reduce the burden on industry and allow applicants to proceed more quickly through the bald and golden eagle permit process.

• *Regulations to administer the National Wildlife Refuge System (NWRS).*

In carrying out its statutory responsibility to provide wildlife-dependent recreational opportunities on NWRS lands, FWS issues an annual rule to update the hunting and fishing regulations on specific refuges.

• *Regulations to carry out the Pittman-Robertson Wildlife Restoration and Dingell-Johnson Sport Fish Restoration Acts (Acts).*

Under the Acts, the FWS distributes annual apportionments to States from trust funds derived from excise tax revenues and fuel taxes. FWS continues to work closely with state fish and wildlife agencies on how to use these funds to implement conservation projects. To strengthen its partnership with State conservation organizations, FWS is working on several rules to update and clarify our regulations. Planned regulatory revisions will help to reflect several new decisions agreed upon by state conservation organizations.

• *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), FWS will update its CITES regulations to incorporate provisions resulting from the 16th and 17th Conference of the

Parties to CITES. The revisions will help FWS more effectively promote species conservation and help U.S. importers and exporters of wildlife products understand how to conduct lawful international trade.

FWS has no significant regulatory actions that are subject to E.O. 13771 planned for fiscal year 2018.

National Park Service

The National Park Service (NPS) preserves the natural and cultural resources and values within 417 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 resource conservation and outdoor recreation throughout the United States and the world.

Deregulatory and Regulatory Actions

The NPS intends to issue a number of deregulatory actions in this regulatory period and no significant regulatory actions.

Deregulatory Actions

The NPS will undertake deregulatory actions under Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs'') that will reduce regulatory costs. Several of these actions also comply with section 6 of Executive Order 13563 (''Improving Regulation and Regulatory Review'') because they will remove or modify outdated and excessively complicated and burdensome regulations.

- The NPS intends to issue a proposed rule that would revise existing regulations implementing the Native American Graves Protection and Repatriation Act (NAGPRA) to streamline requirements for museums and Federal agencies. The rule would describe the NAGPRA process in accessible language with clear time parameters, eliminate ambiguity, clarify terms, and improve efficiency.
- The NPS will issue a final rule that removes an outdated reference to a document establishing environmental criteria for power transmissions lines that is no longer used by the NPS to evaluate applications for rights of way.
- The NPS intends to issue a proposed rule containing technical and clarifying edits. This rule would remove obsolete regulations establishing different criminal penalties for violating NPS regulations in military parks and national historic sites. This rule would also clarify existing regulations to comply with recent decisions by the U.S. Supreme Court. This clarification would state that a motor vehicle operator may not be required to submit a blood test to measure blood alcohol and drug content without a search warrant.
- The NPS intends to issue a proposed rule that would state that the NPS will not prohibit nor require a permit for or prohibit an individual from transporting a bow or crossbow that is not ready for immediate use across National Park System Units if the possession and transportation of the bow or crossbow is in compliance with state law.

Additionally, enabling regulations are considered deregulatory under guidance to E.O. 13771. The NPS will undertake several enabling regulatory actions in the coming year that will provide new opportunities for the public to enjoy and experience certain areas within the National Park System. These include regulations authorizing (i) off-road vehicle use at Cape Lookout National Seashore (final rule) and Glen Canyon National Recreation Area (proposed rule); (ii) bicycling at Rocky Mountain National Park (final rule) and Pea Ridge National Military Park (proposed rule); and (iii) the launching of non-motorized vessels from Colonial National Historic Park (proposed rule).

All of these actions will allow the public to use NPS-administered lands and waters in a manner that protects the resources and values of the National Park System.

Regulatory Review

Through S.O. 3349, American Energy Independence (Mar. 29, 2017), the U.S. Department of the Interior announced its intention to review all existing actions that potentially burden the development or utilization of domestically produced energy resources and suspend, revise, or rescind such agency actions as soon as practicable. In accordance with this Secretarial Order, the NPS will review the final rule entitled ''General Provisions and Non-Federal Oil and Gas Rights,'' 81 FR 77972 (November 4, 2016).

The NPS intends to take a fresh look at a final rule on sport hunting and trapping in Alaska that published in October 2015 (80 FR 65325). This final rule amended *36 CFR 13, Subparts A, B, and F,* to revise regulations for sport hunting and trapping in National Preserves in Alaska. The rule also updated the procedures for closing an area or restricting an activity in National Park Service areas in Alaska; updated subsistence regulations that are obsolete; prohibited the obstruction of persons lawfully engaged in hunting or trapping; and authorized the use of native species as bait for fishing. NPS will consider public comments and may revise the rule. See 82 FR 52868 (November 15, 2017).

The NPS intends to finalize a regulation allowing the free-distribution of message bearing items such as readable electronic media; clothing and accessories; buttons; pins; and bumper stickers. This will give visitors an additional channel of communication when visiting NPS-administered areas.

Regulatory Actions

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.

Deregulatory and regulatory actions

The Bureau of Reclamation will publish no deregulatory or significant regulatory actions in fiscal year 2018.

Its regulatory program focus in Fiscal Year 2018 is to publish a proposed nonsignificant 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 would 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.

## DOI—BUREAU OF LAND MANAGEMENT (BLM)

Final Rule Stage

### 64. Rescission of the 2015 BLM Hydraulic Fracturing Rule

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

Legal Authority: 25 U.S.C. 396d; 25 U.S.C. 2107; 30 U.S.C. 189; 30 U.S.C.

306; 30 U.S.C. 359; 30 U.S.C. 1751; 43 U.S.C. 1732(b); 43 U.S.C. 1733; 43 U.S.C. 1740

*CFR Citation:* 43 CFR 3160.

*Legal Deadline:* None.

*Abstract:* This Proposed Rule would rescind the Bureau of Land Management's 2015 Final Rule, Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands (2015 Final Rule). Consistent with the President's January 30, 2017, Executive Order on Reducing Regulation and Controlling Regulatory Costs, the Department of the Interior has been reviewing existing regulations to determine whether revisions or rescissions are appropriate to streamline the regulatory process and eliminate duplicative regulations. As part of this process, the Department has determined that the 2015 Final Rule does not reflect those policies and priorities, and therefore is proposing to rescind the 2015 Final Rule.

*Statement of Need:* Upon further review of the BLM's 2015 hydraulic fracturing final rule, as directed by Executive Order 13783, and Secretarial Order No. 3349, the BLM believes that the 2015 final rule unnecessarily burdens industry with compliance costs and information requirements that are duplicative of regulatory programs of many states and some tribes. As a result, we are proposing to rescind, in its entirety, the 2015 final rule.

*Summary of Legal Basis:*

*Alternatives:*

*Anticipated Cost and Benefits:*

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/25/17 | 82 FR 34464 |
| NPRM Comment Period End. | 09/25/17 | |
| Final Action | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*Agency Contact:* Catherine Cook, Acting Division Chief, Fluid Minerals Division, Department of the Interior, Bureau of Land Management, Room 2134 LM, 20 M Street SE, Washington, DC 20003, *Phone:* 202 912–7145, *Email: ccook@blm.gov*.

*RIN:* 1004–AE52

**BILLING CODE 4334–63–P**

## DEPARTMENT OF JUSTICE (DOJ)—FALL 2017

### Statement of Regulatory Priorities

The solemn duty of the Department of Justice is to uphold the Constitution and laws of the United States so that all Americans can live in peace and security. As the chief law enforcement agency of the United States government, the Department of Justice's most fundamental mission is to protect people by enforcing the rule of law. To fulfill this mission, the Department is devoting the resources necessary and utilizing the legal authorities available to combat violent crime and terrorism, prosecute drug offenses, and enforce immigration laws. Because the Department of Justice is primarily a law enforcement agency and not a regulatory agency, it carries out its principal investigative, prosecutorial, and other enforcement activities through means other than the regulatory process.

This year, the Department of Justice has substantially revised and improved its procedures for evaluating new regulatory actions and analyzing the costs that would be imposed. Executive Order 13771 (E.O. 13771), titled ''Reducing Regulation and Controlling Regulatory Costs,'' 82 FR 9339 (Feb. 3, 2017), requires an agency, unless prohibited by law, to identify two existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation. In furtherance of this requirement, section 2(c) of E.O. 13771 requires the new incremental costs associated with new regulations, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations. Section 3(a) states that starting with fiscal year 2018, ''the head of each agency shall identify, for each regulation that increases incremental cost, the offsetting regulations described in section 2(c) of [E.O. 13771], and provide the agency's best approximation of the totals costs or savings associated with each new regulation or repealed regulation.''

The Department does not anticipate publishing any new significant Regulatory actions during fiscal year 2018 that would impose additional costs or burdens. Accordingly, none of the Department's anticipated fiscal year 2018 rulemaking actions would be subject to the two-for-one offset requirements of E.O. 13771. Instead, the Department has identified five Deregulatory actions (RIN 1117–AB42; RIN 1117–AB44; RIN 1117–AB46; RIN 1121–AA85; and RIN 1125–AA25), along with one revision to an information collection, expected to be finalized during fiscal year 2018, The Department and its regulatory components also are already reviewing other possible regulatory changes to reduce regulatory burdens and to streamline existing regulations, though those initiatives are not expected to be promulgated in final form during fiscal year 2018.

In addition to the new cost analyses being conducted pursuant to E.O. 13771, the Department is actively carrying out the provisions of E.O. 13777, ''Enforcing the Regulatory Reform Agenda,'' 82 FR 12285 (Mar. 1, 2017). The Department's Regulatory Reform Task Force, chaired by Associate Attorney General Rachel Brand, is actively working to evaluate existing Department regulatory actions and to make recommendations regarding their repeal, replacement, or modification in order to reduce unnecessary burdens. The Task Force published a public notice in the **Federal Register** on June 28, 2017, to solicit comments on this goal and received over 30 recommendations that are under consideration.

The regulatory priorities of the Department include initiatives in the areas of federal grant programs, criminal law enforcement, immigration, and civil rights. 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.

### Office of Justice Programs (OJP)

OJP provides innovative leadership to federal, state, local, and tribal justice systems; by disseminating state-of-the-art knowledge and practices; and providing financial assistance for the implementation of crime fighting strategies. OJP, through the Public Safety Officers' Benefits (PSOB) Program, supports public safety officers by providing financial assistance to eligible officers who sustain qualifying line-of-duty injuries, and to the eligible survivors of officers killed in the line of duty. The program also provides educational assistance to certain survivors of public safety officers.

In fiscal year 2018, OJP will promulgate a significant final rule amending and updating the regulations implementing the Public Safety Officers Benefits (PSOB) Program (RIN 1121–AA85). This rule will finalize two proposed rules to update and improve the OJP regulations implementing the PSOB Program, in order to incorporate several statutory changes enacted in recent years, and improve the efficiency of the PSOB Program claims process.

The final rule makes conforming changes required by the Dale Long Public Safety Officers' Benefits Improvement Act of 2012 pertaining, among other things, to members of a rescue squad or ambulance crew engaging in rescue activity or in the provision of emergency medical services. That Act also amended provisions relating to cases involving certain medical conditions and the payment offset scheme for the PSOB Program relative to the September 11th Victim Compensation Fund Program. The final rule also makes changes in response to perceived ambiguities and gaps in existing regulations, as well as opportunities to simplify and improve the program's administration—for example, making explicit the agency's authority to prescribe an online claim filing system, creating a process to facilitate the interaction between evidence gathering and claim processing, simplifying the process for claimant representatives to seek fees for their services, and updating various definitions. These changes are responsive to the public comments on the proposed rules 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.

In addition to the PSOB final rule, OJP will continue to review its existing regulations to streamline them, where possible. OJP is drafting the final rule for the OJJDP Formula Grant Program, for which OJP published a partial final rule in in early 2017. OJP anticipates that the final OJJDP Formula Grant Program rule would finalize certain substantive aspects of the proposed rule, and also streamline and improve the existing regulation by providing or revising definitions for clarity, and by deleting text that unnecessarily repeats statutory provisions, has been rendered obsolete by statutory changes, or that addresses matters already (or better) addressed in other places (*e.g.,* other rules or the program solicitation).

**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, among other objectives, (1) to curb illegal traffic in, and criminal use of, firearms and explosives, and (2) to assist State, local, and other Federal law enforcement agencies in reducing crime and violence. ATF will continue, as a priority during fiscal year 2018, to seek modifications to its regulations governing commerce in firearms and explosives to fulfill these objectives.

Among other regulatory reviews and initiatives, ATF plans to update its regulations requiring notification of stored explosive materials to require annual reporting (RIN 1140–AA51). This regulatory action is intended to increase safety for emergency first responders and the public.

ATF plans to issue regulations to finalize the current interim rules implementing the provisions of the Safe Explosives Act (RIN 1140–AA00). The Department is also planning to finalize a proposed rule to codify 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 (RIN 1140–AA38). As proposed, this rule is a regulatory action that clarifies the administrative hearing processes for explosives licenses and permits. This rule promotes open government and disclosure of ATF's procedures and practices for administrative actions involving explosive licensees or permittees.

ATF also has begun a rulemaking process that amends 27 CFR part 447 to update the terminology in the ATF regulations based on similar terminology amendments made by the Department of State on the U.S. Munitions List in the International Traffic in Arms Regulations, and the Department of Commerce on the Commerce Control List in the Export Administration Regulations (RIN 1140–AA49).

**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, 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. 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 2018, in addition to initiating temporary scheduling actions to prevent imminent hazard to public safety, DEA will also consider petitions to control or reschedule various substances. Among other regulatory reviews and initiatives, DEA plans to update its regulations to implement provisions of the Comprehensive Addiction and Recovery Act of 2016 (RIN 1117–AB42) relating to the dispensing of narcotic drugs for the purpose of maintenance or detoxification treatment.

In fiscal year 2018, DEA anticipates issuing no Regulatory actions that impose additional costs. Rather, DEA plans to publish four Deregulatory actions (RIN 1117–AB42; RIN 1117–AB43; RIN 1117–AB44; and RIN 1117–AB46). These deregulatory actions do not include non-rulemaking items, such as agency guidance and information collections, which do not appear in the Unified Agenda. Consistent with E.O. 13771 and E.O. 13777, DEA anticipates reviewing existing regulations to identify those that are outdated, unnecessary, or ineffective. DEA will solicit public comments during such reviews, as appropriate, to engage with the affected DEA registrant community and members of the public.

**Bureau of Prisons (BOP)**

BOP issues regulations to enforce the Federal laws relating to its mission of protecting 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, BOP will continue its ongoing efforts to develop regulatory actions aimed at: (1) Streamlining regulations, eliminating unnecessary language and improving readability; (2) improving inmate disciplinary procedures and sanctions, improving safety in facilities through the use of less-than-lethal force instead of traditional weapons; and (3) providing effective literacy programming which

serves both general and specialized inmate needs.

**Executive Office for Immigration Review (EOIR)**

EOIR's primary mission is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws. Under delegated authority from the Attorney General, EOIR conducts immigration court proceedings, appellate reviews, and administrative hearings. The immigration judges adjudicate approximately 180,000 cases each year to determine whether aliens should be ordered removed from the United States or should be granted some form of relief or protection from removal. The Board of Immigration Appeals (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 conduct 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 increase efficiencies and productivity, while also safeguarding due process. In particular, EOIR is planning to publish a final regulation to significantly reduce the current backlog of immigration cases, by amending the regulations governing the statutory annual limitation on cancellation of removal and suspension of deportation decisions to allow immigration judges and the Board to issue denials after the annual 4,000-grant statutory cap is reached, instead of the current regulatory requirement to reserve all decisions irrespective of the outcome (RIN 1125–AA25). EOIR is further working to finalize a jurisdiction and venue rule that will provide clarification regarding an immigration judge's authority to conduct proceedings, how venue is determined, and what circuit court law applies (RIN 1125–AA52). In particular, EOIR is developing mechanisms in this rule intended to streamline certain venue changes to achieve cost savings to the agency and increase due process to the parties. In addition, in response to Executive Order 13563, the Department is retrospectively reviewing EOIR's regulations to eliminate regulations that unnecessarily duplicate DHS's regulations and update outdated references to the pre-2003 immigration system (RIN 1125–AA71). As part of that review, EOIR also intends to revise a number of existing regulations, where needed, in response to Executive Order 13768 to ensure the faithful and efficient execution of the immigration laws of the United States.

EOIR is working on long-term plans to revise a number of existing regulations, as it moves forward with the next phases of its electronic case access and filing system to provide for the option of electronic submission of information, when practicable, as a substitute for paper. In 2013, EOIR published a final rule, Registry for Attorneys and Representatives (RIN 1125–AA39), establishing an electronic registration process for attorneys and accredited representatives practicing before immigration judges and the Board. That rule was the initial step in a multi-year, multi-phased initiative to make the transition to an electronic case access and filing system within EOIR. This endeavor is intended to comply with the Government Paperwork Elimination Act, Public Law 105–277 (''GPEA''), and the E-Government Act of 2002, Public Law 107–347, Dec. 17, 2002 (''E-Gov''), to achieve the Department's vision for improved immigration adjudication processing and to meet the public expectations for electronic government. The GPEA provides that, when practicable, Federal agencies will provide for the electronic submission of information. The E-Gov is intended to enhance OMB's management and promotion of electronic government services and processes utilizing a broad framework of measures that require, amongst a number of initiatives, the use of internet-based and emerging information technologies to enhance citizen participating and access to Government information and services. EOIR anticipates considerable cost savings from the further expansion of its electronic filing systems including, but not limited to, the elimination of costs for managing and storing paper records; eliminating storage space; improving internal efficiencies and response times both internally and to the public through workflow automation and cutting labor expenses (time for printing, copying, filing, and document research using unsearchable paper); and lowering equipment expenses by reducing the need for printers and fax machines, and added maintenance cost.

**Civil Rights (CRT)**

CRT issues regulations to enforce Federal laws relating to discrimination in employment-related immigration practices, the coordination of enforcement of non-discrimination in federally assisted programs, and Federal laws relating to disability discrimination.

The Department is reviewing its regulatory priorities and associated agenda pursuant to the regulatory reform provisions of Executive Orders 13771 and 13777. As the Department continues to review its regulatory priorities, CRT does not plan to promulgate any new regulations in the areas outlined above over the next 12 months. The Department is withdrawing four CRT rulemakings that were previously designated as Inactive: (1) *Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of Public Accommodations* (RIN 1190–AA61); (2) *Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Government* (RIN 1190–AA65); (3) *Nondiscrimination on the Basis of Disability by State and Local Governments and Public Accommodations: Accessibility of Medical Equipment and Furniture* (RIN 1190–AA66); and (4) *Nondiscrimination on the Basis of Disability in State and Local Government Services; Next Generation 9–1–1* (RIN 1190–AA62).

Pursuant to the regulatory reform provisions of Executive Orders 13771 and 13777, CRT is undertaking an independent review of its guidance documents to determine whether any of those documents may be outdated, inconsistent, or duplicative. CRT is also reviewing comments relevant to its work that were submitted in response to a Notice published in the **Federal Register** by the Department's Regulatory Reform Task Force on June 28, 2017.

In addition, CRT plans to initiate a retrospective review of its existing regulations implementing titles II and III of the Americans with Disabilities Act (ADA). Accordingly, as part of the Department's effort to implement Executive Orders 13777 and 13771, the Department plans to issue a Notice titled *Nondiscrimination on the Basis of Disability; Review of Existing Regulations Implementing the Americans with Disabilities Act (ADA) and the ADA Standards for Accessible Design.* This Notice will request public comment and information to help the Department identify any portions of the existing title II and title III ADA regulations and the ADA Standards for Accessible Design that, for example, may be outdated, unnecessary, ineffective, or excessively burdensome.

The Department expects to publish the Notice during Fiscal Year 2018.

## DOJ—OFFICE OF JUSTICE PROGRAMS (OJP)

Final Rule Stage

### 65. Public Safety Officers' Benefits Program Regulations

*Priority:* Other Significant.
*E.O. 13771 Designation:* Deregulatory.
*Legal Authority:* 42 U.S.C. 3796; 42 U.S.C. 3796c(a)
*CFR Citation:* 28 CFR 32.
*Legal Deadline:* None.
*Abstract:* The Public Safety Officers' Benefits (PSOB) Programs provide death and education benefits to survivors of fallen law enforcement officers, firefighters, and other first responders, and disability benefits to officers catastrophically injured in the line of duty. This regulation will update the rules for this program regarding death and injuries from 9/11 events, make program changes to improve delivery of benefits, and implement certain provisions in section 1086 of Public Law 112–239. The separate PSOB proposed rule published on August 22, 2016, (RIN: 1121–AA86) has been incorporated into this regulation.
*Statement of Need:* This rule is necessary to update and improve the OJP regulations implementing the PSOB Program, in order to incorporate several statutory changes enacted in recent years, address some gaps in the regulations, and improve the efficiency of the PSOB Program claims process.
*Summary of Legal Basis:* The authority for this rule is 34 U.S.C. subtitle I, ch. 101, subch. XI; 34 U.S.C. 10221(a), 10225, 10226, 10251(a), 10261(a)(4) & (b), 10272, 10286, 10287; sec. 1601, title XI, Public Law 90–351, 82 Stat. 239; secs. 4 through 6, Public Law 94–430, 90 Stat. 1348; secs. 1 and 2, Public Law 107–37, 115 Stat. 219.
*Alternatives:* This rule addresses the needs identified above in the Statement of Need. The Department solicited comments on the language and approaches that it proposed, and will consider alternative regulatory language where it was suggested by commenters. The final rule will reflect the Department's consideration of all alternatives suggested by commenters.
*Anticipated Cost and Benefits:* The Department's analysis indicates that the final rule will 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. The Department anticipates that the rule will result in some additional transfer payments from approved claims (three claims totaling approximately $1 million per year), but, aside from these (which are discounted in the cost-benefit analysis), the rule will reduce costs to the government and all stakeholders by $100,000 to $200,000 per year. The Department has determined that the benefits of the rule updating and improving the regulations, incorporating several statutory changes, addressing gaps in the regulations, and improving the efficiency of the PSOB Program claims process outweigh the costs of the rule.
*Risks:* The PSOB Act requires the payment of benefits under the circumstances set forth in the Act, as implemented by the PSOB regulations. Failure to update and improve the regulations to incorporate statutory changes, address known gaps, and improve claim processing will impair the Department's implementation of the program as required by the Act, and may cause confusion and impose unnecessary costs on claimants and public agencies involved in substantiating claims.
*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/15/16 | 81 FR 46019 |
| NPRM Comment Period End. | 09/13/16 | |
| Final Action | 02/00/18 | |

*Regulatory Flexibility Analysis Required:* No.
*Small Entities Affected:* No.
*Government Levels Affected:* None.
*Agency Contact:* Hope Janke, PSOB Director, Department of Justice, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531, *Phone:* 202 514–6278, *Email: askpsob@usdoj.gov.*
*RIN:* 1121–AA85

**BILLING CODE 4410–BP–P**

## DEPARTMENT OF LABOR

### 2017 Regulatory Plan

*Executive Summary: Good and Safe Jobs*

The Department of Labor's mission is to foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights. The Department is guided by the idea that employers must be held accountable for their legal obligations to their employees, while recognizing that the Department also has a duty to help employers understand and comply with the many laws and regulations affecting their workplaces.

The Secretary of Labor has made protecting America's employees a top priority. Under his leadership, the Department is committed to fully and fairly enforcing the laws under its jurisdiction. The vast majority of employers work hard to keep their workplaces safe and to comply with wage and pension laws. Acknowledging this, the Department is working to provide compliance assistance, to give employers the knowledge and tools they need to comply with their obligations in these areas. Compliance with the law is, however, mandatory. Employers that do not comply with the law will continue to see full enforcement.

In addition to providing for workforce protections, the regulatory plan below also includes regulations designed to promote apprenticeship programs, with the goal of providing a way to ensure that workers are receiving the skills they need to get a job. Too many Americans see that jobs are available, but these jobs require skills that they do not have. By expanding apprenticeship programs we can help close this skills gap and route workers directly into good jobs.

*The Secretary of Labor's Regulatory Plan for Accomplishing These Objectives*

In general, the Department will work to assist employees and employers to meet their needs in a helpful manner, with a minimum of rulemaking.

The Department will roll back regulations that harm American workers and families—but we will do so while respecting the principles and institutions that make us who we are as Americans.

Where regulatory actions are necessary, they will be accomplished in a thoughtful and careful manner. The Department seeks to achieve needed employee protections while limiting the burdens regulations place on employers.

Regulatory actions taken by the Department will provide American employers with certainty about workforce rules. The Department's regulatory plan will make employers' obligations under current law clear, while respecting the rule of law. Where Congress has not spoken, the Department will not intrude.

The proposals that follow are common-sense approaches in areas needing regulatory attention, presenting a balanced plan for protecting

employees, aiding them in the acquisition of needed skills, and helping the regulated community to do its part.

Section 1 of Executive Order (E.O.) 13771 ''Reducing Regulation and Controlling Regulatory Costs'', 82 FR 9339 (January 30, 2017) recognizes that ''it is essential to manage costs associated with the governmental imposition of private expenditures required to comply with Federal Regulations.'' Consistent with the requirements of E.O. 13771, the Department's Regulatory Agenda includes 23 deregulatory items. The count of E.O. 13771 deregulatory regulations excludes non-rulemakings, such as guidance or information collections, that will not appear in the Agenda.

*The Department's Regulatory Priorities*

The Occupational Safety and Health Administration (OSHA) oversees a wide range of standards that are designed to reduce occupational deaths, injuries, and illnesses. OSHA is committed to the establishment of clear, common-sense standards to help accomplish this. The OSHA items discussed below are deregulatory in nature, in that they reduce burden, while maintaining needed worker protections.

OSHA continues its work to protect workers from occupational exposures to Beryllium. Following the publication of a revised Beryllium standard in January 2017, OSHA received evidence that exposure in the shipyards and construction is limited to a few operations and has information suggesting that requiring the ancillary provisions broadly may not improve worker protection and be redundant with overlapping protections in other standards. Accordingly, OSHA is seeking comment on, among other things, whether existing standards covering abrasive blasting in construction, abrasive blasting in shipyards, and welding in shipyards provide adequate protection for workers engaged in these operations. The comment period on OSHA's Notice of Proposed Rulemaking (NPRM) on this subject ended on August 28, 2017. The agency will review the public comments and formulate its plan for next steps.

OSHA intends to issue a proposal to reconsider, revise, or remove provisions of the May 12, 2016, Improve Tracking of Workplace Injuries and Illnesses final rule (81 FR 29624). OSHA reviewed the May 2016 final rule as part of its regulatory reform efforts and will propose changes intended to reduce unnecessary burdens while maintaining worker protections. The proposed rule will look at the electronic submission of injury and illness reports by employers. The preamble to the May 2016 final rule pointed to publication of the collected data as a method to improve workplace safety and health through the rule's requirements. OSHA stated its intention not to publish personally identifiable information (PII) included on Forms 300 and 301; OSHA Form 300A does not contain any PII. OSHA has now determined that it cannot guarantee the non-release of personally identifiable information. If OSHA were unable to publish the collected worker injury and illness data because it cannot guarantee the non-release of personally identifiable information, then the potential benefit of improved workplace safety and health through publication of the collected data would not be realized.

OSHA also continues work on its Standards Improvements Projects (SIPs), with the plan to finalize SIP IV next. These are intended to remove or revise duplicative, unnecessary, and inconsistent safety and health standards. OSHA published three earlier final standards to remove unnecessary provisions, thus reducing costs or paperwork burden on affected employers.

The Employment and Training Administration (ETA) administers federal job training and worker dislocation adjustment programs, federal grants to states for public employment service programs, and unemployment insurance benefits.

Consistent with Sec. 4 of the President's Executive Order on Expanding Apprenticeships in America, ETA will be proposing regulations to establish the framework for industry-recognized apprenticeship programs, a new industry-led initiative to promote innovation and opportunity in apprenticeship, and integrate this initiative with the existing Registered Apprenticeship system.

Finally, the Wage and Hour Division (WHD) administers numerous laws that establish the minimum standards for wages and working conditions in the United States. WHD will propose an updated salary level for the exemption of executive, administrative and professional employees for overtime purposes. In developing the NPRM, the Department will be informed by the comments received in response to its recently published Request for Information (RFI). The comment period on that RFI ended on September 25, 2017, and the agency is now in the process of reviewing these comments and formulating its NPRM.

## DOL—WAGE AND HOUR DIVISION (WHD)

Proposed Rule Stage

### 66. Request for Information Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees

*Priority:* Other Significant.
*E.O. 13771 Designation:* Deregulatory.
*Legal Authority:* Not Yet Determined
*CFR Citation:* 29 CFR 541.
*Legal Deadline:* None.

*Abstract:* The Department intends to issue a Notice of Proposed Rulemaking (NPRM) to determine what the salary level for exemption of executive, administrative and professional employees should be. In developing the NPRM, the Department will be informed by the comments received in response to the Request for Information.

*Statement of Need:* WHD is reviewing the regulations at 29 CFR 541, which implement the exemption of bona fide executive, administrative, and professional employees from the Fair Labor Standards Act's minimum wage and overtime requirements. The Department's NPRM will propose an updated salary level for exemption and seek the public's view on the salary level and related issues.

*Summary of Legal Basis:* These regulations are authorized by section 13(a)(1) of the Fair Labor Standards Act, 29 U.S.C. 213(a)(1).

*Alternatives:* Alternatives will be developed in considering any proposed revisions to the current regulations. The public will be invited to provide comments on any proposed revisions and possible alternatives.

*Anticipated Cost and Benefits:* The Department will prepare estimates of the anticipated costs and benefits associated with the proposed rule.

*Risks:* This action does not affect public health, safety, or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Request for Information (RFI). | 07/26/17 | 82 FR 34616 |
| RFI Comment Period End. | 09/25/17 | |
| NPRM ..... | 10/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Agency Contact:* Melissa Smith, Director, Regulations, Legislation and Interpretations, Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW, Room S–

3502, Washington, DC 20210, *Phone:* 202 693–0406, *Fax:* 202 693–1387.

*RIN:* 1235–AA20

## DOL—EMPLOYMENT AND TRAINING ADMINISTRATION (ETA)

Proposed Rule Stage

### 67. Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* Not Yet Determined

*CFR Citation:* 29 CFR 29.

*Legal Deadline:* None.

*Abstract:* The Department is revising title 29 CFR part 29, Labor Standards for the Registration of Apprenticeship Programs to establish guidelines for third parties to certify high-quality, industry recognized apprenticeship programs, and other conforming updates and governance modifications as appropriate.

*Statement of Need:* Executive Order 13801 (82 FR 28229), issued by the President on June 15, 2017, directed the Secretary of Labor (in consultation with the Secretaries of Education and Commerce) to consider proposing regulations under 29 U.S.C. 50 that would promote the development of apprenticeship programs by third parties. These third parties may include trade and industry groups, companies, non-profit organizations, unions, joint labor-management organizations, and other organizations. The Secretary has determined that the Department will issue new apprenticeship regulations to address the directives of the Executive Order.

*Summary of Legal Basis:* The National Apprenticeship Act of 1937 (also known as the Fitzgerald Act), 29 U.S.C. 50, gives the Secretary broad power to promote, help create, and set standards for apprenticeship programs. The Act authorizes and directs the Secretary to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging the inclusion thereof in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship, to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship, and to cooperate with the Secretary of Education in accordance with section 17 of Title 20.

*Alternatives:* ETA has no alternatives at this time.

*Anticipated Cost and Benefits:* The Department's preliminary estimate is an anticipated cost of $25 million for this regulatory action. Details for costs and benefits will be prepared.

*Risks:* This action does not affect the public health, safety, or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Agency Contact:* John V. Ladd, Administrator, Office of Apprenticeship, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, FP Building, Room C–5311, Washington, DC 20210, *Phone:* 202 693–2796, *Fax:* 202 693–3799, *Email: ladd.john@dol.gov.*

*RIN:* 1205–AB85

## DOL—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

Proposed Rule Stage

### 68. Tracking of Workplace Injuries and Illnesses

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

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* Not Yet Determined

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* OSHA intends to issue a proposal to reconsider, revise, or remove provisions of the Improve Tracking of Workplace Injuries and Illnesses final rule, 81 FR 29624 (May 12, 2016). OSHA proposes to amend its recordkeeping regulation to remove the requirement to electronically submit to OSHA information form the OSHA Form 300 (Log of Work-Related Injuries and Illnesses) and OSHA Form 301 (Injury and Illness Incident Report) for establishments with 250 or more employees which are required to routinely keep injury and illness records. Under the proposed rule, these establishments would be required to electronically submit only information from the OSHA Form 300A (Summary of Work-Related Injuries and Illnesses). In addition, OSHA seeks comment on the costs and benefits of adding the Employer Identification Number (EIN) to the data collection to increase the likelihood that the Bureau of Labor Statistics (BLS) would be able to match OSHA-collected data to BLS Survey of Occupational Injury and Illness (SOII) data and potentially reduce the burden on employers who are required to report injury and illness data both to OSHA (for the electronic recordkeeping requirement) and to BLS (for SOII).

*Statement of Need:* The preamble to the May 2016 final rule pointed to publication of the collected data as a method to improve workplace safety and health through the rule's requirements. OSHA stated its intention not to publish personally identifiable information (PII) included on Forms 300 and 301; OSHA Form 300A does not contain any PII. OSHA has now determined that it cannot guarantee the non-release of personally identifiable information. If OSHA were unable to publish the collected worker injury and illness data because it cannot guarantee the non-release of personally identifiable information, then the potential benefit of improved workplace safety and health through publication of the collected data would not be realized.

*Summary of Legal Basis:* OSHA is issuing this proposed rule pursuant to authority expressly granted by sections 8 and 24 of the Occupational Safety and Health Act (the OSH Act or Act) (29 U.S.C. 657 and 673).

*Alternatives:* The alternative for the proposed changes contained in the NPRM is to retain the existing regulatory language, *i.e.,* retaining the status quo. OSHA has concluded that the benefits of the proposed regulatory change outweigh the costs of those changes. OSHA will request public comment on feasible alternatives to the Agency's proposal.

*Anticipated Cost and Benefits:* The removal of the case specific requirement reduces costs. OSHA estimates that the rule will have net economic cost savings of $6.5 million per year. The Agency believes that the loss in annual benefits, while unquantified, are significantly less than the annual cost savings, hence there are positive net benefits to this proposed rule.

*Risks:* This rulemaking does not address new significant risks or estimate benefits and economic impacts of reducing such risks. Overall, this rulemaking is reasonably necessary under the OSH Act because it provides cost savings, or eliminates unnecessary requirements.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 12/00/17 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* State.

*Federalism:* Undetermined.

*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–AD17

## DOL—OSHA

Final Rule Stage

### 69. Occupational Exposure to Beryllium

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

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 29 U.S.C. 655(b); 29 U.S.C. 657

*CFR Citation:* 29 CFR 1910.

*Legal Deadline:* None.

*Abstract:* The Occupational Safety and Health Administration (OSHA) proposes to revoke the ancillary provisions for the construction and the shipyard sectors that OSHA adopted on January 9, 2017 (82 FR 2470), but retain the new lower permissible exposure limit (PEL) of 0.2 μg/m$^3$ and the short term exposure limit (STEL) of 2.0 μg/m$^3$ for each sector. OSHA will not enforce the January 9, 2017, shipyard and construction standards without further notice while this new rulemaking is underway. This proposal does not affect the general industry beryllium standard published on January 9, 2017.

*Statement of Need:* After a review of the comments received and a review of the applicability of existing OSHA standards, OSHA proposed to revoke the ancillary provisions applicable to the construction and shipyard sectors June 27, 2017 (82 FR 29182), but to retain the new lower PEL of 0.2 μg/m$^3$ and the STEL of 2.0 μg/m$^3$ for those sectors. In the January 2017 final rule, OSHA reviewed the exposure data for abrasive blasting in construction and shipyards and welding in shipyards and determined that there is a significant risk of chronic beryllium disease (CBD) and lung cancer to workers in construction and shipyards based on the exposure levels observed. Because OSHA determined that there is significant risk of material impairment of health at the new lower PEL of 0.2 μg/m$^3$, the Agency continues to believe that it is necessary to protect workers exposed at this level. However, OSHA is now reconsidering the need for ancillary provisions in the construction and shipyards sectors, and is currently reviewing comments received in response to the proposal to finalize the rulemaking.

*Summary of Legal Basis:* 29 U.S.C. 655(b); 29 U.S.C. 657.

*Alternatives:*

*Anticipated Cost and Benefits:* In the NPRM, OSHA estimated that this proposed rule would yield a total annualized cost savings of $11.0 million using a 3 percent discount rate across the shipyard and construction sectors. In the NPRM, OSHA preliminarily concluded that there are no benefits (due to reducing the number of cases of CBD) as a result of revoking the ancillary provisions of the beryllium final standards for Construction and Shipyards.

*Risks:* Not yet estimated.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Request for Information (RFI). | 11/26/02 | 67 FR 70707 |
| RFI Comment Period End. | 02/24/03 | |
| SBREFA Report Completed. | 01/23/08 | |
| Initiated Peer Review of Health Effects and Risk Assessment. | 03/22/10 | |
| Complete Peer Review. | 11/19/10 | |
| NPRM | 08/07/15 | 80 FR 47565 |
| NPRM Comment Period End. | 11/05/15 | |
| Notice of Public Hearing; Date 02/29/2016. | 12/30/15 | 80 FR 81475 |
| Notice of Public Hearing; Date Change 03/21/2016. | 02/16/16 | 81 FR 7717 |
| Final Rule | 01/09/17 | 82 FR 2470 |
| Final Rule; Delay of Effective Date. | 02/01/17 | 82 FR 8901 |
| Final Rule; Proposed Further Delay of Effective Date. | 03/02/17 | 82 FR 12318 |
| Final Rule; Further Delay of Effective Date. | 03/21/17 | 82 FR 14439 |
| Final Rule; Further Delay of Effective Date Effective. | 05/20/17 | |
| NPRM (Construction and Shipyard). | 06/27/17 | 82 FR 29182 |
| NPRM (Construction and Shipyard) Comment Period End. | 08/28/17 | |
| Analyze Comments. | 01/00/18 | |
| Final Rule | 09/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Agency Contact:* William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov.*

*RIN:* 1218–AB76

## DOL—OSHA

### 70. Standards Improvement Project IV

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

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 29 U.S.C. 655(b)

*CFR Citation:* 29 CFR 1926.

*Legal Deadline:* None.

*Abstract:* OSHA's Standards Improvement Projects (SIPs) are intended to remove or revise duplicative, unnecessary, and inconsistent safety and health standards. The Agency has published three earlier final standards to remove unnecessary provisions (63 FR 33450, 70 FR 1111 and 76 FR 33590), thus reducing costs or paperwork burden on affected employers. This latest project identified revisions to existing standards in OSHA's recordkeeping, general industry, maritime, and construction standards, with most of the revisions to its construction standards. OSHA also proposed to remove from its standards the requirements that employers include an employee's social security number (SSN) on exposure monitoring, medical surveillance, and other records in order to protect employee privacy and prevent identity fraud.

*Statement of Need:* The Agency has proposed a fourth rule that identified unnecessary or duplicative provisions or paperwork requirements.

*Summary of Legal Basis:* OSHA is conducting Phase IV of the Standards Improvement Project (SIP–IV) in response to the President's Executive Order 13563, Improving Regulations and Regulatory Review (76 FR 38210).

*Alternatives:* The main alternative OSHA considered for all of the proposed changes contained in the SIP–IV rulemaking was retaining the existing

regulatory language, *i.e.,* retaining the status quo. In each instance, OSHA has concluded that the benefits of the proposed regulatory change outweigh the costs of those changes. In a few of the items, such as the proposed changes to the decompression requirements applicable to employees working in compressed air environments, OSHA has requested public comment on feasible alternatives to the Agency's proposal.

*Anticipated Cost and Benefits:* The Agency has estimated that one revision (updating the method of identifying and calling emergency medical services) may increase construction employers costs by about $28,000 per year while two provisions (reduction in the number of necessary employee x-rays and elimination of posting requirements for residential construction employers) provide estimated costs savings of $3.2 million annually. The Agency has not estimated or quantified benefits to employees from reduced exposure to x-ray radiation or to employers for the reduced cost of storing digital x-rays rather than x-ray films, among others. The Agency has preliminarily concluded that the proposed revisions are economically feasible and do not have any significant economic impact on small businesses. The Preliminary Economic Analysis in this preamble provides an explanation of the economic effects of the proposed revisions. The cost savings from these revisions and eliminations of several OSHA requirements may be used to offset any costs incurred by employers from new rulemakings that are necessary to update employee protections.

*Risks:* SIP rulemakings do not address new significant risks or estimate benefits and economic impacts of reducing such risks. Overall, SIP rulemakings are reasonably necessary under the OSH Act because they provide cost savings, or eliminate unnecessary requirements.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Request for Information (RFI). | 12/06/12 | 77 FR 72781 |
| RFI Comment Period End. | 02/04/13 | |
| NPRM ..... | 10/04/16 | 81 FR 68504 |
| NPRM Comment Period Extended. | 12/02/16 | 81 FR 86987 |
| NPRM Comment Period Extended End. | 01/04/17 | |
| Final Rule ..... | 02/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Undetermined.

*Agency Contact:* Dean McKenzie, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N–3468, Washington, DC 20210, *Phone:* 202 693–2020, *Fax:* 202 693–1689, *Email: mckenzie.dean@dol.gov*.

*RIN:* 1218–AC67

**BILLING CODE 4510–HL–P**

## DEPARTMENT OF TRANSPORTATION (DOT)

### Introduction: Department Overview

DOT has statutory responsibility for a wide range of regulations. For example, DOT regulates safety in the aviation, motor carrier, railroad, motor vehicle, commercial space, transit, and pipeline transportation areas. The Department also regulates aviation consumer and economic issues, and provides financial assistance and writes the necessary implementing rules for programs involving highways, airports, mass transit, the maritime industry, railroads, and motor transportation and vehicle safety. Finally, DOT has responsibility for developing policies that implement a wide range of regulations that govern programs such as acquisition and grants management, access for people with disabilities, environmental protection, energy conservation, information technology, occupational safety and health, property asset management, seismic safety, security, and the use of aircraft and vehicles. The Department carries out its responsibilities through the Office of the Secretary (OST) and the following operating administrations (OAs): Federal Aviation Administration (FAA); Federal Highway Administration (FHWA); Federal Motor Carrier Safety Administration (FMCSA); Federal Railroad Administration (FRA); Federal Transit Administration (FTA); Maritime Administration (MARAD); National Highway Traffic Safety Administration (NHTSA); Pipeline and Hazardous Materials Safety Administration; (PHMSA); and St. Lawrence Seaway Development Corporation (SLSDC).

### The Department's Regulatory Philosophy and Initiatives

The Department's highest priority is safety. To achieve our safety goals responsibly and in accordance with principles of good governance, we embrace a regulatory philosophy that emphasizes transparency, stakeholder engagement, and regulatory restraint. Our goal is to allow the public to understand how we make decisions, which necessarily includes being transparent in the way we measure the risks, costs, and benefits of engaging in—or deciding not to engage in—a particular regulatory action. It is our policy to provide an opportunity for public comment on such actions to all interested stakeholders. Above all, transparency and meaningful engagement mandate that regulations should be straightforward, clear, and accessible to any interested stakeholder.

- At DOT, transparency and stakeholder engagement take a number of different forms. For example, we publish a monthly report on our website that provides a summary and the status for all significant rulemakings that DOT currently has pending or has issued recently (*https://www.transportation.gov/regulations/report-on-significant-rulemakings*). This report provides the public with easy access to information about the Department's regulatory activities that can be used to locate other publicly-available information in the Department's regulatory docket at *www.regulations.gov*, or in the **Federal Register**.
- We also seek public input through direct engagement. For example, we recently published a request asking the public to help us identify obstacles to infrastructure projects, *Transportation Infrastructure: Notice of Review of Policy, Guidance, and Regulation,* 82 FR 26734 (June 8, 2017). We also published another notice requesting the public to help us identify rules that are good candidates for repeal, replacement, suspension, or modification, or other deregulatory action, 82 FR 45750 (October 2, 2017). Finally, DOT has a long history of partnering with stakeholders to develop recommendations and consensus standards through advisory committees. Some committees meet regularly to provide advice, while others are convened on an *ad hoc* basis to address specific needs. Each OA, as well as OST, has at least one standing advisory committee.

The Department's regulatory philosophy also embraces the notion that there should be no more regulations than necessary. We emphasize consideration of non-regulatory solutions and have rigorous processes in place for continual reassessment of existing regulations. These processes provide that regulations and other agency actions are periodically reviewed and, if appropriate, are revised

to ensure that they continue to meet the needs for which they were originally designed, and that they remain cost-effective and cost-justified.

For example, DOT regularly makes a conscientious effort to review its rules in accordance with the Department's 1979 Regulatory Policies and Procedures (44 FR 11034, Feb. 26, 1979), Executive Order (E.O.) 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and section 610 of the Regulatory Flexibility Act. The Department follows a repeating 10-year plan for the review of existing regulations. Information on the results of these reviews is included in the Unified Agenda.

In addition, through three new Executive orders, President Trump directed agencies to further scrutinize their regulations and other agency actions. On January 30, 2017, President Trump signed Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs. Under Section 2(a) of the Executive order, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it must identify at least two existing regulations to be repealed. On February 24, 2017, President Trump signed Executive Order 13777, enforcing the Regulatory Reform Agenda. Under this Executive order, each agency must establish a Regulatory Reform Task Force (RRTF) to evaluate existing regulations, and make recommendations for their repeal, replacement, or modification. On March 28, 2017, President Trump signed Executive Order 13783, Promoting Energy Independence and Economic Growth, requiring agencies to review all existing regulations, orders, guidance documents, policies, and other similar agency actions that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources.

In response to the mandate in Executive Order 13777, the Department formed an RRTF consisting of senior career and non-career leaders, which has already conducted extensive reviews of existing regulations, and identified a number of rules to be repealed, replaced, or modified. The RRTF continues to conduct monthly reviews across all OAs to identify appropriate deregulatory actions. The RRTF also works to ensure that any new regulatory action is rigorously vetted and non-regulatory alternatives are considered. Further information on the RRTF can be found online at: *https://www.transportation.gov/regulations/regulatory-reform-task-force-report*. The priorities identified below reflect the RRTF's work to implement the Department's focus on reducing burdens and improving the effectiveness of all regulations.

**The Department's Regulatory Priorities**

Four fundamental principles—safety, innovation, enabling investment in infrastructure, and reducing unnecessary regulatory burdens—are our top priorities. These priorities are grounded in our national interest in maintaining U.S. global leadership in safety, innovation, and economic growth. To accomplish our regulatory goals, we must create a regulatory environment that fosters growth in new and innovative industries without burdening them with unnecessary restrictions. At the same time, safety remains our highest priority; we must remain focused on managing safety risks and be sure that we do not regress from the successes already achieved. Accordingly, the regulatory plan laid out below reflects a careful balance that emphasizes the Department's priority in fostering innovation while at the same time meeting the challenges of maintaining a safe, reliable, and sustainable transportation system.

*Safety.* The success of our national transportation system requires us to remain focused on safety as our highest priority. Our regulatory plan reflects our commitment to safety through a balanced regulatory approach. Our goals are to deliver safety more efficiently and at a lower cost to the public by looking to market-driven solutions first.

*Innovation.* Every mode of transportation is affected by transformative technology. Whether we are talking about automation, unmanned vehicles, or other emerging technologies, we are looking forward to new and promising frontiers that will change the way we move on the ground, in water, through the air, and into space. Our regulatory plan reflects the Administration's commitment to fostering innovation by lifting barriers to entry and enabling innovative and exciting new uses of transportation technology.

*Enabling investment in Infrastructure.* The safe and efficient movement of goods and passengers requires us not just to maintain, but to improve our national transportation infrastructure. But that cannot happen without changes to the way we plan, fund, and approve projects. Accordingly, our Regulatory Plan prioritizes regulatory action that streamlines the approval process and facilitates more efficient investment in infrastructure. To maintain global leadership and foster economic growth, this must be one of our highest priorities.

*Reducing unnecessary regulatory burdens.* Finally, our Regulatory Plan reflects our commitment to reducing unnecessary regulatory burdens. Our priority rules include some deregulatory actions that we identified after a comprehensive review of all of the Department's regulations. The Plan also reflects our policy of thoroughly considering non-regulatory solutions before taking regulatory action. When regulatory intervention is necessary, however, it is our policy to rely data-driven and risk-based analysis to craft the most effective and least burdensome solution to the problem.

This Regulatory Plan identifies the 15 pending rulemakings that reflect the Department's commitment to safety, innovation, infrastructure, and reducing burdens. For example:

- FAA will focus on regulatory activity to enable, safely and efficiently, the integration of unmanned aircraft systems (UAS) into the National Airspace System (NAS), and to enable expanded commercial space activities.
- NHTSA will focus on reducing regulatory barriers to technology innovation, including the development of autonomous vehicles, and improving regulations on fuel efficiency.
- FRA will focus on providing industry members regulatory relief through a rulemaking that allows for alternative compliance with FRA's Passenger Equipment Safety Standards for the operation of Tier III passenger equipment.
- FTA will focus on establishing Private Investment Project Procedures to encourage greater use of public-private partnerships and private investment in public transportation capital projects, and continue to focus on its statutorily-mandated efforts to establish a comprehensive Public Transportation Safety Program to improve the safety of public transportation systems.
- PHMSA will focus on pipeline safety as well as the movement of hazardous materials across multiple modes of transportation.

At the same time, all OAs are prioritizing their regulatory and deregulatory actions accordance with E.O.s 13771 and 13563, to make sure they are providing the highest level of safety while eliminating outmoded and ineffective regulations and streamlining other existing regulations in an effort to promote economic growth, innovation, competitiveness, and job creation. Since each OA has its own area of focus, we

summarize the regulatory priorities of each below.

**Office of the Secretary of Transportation**

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 senior officials in regulatory decision making. Through the Office of the General Counsel, 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 (Improving Regulation and Regulatory Review), Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs), Executive Order 13777 (Enforcing the Regulatory Reform Agenda), Executive Order 13873 (Promoting Energy Independence and Economic Growth), DOT's Regulatory Policies and Procedures, and other legal and policy requirements affecting rulemaking. In addition, OST has the lead role in matters 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. The Office of the General Counsel is the lead office that works with the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) to get Administration approval to move forward with significant rules.

OST also leads and coordinates the Department's response to OMB's intergovernmental review of other agencies' significant rulemaking documents and to Administration and congressional proposals that concern the regulatory process. The Office of the General Counsel 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.

In Fiscal Year 2018, OST will continue its efforts to help coordinate the activities of several OAs that advance various departmental efforts that support the Administration's initiatives on promoting safety, enabling innovation, investing in infrastructure, and reducing regulatory burdens. OST will also continue to provide significant support to the RRTF's efforts to implement the Department's regulatory reform policies.

**Federal Aviation Administration**

FAA 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.

FAA has identified four major strategic initiatives where it will focus its 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 NAS of the future by achieving prioritized NextGen benefits, enabling the safe and efficient integration of new entrants (including UAS, supersonic aircraft, 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.

- During Fiscal Year 2018, FAA's regulatory priorities will be to enable transformative UAS and commercial space technologies by publishing two notices of proposed rulemaking (Small Unmanned Aircraft Over People, 2120–AK85 and Orbital Debris Mitigation Methods for Launch Vehicle Upper Stages, 2120–AK81), addressing the previously published Interim Final Rule on Registration and Marking Requirements for Small Unmanned Aircraft (2120–AK82), and publishing an advance notice of proposed rulemaking seeking comment on UAS security-related issues (Safe and Secure Operations of Small Unmanned Aircraft Systems, (2120–AL26). The Operations of Small Unmanned Aircraft Over People is the long-awaited next regulatory step towards integrating UAS into the NAS. This rule would allow certain routine small UAS operations over people without a waiver or exemption. The Orbital Debris Mitigation Methods for Launch Vehicle Upper Stages proposal would update current regulations to reduce the amount of orbital debris that could potentially interfere with existing or future activities in orbit.
- FAA's top deregulatory priorities will be to issue two final rules. Transport Airplane Fuel Tank and System Lightning Protection, (2120–AK24) would amend certain airworthiness regulations regarding lightning protection of fuel tanks and systems, providing cost savings to industry stakeholders. Rotorcraft Pilot Compartment View (2120–AK91) would revise the testing requirements for pilot compartment view to alleviate the cost of the flight test and reduce administrative burdens on affected applicants.
- Finally, FAA will focus on two rules responding to Airline Safety and Federal Aviation Administration Extension Act of 2010 requirements to address airline safety and pilot training improvements. The first would implement a statutory mandate to establishment an electronic pilot record database that air carriers would use for pre-employment checks on pilots (Pilot Records Database, 2120–AK31). The second rule would implement improvements to pilot training and professional development programs to address mentoring, leadership, and professional development of flight crewmembers (Professional Development, (2120–AJ87).
- More information about these rules can be found in the DOT Unified Agenda.

**Federal Highway Administration**

FHWA carries out the Federal highway program in partnership with State and local agencies to meet the Nation's transportation needs. 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, in Fiscal Year 2018, the FHWA will continue with ongoing regulatory initiatives in support of its surface transportation programs. It will also work to implement legislation in the most cost-effective way possible. Finally, it will 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 decision-making authority of our State and local partners can be increased.

**Federal Motor Carrier Safety Administration**

The mission of 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 into the industry, maintaining high standards of safety performance, and removing high-risk behavior. In addition to Agency-directed regulations, FMCSA develops regulations mandated by Congress, through legislation such as the Moving Ahead for Progress in the 21st Century (MAP–21) and the Fixing America's Surface Transportation (FAST) Acts. FMCSA regulations establish minimum safety 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 efforts for FY 2018 will focus on efforts to streamline the grants program, remove regulatory burdens, and ease the transition into a transportation career for veterans. In addition, FMCSA will continue to coordinate efforts on the development of autonomous vehicle technologies and review existing regulations to identify changes that might be needed.

**National Highway Traffic Safety Administration**

• The mission of NHTSA is to save lives, prevent injuries, and reduce economic costs due to roadway crashes. The statutory responsibilities of NHTSA relating to motor vehicles include reducing the number, 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 enable safety technologies and encourage the development of non-regulatory approaches when feasible in meeting its statutory mandates. NHTSA 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, NHTSA considers alternatives consistent with principles in applicable executive orders.

NHTSA's regulatory priorities for FY 2018 include continuing to coordinate efforts on the development of autonomous vehicles and reducing regulatory barriers to technology innovation. NHTSA also plans to issue several rulemakings and other actions that increase safety and reduce economic burden, including some in response to statutory mandates. Most prominently, NHTSA anticipates issuing a request for comment on the barriers in existing regulation to deployment of automated vehicles, particularly those that affect vehicles that may have innovative designs. In addition, working with the Environmental Protection Agency, NHTSA plans to propose fuel efficiency standards for light vehicle model years (MYs) 2022 thru 2025 (Passenger Car and Light Truck Corporate Average Fuel Economy Standards MYs 2022–2025, RIN 2127–AL76). More information about these rules can be found in the DOT Unified Agenda.

**Federal Railroad Administration**

FRA exercises regulatory authority over all areas of railroad safety and, where feasible, incorporates flexible performance standards. To foster an environment for collaborative rulemaking, FRA established the Railroad Safety Advisory Committee (RSAC). The purpose of RSAC is to develop consensus recommendations for regulatory action on issues FRA brings to it. Even in situations where RSAC consensus is not achieved, FRA benefits from receiving input from RSAC. In situations where RSAC participation would not be useful (*e.g.,* a statutory mandate that leaves FRA with no discretion), FRA fulfils its regulatory role without RSAC's input. The RSAC consultation process results in regulations that are likely to be better understood, more widely accepted, more cost-beneficial, and more correctly applied, because of stakeholder participation.

FRA's current regulatory program reflects a number of pending proceedings to satisfy mandates resulting from the Rail Safety Improvement Act of 2008 (RSIA08), the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), and the FAST Act, as well as actions under its general safety rulemaking authority, actions supporting a high-performing passenger rail network, and actions addressing the safe and effective movement of energy products.

FRA's regulatory priority for Fiscal Year 2018 will be to continue its work on a final rule containing RSAC-supported actions that advance high-performing passenger rail by providing alternative ways to comply with passenger rail equipment standards (Passenger Equipment Safety Standards for the operation of Tier III passenger equipment, RIN 2130–AC46). This rule is expected to ease regulatory burdens on certain passenger rail operations which would allow the development of advanced technology and increase safety benefits. More information about this rule can be found in the DOT Unified Agenda.

**Federal Transit Administration**

FTA provides financial and technical assistance to local public transit systems, including buses, subways, light rail, commuter rail, trolleys and ferries. FTA also oversees safety measures and helps develop next-generation technology research. FTA's regulatory activities implement the laws that apply to recipients' uses of Federal funding and the terms and conditions of FTA grant awards.

In addition to the Department-wide goals described above, 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; and

• Incorporate principles of sound management into the grant management process.

In 2012, through MAP–21, Congress expanded FTA's safety regulatory role by directing the Secretary to establish a comprehensive Public Transportation Safety Program to improve the safety of all public transportation systems that receive certain FTA funding. In December 2015, Congress passed the FAST Act, which reauthorized the PTSP and provided the Secretary with additional authority to ensure the safety of rail transit systems. This new authority requires implementation through the rulemaking process.

FTA's regulatory priorities for Fiscal Year 2018 are the Private Investment Project Procedures rulemaking (2132–AB27) and the Public Transportation Agency Safety Plan final rule (2132–

AB23), which is one element of the Public Transportation Safety Program. The Private Investment Project Procedures rulemaking would establish new, experimental procedures to encourage greater use of public-private partnerships and private investment in public transportation capital projects. Pursuant to 49 U.S.C. 5329(d), FTA must issue a rule requiring operators of public transportation systems that receive financial assistance under Chapter 53 to develop and certify Public Transportation Agency Safety Plans. On February 5, 2016, FTA published a notice of proposed rulemaking outlining the requirements for Public Transportation Agency Safety Plans. FTA will be looking to finalize this rule in Fiscal Year 2018. More information about these rules can be found in the DOT Unified Agenda.

**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 regulatory priorities for Fiscal Year 2018 will be to continue to support the objectives and priorities described above in addition to identifying new opportunities for deregulatory action.

**Pipeline and Hazardous Materials Safety Administration**

PHMSA has responsibility for rulemaking under two programs. Through the Associate Administrator for the Office of Hazardous Materials Safety (OHMS), PHMSA administers regulatory programs under Federal hazardous materials transportation law. Through the Associate Administrator for the Office of Pipeline Safety (OPS), PHMSA administers regulatory programs under the Federal pipeline safety laws. In addition, both offices administer programs under the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990.

PHMSA will continue to work toward improving safety related to transportation of hazardous materials by all transportation modes, including pipeline, while promoting economic growth, innovation, competitiveness, and job creation. PHMSA will concentrate on the prevention of high-risk incidents identified through 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.

Further, PHMSA will continue to focus on streamlining 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, international standards, and industry standards to identify inconsistencies, outdated provisions, and barriers to regulatory compliance.

In Fiscal Year 2018, OHMS will focus on two priority rules. The first is designed to reduce risks related to the transportation of hazardous materials by rail. PHMSA aims to finalize a Notice of Proposed Rulemaking, Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains (2137–AF08), that sought comment on expanding the applicability of comprehensive oil spill response plans for crude oil trains and require railroads to share information about high-hazard flammable train operations with State and tribal emergency response commissions to improve community preparedness. The second rule is designed to reduce the risk of transporting lithium batteries by air by addressing the unique challenges they pose (Hazardous Materials: Enhanced Safety Provisions for Lithium Batteries Transported by Aircraft, 2137–AF20).

OPS will focus on two pipeline rules. The first will finalize a proposal to change the regulations covering hazardous liquid onshore pipelines related to High Consequence Areas for integrity management protections, repair timeframes, and reporting for all hazardous liquid gathering lines (Pipeline Safety: Safety of Hazardous Liquid Pipelines, 2137–AE66). PHMSA also plans to seek public comment through an advance notice of proposed rulemaking that would provide regulatory relief to certain pipeline operators that experience a reduction in allowable operating pressure due to construction that has occurred in the area (Pipeline Safety: Class Location Requirements, 2137–AF29).

## DOT—FEDERAL AVIATION ADMINISTRATION (FAA)

Proposed Rule Stage

**71. +Pilot Records Database (HR 5900)**

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

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 49 U.S.C. 106(g); 49 U.S.C. 1155; 49 U.S.C. 40103; 49 U.S.C. 40113; 49 U.S.C. 40119; 49 U.S.C. 40120; 49 U.S.C. 41706; 49 U.S.C. 44101; 49 U.S.C. 44111; 49 U.S.C. 44701 to 44705; 49 U.S.C. 44709 to 44713; 49 U.S.C. 44715 to 44717; 49 U.S.C. 44722; 49 U.S.C. 45101 to 45105; 49 U.S.C. 46105; 49 U.S.C. 46306; 49 U.S.C. 46315; 49 U.S.C. 46316; 49 U.S.C. 46504; 49 U.S.C. 46507; 49 U.S.C. 47122; 49 U.S.C. 47508; 49 U.S.C. 47528 to 47531

*CFR Citation:* 14 CFR 118; 14 CFR 121; 14 CFR 125; 14 CFR 135; 14 CFR 91.

*Legal Deadline:* None.

*Abstract:* This rulemaking would implement a Pilot Records Database as required by Public Law 111–216 (Aug. 1, 2010). Section 203 amends the Pilot Records Improvement Act by requiring the FAA to create a pilot records database that contains various types of pilot records. These records would be provided by the FAA, air carriers, and other persons who employ pilots. The FAA must maintain these records until it receives notice that a pilot is

deceased. Air carriers would use this database to perform a record check on a pilot prior to making a hiring decision.

*Statement of Need:* This rule implements a Pilot Records Database as required by Public Law 111–216. Section 203 of Public Law 111–216 amends the Pilot Records Improvement Act (PRIA) by requiring the FAA to create a pilot records database that contains various types of pilot records. These records would be provided by the FAA, air carriers, and other persons who employ pilots. The FAA must maintain these records until it receives notice that a pilot is deceased. Air carriers would use this database to perform a record check on a pilot prior to making a hiring decision.

*Summary of Legal Basis:* The legal basis for this rule is section 203 of the Airline Safety and Federal Aviation Administration Extension Act of 2010, Public Law 111–216, 124 Stat. 2348 (2010).

*Alternatives:* The ARC proposed a phased implementation as an alternative to PRD's statutory requirement to enter all historical records dating from August 1, 2005. Instead, within sixty days after the PRD launch date, air carriers and other persons would provide only the names, certificate numbers, and dates of birth of employees dating from the PRD launch date back to August 1, 2005. This information would be used to identify a pilot applicant's previous employer(s). The hiring air carrier would then make a paper PRIA request to those previous employers to obtain any records from before the launch date of PRD.

*Anticipated Cost and Benefits:* The costs and benefits are to be determined.

*Risks:* The risks are to be determined.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Additional Information:* Costs and benefits are not yet determined.

*URL For More Information:* *www.regulations.gov.*

*URL For Public Comments:* *www.regulations.gov.*

*Agency Contact:* Bradley Palmer, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, *Phone:* 202 267–7739, *Email:* *bradley.palmer@faa.gov.*

*RIN:* 2120–AK31

## DOT—FAA

### 72. +Orbital Debris Mitigation Methods for Launch Vehicle Upper Stages (Orbital Debris)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 51 U.S.C. 50903; 51 U.S.C. 50904; 51 U.S.C. 50905

*CFR Citation:* 14 CFR 401; 14 CFR 415; 14 CFR 417; 14 CFR 431; 14 CFR 437.

*Legal Deadline:* None.

*Abstract:* This rulemaking would update current orbital debris mitigation regulations to more closely align with the U.S. Government Orbital Debris Mitigation Standard Practices, and would update current launch collision avoidance regulations to match U.S. Strategic Command (USSTRATCOM) practice.

*Statement of Need:* This rulemaking is necessary because collisions between and with orbital debris (any artificial object left in orbit about the earth which no longer serves a useful purpose) are a growing concern. Historically-accepted practices have allowed these objects to accumulate in Earth orbit, and because more space faring nations are launching assets into space. If left unchecked, this accumulation can clutter useful orbits and present a hazard to operations on-orbit.

*Summary of Legal Basis:* The legal basis for this rulemaking is the Commercial Space Launch Act of 1984 (as codified and amended at 51 U.S.C.—Commercial Space Transportation, chapter 509, Commercial Space Launch Activities, 51 U.S.C. 50901–50923 (the Act)) which authorizes the Department of Transportation and thus the FAA, through delegations, to oversee, license, and regulate commercial launch and reentry activities, and the operation of launch and reentry sites as carried out by U.S. citizens or within the United States (51 U.S.C. 50904). The Act directs the FAA to exercise this responsibility consistent with public health and safety, safety of property, and the national security and foreign policy interests of the United States (51 U.S.C. 50905). The FAA is also responsible for encouraging, facilitating, and promoting commercial space launches by the private sector (51 U.S.C. 50903).

*Alternatives:* One alternative to the proposed action is to leave orbital debris as is, without any attempt to de-clutter the Earth orbit. This is not acceptable because debris in space travels at hypervelocities, and collision with a typical operational spacecraft of debris of five milimeters or larger will likely cause damage that ends the mission of the spacecraft. As of 2011, trackable objects (greater/equal to 10 cm) are estimated to be over 22,000. Recent projections of debris include 500,000 objects between one and 10 cm, and more than tens of millions of objects smaller than one cm. The estimated rate of debris accumulation will grow significantly over the next 100 years if left unchecked, and the risk of future collisions between spacecraft and orbital debris will also increase.

*Anticipated Cost and Benefits:* The proposed action has present value benefits greater than costs, when calculated over a 50-year period. The total costs are estimated to be present-value $30 million. The total benefits are estimated to be present value $31 million.

*Risks:* The risks to the proposed action are the potential technical difficulties to implement the proposed methods for dealing with debris by (1) natural decay, (2) controlled reentry, or (3) moving debris to a storage orbit.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 02/00/18 | |

*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:* Jennifer Bailey, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, *Phone:* 202 267–9784, *Email:* *jennifer.bailey@faa.gov.*

*RIN:* 2120–AK81

## DOT—FAA

### 73. +Operations of Small Unmanned Aircraft Over People

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 49 U.S.C. 106(f); 49 U.S.C. 40101; 49 U.S.C. 40103(b); 49 U.S.C. 44701(a)(5); Pub. L. 112–95, sec. 333

*CFR Citation:* 14 CFR 107.

*Legal Deadline:* None.

*Abstract:* This rulemaking would address the performance-based standards and means-of-compliance for operation of small unmanned aircraft systems (UAS) over people not directly participating in the operation or not under a covered structure or inside a stationary vehicle that can provide reasonable protection from a falling

small unmanned aircraft. This rule would provide relief from certain operational restrictions implemented in the Operation and Certification of Small Unmanned Aircraft Systems final rule (RIN 2120–AJ60).

*Statement of Need:* This rulemaking would permit the operation of small unmanned aircraft over people not directly participating in the operation or not under a covered structure or inside a stationary vehicle that can provide reasonable protection from a falling small unmanned aircraft. Currently, such operations are prohibited. This rule relieves restrictions and provides mitigations to protect people on the ground.

*Summary of Legal Basis:* Section 333 of Public Law 112–95 directs the Secretary of Transportation to determine whether ''certain unmanned aircraft systems may operate safely in the national airspace system.'' If the Secretary determines, pursuant to section 333, that certain unmanned aircraft systems may operate safely in the national airspace system, then the Secretary must ''establish requirements for the safe operation of such aircraft system in the national airspace system.'' This rulemaking is also promulgated pursuant to 49 U.S.C. 40103(b)(1) and (2), which charge the FAA with issuing regulations: (1) To ensure the safety of aircraft and the efficient use of airspace; and (2) to govern the flight of aircraft for purposes of navigating, protecting and identifying aircraft, and protecting individuals and property on the ground. In addition, 49 U.S.C. 44701(a)(5) charges the FAA with prescribing regulations that the FAA finds necessary for safety in air commerce and national security.

*Alternatives:* The FAA considered finalizing the micro UAS provisions originally proposed in the sUAS Operation and Certification notice of proposed rulemaking. The FAA also formulated an AFS–80 Working Group that developed recommendations for the agency. The agency was unable to adopt those recommendations in the sUAS Operation and Certification final rule, however, because they were outside the scope of what was proposed in the NPRM. Given the limitations of the micro UAS proposal in the NPRM and the comments received, and with the concurrence of the Office of the Secretary of Transportation and the Office of Management and Budget, it was determined that the best course of action was to withdraw the micro UAS provisions from the sUAS Operation and Certification rule and place them in a new notice of proposed rulemaking.

*Anticipated Cost and Benefits:* Until the FAA has defined micro UAS (either in terms of properties, such as weight, or performance) we cannot quantify costs or benefits of the rule. However, as in the case of part 107 more generally, because this is an enabling provision that opens up market opportunities we expect the benefits will outweigh the costs since an entrepreneur will only voluntarily incur the costs in the expectation of returns that exceed those costs. It is not possible at this time to estimate benefits and costs resulting from level three or greater injury caused by operations conducted under this rule.

*Risks:* If this rule is not implemented, operations over people not directly participating in the operation or not under a covered structure or inside a stationary vehicle that can provide reasonable protection from a falling small unmanned aircraft will continue to be prohibited.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/18 | |

*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:* Guido Hassig, Department of Transportation, Federal Aviation Administration, 1 Airport Way, Rochester, NY 14624, *Phone:* 585–436–3880, *Email: guido.hassig@faa.gov.*

*Related RIN:* Related to 2120–AJ60

*RIN:* 2120–AK85

## DOT—FAA

Final Rule Stage

### 74. +Pilot Professional Development

*Priority:* Other Significant.

*E.O. 13771 Designation:* Regulatory.

*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.

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.

*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 | 10/07/16 | 81 FR 69908 |
| NPRM Comment Period End. | 01/05/17 | |
| Final Rule | 05/00/18 | |

*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 Boulevard, Lawndale, CA 90261, *Phone:* 310 725–7342, *Email:* *sheri.pippin@faa.gov.*

*Related RIN:* Related to 2120–AJ00

*RIN:* 2120–AJ87

## DOT—FAA

### 75. +Transport Airplane Fuel Tank and System Lightning Protection

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*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 25.

*Legal Deadline:* Final, Statutory, July 18, 2016, Final.

This rulemaking would establish design requirements for both normal conditions and possible failures of fuel tank structure and systems that could lead to fuel tank explosions, adding new maintenance requirements related to lightning protection features, and imposing specific requirements for airworthiness limitations in the instructions for continued airworthiness.

*Abstract:* This rulemaking would amend certain airworthiness regulations for transport category airplanes regarding lightning protection of fuel tanks and systems by establishing design requirements for both normal conditions and possible failures of fuel tank structure and systems that could lead to fuel tank explosions, adding new maintenance requirements related to lightning protection features, and imposing specific requirements for airworthiness limitations in the instructions for continued airworthiness. It would also create performance-based standards for prevention of catastrophic fuel vapor ignition caused by lightning by regulating the risk due to both ignition sources and fuel tank flammability. This change would allow designers to take advantage of flammability reduction technologies whose effectiveness was not foreseen when earlier revisions to these rules were written. This change would also relieve some of the administrative burdens created by the current regulations.

*Statement of Need:* The regulations as currently written to protect fuel tanks from the risk of catastrophic explosion due to lightning strikes is not always practical. The impracticality has led manufacturers to petition for exemptions from this section, which the FAA has granted with special conditions to achieve the intended level of safety of the rule. This exemption process has created an administrative burden on both industry and the FAA. This rulemaking proposes to amend those to remove the requirement for the prevention of lightning ignition sources and add a new, broader requirement for the prevention of ignition due to lightning. This new proposed requirement is intended to mitigate the risk of fuel tank ignition by considering both ignition sources and fuel tank flammability limits offered by existing regulations. The proposed amendments would re-state, in performance-based rules, the intention to prevent catastrophic fuel tank vapor ignition due to lightning, rather than focus solely on the prevention of ignition sources.

*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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, subpart III, section 44701, ''General requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety for the design and performance of aircraft, regulations and minimum standards in the interest of aviation safety for inspecting, servicing, and overhauling aircraft, and regulations for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it prescribes safety standards for the design of transport category airplanes and requirements necessary for safety for the design, production, operation, and maintenance of those airplanes, and for other practices, methods, and procedures related to those airplanes.

*Alternatives:* The FAA's alternatives are to (1) leave the requirement as it currently exists (however this would not address the problem) or to (2) publish the rulemaking and reduce the number of applicants consistently seeking exemptions to compliance with sec. 25.981 for fuel tank structural lightning.

*Anticipated Cost and Benefits:* This rule is a retrospective regulatory review rulemaking under Executive Order 13563. This rule would be relieving for both government and industries with the estimated net benefits. We assess regulatory benefits based on resources saved for reducing regulatory burden on both industry and the FAA. The total combined savings would be about $610 million or $451 million present value at a seven percent discount rate. The lower and the higher estimates of the total combined regulatory savings would be between $384 million and $836 million ($283 million and $618 million present value at a 7 percent discount rate, respectively). The proposed rule would maintain achieved safety levels related to fuel tank structure and system lightning protection commensurate with the current requirements.

*Risks:* If we don't publish the rule, there is a risk of a continued paperwork burden for the public and the FAA.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 12/18/14 | 79 FR 75496 |
| NPRM Comment Period End. | 03/18/15 | |
| Final Rule | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Additional Information:* SB: N, IC: N, SLT: N Anticipated costs and benefits: The total combined savings would be about $610 million or $451 million present value at a 7% discount rate. The lower and the higher estimates of the total combined regulatory savings would be between $384 million and $836 million ($283 million and $618 million present value at a 7% discount rate, respectively).

*URL For More Information:* *www.regulations.gov.*

*URL For Public Comments:* *www.regulations.gov.*

*Agency Contact:* Massoud Sadeghi, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055, *Phone:* 425 227–2117, *Email:* *massoud.sadeghi@faa.dot.gov.*

*RIN:* 2120–AK24

## DOT—FAA

### 76. +Registration and Marking Requirements for Small Unmanned Aircraft

*Priority:* Other Significant.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 49 U.S.C. 106(f), 49 U.S.C. 41703, 44101 to 44106, 44110–44113, and 44701

*CFR Citation:* 14 CFR 1; 14 CFR 375; 14 CFR 45; 14 CFR 47; 14 CFR 48; 14 CFR 91.

*Legal Deadline:* None.

*Abstract:* This final rule amends the web-based aircraft registration process for the registration of small unmanned aircraft to facilitate compliance with the statutory requirement that an aircraft must be registered prior to operation. Accordingly, this final rule removes the requirement for owners who operate their model aircraft exclusively in compliance with the Special Rule for Model Aircraft to register their aircraft. Additionally, as this final rule requires small unmanned aircraft owners to externally display the unique identifier assigned by the FAA upon completion of the registration process, they will no longer be permitted to enclose the unique identifier in an aircraft compartment.

*Statement of Need:* This interim final rule (IFR) provides an alternative process that small unmanned aircraft owners may use to comply with the statutory requirements for aircraft operations. As provided in the clarification of these statutory requirements and request for further information issued October 19, 2015, 49 U.S.C. 44102 requires aircraft to be registered prior to operation. See 80 FR 63912 (October 22, 2015). Currently, the only registration and aircraft identification process available to comply with the statutory aircraft registration requirement for all aircraft owners, including small unmanned aircraft, is the paper-based system set forth in 14 CFR parts 45 and 47. As the Secretary and the Administrator noted in the clarification issued October 19, 2015 and further analyzed in the regulatory evaluation accompanying this rulemaking, the Department and the FAA have determined that this process is too onerous for small unmanned aircraft owners and the FAA. Thus, after considering public comments and the recommendations from the Unmanned Aircraft System (UAS) Registration Task Force, the Department and the FAA have developed an alternative process, provided by this IFR (14 CFR part 48) for registration and marking available only to small unmanned aircraft owners. Small unmanned aircraft owners may use this process to comply with the statutory requirement to register their aircraft prior to operating in the National Airspace System (NAS).

*Summary of Legal Basis:* The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate regulations and rules; and 49 U.S.C. 44701(a)(5), which requires the Administrator to promote safe flight of civil aircraft in air commerce by prescribing regulations and setting minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security. This rule is also promulgated pursuant to 49 U.S.C. 44101 to 44106 and 44110 to 44113 which require aircraft to be registered as a condition of operation and establish the requirements for registration and registration processes. Additionally, this rulemaking is promulgated pursuant to the Secretary's authority in 49 U.S.C. 41703 to permit the operation of foreign civil aircraft in the United States.

*Alternatives:* Currently, the only registration and aircraft identification process available to comply with the statutory aircraft registration requirement for all aircraft owners, including small unmanned aircraft, is the paper-based system set forth in 14 CFR parts 45 and 47. As the Secretary and the Administrator noted in the clarification issued October 19, 2015, and further analyzed in the regulatory evaluation accompanying this rulemaking, the Department and the FAA have determined that this process is too onerous for small unmanned aircraft owners and the FAA.

*Anticipated Cost and Benefits:* In order to implement the new streamlined, web-based system described in this interim final rule (IFR), the FAA will incur costs to develop, implement, and maintain the system. Small UAS owners will require time to register and mark their aircraft, and that time has a cost. The total of government and registrant resource cost for small unmanned aircraft registration and marking under this new system is $56 million ($46 million present value at seven percent) through 2020. In evaluating the impact of this interim final rule, we compare the costs and benefits of the IFR to a baseline consistent with existing practices: For modelers, the exercise of discretion by FAA (not requiring registration) and continued broad public outreach and educational campaign, and for non-modelers, registration via part 47 in the paper-based system. Given the time to register aircraft under the paper-based system and the projected number of sUAS aircraft, the FAA estimates the cost to the government and non-modelers would be about $383 million. The resulting cost savings to society from this IFR equals the cost of this baseline policy ($383 million) minus the cost of this IFR ($56 million), or about $327 million ($259 million in present value at a seven percent discount rate). These cost savings are the net quantified benefits of this IFR.

*Risks:* Many of the owners of these new sUAS may have no prior aviation experience and have little or no understanding of the NAS, let alone knowledge of the safe operating requirements and additional authorizations required to conduct certain operations. Aircraft registration provides an immediate and direct opportunity for the agency to engage and educate these new users prior to operating their unmanned aircraft and to hold them accountable for noncompliance with safe operating requirements, thereby mitigating the risk associated with the influx of operations. In light of the increasing reports and incidents of unsafe incidents, rapid proliferation of both commercial and model aircraft operators, and the resulting increased

risk, the Department has determined it is contrary to the public interest to proceed with further notice and comment rulemaking regarding aircraft registration for small unmanned aircraft. To minimize risk to other users of the NAS and people and property on the ground, it is critical that the Department be able to link the expected number of new unmanned aircraft to their owners and educate these new owners prior to commencing operations.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 12/16/15 | 80 FR 78593 |
| Interim Final Rule Effective. | 12/21/15 | |
| OMB approval of information collection. | 12/21/15 | 80 FR 79255 |
| Interim Final Rule Comment Period End. | 01/15/16 | |
| Final Rule ..... | 02/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

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

*URL For More Information:* *www.regulations.gov.*

*URL For Public Comments:* *www.regulations.gov.*

*Agency Contact:* Sara Mikolop, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, *Phone:* 202 267–7776, *Email:* *sara.mikolop@faa.gov.*

*RIN:* 2120–AK82

## DOT—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA)

Proposed Rule Stage

### 77. +Rear Seat Belt Reminder System

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

*E.O. 13771 Designation:* Regulatory.

*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 seat 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, 1,151 rear-seat occupants (68 percent) 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 15,290 (33 percent) 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 percent) 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 percent) 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. 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) requiring occupant detection for rear warning system; (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 42—64 ELS and 33—50 ELS at 3 percent and 7 percent discount rates, respectively. The estimated total cost is $163.3 million.

*Risks:* The Agency believes there are no substantial risks to this rulemaking.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 10/00/18 | |

*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.rush@dot.gov.*

*RIN:* 2127–AL37

## DOT—NHTSA

### 78. +Passenger Car and Light Truck Corporate Average Fuel Economy Standards MYS 2022–2025

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

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 49 U.S.C. 32902; delegation of authority at 49 CFR 1.95

*CFR Citation:* 49 CFR 531; 49 CFR 533.

*Legal Deadline:* Final, Statutory, April 1, 2020, Publish Final Rule.

*Abstract:* This rulemaking would address Corporate Average Fuel Economy (CAFE) standards for light trucks and for passenger cars for model years 2022–2025. This rulemaking would respond to requirements of the Energy Independence and Security Act of 2007 (EISA), title 1, subtitle A, section 102, as it amends 49 U.S.C. 32902, which was signed into law December 19, 2007. The statute requires that corporate average fuel economy standards be prescribed separately for passenger automobiles and non-passenger automobiles to achieve a combined fleet fuel economy of at least 35 mpg by model year 2020. For model years 2021 to 2030, the average fuel economy required to be attained by each fleet of passenger and non-passenger automobiles shall be the maximum feasible for each model year. The law requires the standards be set at least 18 months prior to the start of the model year.

*Statement of Need:* Setting Corporate Average Fuel Economy standards passenger cars, light truck and medium-duty passenger vehicles will reduce fuel consumption, and will thereby improve U.S. energy independence and energy

security, 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 light-duty vehicles account for about 60 percent of oil use in the U.S. transportation sector.

*Summary of Legal Basis:* This rulemaking would respond to requirements of the Energy Independence and Security Act of 2007 (EISA), title 1, subtitle A, section 102, as it amends 49 U.S.C. 32902, which was signed into law December 19, 2007. The statute requires that corporate average fuel economy standards be prescribed separately for passenger automobiles and non-passenger automobiles. For model years 2021 to 2030, the average fuel economy required to be attained by each fleet of passenger and non-passenger automobiles shall be the maximum feasible for each model year. The law requires the standards be set at least 18 months prior to the start of the model year.

*Alternatives:* NHTSA will present regulatory alternatives in the upcoming proposal.

*Anticipated Cost and Benefits:* NHTSA will present estimated costs and benefits in the upcoming proposal.

*Risks:* The agency believes there are no substantial risks to this rulemaking.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice | 07/27/16 | 81 FR 49217 |
| NPRM | 03/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* None.

*URL For More Information:* *www.regulations.gov.*

*URL For Public Comments:* *www.regulations.gov.*

*Agency Contact:* 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–AL76

## DOT—FEDERAL RAILROAD ADMINISTRATION (FRA)

Final Rule Stage

### 79. +Passenger Equipment Safety Standards Amendments

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

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 49 U.S.C. 20103

*CFR Citation:* 49 CFR 238.

*Legal Deadline:* None.

*Abstract:* This rulemaking would update existing safety standards for passenger rail equipment. Specifically, the rulemaking would add a new tier of passenger equipment safety standards (Tier III) to facilitate the safe implementation of nation-wide, interoperable, high-speed passenger rail service at speeds up to 220 mph. The Tier III standards require operations at speeds above 125 mph to be in an exclusive right-of-way without grade crossings. This rule would also establish crashworthiness and occupant protection performance requirements as an alternative to those currently specified for Tier I passenger trainsets. Additionally, the rule would increase from 150 mph to 160 mph the maximum speed for passenger equipment that complies with FRA's Tier II standards. The rule is expected to ease regulatory burdens, allow the development of advanced technology, and increase safety benefits.

*Statement of Need:* This rulemaking would update existing safety standards for passenger rail equipment. Specifically, the rulemaking would add a new tier of passenger equipment safety standards (Tier III) to facilitate the safe implementation of nation-wide, interoperable, high-speed passenger rail service at speeds up to 220 mph. The Tier III standards require operations at speeds above 125 mph to be in an exclusive right-of-way without grade crossings. This rule would also establish crashworthiness and occupant protection performance requirements as an alternative to those currently specified for Tier I passenger trainsets. Additionally, the rule would increase from 150 mph to 160 mph the maximum speed for passenger equipment that complies with FRA's Tier II standards. The rule is expected to ease regulatory burdens, allow the development of advanced technology, and increase safety benefits.

*Summary of Legal Basis:* 49 U.S.C. 20103, 20107, 20133, 20141, 20302 and 20303, 20306, 20701 and 20702, 21301 and 21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.89.

*Alternatives:* The alternatives FRA considered in establishing the proposed safety requirements for Tier III trainsets are the European and Japanese industry standards. However, as neither of those standards adequately address the safety concerns presented in the US rail environment, FRA rejected adopting either of them as a regulatory alternative suitable for interoperable equipment. FRA also considered the alternative of standalone HSR systems operating on an exclusive right-of-way (not physically connected to the general railroad system), utilizing passenger equipment that complies with European or other international standards but not necessarily with FRA's proposed requirements. FRA rejected this alternative because a major tenet of this rule is to safely facilitate the implementation of nationwide, interoperable HSR service.

*Anticipated Cost and Benefits:* This rule would amend passenger equipment safety regulations. It adds a new equipment tier (''Tier III'') to facilitate the safe implementation of high-speed rail (up to 220 mph on dedicated rail lines) and establishes alternative crashworthiness performance standards to qualify passenger rail equipment for Tier I operations. This rule is deregulatory in nature. At the proposed rule stage, FRA estimated the total cost of the proposed rule to be between $4.59 and $4.62 billion, discounted to between $3.13 and $3.16 billion at a 3 percent discount rate, and between $1.94 and $1.96 billion at a 7 percent discount rate. The annualized costs were estimated to be $64.6–65.1 million at a 7 percent discount rate and $101.9–102.6 million at a 3 percent discount rate. FRA estimated the total benefits to be between $8.66 and $16.75 billion, discounted to between $6.05 and $11.27 billion at a 3 percent discount rate, and between $3.85 and $7.06 billion at a 7 percent discount rate. The annualized benefits were estimated to be $121.8–235.8 million at a 7 percent discount rate and $192–371.7 million at a 3 percent discount rate. The benefits are derived by calculating the difference between the estimated equipment and infrastructure costs without the rule and the estimated costs of pursuing the same projects with the new rule in effect. The majority of the benefits are due to a rule modification that provides Tier III trainsets the ability to operate on shared track rather than build new, independent infrastructure into urban areas. FRA is currently evaluating the core assumptions that lead to such large benefits to ensure their accuracy.

*Risks:* The risk is regulatory uncertainty for potential Tier III and Tier I alternative operations. Tier III operations could still be conducted, but would require a series of waivers, which are not as permanent as regulatory approval (and not as certain). Also, Tier I alternative trainsets would still require waivers for operation (same regulatory uncertainty as for Tier III).

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 12/06/16 | 81 FR 88006 |
| NPRM Comment Period End. | 02/06/17 | |
| Final Rule | 06/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.
*Small Entities Affected:* Businesses.
*Government Levels Affected:* State.
*URL For More Information:* *www.regulations.gov.*
*URL For Public Comments:* *www.regulations.gov.*
*Agency Contact:* Elliott Gillooly, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366–4000, *Email:* *elliott.gillooly@dot.gov.*
*RIN:* 2130–AC46

## DOT—FEDERAL TRANSIT ADMINISTRATION (FTA)

Proposed Rule Stage

### 80. +Private Investment Project Procedures

*Priority:* Other Significant.
*E.O. 13771 Designation:* Deregulatory.
*Legal Authority:* Pub. L. 112–141, sec. 20013(b)
*CFR Citation:* 49 CFR 650.
*Legal Deadline:* None.
*Abstract:* This rulemaking proposes new, experimental procedures to encourage greater use of public-private partnerships and private investment in public transportation capital projects (PIPP). The proposed PIPP is aimed specifically at increased project management flexibility, more innovation in funding, improved efficiency, timely project implementation, and new revenue streams.
*Statement of Need:* The Federal Transit Administration is proposing new, experimental procedures to encourage increased project management flexibility, more innovation in project funding, improved efficiency, timely project implementation and new revenue streams. A primary goal is to address impediments to the greater use of public-private partnerships (P3s) and private investment in public transportation capital projects (Private Investment Project Procedures or PIPP).
*Summary of Legal Basis:* Section 20013(b)(1) of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 1120141 (July 6, 2012), directed FTA to identify impediments in chapter 53 of title 49 of the U.S. Code, and any regulations or practices thereunder, and private investment in public transportation capital projects, and to develop and implement procedures on a project basis that address such impediments in a manner similar to the Special Experimental Project Number 15 of the Federal Highway Administration (FHWA) commonly referred to as ''SEP–15''. Section 20013(b)(5) of MAP–21 requires the issuance of a rule to carry out the procedures and approaches developed under section 20013(b)(1).
*Alternatives:* Promulgation of a regulation is required by statute to implement these procedures.
*Anticipated Cost and Benefits:* FTA has examined the potential economic impacts of this rulemaking and has determined that this rulemaking is not economically significant because it will not result in an effect on the economy of $100 million or more. This action is considered deregulatory and comments are requested regarding the costs savings of this action.
*Risks:* The proposals set forth in this rule will not adversely affect the economy, interfere with actions taken or planned by other agencies, or generally alter the budgetary impact of any entitlements, grants, user fees, or loan programs.
*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/31/17 | 82 FR 35500 |
| NPRM Comment Period End. | 09/29/17 | |
| Analyzing Comments. | 12/00/17 | |

*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:* Chaya Koffman, Attorney Advisor, Department of Transportation, Federal Transit Administration, 200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366–4011, *Email: chaya.koffman@dot.gov.*
*RIN:* 2132–AB27

## DOT—FTA

Final Rule Stage

### 81. +Public Transportation Agency Safety Plans

*Priority:* Other Significant.
*E.O. 13771 Designation:* Regulatory.
*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, since 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 ..... | 02/05/16 | 81 FR 6344 |
| NPRM Comment Period End. | 04/05/16 | |
| Final Rule ..... | 02/00/18 | |

*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:* 202 366–4000, *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)

Prerule Stage

### 82. • +Pipeline Safety: Class Location Requirements

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

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 49 U.S.C. 60101 *et seq.*

*CFR Citation:* 49 CFR 192.

*Legal Deadline:* None.

*Abstract:* This rulemaking regards existing class location requirements, specifically as they pertain to actions operators are required to take following class location changes. Operators have suggested that performing integrity management measures on pipelines where class locations have changed due to population increases would be an equally safe but less costly alternative to the current requirements of either reducing pressure, pressure testing, or replacing pipe. This request for public comment would be used to inform future regulatory or deregulatory efforts related to this topic.

*Statement of Need:* Section 5 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 required the Secretary of Transportation to evaluate and issue a report on whether integrity management requirements should be expanded beyond high-consequence areas and whether such expansion would mitigate the need for class location requirements. PHMSA issued a Notice of Inquiry on this topic on August 1, 2013, and issued a report to Congress on its evaluation of this issue in April 2016. In that report, PHMSA decided to retain the existing class location requirements, but noted it would further examine issues related to pipe replacement requirements when class locations change due to population growth. PHMSA noted that it would further evaluate the feasibility and appropriateness of alternatives to address this issue following publication of the final rule, ''Pipeline Safety: Safety of Gas Transmission Pipelines'' (Docket No. PHMSA–2011–0023; RIN 2137–AE72). In line with that intent, section 4 of the Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2016 requires PHMSA to provide a report to Congress no later than 18 months after the publication of the gas transmission final rule that reviews the types of benefits, including safety benefits, and estimated costs of the legacy class location regulations. Therefore, PHMSA is initiating this rulemaking to obtain public comment on whether the performance on integrity management measures on pipelines where class locations have changed due to population increases would be an equally safe but less costly alternative to the current class location change requirements.

*Summary of Legal Basis:* Congress established the current framework for regulating the safety of natural gas pipelines in the Natural Gas Pipeline Safety Act of 1968 (NGPSA). The NGPSA provided the Secretary of Transportation the authority to prescribe minimum Federal safety standards for natural gas pipeline facilities. That authority, as amended in subsequent reauthorizations, is currently codified in the Pipeline Safety Laws (49 U.S.C. secs. 60101 *et seq.*).

*Alternatives:* In this rulemaking, PHMSA will solicit public opinion on alternatives to the current class location requirements, specifically those requirements causing operators to either reduce pressure, pressure test, or replace pipe when class locations change in areas due to population increases. One such alternative, as suggested by certain members of industry, could include the performance of integrity management measures on affected pipelines. PHMSA is soliciting and will evaluate and consider additional regulatory alternatives, including no action.

*Anticipated Cost and Benefits:* PHMSA believes there is no cost to this rulemaking action, but we will solicit further information on the costs and benefits of the current class location requirements as they pertain to class location changes, as well as the costs and benefits of any alternatives.

*Risks:* This rulemaking will provide PHMSA with additional information as to whether the performance of integrity management (or other alternatives) in lieu of the current regulatory requirements for reducing pressure, pressure testing, or replacing pipe when class locations change due to population growth will increase, decrease, or maintain the current level of risk. PHMSA notes that while performing alternatives to the current regulations might allow for an equivalent level of risk, there is a potential for greater consequences in an area where a class location has changed due to population increases along the pipeline.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 04/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* None.

*URL For More Information:* *www.regulations.gov.*

*URL For Public Comments:* *www.regulations.gov.*

*Agency Contact:* Cameron Satterthwaite, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366–1319, *Email:* *cameron.satterthwaite@dot.gov.*

*RIN:* 2137–AF29

## DOT—PHMSA

Final Rule Stage

### 83. +Pipeline Safety: Safety of Hazardous Liquid Pipelines

*Priority:* Other Significant.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 49 U.S.C. 60101 et seq.

*CFR Citation:* 49 CFR 195.

*Legal Deadline:* None.

*Abstract:* This rulemaking would amend the Pipeline Safety Regulations to improve protection of the public, property, and the environment by closing regulatory gaps where appropriate; ensuring that operators are increasing the detection and remediation of unsafe conditions; and mitigating the adverse effects of hazardous liquid pipeline failures.

*Statement of Need:* This rulemaking addresses Congressional mandates in the 2011 Pipeline Reauthorization Act (sections 5, 8, 21, 29, 14) and 2016 PIPES Act (sections 14 and 25); NTSB recommendations P–12–03 and P–12–04; and GAO recommendation 12–388. These statutory mandates and recommendations follow a number of high profile and high consequence accidents (*e.g.,* 2010 Marshall, MI spill of almost one million gallons of crude oil into the Kalamazoo River). PHMSA is amending the hazardous liquid pipeline safety regulations to: (1) Extend reporting requirements to gravity lines that do not meet certain exceptions; (2) 2xtend 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 onshore transmission pipelines that are not already covered under the integrity management (IM) program requirements; (5) expand the use of leak detection systems on onshore hazardous liquid transmission 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 time frames for remediating all other conditions; (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; and (8) clarify other regulations to improve compliance and enforcement. The rule also requires safety data sheets and inspection of pipelines located at depths greater than 150 feet under the surface of the water.

*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). The HLPSA provided the Secretary of Transportation 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:* PHMSA proposed alternatives to include offshore and gathering lines in the scope of provisions requiring assessments outside of HCAs and leak detection systems, revise the repair criteria for pipelines outside HCAs, and evaluated additional regulatory alternatives including no action.

*Anticipated Cost and Benefits:* Estimated annualized costs are $18 million. Benefits are presented qualitatively and in terms of breakeven analysis based on reported consequences from past incidents.

*Risks:* These changes will provide PHMSA additional data on pipelines to inform risk evaluation and reduce the probability and consequences of failures through increased inspections, leak detection, and other changes to managing pipeline risks.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 10/18/10 | 75 FR 63774 |
| Comment Period Extended. | 01/04/11 | 76 FR 303 |
| ANPRM Comment Period End. | 01/18/11 | |
| Extended Comment Period End. | 02/18/11 | |
| NPRM | 10/13/15 | 80 FR 61610 |
| NPRM Comment Period End. | 01/08/16 | |
| Final Rule | 04/00/18 | |

*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:* Cameron Satterthwaite, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366–1319, *Email:* *cameron.satterthwaite@dot.gov*.

*RIN:* 2137–AE66

## DOT—PHMSA

### 84. +Pipeline Safety: Gas Transmission

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

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 49 U.S.C. 60101 *et seq*.

*CFR Citation:* 49 CFR 192.

*Legal Deadline:* None.

*Abstract:* This rulemaking would amend the pipeline safety regulations to address integrity management principles for gas transmission pipelines. The rulemaking would address repair criteria for high-consequence areas (HCA) and non-HCA areas, assessment methods, validating and integrating pipeline data, risk assessments, knowledge gained through the integrity management program, corrosion control, change management, gathering lines, and safety features on launchers and receivers.

*Statement of Need:* This rulemaking is in direct response to Congressional mandates in the 2011 Pipeline Reauthorization Act, specifically sec. 4 (e) Gas IM plus 6 months), sec. 5(IM), 8 (leak detection), 23(b)(2)(exceedance of MAOP); sec. 29 (seismicity). These statutory mandates and recommendations stem from a number of high profile and high consequence gas transmission and gathering pipeline incidents and changes in the industry since the establishment of existing regulatory requirements (*e.g.,* San Bruno, CA explosion that killed eight people).

*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. secs. 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:* PHMSA considered alternatives to establishing a newly defined moderate consequence area and evaluated requiring assessments for all pipelines outside HCAs.

*Anticipated Cost and Benefits:* Preliminary estimates of annualized costs are in the range of $40 million; annualized benefits, including cost savings, are over $200 million.

*Risks:* This rule addresses known risks to gas transmission and gathering including the ''grandfather clause'' (exemption for testing to establish maximum operating pressure for transmission lines) and new unregulated gathering lines that resemble transmission lines.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 08/25/11 | 76 FR 53086 |

| Action | Date | FR Cite |
|---|---|---|
| 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 ..... | 04/08/16 | 81 FR 20721 |
| NPRM Comment Period End. | 06/08/16 | |
| Final Rule ..... | 08/00/18 | |

*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

### 85. +Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains

*Priority:* Other Significant.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 33 U.S.C. 1321; 49 U.S.C. 5101 *et seq*.

*CFR Citation:* 49 CFR 130; 49 CFR 174; 49 CFR 171; 49 CFR 172; 49 CFR 173.

*Legal Deadline:* None.

*Abstract:* This rulemaking would expand the applicability of comprehensive oil spill response plans (OSRP) based on thresholds of liquid petroleum oil that apply to an entire train consist. The rulemaking would also require railroads to share information about high-hazard flammable train operations with State and tribal emergency response commissions to improve community preparedness in accordance with the Fixing America's Surface Transportation Act of 2015 (FAST Act). Finally, the rulemaking would incorporate by reference an initial boiling point test for flammable liquids for better consistency with the American National Standards Institute/American Petroleum Institute Recommend Practices 3000, ''Classifying and Loading of Crude Oil into Rail Tank Cars,'' First Edition, September 2014.

*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 mandates in Fixing America's Surface Transportation (FAST) Act of 2015, 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 Fixing America's Surface Transportation (FAST) Act of 2015 also includes mandates for the information sharing notification requirements. 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 OSRPs.

*Alternatives:* In the NPRM, alternatives analyzed included ''no change'' and changing the applicability threshold to analyze the impact to affected entities. Under the ''no change'' alternative we would not proceed with any rulemaking on this subject and the current regulatory standards would remain in effect. DOT is continuing 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 improving planning and preparedness.

*Anticipated Cost and Benefits:* In the NPRM, PHMSA performed a breakeven analysis by identifying the number of gallons of oil that the NPRM would need to prevent from being spilled in order for its benefits to at least equal its estimated costs. Additional benefits may also be incurred due to ecological and human health improvements that may not be captured in the value of the avoided cost of spilled oil. In the NPRM PHMSA estimated the rule is cost-effective if the requirements reduce the consequences of oil spills by 4.9 percent with ten-year costs estimated at $21,702,175 and annualized costs of $3,089,901(using a 7 percent discount rate). PHMSA faced data uncertainties that limited our ability to estimate the benefits of the proposed rule, and is continuing to analyze anticipated costs and benefits for the final rule.

*Risks:* PHMSA expects this rulemaking to mitigate the effects of potential train accidents involving the release of flammable liquid energy products by increasing planning and preparedness.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 08/01/14 | 79 FR 45079 |
| ANPRM Comment Period End. | 09/30/14 | |
| NPRM ..... | 07/29/16 | 81 FR 50067 |
| NPRM Comment Period End. | 09/27/16 | |
| Final Rule ..... | 07/00/18 | |

*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*.

*Agency Contact:* Victoria Lehman, Transportation Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366–8553, *Email: victoria.lehman@dot.gov*.

*Related RIN:* Related to 2137–AE91, Related to 2137–AF07.

*RIN:* 2137–AF08

## DOT—PHMSA

### 86. +Hazardous Materials: Enhanced Safety Provisions for Lithium Batteries Transported by Aircraft

*Priority:* Other Significant.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 49 U.S.C. 44701; 49 U.S.C. 5103(b); 49 U.S.C. 5120(b)

*CFR Citation:* 49 CFR 172; 49 CFR 173.

*Legal Deadline:* None.

*Abstract:* This rulemaking would amend the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) applicable to the transport of lithium cells and batteries by aircraft. The IFR contains three amendments: (1) a prohibition on the transport of lithium ion cells and batteries as cargo on passenger aircraft; (2) a requirement that lithium ion cells and batteries be shipped at not more than a 30 percent state of charge aboard cargo-only aircraft; and (3) a limitation on the use of alternative provisions for small lithium cell or battery shipments to one package per consignment or overpack. These amendments are consistent with three emergency amendments to the 2015–2016 International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions).

*Statement of Need:* This rule is necessary to address an immediate safety hazard and harmonize the US HMR with emergency amendments to the 2015–2016 edition of the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). FAA research has shown that air transportation of lithium ion batteries poses a safety risk. We are issuing this rule to (1) prohibit the transport of lithium ion cells and batteries as cargo on passenger aircraft; (2) require all lithium ion cells and batteries to be shipped at not more than a 30 percent state of charge on cargo-only aircraft; and (3) limit the use of alternative provisions for small lithium cell or battery shipments under 49 CFR 173.185(c).

*Summary of Legal Basis:* This rule is published under the authority of the Federal Hazardous Materials Transportation Law, 49 U.S.C. 5101 *et seq.* Section 5103(b) authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. This rule revises regulations for the safe transport of lithium batteries by air and the protection of aircraft operators and the flying public.

*Alternatives:* In this rulemaking, PHMSA considered the following three alternatives: (1) PHMSA adopts all of the amendments presented in the rule; (2) a No Action alternative; and (3) a Partial Harmonization alternative.

*Anticipated Cost and Benefits:* Based on the analysis described in this RIA, at the mean, PHMSA estimates the present value costs about $39.4 million over 10 years and about $5.6 million annualized (at a seven percent discount rate). Based on the estimated average 10-year cost of $39.4 million discounted at seven percent and the average 10-year VSL value of $6.74 million discounted at seven percent, this rule would need to prevent more than 5.9 fatalities ($39.4 million/$6.74 million) over the next 10 years for the benefits to exceed the quantified costs.

*Risks:* PHMSA expects the rule will improve safety for flight crews, air cargo operators, and the public as a result of the state of charge requirement and the consignment and overpack restriction by reducing the possibility of fire on cargo-only aircraft. Additionally, the rule will harmonize the prohibition of lithium ion batteries as cargo on passenger aircraft and eliminate the possibility of a package of lithium ion batteries causing or contributing to a fire in the cargo hold of a passenger aircraft.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 02/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Additional Information:* HM–224I;.

*URL For More Information:* *www.regulations.gov*.

*URL For Public Comments:* *www.regulations.gov*.

*Agency Contact:* Kevin Leary, Transportation Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202–366–8553, *Email:* *kevin.leary@dot.gov*.

*RIN:* 2137–AF20

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF THE TREASURY

### Statement of Regulatory Priorities

The primary missions of the Department of the Treasury are:

- To promote prosperous and stable American and world economies, including promoting domestic economic growth and maintaining our Nation's leadership in global economic issues, supervising national banks and thrift institutions, and helping to bring residents of distressed communities into the economic mainstream.
- To manage the Government's finances by protecting the revenue and collecting the correct amount of revenue under the Internal Revenue Code, overseeing customs revenue policies, 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 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, 13609, and 13771 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.

Treasury is still in the process of evaluating its deregulatory and regulatory actions for FY 2018. At this time, Treasury anticipates possibly up to 25 deregulatory actions, and 2 regulatory actions. Further information about these actions can be found in this Regulatory Plan and Unified Agenda.

### I. Alcohol and Tobacco Tax and Trade Bureau

The Alcohol and Tobacco Tax and Trade Bureau (TTB) issues regulations to implement and enforce 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 products, 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.

As part of TTB's ongoing efforts to modernize its regulations, TTB continuously seeks to identify changes in the industries it regulates, as well as new technologies available in compliance enforcement. TTB's modernization efforts focus on removing outdated requirements and revising regulations to facilitate industry growth and reduce burdens where possible. At the same time, TTB must ensure that it collects the revenue due and protects consumers from deceptive labeling and advertising of alcohol beverages.

In FY 2018, TTB will continue its multi-year Regulations Modernization effort by prioritizing projects that reduce regulatory burdens, provide greater industry flexibility, and streamline the regulatory system, consistent with Executive Orders 13771 and 13777. TTB rulemaking priorities also include proposing regulatory changes in response to petitions from industry members and other interested parties, and requesting comments on ways TTB may further reduce burden and support a level playing field for the regulated industry. Specifically, during the fiscal year, TTB plans to publish a deregulatory final rule, following a notice published in FY 2017, which reduces the number of reports submitted by certain regulated industry members. TTB also plans to publish for public comment proposed deregulatory changes to reduce the information it requires in connection with permit applications and to expand industry flexibility with regard to alcohol beverage container sizes (standards of fill). Some changes will require amending regulations and others will require only changes to the information collected on forms. Priority projects also include continuing the rulemaking issued in FY 2017 in response to industry member petitions to authorize new wine treating materials and processes, new grape varietal names for use on labels of wine, and new American Viticultural Areas (AVAs). None of the TTB rulemaking documents issued in FY 2018 are expected to be ''regulatory actions'' as described in Executive Order 13771.

This fiscal year TTB plans to give priority to the following deregulatory and regulatory measures:

• *Proposal To Streamline and Modernize Permit Application Process (RINs: 1513–AC46, 1513–AC47, 1513–AC48, and 1513–AC49, Modernization of Permit and Registration Application Requirements for Distilled Spirits Plants, Permit Applications for Wineries, Qualification Requirements for Brewers, and Permit Application Requirements for Manufacturers of Tobacco Products or Processed Tobacco, respectively). (Deregulatory)*

Consistent with E.O. 13771 and 13777, in FY 2017, TTB engaged in a review of its regulations to identify any regulatory requirements that could potentially be eliminated, modified, or streamlined in order to reduce burdens on industry. Through four notices of proposed rulemaking, TTB intends to propose eliminating or streamlining various information requirements for application or qualification of distilled spirits plants, wineries, breweries, and manufacturers of tobacco products or processed tobacco. In addition, TTB continues to review comments it receives from the interested public, including industry members, through the Treasury Department's Request for Information on deregulatory ideas (Docket No. TREAS–DO–2017–0012, published in the **Federal Register** on June 14, 2017), and TTB intends to address those related to application and qualification processes through these notices.

• *Proposed Revisions to the Regulations To Provide Greater Flexibility in the Use of Wine and Distilled Spirits Containers (RIN: 1513–AB56, Standards of Fill for Wine, and RIN: 1513–AC45, Standards of Fill for Distilled Spirits). (Deregulatory)*

In these two notices, TTB will address petitions requesting that it amend regulations governing wine and distilled spirits containers to provide for additional authorized ''standards of fill.'' (The term ''standard of fill'' generally relates to the size of containers, although the specific regulatory meaning is the authorized amount of liquid in the container, rather than the size or capacity of the container itself.) Rather than proposing the addition of new authorized sizes, however, TTB will propose to eliminate all but minimum and maximum standards of fill for distilled spirits containers, and all but a minimum standard of fill for wine containers. If implemented, this proposal would provide industry members greater flexibility in producing and sourcing containers and consumers broader purchasing options. This deregulatory action would also eliminate restrictions that inhibit competition and the movement of goods in domestic and international commerce, in addition to providing new opportunities for meeting consumer demand.

• *Revisions to the Regulations To Reduce Report Filing Frequency (RIN: 1513–AC30, Changes to Certain Alcohol-Related Regulations Governing Bond Requirements and Tax Return Filing Periods). (Deregulatory)*

On December 18, 2015, President Obama signed into law the Protecting Americans from Tax Hikes Act (PATH Act), which is Division Q of the Consolidated Appropriations Act, 2016. The PATH Act contains changes to certain statutory provisions that TTB administers in the Internal Revenue Code regarding excise tax return due dates and bond requirements for certain smaller excise taxpayers. These amendments took effect beginning in January 2017, and TTB published a temporary rule amending its regulations to implement these provisions. At the same time, TTB published in the **Federal Register** (82 FR 780) a notice of proposed rulemaking requesting comments on the amendments made in the temporary rule and proposing further amendments to the regulations governing reporting requirements for distilled spirits plants (DSPs) and breweries to reduce the regulatory burden on industry members who pay taxes and file tax returns annually or quarterly. Under the proposal, those industry members would also submit reports annually or quarterly, aligned with their filing of the tax return, rather than monthly as generally provided under current regulations. To be eligible for annual or quarterly filing, the DSP or brewery must reasonably expect to be liable for not more than $1,000 in excise taxes (in the case of annual filing) or $50,000 in excise taxes (in the case of quarterly filing) for the calendar year and must have been liable for not more than these respective amounts in the preceding calendar year. The reduced reporting frequency will reduce regulatory burdens on these smaller industry members.

• *Proposal to Modernize the Alcohol Beverage Labeling and Advertising Requirements (RIN: 1513–AB54). (Deregulatory)*

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 alcohol beverage 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, and further review in FY 2017 consistent with Executive Orders 13771 and 13777, regarding reducing regulatory burdens, in FY 2018, TTB plans to propose revisions to consolidate and modernize the regulations concerning the labeling requirements for wine, distilled spirits, and malt beverages. TTB anticipates that these regulatory changes will assist industry in voluntary compliance, decrease industry burden, and result in the regulated industries being able to bring products to market without undue delay. TTB also anticipates that this notice for public comment will give industry members another opportunity to provide comments and suggestions on any additional deregulatory measures in these areas.

In FY 2018, TTB intends to bring to completion a number of rulemaking projects published as notices of proposed rulemaking in FY 2017 in response to industry member petitions to amend the TTB regulations:

• *Proposal to Amend the Regulations to Authorize the Use of Additional Wine Treating Materials (RIN: 1513–AB61). (Not significant)*

In FY 2017, TTB proposed to amend its regulations pertaining to the production of wine to authorize additional treatments that may be applied to wine and to juice from which wine is made. These proposed amendments were made in response to requests from wine industry members to authorize certain wine treating materials and processes not currently authorized by TTB regulations. Although TTB may administratively approve such treatments, rulemaking may serve several purposes, including acceptance of exported wine made using those treatments in foreign markets. Administrative approval of a wine treatment does not guarantee acceptance in foreign markets of any wine so treated, and conducting rulemaking and adding wine treating materials and processes to TTB regulations through notice and comment rulemaking results in acceptance of the treated wines in certain foreign jurisdictions. TTB intends to reopen the comment period for the FY 2017 notice, as requested by industry members and, after consideration of the comments, issue a final rule.

• *Proposal to Amend the Regulations to Add New Grape Variety Names for American Wines (RIN: 1513–AC24). (Not significant)*

In FY 2017, TTB proposed to amend its wine labeling regulations by adding a number of new names to the list of grape variety names approved for use in designating American wines. The proposed deregulatory amendments would allow wine bottlers to use these additional approved grape variety names on wine labels and in wine advertisements. TTB intends to reopen the comment period for the FY 2017 notice, as requested by industry members and, after consideration of the comments, issue a final rule.

**II. 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 prescribe regulations pertaining to the customs revenue functions subject to certain exceptions, but further provided that the Secretary of the Treasury retained the sole authority to approve such regulations.

During fiscal year 2018, CBP and Treasury plan to give priority to regulatory matters involving the customs revenue functions which streamline CBP procedures, protect the public, or are required by either statute or Executive Order. The examples of these efforts described below are exempt from Executive Order 13771 as they are non-significant rules as defined by Executive Order. Examples of these efforts are described below.

• *Investigation of Claims of Evasion of Antidumping and Countervailing Duties.* (*Not significant)*

Treasury and CBP plan to finalize interim regulations (81 FR 56477) which amended CBP regulations implementing section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, which set forth procedures to investigate claims of evasion of antidumping and countervailing duty orders.

• *Drawback. (Economically significant; not yet determined)*

Treasury and CBP plan to amend CBP regulations to implement changes to the drawback law contained in section 906 of the Trade Facilitation and Trade Enforcement Act of 2015. These proposed changes to the regulations will liberalize the standard for substituting merchandise, simplify recordkeeping requirements, extend and standardize timelines for filing drawback claims, and require the electronic filing of drawback claims.

• *Enforcement of Copyrights and the Digital Millennium Copyright Act. (Significance not yet determined)*

Treasury and CBP plan to propose amendments to the CBP regulations pertaining to importations of merchandise that violate or are suspected of violating the copyright laws, including the Digital Millennium Copyright Act (DMCA), in accordance with Title III of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) and Executive Order 13785 ''Establishing Enhanced Collection and Enforcement of Anti-dumping and Countervailing Duties and Violations of Trade and Customs Laws.'' The proposed amendments are intended to enhance CBP's enforcement efforts against increasingly sophisticated piratical goods, clarify the definition of piracy, simplify the detention process relative to goods suspected of violating the copyright laws, and prescribe new regulations enforcing the DMCA.

• *Inter-Partes Proceedings Concerning Exclusion Orders Based on Unfair Practices in Import Trade. (Deregulatory)*

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.

**III. Financial Crimes Enforcement Network**

As 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 (AML) 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 AML 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 AML initiatives with domestic law enforcement and intelligence agencies, as well as foreign financial intelligence units.

FinCEN's regulatory priorities for fiscal year 2018, include:

• *Technical Amendment to the Customer Due Diligence Requirements. (Not significant)*

On May 11, 2016, FinCEN issued Final 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 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. The section of the rule detailing the training requirements for mutual funds was inadvertently omitted from the final rule. This technical amendment will rectify the inadvertent omission and will update several references and terminology.

• *Report of Foreign Bank and Financial Accounts. (Deregulatory)*

On March 10, 2016, FinCEN issued a Notice of Proposed Rulemaking to address requests from filers for clarification of certain requirements regarding the Report of Foreign Bank and Financial Accounts, including requirements with respect to employees, who have signature authority over, but no financial interest in, the foreign financial accounts of their employers.

• *Amendments to the Definitions of Broker or Dealer in Securities. (Regulatory)*

On April 4, 2016, FinCEN issued a Notice of Proposed Rulemaking proposing amendments to the regulatory definitions of broker or dealer in securities under the BSA's 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's requirements that are currently applicable to brokers or dealers in securities.

• *Anti-Money Laundering Program Requirements for Banks Lacking a Federal Functional Regulator. (Regulatory)*

On August 25, 2016, FinCEN issued a Notice of Proposed Rulemaking to remove the 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.

• *Anti-Money Laundering Program and SAR Requirements for Investment Advisers. (Regulatory)*

On August 25, 2015, FinCEN published in the **Federal Register** a Notice of Proposed Rulemaking 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. FinCEN is considering those comments and preparing a Final Rule.

• *Registration Requirements of Money Services Businesses. (Regulatory)*

FinCEN is considering issuing a Notice of Proposed Rulemaking amending the registration requirements for money services businesses.

• *Changes to the Travel and Recordkeeping Requirements for Funds Transfers and Transmittals of Funds. (Regulatory)*

FinCEN is considering regulatory changes that would require financial institutions to collect and maintain more information regarding funds transfers and transmittals of funds, as well as lower the existing recordkeeping threshold.

• *Changes to the Currency and Monetary Instrument Report (CMIR) Reporting Requirements. (Significance not yet determined)*

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 ongoing efforts with respect to a comprehensive review of existing regulations to enhance regulatory efficiency.

**IV. 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 Government wide 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 2018, the Fiscal Service will accord priority to the following regulatory projects:

• *Offset of Tax Refund Payments to Collect Past-Due Support. (Not significant)*

On December 30, 2015, the Fiscal Service published an Interim Final Rule, with request for comments, limiting the time period during which Treasury may recover certain tax refund offset collections from States to six months from the date of such collection. Previously, there was no time limit to recoup offset amounts that were collected from tax refunds to which the

debtor taxpayer was not entitled. The Fiscal Service anticipates publishing a Final Rule for this time limit for such recoupments in fiscal year 2018.

• *Management of Federal Agency Receipts, Disbursements and Operation of the Cash Management Improvements Fund. (Significance not yet determined)*

The Fiscal Service plans to publish a notice of proposed rulemaking to amend 31 CFR part 206 governing the collection of public money, along with a request for public comments. This notice will propose implementing statutory authority which mandates that some or all nontax payments made to the Government, and accompanying remittance information, be submitted electronically. Receipt of such items electronically offers significant efficiencies and cost-savings to the government, compared to the receipt of cash, check or money order payments.

• *Payments by Banks and Other Financial Institutions of United States Savings Bonds and United States Savings Notes (Freedom Shares). (Not significant)*

The Fiscal Service plans to amend the savings bond payment regulations in 31 CFR part 321 to formally add an option for paying agent financial institutions to digitally stamp payment information on paid bond images, instead of physically stamping the information on the original paid bonds. This change will not impose any new burden on banks or customers, and will align the regulation with current practice that has been implemented under waiver authority. The Fiscal Service also plans to amend the paper savings bond regulations to eliminate the current conversion and reissue transactions, which are expensive to process.

**V. Office of the Comptroller of the Currency**

The Office of the Comptroller of the Currency (OCC) charters, regulates, and supervises all national banks and Federal savings associations (FSAs). The agency also supervises the Federal branches and agencies of foreign banks. The OCC's mission is to ensure that national banks and FSAs operate in a safe and sound manner, provide fair access to financial services, treat customers fairly, and comply with applicable laws and regulations.

Regulatory priorities for fiscal year 2018 include the following regulatory actions:

• *Regulatory Capital Rules: Retention of Existing Transition Levels for Certain Regulatory Capital Adjustments and Deductions (12 CFR part 3).*

The banking agencies [1] issued a final rule that would extend the current treatment under the regulatory capital rules (capital rules) for certain regulatory capital deductions and risk weights and certain minority interest requirements as they apply to banking organizations that are not subject to the advanced approaches capital rules (non-advanced approaches banking organizations). Specifically, for non-advanced approaches banking organizations, the agencies extended the current regulatory capital treatment of: mortgage servicing assets; deferred tax assets arising from temporary differences that could not be realized through net operating loss carrybacks; significant investments in the capital of unconsolidated financial institutions in the form of common stock; non-significant investments in the capital of unconsolidated financial institutions; significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock; and common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest exceeding the capital rules' minority interest limitations. The proposed rule was published on August 25, 2017, 82 FR 40495. The final rule was issued on November 21, 2017, 82 FR 55309.

• *Appraisal Threshold (12 CFR part 34).*

The banking agencies plan to issue a final rule addressing comments received through the process of regulatory review required by the Economic Growth and Regulatory Paperwork Reduction Act of 1996 Amendments (EGRPRA), concerning the regulatory burden associated with appraisals. The rulemaking would expand the current exemption in the interagency rules for appraisals of commercial properties by increasing the appraisal threshold in 12 CFR part 34 (and in the corresponding regulations of the FDIC and FRB), which is currently set at $250,000. The proposed rule was published on July 31, 2017, 82 FR 35478.

• *Securities Transaction Settlement Cycle (12 CFR parts 12 and 151).*

The OCC and FDIC plan to issue a final rule to shorten the standard settlement cycle for certain securities purchased or sold by national banks, federal savings associations, and FDIC-supervised institutions. The proposed rule was published on September 11, 2017, 82 FR 42619.

[1] OCC, Board of Governors of the Federal Reserve System (Board), and Federal Deposit Insurance Corporation (FDIC).

• *Loans in Areas Having Special Flood Hazards-Private Flood Insurance (12 CFR part 22).*

The banking agencies, the Farm Credit Administration (FCA), and the National Credit Union Administration (NCUA) plan to issue a final rule to amend their regulations regarding loans in areas having special flood hazards to implement the private flood insurance provisions of the Biggert-Waters Flood Insurance Reform Act of 2012. The proposed rule was published on November 7, 2016, 81 FR 78063.

• *Enhanced Cyber Risk Management Standards (12 CFR part 30).*

The banking agencies plan to issue a notice of proposed rulemaking setting forth enhanced cyber risk management standards for the largest and most interconnected financial organizations in the United States. The advance notice of proposed rulemaking was published on October 26, 2016, 81 FR 74315.

• *Incentive-Based Compensation Arrangements (12 CFR part 42).*

Section 956 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, July 21, 2010) (Dodd-Frank Act) requires the banking agencies, NCUA, Securities and Exchange Commission (SEC), and the Federal Housing Finance Agency (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 jointly to prescribe regulations or guidelines 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 executive officer, employee, director, or principal shareholder with excessive compensation or could lead to material financial loss to the institution. The proposed rule was published on June 10, 2016, 81 FR 37669.

• *Mandatory Contractual Stay Requirements for Qualified Financial Contracts (12 CFR parts 3, 47, and 50).*

The OCC plans to issue a final rule that mitigates potential negative impacts that could result from the disorderly resolution of certain systemically important national banks, Federal savings associations, Federal branches

and agencies, and the subsidiaries of these entities. A covered bank would be required to ensure that a covered qualified financial contract (i) contains a contractual stay-and-transfer provision analogous to the statutory stay-and-transfer provisions imposed under title II and the Federal Deposit Insurance Act and (ii) limits the exercise of default rights based on the insolvency of an affiliate of the covered bank. The proposed rule was published on August 19, 2016, 81 FR 55381.

• *Net Stable Funding Ratio (12 CFR part 50).*

The banking agencies plan to issue a final 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. The proposed rule was published on June 1, 2016, 81 FR 35123.

• *Qualifying Master Netting Agreement (12 CFR part 3).*

The OCC plans to finalize its interim final rule to amend the definition of ''qualifying master netting agreement'' under its regulatory capital and liquidity coverage ratio rule, as well as under its lending limits rule applicable to national banks and FSAs. The interim final rule was published on December 30, 2014, 79 FR 78287.

• *Community Reinvestment Act Regulations (12 CFR parts 25 and 195).*

The banking agencies issued a final rule to amend the home mortgage loan and consumer loan definitions in their regulations implementing the Community Reinvestment Act (CRA) to conform to recent changes made by the CFPB to Regulation C, which implements the Home Mortgage Disclosure Act (HMDA) and make some additional technical revisions. The proposed rule was published on September 20, 2017, 82 FR 43910. The final rule was issued on November 24, 2017, 82 FR 55734.

• *Proprietary Trading and Certain Interests in and Relationships with Covered Funds (12 CFR part 44).*

In light of the 2017 Treasury Report, the OCC expects to issue a proposed rule to amend certain provisions of part 44.

• *Management Official Interlocks Asset Thresholds (12 CFR part 26).*

The OCC plans to issue a direct final rule, through joint action with the FRB and FDIC that would amend agency regulations interpreting the Depository Institution Management Interlocks Act (DIMIA) to increase the asset thresholds based on inflation or market changes. The current asset thresholds are set at $2.5 billion and $1.5 billion.

• *Customer Due Diligence (12 CFR part 21).*

The banking agencies plan to issue an interim final rule to clarify the applicability of recent amendments to the Financial Crimes Enforcement Network (FinCEN) customer due diligence rules to the depository institutions under their supervision. FinCEN expanded its customer due diligence requirements for covered financial institutions, including banks, brokers or dealers in securities, mutual funds, and futures commission merchants and introducing brokers in commodities (FinCEN Rule). As part of that rulemaking, FinCEN amended the elements of the anti-money laundering program financial institutions must implement and maintain in order satisfy program requirements under 31 U.S.C. 5318(h)(1) and the agencies are amending their anti-money laundering program rules to reference requirements in the FinCEN Rule.

• *Capital Simplification (12 CFR part 3).*

The banking agencies issued a proposed rule to simplify the generally applicable capital framework with the goal of meaningfully reducing regulatory burden on community banking organizations while at the same time maintaining safety and soundness and the quality and quantity of regulatory capital in the banking system. The proposed rule was issued on October 27, 2017, 82 FR 49984.

• *Automated Valuation Models (parts 34 and 164).*

The banking agencies, NCUA, FHFA, and the Consumer Financial Protection Bureau (CFPB), in consultation with the Appraisal Subcommittee (ASC) and the Appraisal Standards Board of the Appraisal Foundation, are required to promulgate regulations addressing 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.

• *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.

• *Employment Contracts (12 CFR part 163).*

The OCC plans to issue a proposed rule to remove the requirement that the board of directors of an FSA approve employment contracts with all employees and limit the approval requirement only to contracts with senior executives.

• *Receiverships for Uninsured Federal Branches and Agencies (12 CFR chapter I).*

The OCC plans to issue an advance notice of proposed rulemaking setting forth key issues to be addressed prior to the development of a framework for receiverships of uninsured federal branches and agencies.

**VI. Internal Revenue Service**

During Fiscal Year 2018, the IRS and Treasury's Office of Tax Policy have the following regulatory priorities. The first priority is to implement, consistent with law, actions recommended in the Second Report pursuant to Executive Order 13789 to eliminate, or in other cases reduce, the burdens imposed on taxpayers by eight regulations that the Treasury has identified for review under Executive Order 13789. These deregulatory actions include:

1. Withdrawal of proposed regulations under section 2704 regarding restrictions on liquidation of an interest for estate, gift, and generation-skipping transfer taxes. Proposed regulations were published on August 4, 2016.

2. Withdrawal of proposed regulations under section 103 regarding the definition of political subdivision. Proposed regulations were published on February 23, 2016.

3. Proposed amendment of regulations under section 7602 regarding the participation of attorneys described in section 6103(n) in a summons interview. Final regulations were published on July 14, 2016.

4. Proposed removal of temporary regulations under section 707 concerning treatment of liabilities for disguised sale purposes and review of

regulations under section 752 concerning liabilities recognized as recourse partnership liabilities. Temporary and proposed regulations were published on October 5, 2016.

5. Delay and proposed removal of documentation regulations under section 385 and review of other regulations under section 385. Final, temporary, and proposed regulations were published on October 21, 2016.

6. Proposed modification of regulations under section 367 regarding the treatment of certain transfers of property to foreign corporations. Final regulations were published on December 16, 2016.

7. Proposed modification of regulations under section 337(d) regarding certain transfers of property to regulated investment companies (RICs) and real estate investment trusts (REITs). Temporary and proposed regulations were published on June 8, 2016.

8. Proposed modification of regulations under section 987 on income and currency gain or loss with respect to a section 987 qualified business unit. Final regulations were published on December 8, 2016.

The second priority is, in furtherance of the policies stated in Executive Order 13789, Executive Order 13771, and Executive Order 13777, to undertake a comprehensive review, coordinated by the Treasury Regulatory Reform Task Force, of all tax regulations, regardless of when they were issued. This review will identify tax regulations that are unnecessary, create undue complexity, impose excessive burdens, or fail to provide clarity and useful guidance, and Treasury and the IRS will pursue, consistent with law, reform or revocation of those regulations. Included in the review are longstanding temporary or proposed regulations that have not expired or been finalized. As part of the process coordinated by the Treasury Regulatory Reform Task Force, the IRS Office of Chief Counsel has already identified over 300 regulations for potential revocation. These regulations remain in the Code of Federal Regulations (CFR) but are, to varying degrees, unnecessary, duplicative, or outdated, and force taxpayers to navigate unnecessarily complex or even confusing rules. Treasury and the IRS expect to begin the process of proposing to address these regulations in the fourth quarter of 2017. Treasury and the IRS are also seeking to streamline rules where possible and to repeal or revise regulations that have been superseded by statute or case law.

The IRS and Treasury are also prioritizing implementation of the President's Executive Order 13813, Promoting Healthcare Choice and Competition Across the United States. The Executive Order, among other things, directs Treasury and the Departments of Labor and Health and Human Services to consider proposing or revising regulations or guidance to expand the availability of short-term, limited-duration insurance and consider proposing or revising regulations or guidance to increase the usability of health reimbursement arrangements.

An additional priority for the IRS is to publish final regulations under section 1101 of the Bipartisan Budget Act of 2015 (BBA) that are necessary to implement the new centralized partnership audit regime enacted in November 2015. Section 1101(g)(1) of the BBA provides that the new regime is generally effective for partnership tax years beginning after December 31, 2017.

Finally, Treasury and the IRS anticipate the need to undertake numerous regulatory actions to implement any new legislation enacted in the coming year, including the Administration's current Tax Reform efforts.

BILLING CODE 4810–25–S

## 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.

### (1.) VA Regulatory Priorities

| RIN | Title | Summary of Rulemaking |
|---|---|---|
| AO88 | Per Diem Paid to States for Care of Eligible Veterans in State Homes. | This rulemaking would adopt as final, with changes, proposed amendments to VA's regulations governing payment of per diem to State Veterans homes for nursing home care, domiciliary care, and adult day health care for eligible veterans. This rulemaking would also reorganize, update, and clarify State Veterans homes regulations, authorize greater flexibility in adult day health care programs, and establish regulations regarding domiciliary care, with clarifications regarding the care that State homes must provide to veterans in domiciliaries. |
| AP46 | Prosthetic and Rehabilitative Items and Services. | The Department of Veterans Affairs (VA) proposes to amend its regulations related to providing prosthetic and rehabilitative items as medical services to veterans. These amendments would reorganize and update the current regulations. Substantively, these amendments would primarily clarify eligibility criteria for prosthetic and other rehabilitative items and services, and would define the types of items and services available to eligible veterans. |

| RIN | Title | Summary of Rulemaking |
|---|---|---|
| AP89 | Change in rates that VA pays for ambulance travel. | This document proposes amendments to the Department of Veterans Affairs (VA) regulations concerning beneficiary travel. The revisions would update the regulations to conform to a statute that authorizes VA to pay the lesser of the actual cost of ambulance transportation or the amount determined by the ambulance travel fee schedule established by Centers for Medicare and Medicaid, unless VA has entered into a contract for that ambulance transportation. |
| AQ06 | Authority of Health Care Providers to Practice Telehealth. | To continue to provide high quality health care to veterans, the Department of Veterans Affairs (VA) is amending its regulations to allow VA health care providers who are licensed, registered, or certified in ''a State'' to practice their medical specialty in any State when they are acting within the scope of their VA employment, regardless of individual State licensure, registration, or certification restrictions, except for applicable State restrictions on the authority to prescribe and administer controlled substances. Through this rulemaking, health care providers would be able to provide health care services across State lines and in States where they do not hold a license, registration, or certification, which will increase VA's capacity to use its current medical resources in varied health care delivery modalities, particularly through telehealth, increasing the number of patient encounters and increasing access to VA health care. This rule will allow VA health care providers to practice in accordance with their competencies, as reflected by their clinical privileges or scope of practice. In this rulemaking, VA will exercise Federal preemption of State licensure, registration, and certification laws only to the extent such State laws conflict with the health care provider's ability to practice across state lines while acting within the scope of their VA employment. |
| AQ08 | Reimbursement for Emergency Treatment. | The Department of Veterans Affairs (VA) revises its regulations concerning payment or reimbursement for emergency treatment for non-service-connected conditions at non-VA facilities to implement the requirements of a recent court decision. Specifically, this rulemaking expands eligibility for payment or reimbursement to include veterans who receive partial payment from a health-plan contract for non-VA emergency treatment and establishes a corresponding reimbursement methodology. This rulemaking also expands the eligibility criteria for veterans to receive payment or reimbursement for emergency transportation associated with the emergency treatment, in order to ensure that veterans are adequately covered when emergency transportation is a necessary part of their non-VA emergency treatment. |

**(2.) Retrospective Review of Existing Regulations**

| RIN | Title | Significantly reduce burdens on small businesses | Summary of Rulemaking |
|---|---|---|---|
| Multiple RINs | Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition. | No | The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates the VAAR as well as internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish it in the FEDERAL REGISTER. To minimize the number of rules published, VA will combine relatable topics. |

VA's most recent report on its retrospective review of regulations can be found at: *http://vaww.va.gov/ORPM/docs/RegMgmt_VA_EO13563_VA_OIRA_Status_Report.pdf*

## VA

Proposed Rule Stage

### 87. Prosthetic and Rehabilitative Items and Services

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 38 U.S.C. 501; 38 U.S.C. 1162; 38 U.S.C. 1701; 38 U.S.C. 1707; 38 U.S.C. 1710; 38 U.S.C. 1714; 38 U.S.C. 1717; 38 U.S.C. 3901

*CFR Citation:* 38 CFR 17.120; 38 CFR 17.122; 38 CFR 17.150; 38 CFR 17.153; 38 CFR 17.3200 to 17.3250

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) proposes to amend its regulations related to providing prosthetic and rehabilitative items as medical services to veterans. These amendments would reorganize and update the current regulations.

Substantively, these amendments would primarily clarify eligibility criteria for prosthetic and other rehabilitative items and services, and would define the types of items and services available to eligible veterans.

*Statement of Need:* VA proposes to amend its regulations related to providing prosthetic and rehabilitative items as medical services to veterans. These amendments would clarify eligibility criteria for prosthetic and other rehabilitative items and services, and define the types of items and services available to eligible veterans.

*Summary of Legal Basis:* 38 U.S.C. 1710 authorizes VA to provide, among other things, medical services to veterans when VA determines that they are needed. ''Medical services'' is defined in 38 U.S.C. 1701(6)(F) to include the following specific items and services: wheelchairs, artificial limbs, trusses, and similar appliances; special clothing made necessary by the wearing of prosthetic appliances; and such other supplies or services as the Secretary determines to be reasonable and necessary. Section 1710(a) authorizes VA to furnish hospital care and medical services ''which the Secretary determines to be needed.'' In this regulation, VA is addressing the scope of items and services that may be provided as medical services under sections 1701(6)(F) and 1710(a).

*Alternatives:* VA considered the consequences of taking no action. If VA made no changes at all to its regulations, however, they would remain inconsistent with our current practices. The current regulations also include a limited list of examples of prosthetic items and services that are provided, which can be misinterpreted as an exhaustive list. The proposed rule includes a broader and non-exhaustive list, which provides more clarity to Veterans about the benefits to which they are entitled. The eligibility for such items under the current regulation would also be inconsistent with VA's authority to provide prosthetics under Public Law 104–262, section 103(a). VA considered updating its internal policies instead of its regulations. Because the changes in this rulemaking would impact and limit Veterans' benefits, a change to existing regulations was deemed necessary. We also could have made substantive updates to existing regulations rather than create a new section for the provision of these benefits. However, that would have been cumbersome and confusing, and would not have allowed us to adequately describe the eligibility for, and provision of, these benefits.

*Anticipated Cost and Benefits:* VA has determined that there are transfers associated with this rulemaking. The cumulative five-year savings are estimated to be $85 million. The government will transfer $85 million less to eligible veterans.

There are no new collections of information associated with this rulemaking. However, there is a proposed discontinuance of use of VA Form 10–2520, which is part of an existing collection under 2900–0188. The estimated burden elimination is 47 annual hours, which results in an information collection costs savings to the public (vendor) in the amount of $1,121.42.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 10/16/17 | 82 FR 48018 |
| NPRM Comment Period End. | 12/15/17 | |
| Final Action | 08/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Federalism:* Undetermined.

*Agency Contact:* Penny Nechanicky, National Program Director for Prosthetic and Sensory Aids Service (10P4RK), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, *Phone:* 202 461–0337, *Email: penny.nechanicky@va.gov*.

*RIN:* 2900–AP46

## VA

### 88. Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V005, Parts 812 and 813)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 40 U.S.C. 121(c)

*CFR Citation:* 48 CFR 1.3; 48 CFR 812; 48 CFR 813; 48 CFR 852

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates the VAAR as well as internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish it in the **Federal Register**. To minimize the number of rules published, VA will combine relatable topics. This Proposed Rule will revise VAAR parts 812 and 813, as well as affected part 852.

*Statement of Need:* The Department of Veterans Affairs (VA) is proposing to revise the VAAR to add new policy or regulatory requirements and to remove any guidance that is applicable only to VA's internal operating processes or procedures. FAR 1.302, Limitations, requires that agency acquisition regulations shall be limited only to those necessary to implement the FAR policies and procedures within the agency and to any additional information needed to supplement the FAR to satisfy the specific needs of the agency. The needed changes include proposing to delete paragraphs when adequately addressed in the FAR, add new subsections to clarify that FAR applies to specific parts, and to remove sections such as the section that deals with internal procedures for obtaining a waiver to tailor solicitations, to be inconsistent with customary commercial practice.

*Summary of Legal Basis:* 40 U.S.C. 121(c), 41 U.S.C. 1707.

*Alternatives:* The revised VAAR will have 47 parts, grouped into 19 packages. VA did consider grouping all of the parts into one package, which would have resulted in one regulatory action. However, this approach or alternative was tried several years ago and the project ended up being terminated because of the complexity, time spent correcting errors, legal review, and inconsistency amongst the acquisition offices and other agencies. Another alternative would be to do nothing, which would undermine VA's mission of simplifying the acquisition process and making it easier for potential vendors to do business with the VA.

*Anticipated Cost and Benefits:* There are no transfer costs, savings and/or information collection burden costs/savings associated with this rulemaking. VA is merely adding existing and current regulatory requirements to the VAAR parts and removing any guidance that is applicable only to VA's internal operation processes or procedures and placing that guidance in the Veterans Affairs Acquisition Manual (VAAM).

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Ricky L. Clark, Senior Procurement Analyst (003A2A), Department of Veterans Affairs, Procurement Policy and Warrant Management Services, 425 I Street NW, Washington, DC 20001, *Phone:* 202 632–5276, *Email: ricky.clark@va.gov*.

*RIN:* 2900–AP58

## VA

### 89. Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V004, Parts 811 and 832)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 40 U.S.C. 121(c)

*CFR Citation:* 48 CFR 801; 48 CFR 811; 48 CFR 832; 48 CFR 852; 48 CFR 1.3.

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates the VAAR as well as internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish it in the **Federal Register**. To minimize the number of rules published, VA will combine relatable topics. This Proposed Rule will revise VAAR parts 811 and 832, as well as affected parts 801, 852 and 870.

*Statement of Need:* Included in the proposed changes to streamline the VAAR, implementing and supplementing the FAR where required, and removing internal agency guidance in keeping with the FAR principles concerning agency acquisition regulations, are removing a significant portion of subpart 811.1, Selecting and Developing Requirements Documents, as it includes information that is redundant to the FAR. In addition, we propose to add a new section to implement the Office of Management and Budget's (OMB) Memorandum M–11–32, dated September 14, 2011, and to encourage making payments to small business contractors within 15 days of receipt of invoice.

*Summary of Legal Basis:* 40 U.S.C. 121(c), 41 U.S.C. 1707, 48 CFR 1.3.

*Alternatives:* The revised VAAR will have 47 parts, grouped into 19 packages. VA did consider grouping all of the parts into one package, which would have resulted in one regulatory action. However, this approach or alternative was tried several years ago and the project ended up being terminated because of the complexity, time spent correcting errors, legal review, and inconsistency amongst the acquisition offices and other agencies. Another alternative would be to do nothing, which would undermine VA's mission of simplifying the acquisition process and making it easier for potential vendors to do business with the VA.

*Anticipated Cost and Benefits:* There are no transfer costs or savings associated with this rulemaking. VA is merely adding existing and current regulatory requirements to the VAAR and removing any guidance that is applicable only to VA's internal operation processes or procedures. This proposed rule impacts 7 existing information collection requirements associated with 6 Office of Management and Budget (OMB) control number approvals. The total incremental savings of this information collection is estimated to be $50,660.00.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Ricky L. Clark, Senior Procurement Analyst (003A2A), Department of Veterans Affairs, Procurement Policy and Warrant Management Services, 425 I Street NW, Washington, DC 20001, *Phone:* 202 632–5276, *Email: ricky.clark@va.gov*.

*RIN:* 2900–AP81

## VA

### 90. Beneficiary Travel

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 38 U.S.C. 101; 38 U.S.C. 111; 38 U.S.C. 111A; E.O. 11302; E.O. 13520

*CFR Citation:* 38 CFR 70.1; 38 CFR 70.2; 38 CFR 70.4; 38 CFR 70.10 to 70.30

*Legal Deadline:* None.

*Abstract:* This rule proposes amendments to the Department of Veterans Affairs (VA) regulations concerning beneficiary travel. The revisions would update the regulations to conform to amendments to the statutes that authorize beneficiary travel benefits, and would also reorganize and clarify the current regulations. VA is also proposing to modify certain provisions to establish new VA policies and procedures to expand travel benefits for veterans and other beneficiaries in several areas, including for veterans and donors undergoing organ transplants, those being transferred between facilities, and for veterans with terminal illnesses.

*Statement of Need:* VA proposes to amend its regulations concerning beneficiary travel. The revisions would update the regulations to conform to a statute authorizing VA to pay the lesser of the actual cost of ambulance transportation or the amount determined by the ambulance travel fee schedule established by Centers for Medicare and Medicaid, unless VA has entered into a contract for that ambulance transportation.

*Summary of Legal Basis:* 38 U.S.C. 111 authorizes VA to provide beneficiary travel benefits to eligible veterans who need to travel for examination, treatment, or care. We propose to amend the relevant regulations to conform to changes made by Pub. L. 112–56 and 112–154, permitting VA to pay the lesser of the actual cost ambulance transportation or the amount determined by the fee schedule established under section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)), unless VA has entered into a contract for that transportation.

*Alternatives:* VA considered the consequences of taking no action. We concluded, however, that taking doing so would cause VHA to continue to pay non-emergency medical transportation (NEMT) market rates, which are up to 25% higher than Medicare, based on several variables including the location of the VA Medical Center. VA considered alternatives such as seeking a national contract for BT NEMT services. However, it became apparent that taking this action would dampen current market-based pricing schemes and the pricing schemes would likely remain above Medicare rates. Moreover, creating a market of this type would not permit VA to avail itself of any cost

savings. VA believes that a rulemaking, rather than a policy document, is the appropriate mechanism to change its payment rates for non-emergency medical transportation because this change affects the rights and obligations of the public.

*Anticipated Cost and Benefits:* VA has determined that there are no transfer costs associated with this rulemaking. However, there are transfers estimated at $47 million in FY 2018 and $252.4 million over a five year period (FY 2018–2022). The government will save money as a result of VA making transport payments under the CMS methodology instead of utilizing non-contract special mode transportation payments, the CMS methodology payments are less. There are no other ancillary costs associated with this rulemaking. There are no provisions constituting a collection or reduction of information under the Paperwork Reduction Act. Therefore, we expect no increased and/or decreased PRA costs.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Mike Davis, Director Member Services (10NF), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, *Phone:* 404 828–5691, *Email: mike.davis2@va.gov.*

*RIN:* 2900–AP89

## VA

### 91. • Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles (VAAR Case 2015–V010)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 38 U.S.C. 501; 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3)

*CFR Citation:* 48 CFR 831; 48 CFR 833; 48 CFR 852; 48 CFR 871; 48 CFR 1.301 to 1.303.

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates the VAAR as well as internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish it in the **Federal Register**. To minimize the number of rules published, VA will combine relatable topics. This proposed rulemaking revises VAAR parts 831, 833, 852 and 871.

*Statement of Need:* Included in the proposed changes to streamline the VAAR, implementing and supplementing the FAR where required, and removing internal agency guidance in keeping with the FAR principles concerning agency acquisition regulations, are clarifying that the cost principles apply to the negotiation of prices under fixed-price contracts as well as to costs under cost reimbursement contracts, and to contracts with educational institutions as well as those with commercial and non-profit organizations; Adding a definition section; And, adding language that pursuant to Public Law 114–328, the Small Business Administration (SBA) will also hear cases related to size, status, and ownership and control challenges under the VA Veterans First Contracting Program.

*Summary of Legal Basis:* 38 U.S.C. 501, 40 U.S.C. 121(c), 41 U.S.C. 1121(c)(3), 41 U.S.C. 1707, 48 CFR 301–1.304

*Alternatives:* The revised VAAR will have 47 parts, grouped into 19 packages. VA did consider grouping all of the parts into one package, which would have resulted in one regulatory action. However, this approach or alternative was tried several years ago and the project ended up being terminated because of the complexity, time spent correcting errors, legal review, and inconsistency amongst the acquisition offices and other agencies. Another alternative would be to do nothing, which would undermine VA's mission of simplifying the acquisition process and making it easier for potential vendors to do business with the VA.

*Anticipated Cost and Benefits:* There are no transfers associated with this rulemaking. VA is merely adding existing and current regulatory requirements to the VAAR and removing any guidance that is applicable only to VA's internal operation processes or procedures. There are no provisions constituting a collection or reduction of information under the Paperwork Reduction Act. Therefore, we expect no increased and/or decreased PRA costs.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Rafael Taylor, Senior Procurement Analyst (003A2A), Department of Veterans Affairs, Procurement Policy and Warrant Management Services, 425 I Street NW, Washington, DC 20001, *Phone:* 202 382–2787, *Email: rafael.taylor@va.gov.*

*RIN:* 2900–AQ02

## VA

### 92. • Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principle (VAAR Case 2016–V002, Parts 829, 846 and 847)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 26 U.S.C. 5214(a); 26 U.S.C. 5271; 26 U.S.C. 7510; 40 U.S.C. 121(c); 41 U.S.C. 1303(a)(2)

*CFR Citation:* 48 CFR 829; 48 CFR 846; 48 CFR 847; 48 CFR 852; 48 CFR 870; 48 CFR 1.301 to 1.304

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates the VAAR as well as internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish it in the **Federal Register**. To minimize the number of rules published, VA will combine relatable topics. This Proposed Rule revises VAAR parts 829, 846, 847, as well as affected parts 852 and 870.

*Statement of Need:* Included in the proposed changes to streamline the VAAR, implementing and supplementing the FAR where required, and removing internal agency guidance in keeping with the FAR principles

concerning agency acquisition regulations, are adding definitions; in section 829.303, application of State and local taxes to Government contractors and subcontractors, delegating to the Head of the Contracting Activity (HCA), without power of redelegation, the authority to make the determination prescribed in FAR 29.303(a); and in new clause 852.246–71, Rejected Goods, clarifying a contractor's obligations to remove goods rejected by the Government.

*Summary of Legal Basis:* 26 U.S.C. 5214(a), 5271, 7510; 40 U.S.C. 121(c); 41 U.S.C. 1303(a)(2), 48 CFR 1.301–1.304

*Alternatives:* The revised VAAR will have 47 parts, grouped into 19 packages. VA did consider grouping all of the parts into one package, which would have resulted in one regulatory action. However, this approach or alternative was tried several years ago and the project ended up being terminated because of the complexity, time spent correcting errors, legal review, and inconsistency amongst the acquisition offices and other agencies. Another alternative would be to do nothing, which would undermine VA's mission of simplifying the acquisition process and making it easier for potential vendors to do business with the VA.

*Anticipated Cost and Benefits:* There are no transfers associated with this rulemaking. VA is merely adding existing and current regulatory requirements to the VAAR and removing any guidance that is applicable only to VA's internal operation processes or procedures. There are no provisions constituting a collection or reduction of information under the Paperwork Reduction Act. Therefore, we expect no increased and/or decreased PRA costs.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Rafael Taylor, Senior Procurement Analyst (003A2A), Department of Veterans Affairs, Procurement Policy and Warrant Management Services, 425 I Street NW, Washington, DC 20001, *Phone:* 202 382–2787, *Email: rafael.taylor@va.gov.*

*RIN:* 2900–AQ04

## VA

### 93. • Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principle (VAAR Case 2016–V003, Parts 844 and 845)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 38 U.S.C. 501; 40 U.S.C. 121(c)

*CFR Citation:* 48 CFR 844; 48 CFR 845; 48 CFR 1.301 to 1.304.

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates the VAAR as well as internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish it in the **Federal Register**. To minimize the number of rules published, VA will combine relatable topics. This proposed rulemaking revises VAAR parts 844 and 845.

*Statement of Need:* Included in the proposed changes to streamline the VAAR, implementing and supplementing the FAR where required, and removing internal agency guidance in keeping with the FAR principles concerning agency acquisition regulations, are adding the requirement, before a contracting officer consents to a subcontract where other than the lowest price is the basis for selection, that the contractor has substantiated the selection as offering the greatest value to the Government; And, requiring that contractor purchasing system reviews focus special attention, on policies and procedures pertaining to the Veterans First Contracting Program, Documentation of commercial item determinations to ensure compliance with the definition of commercial item in FAR 2.101, and for acquisitions involving electronic parts, whether the contractor has implemented a counterfeit electronic part detection and avoidance system to ensure that counterfeit electronic parts do not enter the supply chain.

*Summary of Legal Basis:* 38 U.S.C. 501, 40 U.S.C. 121(c), 48 CFR 1.301 to 1.304.

*Alternatives:* The revised VAAR will have 47 parts, grouped into 19 packages. VA did consider grouping all of the parts into one package, which would have resulted in one regulatory action. However, this approach or alternative was tried several years ago and the project ended up being terminated because of the complexity, time spent correcting errors, legal review, and inconsistency amongst the acquisition offices and other agencies. Another alternative would be to do nothing, which would undermine VA's mission of simplifying the acquisition process and making it easier for potential vendors to do business with the VA.

*Anticipated Cost and Benefits:* There are no transfers associated with this rulemaking. VA is merely adding existing and current regulatory requirements to the VAAR and removing any guidance that is applicable only to VA's internal operation processes or procedures. This action contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 to 3521). Therefore, we expect no increased and/or decreased PRA costs.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Rafael Taylor, Senior Procurement Analyst (003A2A), Department of Veterans Affairs, Procurement Policy and Warrant Management Services, 425 I Street NW, Washington, DC 20001, *Phone:* 202 382–2787, *Email: rafael.taylor@va.gov.*

*RIN:* 2900–AQ05

## VA

### 94. Authority of Health Care Providers To Practice Telehealth

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 38 U.S.C. 501; 38 U.S.C. 1701 (note); 38 U.S.C. 1709A; 38 U.S.C. 1712A (note); 38 U.S.C. 1722B; 38 U.S.C. 7301; 38 U.S.C. 7330A; 38 U.S.C. 7401 to 7403; 38 U.S.C. 7406 (note)

*CFR Citation:* 38 FR 17.417.

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) proposed to amend its

medical regulations by standardizing the delivery of care by VA health care providers through telehealth. The rule would ensure that VA health care providers provide the same level of care to all beneficiaries, irrespective of the State or location in a State of the health care provider or the beneficiary. This rule would achieve important Federal interests by ensuring the availability of mental health, specialty, and general clinical care for all beneficiaries.

*Statement of Need:* VA proposes to amend its medical regulations by standardizing the delivery of care by VA health care providers through telehealth. This rule would ensure that VA health care providers provide the same level of care to all beneficiaries, irrespective of the State or location in a State of the VA health care provider or the beneficiary. This rule would achieve important Federal interests by increasing the availability of mental health, specialty, and general clinical care for all beneficiaries.

*Summary of Legal Basis:* 38 U.S.C. 7301(b) establishes the general functions of VHA within VA, and establishes that its primary function is to ''provide a complete medical and hospital service for the medical care and treatment of veterans, as provided in this title and in regulations prescribed by the Secretary [of Veterans Affairs (Secretary)] pursuant to this title.'' In carrying out this function, VHA must ensure that patient care is appropriate and safe and its health care providers meet or exceed generally accepted professional standards for patient care. In addition, because VA is a national health care provider, VHA must ensure that beneficiaries receive the same high level of care and access to care no matter where, in a State, a beneficiary or health care provider is located at the time the health care is provided.

*Alternatives:* VA considered the consequences of taking no regulatory action. Doing so would leave VA telehealth providers vulnerable to adverse action, such as discipline or termination of licenses by their state licensing boards if they provide services to beneficiaries in States in which the providers are not licensed, registered, certified, or located. Under those circumstances, VA has found that some of its medical providers cannot effectively practice telehealth, which limit's VA's ability to provide care to Veterans, particularly in remote, rural, or medically underserved areas. VA's only remedy for that issue is to supersede state law, and the appropriate mechanism to do so is in rulemaking. By superseding state law in this rulemaking, VA will ensure greater access to care for Veterans and beneficiaries.

*Anticipated Cost and Benefits:* VA anticipates minimal (transfer) costs to VA as a result of this rulemaking. However, VA's ability to leverage existing resources to expand telehealth under an expanded authority will result in (transfer) savings to VA. These savings to VA will offset the anticipated minimal costs to VA. This rulemaking contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 to 3521). Therefore, we expect no increased and/or decreased PRA costs.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 10/02/17 | 82 FR 45756 |
| NPRM Comment Period End. | 11/01/17 | |
| Final Action | 05/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* State.

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

*Agency Contact:* Kevin Galpin, Executive Director, Telehealth Services (10P8), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, *Phone:* 404 771–8794, *Email: kevin.galpin@va.gov.*

*RIN:* 2900–AQ06

## VA

### 95. • Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V008)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 38 U.S.C. 501; 40 U.S.C. 121(c)

*CFR Citation:* 48 CFR 801, 825, 836, 842, 846 and 852.

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates the VAAR as well as internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish it in the **Federal Register**. To minimize the number of rules published, VA will combine relatable topics.

*Statement of Need:* The rulemaking would update the VAAR to current FAR titles, requirements, and definitions; it would correct inconsistencies and removes redundancies and duplicate material already covered by the FAR; it would also delete outdated material or information and appropriately renumbers VAAR text, clauses, and provisions where required to comport with FAR format, numbering and arrangement. All amendments, revisions, and removals have been reviewed and concurred with by an Integrated Product Team of agency stakeholders. Codified acquisition regulations may be amended and revised only through rulemaking.

*Summary of Legal Basis:*

*Authority:* 38 U.S.C. 501; 40 U.S.C. 121(c); and 48 CFR 1.301 to 1.304.

*Alternatives:* The revised VAAR will have 47 parts, grouped into 19 packages. VA did consider grouping all of the parts into one package, which would have resulted in one regulatory action. However, this approach or alternative was tried several years ago and the project ended up being terminated because of the complexity, time spent correcting errors, legal review, and inconsistency amongst the acquisition offices and other agencies. Another alternative would be to do nothing, which would undermine VA's mission of simplifying the acquisition process and making it easier for potential vendors to do business with the VA.

*Anticipated Cost and Benefits:* There are no transfer costs or savings associated with this rulemaking. The total estimated annual cost savings to respondents as a result of this rulemaking is estimated to be $82,685.00.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 02/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Ricky L. Clark, Senior Procurement Analyst (003A2A), Department of Veterans Affairs, Procurement Policy and Warrant

Management Services, 425 I Street NW, Washington, DC 20001, *Phone:* 202 632–5276, *Email: ricky.clark@va.gov.*

*RIN:* 2900–AQ18

## VA

### 96. • Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V006)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 41 U.S.C. 1303; 41 U.S.C. 1707; 38 U.S.C. 8127 to 8128

*CFR Citation:* 48 CFR Ch 8; 48 CFR 817; 48 CFR 852.

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates the VAAR as well as internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish it in the **Federal Register**. To minimize the number of rules published, VA will combine relatable topics.

*Statement of Need:* The rulemaking would update the VAAR to current FAR titles, requirements, and definitions; it would correct inconsistencies and removes redundancies and duplicate material already covered by the FAR; it would also delete outdated material or information and appropriately renumbers VAAR text, clauses, and provisions where required to comport with FAR format, numbering and arrangement. All amendments, revisions, and removals have been reviewed and concurred with by an Integrated Product Team of agency stakeholders. Codified acquisition regulations may be amended and revised only through rulemaking.

*Summary of Legal Basis:* Authority: 41 U.S.C. 1303; 48 CFR 1.301 to 1.304; 41 U.S.C. 1707; and 38 U.S.C. 8127 and 8128.

*Alternatives:* The revised VAAR will have 47 parts, grouped into 19 packages. VA did consider grouping all of the parts into one package, which would have resulted in one regulatory action. However, this approach or alternative was tried several years ago and the project ended up being terminated because of the complexity, time spent correcting errors, legal review, and inconsistency amongst the acquisition offices and other agencies. Another alternative would be to do nothing, which would undermine VA's mission of simplifying the acquisition process and making it easier for potential vendors to do business with the VA.

*Anticipated Cost and Benefits:* There are no transfer costs, savings and/or information collection burden costs/savings associated with this rulemaking.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Rafael Taylor, Senior Procurement Analyst (003A2A), Department of Veterans Affairs, Procurement Policy and Warrant Management Services, 425 I Street NW, Washington, DC 20001, *Phone:* 202 382–2787, *Email: rafael.taylor@va.gov.*

*RIN:* 2900–AQ19

## VA

### 97. • Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles (VAAR Case 2015–V011)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 38 U.S.C. 501; 40 U.S.C. 121(c)

*CFR Citation:* 48 CFR Ch 8.

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates the VAAR as well as internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish it in the **Federal Register**. To minimize the number of rules published, VA will combine relatable topics.

*Statement of Need:* The rulemaking would update the VAAR to current FAR titles, requirements, and definitions; it would correct inconsistencies and removes redundancies and duplicate material already covered by the FAR; it would also delete outdated material or information and appropriately renumbers VAAR text, clauses, and provisions where required to comport with FAR format, numbering and arrangement. All amendments, revisions, and removals have been reviewed and concurred with by an Integrated Product Team of agency stakeholders. Codified acquisition regulations may be amended and revised only through rulemaking.

*Summary of Legal Basis:* Authority: 38 U.S.C. 501; 40 U.S.C. 121(c); and 48 CFR 1.301 to 1.304.

*Alternatives:* The revised VAAR will have 47 parts, grouped into 19 packages. VA did consider grouping all of the parts into one package, which would have resulted in one regulatory action. However, this approach or alternative was tried several years ago and the project ended up being terminated because of the complexity, time spent correcting errors, legal review, and inconsistency amongst the acquisition offices and other agencies. Another alternative would be to do nothing, which would undermine VA's mission of simplifying the acquisition process and making it easier for potential vendors to do business with the VA.

*Anticipated Cost and Benefits:* There are no transfer costs or savings associated with this rulemaking. The total estimated annual cost to respondents as a result of this rulemaking is estimated to be $565,000.00.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* LeStancia N. Spaght, Senior Procurement Analyst (003A2A), Department of Veterans Affairs, Procurement Policy and Warrant Management Services, 425 I Street NW, Washington, DC 20001, *Phone:* 202 632–5331.

*RIN:* 2900–AQ20

## VA

### 98. • Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles (VAAR Case 2015–V012)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 38 U.S.C. 501; 40 U.S.C. 121(c) and 3304(a)

*CFR Citation:* 48 CFR Ch 8.

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates the VAAR as well as internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish it in the **Federal Register**. To minimize the number of rules published, VA will combine relatable topics.

*Statement of Need:* The rulemaking would update the VAAR to current FAR titles, requirements, and definitions; it would correct inconsistencies and removes redundancies and duplicate material already covered by the FAR; it would also delete outdated material or information and appropriately renumbers VAAR text, clauses, and provisions where required to comport with FAR format, numbering and arrangement. All amendments, revisions, and removals have been reviewed and concurred with by an Integrated Product Team of agency stakeholders. Codified acquisition regulations may be amended and revised only through rulemaking.

*Summary of Legal Basis:* Authority: 38 U.S.C. 501; 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 3304(a); 48 CFR 1.301 to 1.304.

*Alternatives:* The revised VAAR will have 47 parts, grouped into 19 packages. VA did consider grouping all of the parts into one package, which would have resulted in one regulatory action. However, this approach or alternative was tried several years ago and the project ended up being terminated because of the complexity, time spent correcting errors, legal review, and inconsistency amongst the acquisition offices and other agencies. Another alternative would be to do nothing, which would undermine VA's mission of simplifying the acquisition process and making it easier for potential vendors to do business with the VA.

*Anticipated Cost and Benefits:* There are no transfer costs, savings and/or information collection burden costs/savings associated with this rulemaking.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Ricky L. Clark, Senior Procurement Analyst (003A2A), Department of Veterans Affairs, Procurement Policy and Warrant Management Services, 425 I Street NW, Washington, DC 20001, *Phone:* 202 632–5276, *Email: ricky.clark@va.gov*.

*RIN:* 2900–AQ21

## VA

Final Rule Stage

### 99. Per Diem Paid to States for Care of Eligible Veterans in State Homes

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 38 U.S.C. 101, 501 and 1710; 38 U.S.C. 1741 to 1743; 38 U.S.C. 1745; 38 U.S.C. 7104 and 7105; 42 U.S.C. 1395(cc)

*CFR Citation:* 38 CFR 51.

*Legal Deadline:* None.

*Abstract:* This rulemaking would adopt as final, to include any changes as a result of public comments, the proposed rule that published on June 17, 2015, at 80 FR 34793. This rulemaking reorganizes, updates, and clarifies State Veterans homes regulations, authorizes greater flexibility in adult day health care programs, and establishes regulations regarding domiciliary care, with clarifications regarding the care that State homes must provide to veterans in domiciliaries.

*Statement of Need:* The reorganization would improve consistency and clarity throughout these State home programs. Currently, we require States to operate these programs exclusively using a medical supervision model. We expect that these liberalizing changes will result in an increase in the number of States that have adult day health care programs. Moreover, the regulations governing per diem for State home hospitals will be eliminated because there are no longer any State home hospitals.

*Summary of Legal Basis:* VA pays per diem to State homes for three types of care provided to eligible veterans: Nursing home care, domiciliary care, and adult day health care. The statutory authority for these payment programs is set forth at 38 U.S.C. 1741–43 and 1745.

*Alternatives:* VA considered the consequences of taking no action. Under VA's State home per diem program, VA partners States to provide nursing home, domiciliary, and adult day health services to Veterans. The states and organizations that represent them have advised VA for many years that certain of VA's regulations are outdated, confusing, do not conform with best practices in extended care services, or are otherwise in need of updating. In particular, they have repeatedly requested that VA establish regulatory guidance about the domiciliary care program, and change standards relating to medical supervision of the Adult Day Health Care program. Taking no action would result in VA being unable to make the needed changes to these programs to respond to these concerns of stakeholders.

*Anticipated Cost and Benefits:* VA has determined that there are both transfer savings and costs associated with this rulemaking. As a result of the newly increased ADHC services, the government will spend $700,162 less in transfers in FY 2017 and $4,531,095 less over a five year period. The cost avoidance is based on a high end volume estimate. This final rulemaking contains provisions constituting collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 to 3521). However, there are no increased and/or decreased PRA costs.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 06/17/15 | 80 FR 34793 |
| NPRM; Correction and Clarification. | 06/24/15 | 80 FR 36305 |
| NPRM Comment Period End. | 08/17/15 | |
| Final Action ..... | 05/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Richard Allman, Chief Consultant, Geriatrics and Extended Care Services, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, *Phone:* 202 461–6750.

*RIN:* 2900–AO88

## VA

### 100. Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V001, Parts 803, 814 and 822)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 40 U.S.C. 121(c); 38 U.S.C. 501; 41 U.S.C. 1121(c)(3)

*CFR Citation:* 48 CFR 801; 48 CFR 802; 48 CFR 803; 48 CFR 812; 48 CFR 814; 48 CFR 822; 48 CFR 852; 48 CFR 1.301 to 1.304.

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates the VAAR as well as internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish it in the **Federal Register**. To minimize the number of rules published, VA will combine relatable topics. This Proposed Rule revises VAAR parts 803, 814 and 822, as well as affected parts 801, 802, 812 and 852.

*Statement of Need:* Included in the proposed changes to streamline the VAAR, implementing and supplementing the FAR where required, and removing internal agency guidance in keeping with the FAR principles concerning agency acquisition regulations, are removing an information collection burden from the VAAR because it is based on an outdated practice in providing bid envelopes. We propose to add additional definitions to ensure a common understanding and meaning of terms related to debarment and suspensions in the department. We are proposing to update the policy governing improper business practices and personal conflicts of interests and to clarify the language regarding the prohibition of contractors from making reference in its commercial advertising regarding VA contracts to avoid implying that the Government approves or endorses products or services.

*Summary of Legal Basis:* 38 U.S.C. 501, 40 U.S.C. 121(c), 41 U.S.C. 1121(c)(3), 41 U.S.C. 1707, 48 CFR 301–1.304.

*Alternatives:* The revised VAAR will have 47 parts, grouped into 19 packages. VA did consider grouping all of the parts into one package, which would have resulted in one regulatory action. However, this approach or alternative was tried several years ago and the project ended up being terminated because of the complexity, time spent correcting errors, legal review, and inconsistency amongst the acquisition offices and other agencies. Another alternative would be to do nothing, which would undermine VA's mission of simplifying the acquisition process and making it easier for potential vendors to do business with the VA.

*Anticipated Cost and Benefits:* VA has determined that there are notransfer costs and/or savings associated with this rulemaking. VA is merely adding existing and current regulatory requirements to these VAAR parts and removing any guidance that is applicable only to VA's internal operation processes or procedures and placing that guidance in the Veterans Affairs Acquisition Manual (VAAM).

Although this action contains provisions constituting collections of information at 48 CFR 814.201–6(a) and 852.214–70, under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 to 3521), no new or proposed revised collections of information are associated with this rule.

The information collection requirements for 48 CFR 814.201–6(a) and 852.214–70 are currently approved by the Office of Management and Budget (OMB), have been assigned OMB control number 2900–0593, and are being proposed for removal and discontinuance. This will remove the annual burden of 2 hours on the estimated 640 respondents annually and have an information collection burden savings of $50.66.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/17/17 | 82 FR 22635 |
| NPRM Comment Period End. | 07/17/17 | |
| Final Action | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Ricky L. Clark, Senior Procurement Analyst (003A2A), Department of Veterans Affairs, Procurement Policy and Warrant Management Services, 425 I Street NW, Washington, DC 20001, *Phone:* 202 632–5276, *Email: ricky.clark@va.gov*.

*RIN:* 2900–AP50

## VA

### 101. Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V002, Parts 816 and 828)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 40 U.S.C. 121(c)

*CFR Citation:* 48 CFR 816; 48 CFR 828; 48 CFR 852; 48 CFR 1.3.

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates the VAAR as well as internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish it in the **Federal Register**. To minimize the number of rules published, VA will combine relatable topics. This proposed rule revises VAAR parts 816 and 828, as well as affected part 852.

*Statement of Need:* Included in the changes to streamline the VAAR, implementing and supplementing the FAR where required, and removing internal agency guidance in keeping with the FAR principles concerning agency acquisition regulations, are adding a section on consignment agreements which defines and describes the consignment agreement acquisition method used for satisfying the need for immediate and on-going requirements; removing the section, Letters of Availability, as that procurement method is no longer in use in VA. Also, revising the section, Insurance Under Fixed-Price Contracts, to clarify the provision prescription for when insurance is required for solicitations when utilizing term or continuing fixed priced contracts for ambulance, automobile and aircraft service.

*Summary of Legal Basis:* 40 U.S.C. 121(c), 41 U.S.C. 1707, 48 CFR 1.3.

*Alternatives:* The revised VAAR will have 47 parts, grouped into 19 packages. VA did consider grouping all of the parts into one package, which would have resulted in one regulatory action. However, this approach or alternative was tried several years ago and the project ended up being terminated because of the complexity, time spent correcting errors, legal review, and inconsistency amongst the acquisition offices and other agencies. Another alternative would be to do nothing, which would undermine VA's mission of simplifying the acquisition process and making it easier for potential vendors to do business with the VA.

*Anticipated Cost and Benefits:* VA has determined there are no transfer costs or savings associated with this rulemaking. VA is merely adding existing and current regulatory requirements to the VAAR and removing any guidance that is applicable only to VA's internal operation processes or procedures and placing that guidance in the Veterans Affairs Acquisition Manual (VAAM). This rule contains provisions constituting collections of information at 48 CFR 828.306 and 852.228–71, under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). However, this regulation does not add any new or proposes any new revisions for the collection of information. The information collection requirements for 48 CFR 828.306 and 852.228–71 are currently approved by the Office of Management and Budget (OMB) and were assigned the OMB control number of 2900–0590.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 03/13/17 | 82 FR 13418 |
| NPRM; Correction | 04/04/17 | 82 FR 16332 |
| NPRM Comment Period End. | 05/12/17 | |
| Final Action | 05/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Ricky L. Clark, Senior Procurement Analyst (003A2A), Department of Veterans Affairs, Procurement Policy and Warrant Management Services, 425 I Street NW, Washington, DC 20001, *Phone:* 202 632–5276, *Email: ricky.clark@va.gov*.

*RIN:* 2900–AP82

## VA

### 102. • Reimbursement for Emergency Treatment

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

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 38 U.S.C. 501

*CFR Citation:* 38 CFR 17.1002; 38 CFR 17.1003; 38 CFR 17.1005.

*Legal Deadline:* None.

*Abstract:* The Department of Veterans Affairs (VA) plans to revise its regulations concerning payment or reimbursement for emergency treatment for non-service-connected conditions at non-VA facilities to implement the requirements of a recent court decision.

*Statement of Need:* This rulemaking will clarify eligibility for payment or reimbursement to include veterans who receive partial payment from a health-plan contract for non-VA emergency treatment and establishes a corresponding reimbursement methodology.

*Summary of Legal Basis:* 38 U.S.C. 1725 authorizes VA to reimburse veterans for the reasonable value of emergency treatment for non-service connected conditions furnished in a non-VA facility, if certain criteria are met. One requirement is that the veteran must be personally liable for the emergency treatment. As originally enacted in 1999, the statute provided that a veteran is personally liable if the veteran has no entitlement to care or services under a health-plan contract, and no other contractual or legal recourse against a third party that would, in part or in whole, extinguish such liability to the provider. 38 U.S.C. 1725(b)(3)(B) and (C) (1999).

In *Staab* v. *McDonald,* 28 Vet. App. 50 (2016), the U.S. Court of Appeals for Veterans Claims (the Court) reversed a Board of Veterans' Appeals (the Board) decision denying a claim under section 1725. The Board had applied 17.1002(f) to conclude that partial payment of the emergency treatment by the veteran's health-plan contract barred VA reimbursement. On appeal, the veteran challenged 17.1002(f) as inconsistent with section 1725. The Court agreed, and in a precedential decision, held invalid and set aside 17.1002(f) and remanded the case.

*Alternatives:* This rulemaking is a result of a court order invalidating 38 CFR 17.1002(f). This rulemaking will amend the pertinent VA regulations to comply with the holding of this Court decision. It will make other amendments that are also needed to ensure consistent application of its authority to reimburse Veterans for emergency treatment in light of the court order.

*Anticipated Cost and Benefits:* VA has determined that there are transfers costs associated with this rulemaking. Total transfer costs are estimated to be from a low estimate of $45.0 million to a high estimate of $97.3 million in FY 2018 and a low estimate of $234.4 million to a high estimate of $517.7 million over a five year period. This rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 to 3521).

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Interim Final Rule | 11/00/17 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Joseph Duran, Deputy Director (10NB3), Department of Veterans Affairs, Chief Business Office, Veteran Health Administration, 3773 Cherry Creek North Drive, Denver, CO 80209, *Phone:* 303 372–4629, *Email: joseph.duran2@va.gov*.

*RIN:* 2900–AQ08

BILLING CODE 8320–01–P

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

### Statement of Priorities

*Overview*

The U.S. Environmental Protection Agency (EPA) administers the laws enacted by Congress and signed by the President to protect people's health and the environment. In carrying out these statutory mandates, the EPA works to ensure that all Americans are protected from significant risks to human health and the environment where they live, learn and work; that national efforts to reduce environmental risk are based on the best available scientific information; that Federal laws protecting human health and the environment are enforced fairly and effectively; that environmental protection is an integral consideration in U.S. policies concerning natural resources, human health, economic growth, energy, transportation, agriculture, industry, and international trade, and these factors are similarly considered in establishing environmental policy; that all parts of society—communities, individuals, businesses, and State, local and tribal governments—have access to

accurate information sufficient to effectively participate in managing human health and environmental risks; that environmental protection contributes to making our communities and ecosystems diverse, sustainable and economically productive; and, that the United States plays a leadership role in working with other nations to protect the global environment.

To accomplish its goals in the coming year, the EPA will use regulatory authorities, along with grant- and incentive-based programs, technical and compliance assistance and tools, and research and educational initiatives to address its statutory responsibilities. 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 and deregulatory actions. As always, our Semiannual Regulatory Agenda contains information on a broader spectrum of EPA's upcoming regulatory actions.

Improving Air Quality

The Agency will continue to deploy existing regulatory tools where appropriate and warranted. Using the Clean Air Act, EPA will work with States to accurately measure air quality and ensure that more Americans are living and working in areas that meet air quality standards. EPA will continue to develop standards, as directed by the Clean Air Act, for both mobile and stationary sources, to reduce emissions of sulfur dioxide, particulate matter, nitrogen oxides, toxics, and other pollutants.

*Electric Utility Sector Greenhouse Gas Rules.* The EPA will continue its review of the Clean Power Plan suite of actions issued by the previous administration affecting fossil fuel-fired electric generating units (EGUs). On October 23, 2015, the EPA issued a final rule that established first-ever standards for States to follow in developing plans to reduce carbon dioxide (CO2) emissions from existing fossil fuel-fired EGUs. On the same day, the EPA issued a final rule establishing CO2 emissions standards for newly constructed, modified, and reconstructed fossil fuel fired EGUs. The Agency will reevaluate whether these rules and alternative approaches are appropriately grounded in EPA's statutory authority and consistent with the rule of law. EPA will assess whether these rules or alternative approaches would appropriately promote cooperative federalism and respect the authority and powers that are reserved to the States; whether these rules and alternative approaches affect the Administration's dual goals of protecting public health and welfare, while also supporting economic growth and job creation; and whether these rules or alternative approaches appropriately maintain the diversity of reliable energy resources and encourage the production of domestic energy sources to achieve energy independence and security.

*Light-duty Vehicle Mid-Term Evaluation.* In 2012, as part of a joint rulemaking, the EPA and the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) finalized separate sets of standards under their respective statutory authorities. The EPA set GHG emission standards (including standards for emissions of CO2, NOx, methane, and air conditioning refrigerants) for Model Year (MY) 2017–2025 passenger cars and light-trucks under Clean Air Act (CAA) section 202(a). NHTSA sets national CAFE standards under the Energy Policy and Conservation Act (EPCA) for MY 2017–2021 light-duty vehicles and issued augural standards for MY 2022–2025. The 2012 joint rulemaking establishing these standards included a regulatory requirement for the EPA to conduct a Mid-Term Evaluation of the GHG standards established for MY 2022–2025. In July 2016, the EPA, NHTSA, and the California Air Resources Board (CARB) released for public comment a jointly prepared Draft Technical Assessment Report, which examined a range of issues relevant to GHG emissions and CAFE standards for MY 2022–2025.

Under the 2012 joint rulemaking regulations, no later than April 1, 2018, the EPA Administrator must determine whether the GHG standards established under the 2012 joint rule for MY 2022–2025 are appropriate under CAA section 202(a) in light of the record then before the Administrator. Given that CO2 makes up the vast majority of the GHGs that the EPA regulates under section 202(a), and given that the technologies available for regulating CO2 emissions do so by improving fuel economy (which NHTSA regulates under EPCA), NHTSA's views regarding their CAFE standards is an appropriate consideration in EPA's determination regarding what GHG standards would be appropriate under the CAA.

In accordance with the schedule set forth in the EPA's regulations, the EPA intends to make a Final Determination regarding the appropriateness of the MY 2022–2025 GHG standards no later than April 1, 2018. As a part of this process, the EPA is examining a wide range of factors, such as developments in powertrain technology, vehicle electrification, light-weighting and vehicle safety impacts, the penetration of fuel efficient technologies in the marketplace, consumer acceptance of fuel efficient technologies, trends in fuel prices and the vehicle fleet, employment impacts, and many others.

*New Source Review and Title V Permitting Programs Reform.* The CAA establishes a number of permitting programs designed to carry out the goals of the Act. The EPA directly implements some of these programs through its regional offices, but most are carried out by States, local agencies, and approved tribes. New Source Review (NSR) is a preconstruction permitting program that ensures that the addition of new and modified sources does not significantly degrade air quality. NSR permits are legal documents that the facility owners/operators must abide by. The permit specifies what construction is allowed, what emission limits must be met, and often how the emissions source may be operated. There are three types of NSR permits: (1) Prevention of Significant Deterioration (PSD) (CAA part C) permits, which are required for new major sources or a major source making a major modification in an attainment area; (2) Nonattainment NSR (NNSR) (CAA part D) permits, which are required for new major sources or major sources making a major modification in a nonattainment area; and (3) Minor source permits (CAA section 110(a)(2)(C)).

CAA title V requires major sources of air pollutants, and certain other sources, to obtain and operate in compliance with an operating permit. Sources with these ''title V permits'' are required by the CAA to certify compliance with the applicable requirements of their permits at least annually. Regulations governing the Title V program are found at 40 CFR part 70—State Operating Permit Programs.

To improve program effectiveness and reduce compliance burden, the EPA will examine permitting programs reforms, such as the timely issuance of permits, the facilitation of flexibility in permitting in a nationally consistent manner (including but not limited to plant-wide applicability limits (PALs) and alternative operating scenarios), and the simplification of CAA permitting requirements by evaluating and

pursuing appropriate actions related to actual-to-projected-actual applicability test, project netting rulemaking, debottlenecking, and routine maintenance, repair, and replacement.

The EPA plans to complete the following actions: GHG Significant Emission Rate rulemaking, which will provide a significance threshold for GHG emissions to determine when a best available control technology (BACT) analysis is required; improve the technical tools used to streamline air quality modeling by issuing final $PM_{2.5}$ and Ozone Significant Impact Levels (SILs) Guidance, and final Modeled Emissions Rates for Precursors (MERPs) Guidance; and title V Permitting Program Petition Provisions Modification.

*Ozone National Ambient Air Quality Standard (NAAQS) Implementation Revisions.*

On October 1, 2015, the EPA signed a notice of final rulemaking that revised the 8-hour primary and secondary Ozone NAAQS. The primary standard was lowered from 0.075 parts per million (ppm) to a level of 0.070 ppm. The EPA also revised the secondary standard by making it identical in all respects to the revised primary standard.

Subsequently, stakeholders have recommended that the EPA further revise the exceptional event rule and associated guidance to allow for greater state flexibility in flagging and excluding exceptional events in the data set used to determine compliance with the NAAQS. Exceptional events are unusual or naturally occurring events that can affect air quality but are not reasonably controllable using techniques that tribal, State, or local air agencies may implement in order to attain and maintain the NAAQS. Exceptional events include wildfires, stratospheric ozone intrusions, and volcanic and seismic activities. In September 2016, the EPA finalized revisions to the Exceptional Events rule to establish criteria and procedures for use in determining exceptional events influenced air quality monitoring data.

In addition, the EPA intends to finalize necessary guidance (*e.g.,* updated exceptional events guidance and guidance on Significant Impact Levels (SILs) and Model Emission Rates for Precursors (MERPs), as well as to finalize its 2015 Ozone NAAQS Implementation rule.

Improving Water Quality

Since the enactment of the Clean Water Act and the Safer Drinking Water Act, tremendous progress has been made toward ensuring that Americans have safe water to drink and generally improving the quality of the Nation's waters. While progress has been made, numerous challenges remain in such areas as nutrient loadings, storm water runoff, invasive species and drinking water contaminants. These challenges can only be addressed by working with our State and tribal partners to develop new and innovative strategies in addition to the more traditional regulatory approaches. EPA plans to address the following challenging issues in rulemakings.

*Waters of the U.S.* The Clean Water Act (CWA) seeks ''to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'' Among other provisions, the CWA regulates the discharge of pollutants into ''navigable waters,'' defined in the CWA as ''the waters of the United States.'' The question of what is a ''water of the United States'' is one that has generated substantial interest and uncertainty, especially among states, small businesses, the agricultural communities, and environmental organizations, because it relates to the extent of jurisdiction for Federal and relevant State regulations.

The EPA and the Department of the Army have promulgated a series of regulations defining ''waters of the United States.'' The scope of ''waters of the United States'' as defined by prior regulations has been subject to litigation in several U.S. Supreme Court cases, most recently in its 2006 *Rapanos* decision. Subsequently, the EPA and the Corp of Engineers issued the ''Clean Water Rule: Definition of 'Waters of the United States.' '' (2015 WOTUS Rule.) On October 9, 2015, the Sixth Circuit stayed the 2015 WOTUS rule nationwide pending further action of the court.

On July 27, 2017, the EPA and the Army issued a proposed rulemaking to repeal the 2015 WOTUS rule and reinstate the regulations in place prior to its issuance. As indicated in the proposed withdrawal, the agencies are implementing clarifying changes in two steps to provide as much certainty as possible as quickly as possible to the regulated community and the public during the development of the ultimate replacement rule. In Step 1, the agencies are seeking to establish the legal status quo in the Code of Federal Regulations, by recodifying the regulation that was in place prior to issuance of the 2015 WOTUS Rule. Currently, these prior regulations are being implemented under the U.S. Court of Appeals for the Sixth Circuit's stay of the 2015 rule. In step 2, the agencies plan to propose a new definition that would replace the prior regulations and the approach in the 2015 Clean Water Rule. In determining the possible new approaches, EPA and the Corps of Engineers are considering a definition for ''navigable water'' in a manner consistent with the plurality opinion of Justice Antonin Scalia in the *Rapanos* decision as instructed by Executive Order 13778, ''Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule.''

Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category. On November 3, 2015, under the authority of the CWA, the EPA issued a final rule amending the Effluent Limitations Guidelines (ELG) and Standards for the Steam Electric Power Generating Point Source Category (*i.e.,* 2015 Steam Electric ELG). The amendments addressed and contained limitations and standards on various waste streams at steam electric power plants: fly ash transport water, bottom ash transport water, flue gas mercury control wastewater, flue gas desulfurization (FGD) wastewater, gasification wastewater, and combustion residual leachate. EPA recently received two administrative petitions for reconsideration of the Steam Electric ELG rule, one from the Utility Water Act Group (a petitioner in the litigation) and one from the Small Business Administration Office of Advocacy. In a letter dated April 12, 2017, Administrator Pruitt informed the petitioners of his decision that it is appropriate and in the public interest to reconsider the rule. On April 25, 2017, EPA published a **Federal Register** notice issuing an administrative stay of the compliance dates in the rule that have not yet passed, pending judicial review, under section 705 of the Administrative Procedure Act. In addition, because Section 705 of the APA authorizes an Agency to postpone the effective date of an action pending judicial review, EPA issued a proposed rule on June 6, 2017 to postpone certain compliance dates in the rule in the event that the litigation ends, and while the Agency is undertaking reconsideration. On August 11, 2017 the Administrator announced his decision to conduct a rulemaking to potentially revise the new, more stringent BAT effluent limitations and pretreatment standards for existing sources in the 2015 rule that apply to bottom ash transport water and flue gas desulfurization (FGD) wastewater. In light of the reconsideration, EPA views that it is appropriate to postpone impending deadlines as a temporary,

stopgap measure to prevent the unnecessary expenditure of resources until it completes reconsideration of the 2015 rule. Thus, the Administrator signed a final rule on September 9, 2017 postponing the earliest compliance dates for the BAT effluent limitations and PSES for bottom ash transport water and FGD wastewater in the 2015 Rule, from November 1, 2018 to November 1, 2020. This rule also withdraws EPA's notification of Postponement of Certain Compliance Dates under Section 705 of the Administrative Procedures Act that was published on April 25, 2017.

National Primary Drinking Water Regulations for Lead and Copper. The Lead and Copper Rule (LCR) reduces risks to drinking water consumers from lead and copper that can enter drinking water as a result of corrosion of plumbing materials. The LCR requires water systems to sample at taps in homes with leaded plumbing materials. Depending upon the sampling results, water systems must take actions to reduce exposure to lead and copper including corrosion control treatment, public education, and lead service line replacement. The LCR was promulgated in 1991 and, overall, has been effective in reducing the levels of lead and copper in drinking water systems across the country. However, lead crises in Washington, DC, and in Flint, Michigan, and the subsequent national attention focused on lead in drinking water in other communities have underscored significant challenges in the implementation of the current rule, including a rule structure that, for many systems, only compels protective actions after public health threats have been identified. Key challenges include the rule's complexity; the degree of flexibility and discretion it affords systems and primacy states with regard to optimization of corrosion control treatment; compliance sampling practices, which in some cases, may not adequately protect from lead exposure; and limited specific focus on key areas of concern such as schools. There is a compelling need to modernize and strengthen implementation of the rule—to strengthen its public health protections and to clarify its implementation requirements to make it more effective and more readily enforceable. EPA is evaluating the costs and benefits of the potential revisions and assessing whether the benefits justify the costs.

Cleaning Up Communities and Advancing Sustainable Development

EPA's regulatory program recognizes the progress in environmental protection and incorporates new technologies and approaches that allow us to provide for an environmentally sustainable future more efficiently and effectively.

*Coal Combustion Residuals (CCR) Review.* On April 17, 2015, the EPA promulgated a final rule that establishes minimum national criteria under subtitle D of the Resource Conservation and Recovery Act (RCRA) for Coal Combustion Residuals (CCR) landfills and surface impoundments at active coal fired power plants. The rule regulates surface impoundments and landfills that are actively accruing CCR, inactive surface impoundments still containing CCRs, and water both at operating power plants actively burning coal and those that burned coal in the past but have transitioned to use of an alternate fuel source. The requirements of the rule included: Location restrictions (floodplains, wetlands, unstable areas, etc.); design criteria (liners, structural integrity criteria); operating criteria (*e.g.,* run-on and runoff controls, inspections, fugitive dust controls); groundwater monitoring and corrective action; closure and post-closure care (*e.g.,* final cover systems, 30 years of groundwater monitoring); and recordkeeping. At the time the final CCR rule was issued under subtitle D of RCRA, the EPA did not have the authority to enforce these criteria nor was the EPA authorized to approve state permit programs, as is the case for municipal solid waste landfills. Instead, the requirements of the CCR rule are directly applicable to owner/operators of facilities where disposal units are located and can be enforced via citizen suit or under the ''imminent and substantial danger'' authority of RCRA section 7002. Owner/operators are required under the rule to place notifications in their operating record, on their website, and in some instances provide notice to the directors of appropriate State agencies documenting the measures taken to comply with the rule.

The 2015 CCR Rule does not make a final Bevill regulatory determination as to whether CCRs warrant regulation as a hazardous waste under subtitle C of RCRA, but instead defers a final regulatory determination until the EPA has more information on specific matters influencing the risks posed by CCRs.

Subsequent to the promulgation of the 2015 CCR Rule, various environmental and industry groups submitted to the DC Circuit seven separate petitions for review, which were consolidated into a single action. On June 16, 2016, in response to the EPA's unopposed motion for voluntary remand of certain issues, the DC Circuit issued an order remanding with vacatur to the EPA specific provisions of the rule for further consideration, and remanding without vacatur other issues. The EPA will consider the provisions remanded by the DC Circuit, as well as the issues raised in the 2017 petition and other implementation issues subsequently raised by stakeholders.

Reconsideration of the Accidental Release Prevention Regulations Under Clean Air Act. Both EPA and the Occupational Safety & Health Administration (OSHA) 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 Risk Management Program (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.

On January 13, 2017, the EPA amended the RMP regulations in order to (1) reduce the likelihood and severity of accidental releases, (2) improve emergency response when those releases occur, and (3) enhance State and local emergency preparedness and response in an effort to mitigate the effects of accidents.

Having considered the objections to the RMP Amendments rule raised in various petitions, the EPA subsequently delayed the effective date of the RMP Amendments rule to February 19, 2019, in order to give the EPA time to reconsider the rule. Prior to the rule becoming effective, the EPA plans to take comment on specific issues to be reconsidered and consider possible regulatory actions to revise the RMP amendments.

Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residues from Electric Utilities: Remand Rule. The EPA is planning to modify the final rule on the disposal of Coal Combustion Residuals (CCR) as solid waste under subtitle D of the Resource Conservation and Recovery Act issued on April 17, 2015 (80 FR 21302). As a result of a settlement agreement on this final rule,

the EPA is addressing specific technical issues remanded by the court. Further, the Water Infrastructure Improvements for the Nation Act of 2016 established new statutory provisions applicable to CCR units, including authorizing States to implement the CCR rule through an EPA-approved permit program and authorizing the EPA to enforce the rule. The EPA is considering amending certain performance standards in the CCR rule to offer additional flexibility to State permitting authorities with approved programs.

Clean Water Act Hazardous Substances Spill Prevention. As a result of a consent decree, the EPA is pursuing a rulemaking for the prevention of hazardous substance discharges under the Clean Water Act (CWA). The CWA hazardous substances and their associated reportable quantities (RQs) are identified in 40 CFR parts 116 and 117, respectively. The EPA will assess the consequences of hazardous substance discharges into the Nation's waters, and evaluate the costs and benefits of potential preventive regulatory requirements for facilities handling such substances.

Ensuring the Safety of Chemicals and Preventing Pollution

EPA acts under 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), the Emergency Planning and Community Right-to-Know-Act (EPCRA), and the Pollution Prevention Act (PPA) to protect individuals, families, and the environment from potential risks of pesticides and other chemicals. Using sound science as a compass, the Agency will continue to satisfy its overall directives under these authorities and highlights the following efforts underway in FY 2018:

Frank R. Lautenberg Chemical Safety for the 21st Century Act Implementation. Enacted on June 22, 2016, the Frank R. Lautenberg Chemical Safety for the 21st Century Act amended TSCA with immediate effect. The Agency is working aggressively to carry out the requirements of the new law. Among other things, EPA is now required to evaluate existing chemicals purely on the basis of the health risks they pose—including risks to vulnerable groups and to workers who may use chemicals daily as part of their jobs. If unreasonable risks are found, EPA must then take steps to eliminate these risks. In June 2017, EPA released scope documents for the initial ten chemicals for risk evaluation under the amended law. These documents identify what uses of the chemicals will be evaluated and how the risk evaluation will be conducted. In FY 2018, EPA will publish and take public comment on Problem Formulation documents which will refine the current scope of the risk evaluations prior to publication the draft risk evaluations in FY 2019.

EPA is also now required to systematically prioritize and evaluate chemicals on a specific and enforceable schedule. Within a few years, EPA's chemicals program will have to assess at least 20 chemicals at a time, beginning another chemical review as soon as one is completed. In June 2017, EPA promulgated final framework regulations addressing the procedures that EPA will employ to prioritize chemicals under TSCA for risk evaluation, as well as the procedures that EPA will follow to evaluate the risks of chemicals procedures. EPA also promulgated a final rule, per statutory requirements, to require chemical manufacturers to report on TSCA chemicals they have manufactured (including imported) within the past 10 years. Although the framework regulations did not formally establish an approach to identify how chemicals will be selected as candidates for low- or high-priority designation, EPA will initiate a stakeholder process in FY 2018 with the objective of identifying approaches for bringing TSCA chemicals into the prioritization process. EPA will subsequently determine whether to amend the procedural regulations in consideration of the information obtained during the stakeholder process.

The new law also authorizes EPA cover a portion of its annual TSCA program costs by collecting user fees from chemical manufacturers and processors when they: Submit test data for EPA review, submit a premanufacture notice for a new chemical or a notice of new use, manufacture or process a chemical substance that is the subject of a risk evaluation, or request that EPA conduct a chemical risk evaluation. The proposal and finalization of a fees rule is an EPA priority in FY 2018.

Finally, the new law requires EPA to promulgate by June 22, 2018 a final rule that establishes reporting requirements to facilitate the update of the inventory of the supply, trade, and use of mercury in the United States. EPA will issue a proposed rule in early FY 2018 and promulgate the final rule on or before the statutory deadline.

Reconsideration of Pesticide Safety Requirements. In FY 2017, EPA solicited comments this spring on regulations that may be appropriate for repeal, replacement, or modification in keeping with Executive Order 13777, entitled ''Enforcing the Regulatory Reform Agenda.'' EPA also held a public meeting of the Pesticide Program Dialogue Committee in May 2017 that included session specifically devoted to receiving public feedback on potential pesticide regulatory reform opportunities for EPA's Regulatory Reform Task Force to consider. Although many commenters expressed their support for EPA's pesticide safety regulations, EPA also received comments that suggested specific changes to the January 4, 2017, Certification of Pesticide Applicators final rule (amending the requirements at 40 CFR 171) and to the November 2, 2015, Worker Protection Standard final rule (which amended the regulations at 40 CFR 170). EPA expects to publish separate Notices of Proposed Rulemaking in FY 2018 to solicit public input on revisions to these rules.

Annual Regulatory Costs

Section 3 of Executive Order 13771 (82 FR 9339, February 3, 2017) calls on agencies to ''identify for each regulation that increases incremental cost, the offsetting regulations . . . and provide the agency's best approximation of the total costs or savings associated with each new regulation or repealed regulation.'' Each action in EPA's fall 2017 Regulatory Plan and Semiannual Regulatory Agenda contains information about whether an action is anticipated to be ''regulatory'' or ''deregulatory'' in fulfilling this executive directive. Based on current schedules and expectations regarding whether or not regulatory actions are subject to Executive Order 12866 and hence Executive Order 13771, in fiscal year 2018, EPA is planning on finalizing over 30 deregulatory actions and fewer than 10 regulatory actions. EPA expects the combined cost savings of its planned deregulatory actions to far outweigh the costs of its planned regulatory actions.

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 Flexibility website (*https://www.epa.gov/reg-flex*) at any time. This Plan includes the following rules that may be of particular interest to small entities:

| Rulemaking title | Regulatory Identifier No. (RIN) |
|---|---|
| Financial Responsibility Requirements under CERCLA Section 108(b) for Classes of Facilities in the Hard Rock Mining Industry. | 2050–AG61 |
| National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions | 2040–AF15 |

## EPA—OFFICE OF AIR AND RADIATION (OAR)

Prerule Stage

### 103. • State Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units

*Priority:* Other Significant.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 42 U.S.C. 7411 Clean Air Act

*CFR Citation:* 40 CFR 60.

*Legal Deadline:* None.

*Abstract:* The Clean Power Plan (CPP), 80 FR 64662 (October 23, 2015), was promulgated under section 111 of the Clean Air Act. 42 U.S.C. 7411. Due to concerns about the EPA's legal authority and record, 27 states and a number of other parties sought judicial review of the CPP in the D.C. Circuit. *State of West Virginia* v. *EPA,* No. 15–1363 (and consolidated cases) (D.C. Cir.). On February 9, 2016, the Supreme Court stayed implementation of the CPP pending judicial review. Following full merits briefing, oral argument was held before the D.C. Circuit, sitting en banc, on September 27, 2016. That case is currently pending in the D.C. Circuit. On March 28, 2017, President Trump issued Executive Order 13783 establishing a national policy in favor of energy independence, economic growth and the rule of law. The Executive Order specifically directed the EPA to review and, if appropriate, initiate reconsideration proceedings to suspend, revise or rescind the CPP. The EPA has now conducted its review of the CPP, as directed by the Executive Order, and has concluded that ''suspension, revision, or rescission of [the CPP] may be appropriate'' on the basis of the agency's reinterpretation of the statutory provisions underlying the CPP. On October 10, 2017, the Administrator signed a **Federal Register** notice proposing to repeal the CPP. In light of that proposed repeal, the EPA will be signing, in the near future, an advanced notice of proposed rulemaking that will solicit information on systems of emission reduction and provide notice of the agency's interest in developing a rule similarly intended to reduce carbon dioxide emissions from existing fossil-fueled electric utility generating units and to solicit information for the agency to consider in developing such a rule.

*Statement of Need:* The EPA has conducted its initial review of the CPP, as directed by Executive Order 13783, and has concluded that ''suspension, revision, or rescission of [the CPP] may be appropriate'' on the basis of the agency's proposed reinterpretation of the statutory provisions underlying the CPP. In light of the EPA's proposed repeal of the CPP, the agency will issue an advanced notice of proposed rulemaking providing notice that the agency is considering whether it is appropriate to propose a replacement rule similarly intended to reduce carbon dioxide emissions from existing fossil-fueled electric generating units and will solicit information on the development of such a proposal. The EPA will fully consider all submitted information before initiating a rulemaking effort.

*Summary of Legal Basis:* CAA section 111, 42 U.S.C. 7411, provides the legal framework and basis for a potential replacement rule that the Agency is considering developing.

*Alternatives:* Not yet determined. If the EPA determines, based on responses to the ANPRM, that it should undertake a rulemaking for a replacement for the CPP, then the Agency will consider alternatives as it develops a proposed rule.

*Anticipated Cost and Benefits:* Not yet determined. If the EPA determines, based on responses to the ANPRM, that it should undertake a rulemaking for a replacement for the CPP, then the Agency will assess the costs and benefits as it develops a proposed rule.

*Risks:* Not yet determined. If the EPA determines, based on responses to the ANPRM, that it should undertake a rulemaking for a replacement for the CPP, then the Agency will assess the risks to the extent feasible as it develops a proposed rule.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 11/00/17 | |
| NPRM | 06/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

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

*Energy Effects:* Statement of Energy Effects planned as required by Executive Order 13211.

*Agency Contact:* Nick Hutson, Environmental Protection Agency, Office of Air and Radiation, D243–01, Research Triangle Park, NC 27711, *Phone:* 919 541–2968, *Fax:* 919 541–4991, *Email: hutson.nick@epa.gov*.

Steve Fruh, Environmental Protection Agency, Office of Air and Radiation, 109 T.W. Alexander Drive, Mail Code D243–01, Research Triangle Park, NC 27711, *Phone:* 919 541–2837, *Fax:* 919 541–4991, *Email: fruh.steve@epa.gov*.

*RIN:* 2060–AT67

## EPA—OAR

Proposed Rule Stage

### 104. Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 42 U.S.C. 7411 Clean Air Act

*CFR Citation:* 40 CFR 60.

*Legal Deadline:* None.

*Abstract:* On June 3, 2016, the Environmental Protection Agency (EPA) finalized ''Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources'' (2016 OOOOa rule). The EPA received five petitions for reconsideration on the 2016 OOOOa rule. By a letter dated April 18, 2017, the Administrator announced the convening of a proceeding for reconsideration of the fugitive emission requirements at well sites and compressor station sites in the 2016 OOOOa rule. On June 5, 2017, the EPA granted reconsideration of additional requirements in that rule, specifically the well site pneumatic pumps standards and the certification of closed vent system design and capacity by a professional engineer. This action is the reconsideration proposal.

*Statement of Need:* On June 3, 2016, the Environmental Protection Agency (EPA) finalized the ''Oil and Natural Gas Sector: Emission Standards for New,

Reconstructed, and Modified Sources'' (2016 OOOOa rule). The EPA received five petitions for reconsideration on the 2016 OOOOa rule. By a letter dated April 18, 2017, the Administrator announced the convening of a proceeding for reconsideration of the fugitive emission requirements at well sites and compressor station sites in the 2016 OOOOa rule. On June 5, 2017, the EPA granted reconsideration of additional requirements in that rule, specifically the well site pneumatic pumps standards and the certification of closed vent system design and capacity by a professional engineer. This action is the reconsideration proposal. This proposal will solicit comments and/or information from the public regarding the Agency's proposed requirements and options under consideration. The reconsidered rule is anticipated to streamline certain areas of the rule in an effort to reduce burden and improve implementation.

*Summary of Legal Basis:* The reconsideration of the 2016 OOOOa rule is an exercise of the EPA's authority under section 307(d)(7)(B) and section 301(a) of the Clean Air Act.

*Alternatives:* For the 2016 OOOOa reconsideration proposal, we anticipate soliciting comment on a number of provisions for which we plan to provide alternatives, including the potential for alternatives to certification of closed vent system design capacity by a professional engineer and the potential for alternatives and improved criteria for the alternative means of emissions limitation pathway for affected facilities to use emerging technologies or existing state or local programs to comply with the rule.

*Anticipated Cost and Benefits:* This reconsideration is anticipated to be an economically significant action and will become effective 60 days following promulgation. This reconsideration is anticipated to address controversial technical and legal issues.

*Risks:* We do not anticipate any risks to health related to this action.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 08/00/18 | |
| Final Rule | 09/00/19 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Sectors Affected:* 211111 Crude Petroleum and Natural Gas Extraction; 221210 Natural Gas Distribution; 211112 Natural Gas Liquid Extraction; 486110 Pipeline Transportation of Crude Oil; 486210 Pipeline Transportation of Natural Gas.

*Agency Contact:* Amy Hambrick, Environmental Protection Agency, Office of Air and Radiation, 109 T.W. Alexander Drive, Mail Code E143–05, Research Triangle Park, NC 27711, *Phone:* 919 541–0964, *Fax:* 919 541–0516, *Email: hambrick.amy@epa.gov*.

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*RIN:* 2060–AT54

## EPA—OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION (OCSPP)

Proposed Rule Stage

### 105. Pesticides; Certification of Pesticide Applicators Rule; Reconsideration of the Minimum Age Requirements

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 7 U.S.C. 136 *et seq.* Federal Insecticide Fungicide and Rodenticide Act

*CFR Citation:* 40 CFR 171.

*Legal Deadline:* None.

*Abstract:* EPA promulgated a final rule to amend the Certification of Pesticide Applicators regulations at 40 CFR 171 on January 4, 2017 (82 FR 952). On June 2, 2017, EPA delayed the effective date of this final rule (82 FR 25529) and initiated reconsideration proceedings in accordance with the Presidential directives as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' and the principles identified in Executive Order 13790, entitled ''Promoting Agriculture and Rural Prosperity in America.'' In addition, per Executive Order 13777, EPA solicited comments this spring on regulations that may be appropriate for repeal, replacement or modification as part of the Regulatory Reform Agenda efforts. EPA received comments specific to the certification rule. In consideration of these comments, EPA will solicit public input on revisions to the rule.

*Statement of Need:* Per Executive Order 13777, EPA solicited comments this spring on regulations that may be appropriate for repeal, replacement or modification as part of the Regulatory Reform Agenda efforts. EPA received comments suggesting specific changes to the final rule to amend the Certification of Pesticide Applicators regulations at 40 CFR 171 (published on January 4, 2017 (82 FR 952)) and are being considered within the Regulatory Agenda efforts. In consideration of these comments, EPA will solicit public input on revisions to the rule.

*Summary of Legal Basis:* 7 U.S.C. 136 to 136y of the Federal Insecticide Fungicide and Rodenticide Act.

*Alternatives:* Not yet determined. EPA will consider alternatives as it develops the proposed rule.

*Anticipated Cost and Benefits:* Not yet determined. EPA will assess the costs and benefits of the potential regulatory changes as it develops the proposed rule.

*Risks:* Not yet determined. EPA will evaluate risks to the extent feasible as it develops the proposed rule.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 09/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

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

*Federalism:* Undetermined.

*Additional Information:* Docket #:TBD. TBD.

*Sectors Affected:* 924110 Administration of Air and Water Resource and Solid Waste Management Programs; 111 Crop Production; 561710 Exterminating and Pest Control Services; 424910 Farm Supplies Merchant Wholesalers; 561730 Landscaping Services; 111421 Nursery and Tree Production; 444220 Nursery, Garden Center, and Farm Supply Stores; 424690 Other Chemical and Allied Products Merchant Wholesalers; 541690 Other Scientific and Technical Consulting Services; 325320 Pesticide and Other Agricultural Chemical Manufacturing; 926140 Regulation of Agricultural Marketing and Commodities; 541712 Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology); 115112 Soil Preparation, Planting, and Cultivating; 115210 Support Activities for Animal Production; 115310 Support Activities for Forestry; 321114 Wood Preservation.

*URL For More Information: https://www.epa.gov/pesticide-worker-safety*.

*URL For Public Comments:* TBD.

*Agency Contact:* Kevin Keaney, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 1200 Pennsylvania Avenue NW, Mail Code 7506P, Washington, DC

20460, *Phone:* 703 305–7666, *Email: keaney.kevin@epa.gov*.

*Related RIN:* Related to 2070–AJ20
*RIN:* 2070–AK37

## EPA—OCSPP

### 106. • Pesticides; Agricultural Worker Protection Standard; Reconsideration of Several Requirements

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 7 U.S.C. 136 to 136y Federal Insecticide Fungicide and Rodenticide Act

*CFR Citation:* 40 CFR 170.

*Legal Deadline:* None.

*Abstract:* EPA published a final rule to amend the Worker Protection Standard (WPS) regulations at 40 CFR 170 on November 2, 2015 (80 FR 67496). Per Executive Order 13777, EPA solicited comments this spring on regulations that may be appropriate for repeal, replacement or modification as part of the Regulatory Reform Agenda efforts. EPA received comments suggesting specific changes to the 2015-revised WPS requirements which are being considered within the Regulatory Agenda efforts. In consideration of those comments, EPA will solicit public input on revisions to the rule.

*Statement of Need:* Per Executive Order 13777, EPA solicited comments this spring on regulations that may be appropriate for repeal, replacement or modification as part of the Regulatory Reform Agenda efforts. EPA received comments suggesting specific changes to the 2015-revised WPS requirements and are being considered within the Regulatory Agenda efforts. In consideration of those comments, EPA will solicit public input on revisions to the rule.

*Summary of Legal Basis:* 7 U.S.C. 136 to 136y of the Federal Insecticide Fungicide and Rodenticide Act

*Alternatives:* Not yet determined. EPA will consider alternatives as it develops the proposed rule.

*Anticipated Cost and Benefits:* Not yet determined. If EPA determines that the existing rule should be amended based on responses to the ANPRM, EPA will assess the costs and benefits of the potential regulatory changes as it develops a proposed rule.

*Risks:* Not yet determined. EPA will assess the costs and benefits of the potential regulatory changes as it develops the proposed rule.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 09/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* State, Tribal.

*Federalism:* Undetermined.

*Additional Information:* Docket #:TBD. None.

*Sectors Affected:* 111 Crop Production; 813312 Environment, Conservation and Wildlife Organizations; 115115 Farm Labor Contractors and Crew Leaders; 113210 Forest Nurseries and Gathering of Forest Products; 813311 Human Rights Organizations; 813930 Labor Unions and Similar Labor Organizations; 111421 Nursery and Tree Production; 541690 Other Scientific and Technical Consulting Services; 813319 Other Social Advocacy Organizations; 325320 Pesticide and Other Agricultural Chemical Manufacturing; 115114 Postharvest Crop Activities (except Cotton Ginning); 541712 Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology); 115112 Soil Preparation, Planting, and Cultivating; 11511 Support Activities for Crop Production; 115310 Support Activities for Forestry; 113110 Timber Tract Operations.

*URL For More Information: https://www.epa.gov/pesticide-worker-safety*.

*URL For Public Comments:* TBD.

*Agency Contact:* Nancy Fitz, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 1200 Pennsylvania Avenue NW, Mail Code 7506P, Washington, DC 20460, *Phone:* 703 305–7385, *Fax:* 703 308–3259, *Email: fitz.nancy@epa.gov*.

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*RIN:* 2070–AK43

## EPA—OFFICE OF LAND AND EMERGENCY MANAGEMENT (OLEM)

Proposed Rule Stage

### 107. Clean Water Act Hazardous Substances Spill Prevention

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

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 33 U.S.C. 1321(j)(1)(C)

*CFR Citation:* Undetermined.

*Legal Deadline:* NPRM, Judicial, June 16, 2018, Sign by no later than June 16, 2018 & within 15 days thereafter transmit to the **Federal Register**.

Final, Judicial, August 29, 2019, Sign by no later than 14 months after publication of NPRM (currently tentative August 29, 2019) and within 15 days transmit to FR.

*Abstract:* As a result of a consent decree, the EPA is embarking on a rulemaking for the prevention of hazardous substance discharges under section 311(j)(1)(C) of the Clean Water Act (CWA). Section 311(j)(1)(C) reads, in part: ''. . . as soon as practicable after October 18, 1972, and from time to time thereafter, the President shall issue regulations . . . establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of . . . hazardous substances from . . . onshore facilities . . . and to contain such discharges . . .'' The CWA hazardous substances and their associated reportable quantities (RQs) are identified in 40 CFR parts 116 and 117, respectively. The EPA will assess the consequences of hazardous substance discharges into the nation's waters, and evaluate the costs and benefits of potential preventive regulatory requirements for facilities handling such substances.

*Statement of Need:* Section 311(j)(1)(C) of the Clean Water Act (CWA) reads, in part: ''. . . as soon as practicable after October 18, 1972, and from time to time thereafter, the President shall issue regulations . . . establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of . . . hazardous substances from . . . onshore facilities . . . and to contain such discharges . . .''.

*Summary of Legal Basis:* In 2015, the EPA was sued for failure to conduct a rulemaking for chemicals under the CWA 311(j)(1)(C). This litigation was settled and a consent decree was file with the court in February 2016 (Environmental Justice Health Alliance for Chemical Policy Reform v. U.S. EPA). The EPA is conducting this rulemaking in accordance with the consent decree and intends to issue a proposed rule by June 2018.

*Alternatives:* The EPA is in the process of evaluating options and alternatives to fulfill its obligations under the CWA 311(j)(1)(C) and the consent decree.

*Anticipated Cost and Benefits:* This information is not yet available.

*Risks:* This information has yet to be determined.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 06/00/18 | |
| Final Rule | 09/00/19 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

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

*Federalism:* Undetermined.

*Sectors Affected:* 72 Accommodation and Food Services; 924 Administration of Environmental Quality Programs; 56 Administrative and Support and Waste Management and Remediation Services; 312 Beverage and Tobacco Product Manufacturing; 325 Chemical Manufacturing; 111 Crop Production; 61 Educational Services; 311 Food Manufacturing; 316 Leather and Allied Product Manufacturing; 423 Merchant Wholesalers, Durable Goods; 424 Merchant Wholesalers, Nondurable Goods; 212 Mining (except Oil and Gas); 327 Nonmetallic Mineral Product Manufacturing; 211 Oil and Gas Extraction; 322 Paper Manufacturing; 324 Petroleum and Coal Products Manufacturing; 326 Plastics and Rubber Products Manufacturing; 54 Professional, Scientific, and Technical Services; 44–45 Retail Trade; 115 Support Activities for Agriculture and Forestry; 313 Textile Mills; 48–49 Transportation and Warehousing; 221 Utilities; 493 Warehousing and Storage; 321 Wood Product Manufacturing.

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*RIN:* 2050–AG87

## EPA—OLEM

### 108. Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residues From Electric Utilities: Remand Rule

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 42 U.S.C. 6906 and 6907; 42 U.S.C. 6912(a); 42 U.S.C. 6944; 42 U.S.C. 6945(c)

*CFR Citation:* 40 CFR 257.

*Legal Deadline:* Final, Judicial, June 14, 2019, Issue a final rule 3 years after settlement agreement date (6/14/2016).

*Abstract:* The EPA is publishing a proposed rule to modify the final Coal Combustion Residuals (CCR) Disposal Rule, published April 17, 2015. Issues covered by this proposal will include the height limitation of the vegetative slopes of dikes; the type and magnitude of non-groundwater releases that would require a facility to comply with some or all of the corrective action procedures set forth in the final CCR rule; and adding boron to the list of contaminants in Appendix IV of the final CCR rule that trigger the corrective action requirements under the final rule. These proposed changes would address specific technical issues consistent with a settlement agreement to resolve issues raised in litigation of the final CCR rule. Further, the Agency is considering provisions that establish alternative performance standards for owners and operators of CCR units located in states that have approved CCR permit programs, as well as other potential revisions based on comments received since the date of the final CCR rule and petitions for rulemaking that were granted on September 13, 2017.

*Statement of Need:* On April 17, 2015, the EPA finalized national regulations to regulate the disposal of Coal Combustion Residuals (CCR) as solid waste under subtitle D of the Resource Conservation and Recovery Act (RCRA) (2015 CCR final rule). The rule was challenged by several different parties, including a coalition of regulated entities and a coalition of public interest environmental organizations. Several of the claims, a subset of the provisions challenged by the industry and environmental petitioners, were settled. As part of that settlement, on April 18, 2016, the EPA requested the court to remand these claims back to the Agency. On June 16, 2016, the United States Court of Appeals for the District of Columbia Circuit granted the EPA's motion. One claim was the subject of a rulemaking completed on August 5, 2016 (81 FR 51802). This proposed rule includes the remaining claims that were remanded back to the EPA.

In addition, in December 2016, the Water Infrastructure Improvements for the Nation (WIIN) Act established new statutory provisions applicable to CCR units, including authorizing states to implement the CCR rule through an EPA-approved permit program and authorizing the EPA to enforce the rule. On September 13, 2017, EPA granted separate petitions for rulemaking submitted by the Utilities Solid Waste Activities group and AEP Puerto Rico LP. In light of the legislation and petitions for rulemaking, the EPA is considering making additional changes to the CCR rule to provide as much flexibility to the state programs as possible, consistent with the WIIN Act. The rulemaking also includes proposed amendments related to implementation of the WIIN Act.

*Summary of Legal Basis:* As part of the settlement discussed above, the EPA committed to make best efforts to take final action on the remaining claims by June 14, 2019.

*Alternatives:* According to the terms of the settlement agreement discussed above, the Agency must provide public notice and opportunity for comment on these issues. Each of these settlement-related amendments is fairly narrow in scope and we have not identified any significant alternatives for analysis. Regarding other potential amendments, one alternative would be not to include these additional issues in the CCR Remand proposal since they are not subject to a deadline.

*Anticipated Cost and Benefits:* Although cost and benefit estimates are not available at this time, it is possible to speak to the general impact of the proposed rule amendments on regulated entities. The general impact of the rule should be considered in relation to the 2015 CCR final rule, which it would amend. Considered in that way, all but one of the settlement-related amendments would result in cost savings to regulated entities. The impacts of one settlement-related amendment are already included in the analysis of the 2015 CCR final rule's costs and benefits, and thus will not result in a change. Regarding the WIIN Act implementation issues, the proposed amendments are estimated to result in efficiencies in the implementation of the CCR rule, which would lead to additional cost savings.

*Risks:* As compared with the risks to human health and the environment that were presented in the 2015 CCR final rule, the proposed amendments discussed in this action are not expected to impact the overall conclusions in the 2015 final rule. As a result, the Agency believes these amendments, if finalized as proposed, would be protective of human health and the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 01/00/18 | |
| Final Rule | 06/00/19 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Local, State.

*Federalism:* Undetermined.

*Sectors Affected:* 221112 Fossil Fuel Electric Power Generation.

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*RIN:* 2050–AG88

## EPA—OLEM

### 109. • Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Reconsideration of Amendments

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 42 U.S.C. 7412(r)

*CFR Citation:* 40 CFR 68.

*Legal Deadline:* None.

*Abstract:* The Environmental Protection Agency (EPA) published in the **Federal Register** on January 13, 2017 a final rule to amend the Risk Management Program regulations under the Clean Air Act. Prior to the rule becoming effective, the EPA is considering petitions for reconsideration of this final rule; planning to take comment on specific issues to be reconsidered and considering possible regulatory actions to revise the Risk Management Program amendments.

*Statement of Need:* On January 13, 2017, the EPA issued a final rule amending 40 CFR part 68, the chemical accident prevention provisions under section 112(r)(7) of the Clean Air Act (CAA) (42 U.S.C. 7412(r)). The amendments addressed various aspects of risk management programs, including prevention programs at stationary sources, emergency response preparedness requirements, information availability, and various other changes to streamline, clarify, and otherwise technically correct the underlying rules. Collectively, this rulemaking is known as the ''Risk Management Program Amendments.'' In a letter dated February 28, 2017, a group known as the ''RMP Coalition,'' submitted a petition (''RMP Coalition Petition'') for reconsideration of the Risk Management Program (RMP) Amendments, as provided for in the CAA section 307(d)(7)(B) (42 U.S.C. 7607(d)(7)(B)). On March 13, 2017, the Chemical Safety Advocacy Group (''CSAG'') also submitted a petition for reconsideration and stay. On March 14, 2017, the EPA received a third petition for reconsideration and stay from the State of Louisiana, joined by Arizona, Arkansas, Florida, Kansas, Kentucky, Oklahoma, South Carolina, Texas, Wisconsin, and West Virginia. The petitions from CSAG and the 11 states also requested that the EPA delay the various compliance dates of the RMP Amendments. Having considered the objections raised in these petitions, the Administrator determined that the criteria for reconsideration have been met for at least one of the objections. The EPA subsequently published proposed and final rules to delay the effective date of the RMP Amendments rule to February 19, 2019, in order to give the EPA time to conduct a reconsideration proceeding. Prior to the RMP Amendment rule becoming effective, the EPA is planning to take comment on specific issues to be reconsidered and considering possible regulatory actions to revise the RMP amendments.

*Summary of Legal Basis:* The CAA section 112(r)(7)(A) authorizes the EPA Administrator to promulgate accidental release prevention, detection, and correction requirements, which may include monitoring, record keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements. The CAA section 112(r)(7)(B) authorizes the Administrator to promulgate 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 will prepare a notice of proposed rulemaking that will provide the RMP Coalition, CSAG, the states, and the public an opportunity to comment on the issues raised in the petitions that meet the standard of the CAA section 307(d)(7)(B), as well as any other matter we believe will benefit from additional comment.

*Anticipated Cost and Benefits:* The RMP Reconsideration rule may result in an overall burden reduction. In reconsidering the RMP Amendments, in addition to considering the issues raised by petitioners, EPA must also consider the impacts of recent Executive Orders that require agencies to consider options for regulatory reduction and regulatory reform (*i.e.,* Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs of January 30, 2017, Executive Order 13777 on Enforcing the Regulatory Reform Agenda of February 24, 2017, and Executive Order 13783 on Promoting Energy Independence and Economic Growth). If EPA were to finalize modifications resulting in regulatory reduction consistent with these Executive orders, the reconsideration rule could result in a burden reduction of some or all of the total costs associated with the RMP Amendments final rule (*i.e.,* up to $131.2 million annualized, 3 percent discount rate and $131.8 million annualized, 7 percent discount rate).

*Risks:* The RMP rule addresses risks from accidental air releases of chemicals that could cause acute harm to human health and the environment. According to the EPA's RMP National Database, approximately 150 such accidental releases occur each year in the U.S. The average annual cost of RMP accidents is approximately $275 million. However, this monetized value of accident impacts omits many important categories of accident impacts including lost productivity, the costs of emergency response, transaction costs, property value impacts in the surrounding community, and environmental impacts.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*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: https://www.epa.gov/rmp.*

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*RIN:* 2050–AG95

## EPA—OFFICE OF WATER (OW)

Proposed Rule Stage

### 110. National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 42 U.S.C. 300f *et seq.* Safe Drinking Water Act

*CFR Citation:* 40 CFR 141; 40 CFR 142.

*Legal Deadline:* None.

*Abstract:* The Lead and Copper Rule (LCR) reduces risks to drinking water consumers from lead and copper that can enter drinking water as a result of corrosion of plumbing materials. The LCR requires water systems to sample at taps in homes with leaded plumbing materials. Depending upon the sampling results, water systems must take actions to reduce exposure to lead and copper including corrosion control treatment, public education and lead service line replacement. The LCR was promulgated in 1991 and, overall, has been effective in reducing the levels of lead and copper in drinking water systems across the country. However, lead crises in Washington, DC, and in Flint, Michigan, and the subsequent national attention focused on lead in drinking water in other communities, have underscored significant challenges in the implementation of the current rule, including a rule structure that, for many systems, only compels protective actions after public health threats have been identified. Key challenges include the rule's complexity; the degree of flexibility and discretion it affords systems and primacy states with regard to optimization of corrosion control treatment; compliance sampling practices, which in some cases, may not adequately protect from lead exposure; and limited specific focus on key areas of concern such as schools. There is a compelling need to modernize and strengthen implementation of the rule—to strengthen its public health protections and to clarify its implementation requirements to make it more effective and more readily enforceable. EPA is evaluating the costs and benefits of the potential revisions and assessing whether the benefits justify the costs.

*Statement of Need:* The Lead and Copper Rule (LCR) reduces risks to drinking water consumers from lead and copper that can enter drinking water as a result of corrosion of plumbing materials. The LCR requires water systems to sample at taps in homes with leaded plumbing materials. Depending upon the sampling results, water systems must take actions to reduce exposure to lead and copper including corrosion control treatment, public education and lead service line replacement. The LCR was promulgated in 1991 and, overall, has been effective in reducing the levels of lead and copper in drinking water systems across the country. However, lead crises in Washington, DC, and in Flint, Michigan, and the subsequent national attention focused on lead in drinking water in other communities, have underscored significant challenges in the implementation of the current rule, including a rule structure that, for many systems, only compels protective actions after public health threats have been identified. Key challenges include the rule's complexity; the degree of flexibility and discretion it affords systems and primacy states with regard to optimization of corrosion control treatment; compliance sampling practices, which in some cases, may not adequately protect from lead exposure; and limited specific focus on key areas of concern such as schools. There is a compelling need to modernize and strengthen implementation of the rule—to strengthen its public health protections and to clarify its implementation requirements to make it more effective and more readily enforceable.

*Summary of Legal Basis:* Section 1412(b) of the Safe Drinking Water Act (SDWA) (42 U.S.C. 300f *et seq.*) includes a general authority for EPA to establish maximum contaminant level goals (MCLGs) and national primary drinking water regulations (NPDWRs). The first NPDWR for Lead and Copper was issued in 1991 (56 FR 26460, June 7, 1991). Section 1412(b)(9) of the SDWA (42 U.S.C. 300f *et seq.*) requires EPA, at least every six years, to review and revise, as appropriate, each national primary drinking water regulation. Any revision of a national primary drinking water regulation must be promulgated in accordance with Section 1412, except that each revision must maintain, or provide for greater protection of the health of persons. This rulemaking will revise EPA's existing Lead and Copper Rule pursuant to Section 1412(b)(9). EPA's goal for the LCR revisions is to improve the effectiveness of public health protections while maintaining a rule that can be implemented in a cost effective manner by the 68,000 drinking water systems that are covered by the rule.

*Alternatives:* TBD.

*Anticipated Cost and Benefits:* TBD.

*Risks:* Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of your body. The greatest risk of lead exposure is to infants, young children, and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones, and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 08/00/18 | |
| Final Rule | 02/00/20 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Undetermined.

*Federalism:* Undetermined.

*Sectors Affected:* 924110 Administration of Air and Water Resource and Solid Waste Management Programs; 221310 Water Supply and Irrigation Systems.

*URL For More Information: http://water.epa.gov/lawsregs/rulesregs/sdwa/lcr/index.cfm.*

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*RIN:* 2040–AF15

## EPA—OW

### 111. Second Action: Definition of 'Waters of the United States'

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

*Unfunded Mandates:* Undetermined.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 33 U.S.C. 1251 *et seq.*

*CFR Citation:* 40 CFR parts 110; 112; 116; 117; 122; 230; 232; 300; 302; and 40.

*Legal Deadline:* None.

*Abstract:* The Environmental Protection Agency and the Department of the Army (''the agencies'') are publishing this proposed rule as a second step in a comprehensive, two-step process to revise the definition of ''waters of the United States'' consistent with the Executive Order signed on February 28, 2017. This follows the first step which is seeking to recodify the preexisting definition of ''waters of the United States.'' In this second step, the agencies are conducting a substantive re-evaluation and revision of the definition of ''waters of the United States'' in accordance with Executive Order 13778, Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule.''

*Statement of Need:* This rulemaking action responds to the February 28, 2017, Presidential Executive Order entitled Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the Waters of the United States' Rule. To meet the objectives of the E.O., the EPA and Department of the Army (agencies) are engaged in an expeditious two-step rulemaking process. This action follows the first step which is seeking to recodify the pre-existing definition of waters of the United States. In this second step, the agencies are conducting a reconsideration of the definition of waters of the United States consistent with the Executive Order.

*Summary of Legal Basis:* The rule is proposed under the Clean Water Act, 33 U.S.C. Section 1251 *et seq.*

*Alternatives:* Alternatives have not yet been developed at this time. The Executive order. directs the agencies to consider a defining ''waters of the United States'' consistent with Justice Scalia's opinion in Rapanos.

*Anticipated Cost and Benefits:* An economic analysis analyzing anticipated costs and benefits will be developed for the rulemaking at the time of proposal.

*Risks:* The agencies will be able to analyze the risks of the proposed rulemaking once policy decisions have been made.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 05/00/18 | |
| Final Rule | 06/00/19 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

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

*Federalism:* Undetermined.

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*RIN:* 2040–AF75

## EPA—OFFICE OF AIR AND RADIATION (OAR)

Final Rule Stage

### 112. Renewable Fuel Volume Standards for 2018 and Biomass Based Diesel Volume (BBD) for 2019

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

*Unfunded Mandates:* This action may affect the private sector under PL 104–4.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 42 U.S.C. 7401 *et seq.* Clean Air Act

*CFR Citation:* 40 CFR 80.

*Legal Deadline:* None.

*Abstract:* The Clean Air Act requires 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, advanced biofuel, and total renewable fuel. The statute requires that 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 to be set no later than 14 months prior to the year for which the requirements would apply.

*Statement of Need:* The Clean Air Act requires EPA to promulgate regulations that specify the annual volume requirements for renewable fuels under the Renewable Fuel Standard (RFS) program. The statute requires that 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 to be set no later than 14 months prior to the year for which the requirements would apply.

*Summary of Legal Basis:* CAA section 211(o).

*Alternatives:* Volume Standards for the Renewable Fuel Standard Program were proposed for 2018 and for Biomass Based Diesel for 2019. The Proposal also sought comments on alternative volumes, both lower or higher, than what the Agency proposed.

*Anticipated Cost and Benefits:* Costs and benefits of this rulemaking are highly complex given the nature of the program and the standards being categorically nested under a total volume standard. Costs were based on a number of illustrative assumptions. Illustrative analyses of the four separate hypothetical scenarios are included in the proposed rulemaking. Illustrative Costs for the proposed 40 million gallon reduction in the advanced biofuel category ranged from: (1) Soybean Biodiesel Scenario—$(45)–$(33) million dollars; Brazilian Sugarcane Ethanol Scenario—$(61)–(23) million dollars; CNG/LNG Biogas Scenario—$(2)—2 million dollars; Corn Fiber Derived Ethanol Scenario—$(70)—$(36) million Dollars.

*Risks:* This is a statutory rulemaking. Environmental assessments are primarily addressed under another section of the CAA (Section 204). Refer to last 204 report and/or the original RIA under the 2010 rulemaking for these assessments.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/21/17 | 82 FR 34206 |
| Notice | 10/04/17 | 82 FR 46174 |
| NODA Comment Period End. | 10/19/17 | |
| Final Rule | 12/00/17 | |

*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.

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*RIN:* 2060–AT04

## EPA—OAR

### 113. Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units

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

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 42 U.S.C. 7411 Clean Air Act

*CFR Citation:* 40 CFR 60.

*Legal Deadline:* None.

*Abstract:* On April 4, 2017, the EPA announced it is reviewing the Clean Power Plan (CPP), found at 40 CFR part 60, subpart UUUU. This action proposes to withdraw the CPP on grounds that it exceeds the statutory authority provided under section 111 of the Clean Air Act.

*Statement of Need:* The EPA has conducted its initial review of the CPP, as directed by Executive Order 13783, and has concluded that suspension, revision, or rescission of [the CPP] may be appropriate on the basis of the agency's proposed reinterpretation of the statutory provisions underlying the CPP.

*Summary of Legal Basis:* The EPA proposes to return to a reading of CAA section 111(a)(1) (and its constituent term, best system of emission reduction) as being limited to emission reduction measures that can be *applied to or at* an individual stationary source. The EPA believes that this interpretation is consistent with the CAA's text, context, structure, purpose, and legislative history, as well as with the Agency's historical understanding and exercise of its statutory authority.

*Alternatives:* Not yet determined.

*Anticipated Cost and Benefits:* Repealing the CPP could lead to up to $33 billion dollars in avoided compliance costs in 2030. EPA presents a wide range of analysis scenarios meant to address numerous concerns and uncertainties associated with the previous approach to analyzing costs and benefits in the Clean Power Plan.

*Risks:* The CPP as originally finalized raised concerns that it would necessitate changes to a state's energy policy, such as a grid-wide shift from coal-fired to natural gas-fired generation, and from fossil fuel-fired generation to renewable generation and that it exceeded the agency's statutory authority.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 10/16/17 | 82 FR 48035 |
| NPRM Comment Period End. | 12/15/17 | |
| Notice | 11/08/17 | 82 FR 51787 |
| Final Rule | 10/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

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

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*RIN:* 2060–AT55

## EPA—OFFICE OF LAND AND EMERGENCY MANAGEMENT (OLEM)

Final Rule Stage

### 114. Financial Responsibility Requirements Under Cercla Section 108(B) For Classes of Facilities in the Hardrock Mining Industry

*Priority:* Other Significant.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 42 U.S.C. 9601 *et seq.*

*CFR Citation:* 40 CFR 320.

*Legal Deadline:* NPRM, Judicial, December 1, 2016, Court Order: NPRM.

Final, Judicial, December 1, 2017, Court Order: Final.

*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. In 2009, the Agency published a notice that identified classes of facilities within the hardrock mining industry as those for which financial responsibility requirements will be first developed.

*Statement of Need:* EPA is under court order to sign for publication by December 1, 2017 a notice of its final action on such regulations under section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended.

*Summary of Legal Basis:* Section 108(b) of CERCLA establishes certain regulatory authorities concerning financial responsibility requirements. Specifically, the statutory language addresses the promulgation of regulations that would 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. The Administrator shall establish the level of financial responsibility to protect against the level of risk that the Administrator in his discretion believes is appropriate based on the payment experience of the Fund, commercial insurers, courts settlements and judgments, and voluntary claims satisfactions.

*Alternatives:* The EPA received public comments on the need for final CERCLA financial responsibility requirements as outlined in the proposed rule in light of existing financial responsibility requirements imposed by state and federal regulatory authorities, as well as comments on the methods for calculating financial responsibility and the availability of financial responsibility instruments.

*Anticipated Cost and Benefits:* The EPA would expect that the primary costs of a final rule to be in the form of commissions and fees paid by facilities for procuring required financial instruments. The EPA would also expect to incur administrative and oversight costs for implementing a final rule.

*Risks:* EPA's CERCLA section 108(b) rules are intended to address the risks associated with the production, transportation, treatment, storage or disposal of hazardous substances.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Notice | 07/28/09 | 74 FR 37213 |
| NPRM | 01/11/17 | 82 FR 3388 |
| NPRM Comment Period Extended. | 03/02/17 | 82 FR 12333 |
| Final Rule | 12/00/17 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* Federal.

*Additional Information:* Docket #:EPA–HQ–SFUND–2015–0781. Split from RIN 2050–AG56.

*Sectors Affected:* 212 Mining (except Oil and Gas); 331 Primary Metal Manufacturing.

*URL For More Information: https://www.epa.gov/superfund/superfund-financial-responsibility.*

*URL For Public Comments: https://www.regulations.gov/searchResults?rpp=25&po=0&s=EPA-HQ-SFUND-2015-0781&fp=true&ns=true.*

*Agency Contact:* Barbara Foster, Environmental Protection Agency, Office of Land and Emergency Management, 1200 Pennsylvania Avenue NW, Mail Code 5304P,

Washington, DC 20460, *Phone:* 703 308–7057, *Email: foster.barbara@epa.gov.*

Scott Palmer, Environmental Protection Agency, Office of Land and Emergency Management, 1200 Pennsylvania Avenue NW, Mail Code 5305P, Washington, DC 20460, *Phone:* 703 308–8621, *Email: palmer.scott@epa.gov.*

*RIN:* 2050–AG61

## EPA—OFFICE OF WATER (OW)

Final Rule Stage

### 115. Definition of ''Waters of the United States''—Recodification of Pre-Existing Rule

*Priority:* Other Significant.

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 33 U.S.C. 1251 *et seq.*

*CFR Citation:* 40 CFR 110; 40 CFR 112; 40 CFR 116 and 117; 40 CFR 122; 40 CFR 230; 40 CFR 232; 40 CFR 300; 40 CFR 302; 40 CFR 401.

*Legal Deadline:* None.

*Abstract:* The Environmental Protection Agency and the Department of the Army (''the agencies'') published this proposed rule to initiate the first step in a comprehensive, two-step process to revise the definition of ''waters of the United States'' consistent with the Executive Order signed on February 28, 2017.

*Statement of Need:* This rulemaking action responds to the February 28, 2017, Presidential Executive Order entitled Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the Waters of the United States' Rule. To meet the objectives of the E.O., the agencies are engaged in a comprehensive two-step rulemaking process. Under the first step of this rulemaking process, the agencies are seeking to recodify the regulatory text that was in place prior to the 2015 Clean Water Rule and that is currently in place as a result of the stay ordered by the U.S. Court of Appeals for the Sixth Circuit.

*Summary of Legal Basis:* The rule is proposed under the Clean Water Act, 33 U.S.C. Section 1251 *et seq.*

*Alternatives:* In this first step, the agencies have proposed as an interim action to repeal the 2015 definition of waters of the United States and codify the legal status quo that is being implemented now under the Sixth Circuit stay of the 2015 definition of waters of the United States and that was in place for decades prior to the 2015 rule. This rule would result in the recodification of what is in place under the Court stay (*i.e.,* the regulation as it existed prior to the 2015 rule) so that the rules are clear and certain while agencies engage in a second rulemaking to reconsider the definition. As a result, the agencies did not propose any alternatives for this proposed rule.

*Anticipated Cost and Benefits:* The agencies estimated the avoided costs and forgone benefits of repealing the 2015 rule. Annual avoided costs range from $162.2 to $313.9 million for the low end scenario and $242.4 to $476.2 million for the high end scenario (at 2016 price levels). All of the forgone benefit categories were not fully quantified in the economic analysis for the proposed rule (noted with $B). The annual forgone benefits range from $33.6 + $B to $44.5 to $B for the low end scenario and $55.0 + $B to $72.8 + $B in the high-end scenario. The economic analysis can be found in the docket for the proposed rulemaking.

*Risks:* Because the proposed rule maintains the status quo, there are no environmental or health risks associated with this effort.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 07/27/17 | 82 FR 34899 |
| NPRM Comment Period Extended. | 08/22/17 | 82 FR 39712 |
| Final Rule | 04/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Additional Information:* Docket #: EPA–HQ–OW–2017–0203.

*URL For More Information: https://www.epa.gov/wotus-rule/proposed-rule-definition-waters-united-states-recodification-pre-existing-rules.*

*URL For Public Comments: https://www.regulations.gov/docket?D=EPA-HQ-OW-2017-0203.*

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*RIN:* 2040–AF74

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 and local government employees from employment discrimination on the basis of race, color, religion, sex, national origin, age, or disability).

The EEOC has authority to issue legislative regulations under the Age Discrimination in Employment Act, Title I of the Americans with Disabilities Act, and Title II of the Genetic Information Nondiscrimination Act (GINA). Under Title VII of the Civil Rights Act, EEOC's authority to issue legislative regulations is limited to procedural, record keeping, and reporting matters.

Three items are identified in this Regulatory Plan. On August 22, 2017, the U.S. District Court for the District of Columbia ordered the EEOC to reconsider its regulations under the ADA and GINA related to incentives and employer-sponsored wellness plans. *See AARP* v. *EEOC,* Civ. Action No. 16–2113 (D.D.C. Aug. 22, 2017). In accordance with the court's ruling, the EEOC will consider and take actions to cure defects in the rules. In addition, the EEOC's Fall 2017 Regulatory Agenda contains a longstanding item titled ''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 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. The EEOC's Fall 2017 Regulatory Agenda states that an NPRM is expected to be issued by March 2018. 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. Furthermore, any revisions would not affect risks to public health, safety, or the environment.

*Executive Order 13771 Statement*

EEOC does not anticipate finalizing any regulatory or deregulatory actions subject to Executive Order 13771 in the next 12 months. One significant rule—''Federal Sector Equal Employment Opportunity Process''—falls within an exception for regulations that affect only other Federal agencies and are related to personnel matters, this matter is at the proposed rule stage. In addition, the two rules related to wellness programs under the ADA and GINA are significant under E.O. 12866, but are not expected to be finalized in the next 12 months.

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.

## EEOC

Proposed Rule Stage

### 116. Federal Sector Equal Employment Opportunity Process

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*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 | 03/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal.

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*RIN:* 3046–AB00

## EEOC

### 117. • Amendments to Regulations Under the Americans With Disabilities Act

*Priority:* Other Significant.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 42 U.S.C. 12101 *et seq.*

*CFR Citation:* 29 CFR 1630.

*Legal Deadline:* None.

*Abstract:* This rule amends 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 inducements and/or penalties as part of wellness programs offered by employers. On August 22, 2017, the U.S. District Court for the District of Columbia ordered the EEOC to reconsider its regulations under the ADA related to incentives and employer-sponsored wellness plans. *See AARP* v. *EEOC,* Civ. Action No. 16–2113 (D.D.C. Aug. 22, 2017). In accordance with the court's ruling, the EEOC will consider and take actions to cure defects in the rule. The final rule was published on May 17, 2016 (81 FR 31125) and completed in the fall 2016 agenda as RIN 3046–AB01.

*Statement of Need:* The revision to 29 CFR 1630.14(d) is needed in accordance with the District Court's ruling noted above.

*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. The EEOC again issued regulations in May 2016 to address the interaction between title I of the ADA and wellness programs. The U.S. District Court for the District of Columbia ordered the EEOC to reconsider these regulations in August 2017. These new revisions are based on the court's order, as well as the statutory requirement to issue regulations to implement title I of the ADA.

*Alternatives:* The EEOC will consider all alternatives offered by the 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 clarifying employers' obligations under the ADA.

*Risks:* The rule imposes no new or additional risks to employers. The rule does not address risks to public safety or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 08/00/18 | |
| NPRM Comment Period End. | 10/00/18 | |
| Final Action ..... | 10/00/19 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses, Governmental Jurisdictions, Organizations.

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

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*Related RIN:* Previously reported as 3046–AB01.

*RIN:* 3046–AB10

## EEOC

### 118. • Amendments to Regulations Under the Genetic Information Nondiscrimination Act of 2008

*Priority:* Other Significant.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 42 U.S.C. 2000ff

*CFR Citation:* 29 CFR 1635.

*Legal Deadline:* None.

*Abstract:* This rule amends 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). On August 22, 2017, the U.S. District Court for the District of Columbia ordered the EEOC to reconsider its regulations under GINA related to incentives and employer-sponsored wellness plans. *See AARP* v. *EEOC,* Civ. Action No. 16–2113 (D.D.C. Aug. 22, 2017). In accordance with the court's ruling, the EEOC will consider and take actions to cure defects in the rule. The final rule was published on May 17, 2016 (81 FR 31143) and completed in the fall 2016 agenda as RIN 3046–AB02.

*Statement of Need:* The revision to 29 CFR 1635.8 is needed in accordance with the District Court's ruling noted above.

*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. In May 2016, the EEOC issued an amendment to the regulations which dealt with the interaction between title II of GINA and wellness programs. The U.S. District Court for the District of Columbia ordered the EEOC to reconsider these regulations in August 2017. These new revisions are based on the court order, as well as the 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 employers' obligations under GINA.

*Risks:* The rule imposes no new or additional risks to employers. The rule does not address risks to public safety or the environment.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 08/00/18 | |
| NPRM Comment Period End. | 10/00/18 | |
| Final Action ..... | 10/00/19 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses, Governmental Jurisdictions, Organizations.

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

*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–AB02

*RIN:* 3046–AB11

BILLING CODE 6570–01–P

## GENERAL SERVICES ADMINISTRATION (GSA)

### Regulatory Plan—October 2017

The mission of GSA is to deliver the best value in real estate, acquisition, and technology services to government and the American people by:

- Providing centralized procurement services for the federal government by offering billions of dollars of products, services, and facilities that federal agencies need to serve the public.
- Helping federal agencies build and acquire office space, products and other workspace services.
- Overseeing the preservation of historic federal properties.
- Creating and maintaining Governmentwide policies for travel and property management to promote efficient government operations.
- Providing tools, equipment, and non-tactical vehicles to the U.S. military.
- Providing state and local governments with law enforcement equipment, firefighting and rescue equipment, and disaster recovery products and services.
- Offering free access to and information about government programs with the following websites:
- *USA.gov,* official portal to federal government information;
- *gobiernoUSA.gov,* Spanish counterpart of USA.gov;
- *publications.USA.gov,* Federal Citizen Information Center;
- Consumer protection on *USA.gov,* consumer action website;
- Consumer protection in Spanish on *goviernoUSA.gov;*
- *kids.gov,* official kids portal for the U.S. government.
- Providing free telephone assistance through the National Contact Center at 800–FED–INFO, with email and online assistance to the public.

*GSA's Regulatory Philosophy and Principles*

The Agency's rulemaking program strives to be responsive, efficient, and transparent.

Executive Order 13777, ''Enforcing the Regulatory Reform Agenda'' (February 24, 2017), required GSA to appoint a Regulatory Reform Officer to

oversee the implementation of regulatory reform initiatives and policies and establish a Regulatory Reform Task Force (Task Force) to review and evaluate existing regulations and make recommendations to the agency head regarding their repeal, replacement, or modification, consistent with applicable law.

These reform initiatives and policies include Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs'' (January 30, 2017), section 6 of Executive Order 13563, ''Improving Regulation and Regulatory Review'' (January 18, 2011), and Executive Order 12866.

In addition, GSA implements and supplements FAR requirements through 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. The latter are established under the authority of 40 U.S.C. 585, *et seq.* The GSAR implements contract clauses, solicitation provisions, and forms that control the relationship between GSA and contractors and prospective contractors.

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (2011), the GSA retrospective review and analysis final and updated regulations plan can be found at *www.gsa.gov/improvingregulations.*

Listed below are the important rules planned that require a Regulatory Flexibility Act analysis or are considered significant and/or highly visible.

| Regulation Identifier No. | Title |
|---|---|
| | Proposed Rule Stage |
| 3090–AJ64 ..... | General Services Administration Regulation (GSAR); GSAR Case 2015–G506; Construction Manager as Constructor Contracting |
| 3090–AJ84 ..... | General Services Administration Regulation (GSAR); GSAR Case 2016–G511; Information and Information Systems Security |
| 3090–AJ85 ..... | General Services Administration Regulation (GSAR); GSAR Case 2016–G515; Cyber Incident Reporting |
| 3090–AJ88 ..... | Federal Permitting Improvement Steering Council (FPISC); FPISC Case 2017–001; Fees for Governance, Oversight, and Processing of Environmental Reviews and Authorizations |
| | Final Rule Stage |
| 3090–AJ41 ..... | General Services Administration Regulation (GSAR); GSAR Case 2013–G502; Federal Supply Schedule Contracting (Administrative Changes) |
| 3090–AJ63 ..... | General Services Administration Regulation (GSAR); GSAR Case 2015–G503; Construction Contract Administration |
| 3090–AJ65 ..... | General Services Administration Regulation (GSAR); GSAR Case 2015–G505; Architect-Engineer Selection Procedures |
| 3090–AJ67 ..... | General Services Administration Regulation (GSAR); GSAR Case 2015–G512; Unenforceable Commercial Supplier Agreement Terms |
| 3090–AJ75 ..... | General Services Administration Acquisition Regulation (GSAR); GSAR 2016–G506; Federal Supply Schedule, Order-Level Materials |
| 3090–AJ82 ..... | General Services Administration Acquisition Regulation (GSAR); GSAR Case 2015–G502; Submission and Distribution of Federal Supply Schedules (FSS) Price Lists |
| 3090–AJ83 ..... | General Services Administration Acquisition Regulation (GSAR); GSAR Case 2016–G509; Updates to the Issuance of GSA's Acquisition Policy |
| 3090–AJ86 ..... | General Services Administration Acquisition Regulation (GSAR); GSAR 2017–G502; Transition to Small Business Administration (SBA) Mentor-Portege Program |
| 3090–AJ87 ..... | General Services Administration Acquisition Regulation (GSAR); GSAR 2017–G503; Remove Duplicative Responsibility Determination Guidance |
| 3090–AJ89 ..... | Federal Travel Regulation (FTR); FTR Case 2017–301; Transportation Network Companies (TNC), Innovative Mobility Technology Companies, and Reporting Travel, Transportation, and Relocation Costs |
| 3090–AJ90 ..... | General Services Administration Regulation (GSAR); GSAR Case 2017–G506; Clause and Provision Designation Corrections |
| 3090–AJ91 ..... | General Services Administration Regulation (GSAR); GSAR Case 2017–G507, Federal Supply Schedule (FSS) Contractor Teaming Arrangements |
| | Completed Actions |
| 3090–AJ69 ..... | Federal Travel Regulation (FTR); FTR Case 2016–301, Clarification of Payment In Kind for Speakers at Meetings and Conferences |

Dated: September 29, 2017.

**Allison Fahrenkopf Brigati,**

*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.

*NASA's Regulatory Philosophy and Principles*

The Agency's rulemaking program strives to be responsive, efficient, and transparent. As noted in Executive Order 13609, ''Promoting International Regulatory Cooperation'' (May 1, 2012), 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.

NASA, along with the Departments of State and Commerce and Defense, 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. NASA has also 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 concerns.

Executive Order 13777, ''Enforcing the Regulatory Reform Agenda'' (February 24, 2017), required NASA to appoint a Regulatory Reform Officer to oversee the implementation of regulatory reform initiatives and policies and establish a Regulatory Reform Task Force (Task Force) to review and evaluate existing regulations and make recommendations to the agency head regarding their repeal, replacement, or modification, consistent with applicable law. NASA is doing this work primarily through its work as a signatory to Federal Acquisition Regulatory Council.

The FAR at 48 CFR chapter 1, contains procurement regulations that apply to NASA and other Federal agencies. Pursuant to 41 U.S.C. 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.

These reform initiatives and policies include Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs'' (January 30, 2017), section 6 of Executive Order 13563, ''Improving Regulation and Regulatory Review'' (January 18, 2011), and Executive Order 12866.

In addition, NASA implements and supplements FAR requirements through the NASA FAR Supplement (NFS), 48 CFR chapter 18. As a result of the ongoing review, evaluation, and recommendations of the FAR Task Force and internal Agency discussions, NASA has identified priority regulatory and deregulatory actions that reduce costs to the public by eliminating unnecessary, ineffective, and duplicative regulations.

The Agency has focused its regulatory resources on the most serious acquisition, health, and personnel and readiness risks as discussed below.

NASA will revise the NASA FAR Supplement to clarify policy for applying Earned Value Management System (EVMS) requirements to contracts, task and delivery orders and to revise the EVMS dollar threshold as follows: Clarify that EVMS requirements are applicable to all contracts, task and delivery orders that are cost or fixed-price incentive fee, have a value of $20 million or more, including options, have a period of performance of 18 months or longer, and contain developmental work scope; raise the dollar threshold from $50 million to $100 million for requiring EVMS compliance reviews; remove the American National Standards Institute (ANSI) designation from the American National Standards Institute/Electronic Industries Alliance Standard 748, Earned Value Management Systems (ANSI/EIA–748), which was revised to EIA–748, in March 2013 Tech America Standard publication; clarify the contractor's and Government's role in identifying and approving over-target baseline or over-target schedule, and; clarify that EVMS requirements are to flow down to subcontracts.

NASA will also amend the NFS to implement revisions to the voucher and invoice submittal and payment process. These revisions are necessary in order for NASA to comply with the Office of Management and Budget issued Memorandum M–15–19, Improving Government Efficiency and Saving Taxpayer Dollars through Electronic Invoicing, which directed federal agencies to transition to electronic invoicing for appropriate federal procurement by the end of the fiscal year 2018.

**BILLING CODE 7510–13–P**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

### Statement of Regulatory Priorities

*Overview*

The National Archives and Records Administration (NARA) primarily issues regulations directed to other Federal agencies and to the public. These regulations include records management, information services, access to and use of NARA holdings, and grant programs. For example, records management regulations directed to Federal agencies concern the proper management and disposition of Federal records. Through the Information Security Oversight Office (ISOO), NARA also issues Governmentwide regulations concerning information security classification, control, and declassification programs. NARA regulations directed to the public address access to, and use of, our historically valuable holdings, including archives, donated historical materials, Nixon Presidential materials, and Presidential records. NARA also issues regulations relating to the National Historical Publications and Records Commission (NHPRC) grant programs.

NARA has two regulatory priorities for fiscal year 2018, which are included in The Regulatory Plan. The first priority is a substantial revision to NARA's National Industrial Security Program (NISP) regulations at 32 CFR 2004. The NISP regulations govern release of classified information to contractors and other entities that enter agreements with the Federal Government involving access to classified information. Although we are proposing to substantially revise the regulation, the proposed revisions would affect only minor changes to the program's requirements for contractors and other entities. The proposed changes primarily include new sections

setting out agency obligations in the course of implementing the program that reflect already-existing requirements for industry contained in the National Industrial Security Program Operating Manual (NISPOM), and streamline or clarify other sections of the regulation. In addition, a small portion of the proposed revisions add requirements from Executive Order 13587 to implement the insider threat program.

The second priority this fiscal year is a new regulation for the Office of Government Information Services (OGIS). 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 OGIS within the National Archives and Records Administration (NARA). OGIS is finalizing 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 regulation will describe one of the areas in 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.

BILLING CODE 7515–01–P

## OFFICE OF PERSONNEL MANAGEMENT

### Statement of Regulatory and Deregulatory Priorities

*Fall 2017 Unified Agenda*

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.

OPM's Regulatory Philosophy and Principles

Executive Order 13777, ''Enforcing the Regulatory Reform Agenda'' (February 24, 2017), required OPM to appoint a Regulatory Reform Officer to oversee the implementation of regulatory reform initiatives and policies and establish a Regulatory Reform Task Force (Task Force) to review and evaluate existing regulations and make recommendations to the agency head regarding their repeal, replacement, or modification, consistent with applicable law.

These reform initiatives and policies include Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs'' (January 30, 2017), section 6 of Executive Order 13563, ''Improving Regulation and Regulatory Review'' (January 18, 2011), and Executive Order 12866.

A fully searchable e-Agenda is available for viewing in its entirety at *www.reginfo.gov.* Agenda information is also available at *www.regulations.gov,* the government-wide website for submission of comments on proposed regulations. Our fall 2017 agenda follows.

**FOR FURTHER INFORMATION CONTACT:** Steve Hickman, (202) 606–1973 or *stephen.hickman@opm.gov.*

BILLING CODE 6325–44–P

## PENSION BENEFIT GUARANTY CORPORATION (PBGC)

### Statement of Regulatory and Deregulatory Priorities

The Pension Benefit Guaranty Corporation (PBGC) is a federal corporation created under title IV of the Employee Retirement Income Security Act (ERISA) to guarantee the payment of pension benefits earned by nearly 40 million workers and retirees in nearly 24,000 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. PBGC administers two insurance programs—one for single-employer defined benefit pension plans and a second for multiemployer defined benefit pension plans.

- *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 multiemployer program covers 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 structured differently from, and is generally significantly smaller than, the single-employer guarantee.

At the end of fiscal year (FY) 2017, PBGC had a deficit of $11 billion in its single-employer insurance program and $65 billion in its multiemployer insurance program. While the financial position of the single-employer program is likely (but not certain) to continue to improve, the multiemployer program is likely to run out of funds by the end of 2025. If that happens, PBGC will not have the money to pay benefits at the current guaranteed levels to multiemployer plan participants whose plans run out of money.

To carry out its statutory functions, PBGC issues regulations on such matters as how to pay premiums, when reports are due, what benefits are covered by the insurance program, how to terminate a plan, the liability for underfunding, and how withdrawal liability works for multiemployer plans. PBGC follows a regulatory approach that seeks to encourage the continuation and maintenance of defined benefit plans. So, in developing new regulations and reviewing existing regulations, PBGC seeks to reduce burdens on plans, employers, and participants, and to ease and simplify employer compliance wherever possible. PBGC particularly strives to meet the needs of small businesses that sponsor defined benefit plans. In all such efforts, PBGC's mission is to protect the retirement incomes of plan participants.

### Regulatory/Deregulatory Objectives and Priorities

PBGC's regulatory/deregulatory objectives and priorities are developed in the context of the Corporation's statutory purposes:

• To encourage the continuation and maintenance of voluntary private pension plans;
• To provide for the timely and uninterrupted payment of pension benefits; and
• To keep premiums at the lowest possible levels.

Pension plans and the statutory framework in which they are maintained and terminated are complex. Despite this complexity, PBGC is committed to issuing simple, understandable, flexible, and timely regulations to help affected parties. PBGC's regulatory/deregulatory objectives and priorities for the fiscal year are:

• To enhance the retirement security of workers and retirees;
• To implement statutory changes through regulatory actions that ease compliance burdens and achieve maximum net benefits; and
• To simplify existing regulations and reduce burden.

PBGC endeavors in all its regulatory and deregulatory actions to promote clarity and reduce burden with the goal that net cost impact on the public is zero or less overall. PBGC's most important actions are:

*Missing participants.* A major focus of PBGC's current efforts is to finalize rules to simplify and revise the existing missing participants program to help connect more participants with their lost retirement savings. As authorized by the Pension Protection Act of 2006 (PPA), the revised program will cover terminating defined contribution plans, defined benefit plans of small professional-service employers that are not covered by title IV of ERISA, and multiemployer plans, in addition to terminating single-employer defined benefit plans. The program will save retirement plans time and money in dealing with the benefits of missing participants. And a centralized search directory and periodic searching by PBGC will make finding lost benefits much easier. PBGC expects many more workers and retirees will be reunited with their retirement dollars. PBGC published a proposed rule on September 20, 2016, received 14 comments, and intends to publish a final rule early in FY 2018. (See RIN 1212–AB13.)

*Mergers and Transfers Between Multiemployer Plans.* The Multiemployer Pension Reform Act of 2014 (MPRA) established new options (plan partitions and mergers) for trustees of multiemployer plans that will potentially run out of money to apply to PBGC for technical or financial assistance. This action primarily will prescribe guidance to facilitate mergers of certain financially troubled multiemployer plans pursuant to MPRA, thereby reducing plan costs and significantly benefitting plan participants. Mergers are a way some plans can preserve and protect benefits earned by workers. Such plans could stabilize or increase their base of contributing employers, combine plan assets for more efficient investing, and reduce plan administrative costs. PBGC published a proposed rule on June 6, 2016, received 10 comments, and intends to publish a final rule early in FY 2018. (See RIN 1212–AB31.)

**Rethinking Existing Regulations**

Most of PBGC's regulatory/deregulatory actions are the result of its ongoing retrospective review program to identify and ameliorate inconsistencies, inaccuracies, and requirements made irrelevant over time. PBGC undertook a review of its multiemployer plan regulations and has identified rules in which it can reduce burden and clarify guidance. For example, PBGC plans to propose reductions in actuarial valuation requirements for certain small terminated multiemployer pension plans, notice requirements on plan sponsors of plans terminated by mass withdrawal, and reporting and disclosure requirements on sponsors of insolvent plans (''Terminated and Insolvent Multiemployer Plans and Duties of Plan Sponsors'' RIN 1212–AB38). Another proposal would simplify how multiemployer plans calculate withdrawal liability where changes in contributions or benefits are, by statute, to be disregarded in that calculation (''Methods for Computing Withdrawal Liability'' RIN 1212–AB36).

PBGC plans to propose a ''housekeeping'' rulemaking project to make miscellaneous technical corrections, clarifications, and improvements to PBGC's regulations, such as the reportable events regulation (particularly addressing duplicative active participant reduction event reporting) and the regulation on annual financial and actuarial information reporting (''Miscellaneous Corrections, Clarifications, and Improvements'' RIN 1212–AB34). PBGC expects to undertake periodic rulemaking projects like this that deal with minor technical and clarifying issues. The ''Benefit Payments'' proposal (RIN 1212–AB27) would make clarifications and codify policies in PBGC's benefit payments and valuation regulations involving payment of lump sums, entitlement to a benefit, changes to benefit form, partial benefit distributions, and valuation of plan assets. PBGC's regulatory review also identified a need to update the rules for administrative review of agency decisions (RIN 1212–AB35).

Multiple proposed rulemakings would update PBGC's regulations and policies to ensure that the actuarial and economic content remains current. PBGC plans to publish proposed rules that would amend its benefit valuation and asset allocation regulations by updating its valuation assumptions and methods. Chief among the modifications PBGC is considering at this time are to interest and mortality assumptions under the asset allocation regulation (RIN 1212–AA55), and the methodology for setting interest assumptions under the benefit payments regulation (RIN 1212–AB41).

**Small Businesses**

PBGC takes into account the special needs and concerns of small businesses in making policy. Many plans PBGC insures are sponsored by small businesses. PBGC is considering several proposed actions that will have a positive impact on small businesses, notably its ''Missing Participants'' final rule discussed above. This rule 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 (*i.e.,* defined contribution plans and plans of small professional-service employers). The ''Terminated and Insolvent Multiemployer Plans and Duties of Plan Sponsors'' proposal also discussed above would reduce valuation and reporting burdens primarily on small multiemployer plans, which generally are comprised of small employers.

**Open Government and Increased Public Participation**

PBGC encourages public participation in the regulatory process. For example, PBGC highlights when there are opportunities to comment on proposed rules and requests for information on its ''Retirement Matters'' blog and in its ''What's New for Employers and Practitioners'' updates. PBGC's current efforts to reduce regulatory burden in the projects discussed above are in substantial part a response to public comments. Most recently, PBGC asked for feedback on its regulatory planning and review of existing regulations by way of a Request for Information (RFI) published on July 26. A number of individuals and organizations responded, and PBGC is actively considering the comments, some of which are already reflected in this Fall agenda. PBGC encourages comments on an on-going basis as we continue to look

for ways to further improve PBGC's regulations.

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## SMALL BUSINESS ADMINISTRATION

### 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 the physical and 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. SBA has several financial, procurement, and technical assistance programs that provide a crucial foundation for those starting or growing a small business. For example, the Agency serves as a guarantor of loans made to small business by lenders that participate in SBA's programs, and also licenses small business investment companies that make equity and debt investments in qualifying small businesses using a combination of privately raised capital and SBA guaranteed leverage. SBA also funds various training and mentoring programs to help small businesses, particularly businesses owned by women, veterans, minorities, and other historically underrepresented groups, gain access to Federal government contracting opportunities. The Agency also provides management and technical assistance to existing or potential small business owners through various grants, cooperative agreements or contracts. Finally, as a vital part of its purpose, SBA also provides direct financial assistance to homeowners, renters, and businesses to repair or replace their property 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, grant, innovation, and procurement programs.

On January 30, 2017, President Trump issued E.O. 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' 82 FR 9339, which establishes principles for prioritizing an agency's regulatory and deregulatory actions. E.O. 13771 was followed by E.O. 13777, ''Enforcing the Regulatory Agenda,'' 82 FR 12285 (February 24, 2017), which identified processes for agencies to follow in overseeing their regulatory programs. This Agenda was prepared in accordance with both E.O. 13771 and E.O. 13777, and SBA will continue to work internally, as well as with the Office of Management and Budget, to fully integrate the executive orders and implementing OMB principles into the SBA rulemaking processes. As part of that effort, SBA issued a Request for Information in the **Federal Register** requesting public input on which SBA regulations should be repealed, replaced, or modified because they are obsolete, unnecessary, ineffective or burdensome. 82 FR 38617 (August 15, 2017). In addition, SBA's Office of Advocacy is hosting a series of small business roundtables in order to hear firsthand from small businesses facing regulatory burdens. For more information on these roundtables, please visit *https://www.sba.gov/advocacy/regulatory-reform.*

Based on the requirements of E.O. 13771 and OMB guidance, SBA currently anticipates that 3 of the 29 rulemakings that will appear in the Agency's Regulatory Agenda will be regulatory actions and 1 will be a deregulatory action. All other rulemakings are either not subject to E.O. 13771 or there is insufficient information at this stage to determine whether they are regulatory or deregulatory actions. SBA continues to work on assessing the incremental cost savings of these Agenda items, which do not include non-rulemakings, such as guidance documents, or information collections.

*Openness and Transparency*

SBA promotes transparency, collaboration, and public participation in its rulemaking process. To that end, SBA routinely solicits comments on its regulations, even those that are not subject to the public notice and comment requirement under the Administrative Procedures Act. Where appropriate, SBA also conducts hearings, webinars, and other public events as part of its regulatory process.

*Regulatory Framework*

The SBA 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 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 priorities will be to implement the following three regulations.

E.O. 13771 Designation—Regulatory Action

(1) SBA Express Loan Program; Export Express Program (RIN 3245–AG74);

This rule will propose to amend the regulations for the SBA Express and Export Express loan programs. Current regulations, as well as policy and procedural guidance, provide an extensive framework for the delivery of SBA's 7(a) guaranteed loans through participating private sector lenders. These requirements add time and expense for lenders who must not only comply with their primary banking regulator but also with the SBA program requirements. SBA is authorized to reduce some of its requirements for small dollar loans ($350,000 or less) and permit lenders to apply many of their conventional underwriting rules instead. This proposed regulation will solicit public comment on the terms and conditions that would apply to these

reduced requirements. The rule will also propose to not require certain SBA mandated forms, which in some instances may be redundant, and increase costs for lenders to deliver loans to small businesses. Since cost is an important consideration for lenders when assessing the benefits of participating in SBA programs, streamlining program requirements should increase lender participation, particularly for community banks, credit unions and other mission based lenders that generally serve rural communities and underserved populations with small loans. In addition, SBA continues to explore the economic feasibility of the RISE After Disaster Act of 2015 Recovery Opportunity Loan Program.

E.O. 13771 Designation—Other Actions

(2) Women's Business Center Program (RIN 3245–AG02).

SBA's Women's Business Center Program is authorized by section 29 of the Small Business Act. The program provides financial assistance to private nonprofit organizations to conduct 5-year projects for the benefit of small business concerns owned and controlled by women. There are currently no regulations that govern the administration, management or oversight of the WBC program, including the statutorily required regulations related to disclosure of certain information during a financial audit of the non-profit organization. By finalizing the proposed rule that was published in the **Federal Register** on November 22, 2016 (81 FR 83718), this rule will resolve the regulatory gap and provide standardized and transparent guidance for program participants.

This final rule will codify the program requirements and procedures for WBCs as outlined in statute, including:

- Eligibility criteria for selection as a WBC;
- use of Federal funds;
- standards for WBCs to effectively carry out program duties and responsibilities;
- use and disclosure of client data as stipulated in statute;
- conditions for receipt of supplemental funding to provide services in a declared major disaster area; and
- requirements for reporting on financial and programmatic performance.

The rule will streamline the policy and procedural requirements of the WBC Program, which are currently included in the Program Announcement and Notice of Award (NOA). In addition, certain amendments to government-wide grant requirements will be incorporated.

(3) Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business—Certification (RIN 3245–AG75).

SBA is proposing to amend its regulations to implement amendments to the Women-Owned Small Business (WOSB) and Economically Disadvantaged Women-Owned Small Business (EDWOSB) Federal Contract Program that were authorized by section 825 of the National Defense Authorization Act of 2015. Based on this authority, SBA is proposing to create a certification program for its WOSB and EDWOSB contracting program.

The current WOSB and EDWOSB contracting program permits firms to self-certify for the program or to be certified by a third party certifier (TPC). The program currently requires firms to submit documentation to an SBA-maintained electronic document repository. SBA regulations currently require that contracting officers must check the repository for every WOSB or EDWOSB contract awardee.

The proposed rule will create an SBA certification process, in addition to the certifications issued by TPCs. This will create an SBA certification option for WOSB and EDWOSBs similar to other SBA contracting programs. SBA's proposed rule will also contain provisions for increased oversight in order to ensure continuing eligibly of certified program participants.

The creation of an SBA certification program will remove the self-certification option, and also remove the requirement that contracting officers review repository documents of WOSB and EDWOSB contract awardees. This shift of responsibilities to SBA will enable contracting officers to focus more on awarding awards, which should lead to an increased number of set-aside or sole source contracts for WOSBs and EDWOSBs.

## SBA

Proposed Rule Stage

### 119. SBA Express Loan Program; Export Express Program

*Priority:* Other Significant.

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 15 U.S.C. 636(a)(31) and (35)

*CFR Citation:* 13 CFR 120.

*Legal Deadline:* NPRM, Statutory, August 21, 2016, RISE After Disaster Act of 2015, Public Law 114–88, section 2106.

Section 2106 requires SBA to promulgate rules to carry out the Recovery Opportunity Loan Program not later than 270 days (August 21, 2016) after enactment of the RISE After Disaster Act of 2015.

*Abstract:* SBA plans to issue a proposed regulation for the SBA Express loan program, codified in section 7(a)(31) of the Small Business Act. The SBA Express loan program reduces the number of Government mandated forms and procedures, streamlines the processing and reduces the cost of smaller, less complex SBA loans. Particular features of the SBA Express loan program include: (1) SBA Express loans carry a maximum SBA guaranty of 50 percent; (2) SBA Express lenders use, to the maximum extent practicable, their own documentation, analyses, policies and procedures; and (3) a response to an SBA Express loan application will be given within 36 hours. SBA also plans to propose regulations for the Export Express Program codified at 7(a)(35) of the Small Business Act. The Export Express Program, made permanent by the Small Business Jobs Act, makes guaranteed financing available for export development activities. SBA continues to explore the economic feasibility of the RISE After Disaster Act of 2015 Recovery Opportunity Loan Program.

*Statement of Need:* This action is necessary to provide regulatory guidance for SBA Express and Export Express loans authorized by statute. Current regulatory guidance provides an extensive framework for the delivery of SBA's 7(a) guaranteed loans through participating private sector lenders. In general, the requirements add time and expense for lenders who must comply first with their primary regulator rules, and then consider the additional burden of any SBA program requirements. The required use of certain SBA mandated forms is in many cases redundant, increasing costs for lenders to deliver loans to small businesses. For the SBA Express and Export Express 7(a) loans Congress has authorized SBA to reduce specific requirements and instead permit lenders on small dollar loans ($350,000 or less for SBA Express and $500,000 or less for Export Express) to apply many of their conventional underwriting rules and to use their own documentation. This regulation will detail the reduced requirements for these guaranteed loans. It is necessary to provide clear and succinct regulatory guidance for lenders to encourage participation in extending smaller dollar loans, and to ensure their ability to comply, and extend credit with confidence in their ability to rely on

payment by SBA of the guaranty if necessary.

*Summary of Legal Basis:* The SBA Express loans are authorized in Section 7(a)(31) of the Small Business Act and Export Express loans were made permanent by the Small Business Jobs Act and are authorized in Section 7(a)(35) of the Small Business Act.

*Alternatives:* The SBA has provided guidance on the SBA Express and Export Express loans in SOP 50 10 Lender and Development Company Programs.

*Anticipated Cost and Benefits:* While the number of lenders and loans should increase, SBA anticipates no additional cost from this regulatory action because the Express programs have been in use and performing for over 5 years. Portfolio performance including prepayment, default and recovery behaviors is already being captured in the 7(a) program's annual subsidy calculation.

Lenders who participate in the SBA Express program agree to accept a lower guaranty of 50 percent on loans of $350,000 or less in return for delegated authority and the ability to use forms, procedures and policies that they already follow for similarly sized non-SBA guaranteed commercial loans. This removes the additional layer of documents and permits a lender to move more quickly to a decision and funding of small dollar small business loans. Cost to deliver is an important consideration for lenders when assessing the benefits of participating with SBA programs. Streamlined rules result in increased lender participation, particularly for community banks, credit unions and other mission based lenders who generally serve more of rural communities and underserved populations with small loans. While SBA does not have specific statistics, cost savings to the lender generally trickle down to the small business applicant. Further, providing plain language regulatory guidance for the SBA Express program will reduce improper payment risk for lenders and SBA, by ensuring that lenders are fully informed and understand the program requirements.

The Export Express program provides lenders with a 75–90 percent guaranty, as well as the authority to use their own forms, procedures and policies to the extent possible to reduce redundancy in documentation, time and costs associated with underwriting export loans up to and including $500,000.

*Risks:* The risk of not having regulations may impact the number of improper payments and/or denial of guarantee for lenders due to misinterpretation of program requirements.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Agency Contact:* Dianna L. Seaborn, Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205–3645, *Email: dianna.seaborn@sba.gov*.

*RIN:* 3245–AG74

## SBA

### 120. Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business—Certification

*Priority:* Other Significant.

*E.O. 13771 Designation:* Other.

*Legal Authority:* Pub. L. 113–291, sec. 825; 15 U.S.C. 637(m)

*CFR Citation:* 13 CFR 127.

*Legal Deadline:* None.

*Abstract:* Section 825 of the National Defense Authorization Act for Fiscal Year 2015 (NDAA), Public Law 113–291, 128 Stat. 3292, Dec. 19, 2014, included language requiring that women-owned small business concerns and economically disadvantaged women-owned small business concerns are certified by a Federal agency, a State government, the Administrator, or national certifying entity approved by the Administrator as a small business concern owned and controlled by women. This rule will propose the standards and procedures for participation in this certification program. This rule will also propose to revise the procedures for continuing eligibility, program examinations, protest and appeals. The proposed revisions will reflect public comments that SBA received in response to the Advanced Notice of Proposed Rulemaking that the agency issued in December 2016 to solicit feedback on implementation of the program. Finally, SBA is planning to continue to utilize new technology to improve its efficiency and decrease small business burdens, and therefore, the new certification procedures will be based on an electronic application and certification process.

*Statement of Need:* Proposed rule to implement statutory requirement to certify Women Owned Small Business Concerns (WOSBs) for purposes of receiving set aside and sole source contracts under the WOSB program.

*Summary of Legal Basis:* These proposed regulations implement section 825 of the National Defense Authorization Act for Fiscal Year 2015, Public Law 113–291, 128 Stat. 3292 (December 19, 2014) (2015 NDAA).

*Alternatives:* The proposed regulations are required to implement specific statutory provisions which require promulgation of implementing regulations.

*Anticipated Cost and Benefits:* The benefit of the proposed regulation is a significant improvement in the confidence of contracting officers to make federal contract awards to eligible firms. Under the existing system, the burden of eligibility compliance was placed upon the awarding contracting officer. Under this new proposed rule, the burden is placed upon SBA. This will encourage more contracting officers to set-aside opportunities for WOSB Program participants as the validation process will be controlled by SBA in both the System for Award Management and the Dynamic Small Business Search.

*Risks:* There is always a slight risk that an agency will award a set aside contract to a firm that is ineligible. Certification of firms prior to award will lessen this risk.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 12/18/15 | 80 FR 78984 |
| ANPRM Comment Period End. | 02/16/16 | |
| NPRM ..... | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Agency Contact:* Kenneth Dodds, Director, Office of Policy, Planning and Liaison, Small Business Administration, 409 3rd Street SW, Washington, DC 20416, *Phone:* 202 619–1766, *Fax:* 202 481–2950, *Email: kenneth.dodds@sba.gov*.

*RIN:* 3245–AG75

## SBA

Final Rule Stage

### 121. Office of Women's Business Ownership: Women's Business Center Program

*Priority:* Other Significant.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 15 U.S.C. 656

*CFR Citation:* 13 CFR 131.

*Legal Deadline:* None.

*Abstract:* SBA's Office of Women's Business Ownership (OWBO) oversees a network of SBA-funded Women's Business Centers (WBCs) throughout the United States and its territories. WBCs provide management and technical assistance to small business concerns both nascent and established, with a focus on such businesses that are owned and controlled by women, or on women planning to start a business, especially women who are economically or socially disadvantaged. The training and counseling provided by the WBCs encompass a comprehensive array of topics, such as finance, management and marketing in various languages. This rule will codify the requirements and procedures that govern the delivery, funding and evaluation of the management and technical assistance provided under the WBC Program. The rule will address, among other things, the eligibility criteria for selection as a WBC, use of Federal funds, standards for effectively carrying out program duties and responsibilities, the requirements for reporting on financial and programmatic performance, and provisions regarding the collection and use of the individual WBC client data.

*Statement of Need:* There are currently no regulations that codify the legislative authority of the Agency to administer the Women's Business Center (WBC). The Program started as a pilot in 1988 and a regulation governing its operations was never promulgated after it became a Program in 2007. The Small Business Jobs Act of 2010 (Pub. L. 111–240) amended Section 29(n) of the Small Business Act (the Act), 15 U.S.C. 656, to direct the SBA Administrator to issue regulations to establish standards for requiring disclosures during a financial audit. In order to meet this legislative requirement, SBA must issue regulations for the WBC program.

This rule finalizes proposed regulatory language that would codify this legislative authority as well as streamline the policy and procedural requirements of the Program currently included in the Program Announcement and Notice of Award (NOA). This rule also incorporates flexibilities allowable during disasters enacted under the RISE After Disaster Act. Changes made with the publication of 2 CFR part 200 and other federal grant requirements enforced over the past 28 years have been incorporated. Once final, the rule's implementation would result in standardization and transparency to Program delivery.

*Summary of Legal Basis:* The WBC Program was created under the authority of Title II of the Women's Business Ownership Act of 1988 (Pub. L. 100–533). The WBC Program authority is now codified in section 29 of the Act. Section 29(n)(3) of the Small Business Act (the Act) directs the SBA Administrator to issue regulations to establish standards for requiring disclosures during a financial audit.

Note, since its creation, the WBC Program has changed through a number of Pub. L.s that have turned the WBC Program from a Demonstration into a permanent program. Laws that have impacted the Program include: The Women's Business Development Act of 1991 (Pub. L. 102–191); The Women's Business Centers Sustainability Act of 1999 (Pub. L. 106–165): U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (Pub. L. 110–28); The Small Business Jobs Act of 2010 (Pub. L. 111–240); and the RISE After Disaster Act of 2015 (Pub. L. 114–88).

*Alternatives:* The alternative to not yet publish regulations, and continue to rely on grant documents to implement the WBC Program, is not one that SBA would like to exercise. Because the statute specifically requires SBA to publish regulations for the WBC Program, exercising this alternative would not be compliant. SBA believes that issuing regulations for the WBC Program would establish and ensure long-lasting consistency in Program implementation.

*Anticipated Cost and Benefits:* SBA analyzed the costs and benefits associated with both the application process to become funded as a WBC and the on-going operations for currently funded WBCs, as the populations are different for the application process and the existing WBCs.

This proposed rule could theoretically affect all nonprofit entities as the statute requires that an entity be organized as a nonprofit in order to participate. According to the IRS, for tax year 2010, there were over 269,000 entities that filed returns as a 501(c)(3). As the application process is voluntary and does not require a nonprofit entity to apply, the vast majority of nonprofits would not be affected. Over the past 5 years, there were a total of 133 new applications submitted for the WBC Program averaging 25–35 applications per year. The SF 424 (Application for Federal Assistance) on grants.gov does not include a field for revenue size. Based on the majority of the entities being small, SBA can presume that the majority of the Applicant Organizations are also small. It is projected that a grants writer would take approximately 20 hours to complete and submit the required application forms through grants.gov. For a grants writer at an average of $30 per hour, this would cost approximately $600. These estimates are based on the burden statements associated with the grants.gov application forms and anecdotal information from Applicant Organizations to the WBC Program. Therefore, the SBA has determined that the application section of the proposed rule would not have a significant impact on a substantial number of small entities.

There are currently 110 entities that participate in the WBC Program, all of which are small entities. However, the SBA has determined that the impact on these entities affected by the rule will not be significant. The rule codifies current policies and procedures that are already achieved through a Cooperative Agreement with the SBA. It does not include new reporting requirements. Rather it standardizes existing policies to ensure transparency and consistency which in theory will reduce the cost to both the WBC participants and SBA. A WBC participating in the WBC Program submits a Federal Financial Report and attachments twice a year. The estimated burden for these reports is 2 hours twice a year. The annual submission of a work plan is substantially less than the Application and is only to update any changes from the initial Application. The estimate for these forms on an annual basis is a total of 14 hours. For a grants writer at $30 per hour, the annual estimated cost would be $420.

*Risks:* SBA believes that this rule minimizes financial risk to the Agency and the program. The increased transparency of the program, including standard definitions and requirements, would help WBC Program participants comply with applicable laws and statutes. The regulations would codify the actions the Agency is authorized to take when a non-federal entity does not comply with the program. This in turn reduces the risk that funds allocated to the non-federal entities would be misused, and therefore minimizes a financial risk to the Agency.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM | 04/22/15 | 80 FR 22434 |
| ANPRM Comment Period End. | 06/22/15 | |
| NPRM | 11/22/16 | 81 FR 83718 |
| NPRM Comment Period End. | 01/23/17 | |
| Final Rule | 03/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* None.

*Agency Contact:* Bruce D. Purdy, Deputy Assistant Administrator, Office of Women's Business Ownership, Small Business Administration, Washington, DC 20416, *Phone:* 202 205–7532, *Email: bruce.purdy@sba.gov*.

*RIN:* 3245–AG02

**BILLING CODE 8025–01–P**

## SOCIAL SECURITY ADMINISTRATION (SSA)

### I. 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 via reimbursement for necessary costs in making disability determinations.

The entries in our regulatory plan (plan) represent issues of major importance to the Agency. Through our regulatory plan, we intend to:

A. Update the medical criteria used to evaluate disability applications to keep pace with medicine, science, technology, and workforce changes;

B. Ensure quality decisions while carefully reducing the hearings backlog, improving the disability appeals process, and improving the integrity of the disability determinations process;

C. Update SSA disability evaluation criteria, and ensure the accuracy of SSA claimant and beneficiary data;

D. Protect SSA claimants and beneficiaries through representative and representative payee rules and standards;

E. Combat Social Security fraud and impose civil monetary penalties for specific violations of the Social Security Act, while also increasing overpayment collection thresholds for OASI and DI benefit payments to be consistent with SSI; and

F. Update our Freedom of Information Act and Privacy and Disclosure rules.

Regulatory Reform

We designate all of the proposed regulations in this plan as ''fully or partially exempt'' under Executive Order 13771. In compliance with the Administration's Regulatory Reform efforts, as prescribed by Executive Order 13771 and Executive Order 13777, SSA is committed to engaging in regulatory activity only when strictly necessary and to reducing regulatory burden wherever possible. Accordingly, our Unified Agenda and Regulatory Plan include only those regulatory activities needed to administer our Social Security benefits and payments programs. Moreover, the Agenda includes de-regulatory items to remove outdated regulatory sections from the Code of Federal Regulations. Finally, we remain committed to innovate in ways that ease burdens on the public even outside the realm of formal de-regulation, such as through developing online reporting and application tools.

### II. Regulations in the Prerule Stage

Our regulation in the prerule stage will:

- Help protect our claimants and beneficiaries by asking for advance input on which types of previous criminal histories, if any, should preclude someone from serving as an organizational representative payee (RIN 0960–AH79).

### III. Regulations in the Proposed Rule Stage

Our regulations will:

- Comprehensively update the medical listings for evaluating musculoskeletal disorders (RIN 0960–AG38);
- Selectively update the medical listings for evaluating digestive, cardiovascular, and skin disorders (RIN 0960–AG65);
- Ensure the accuracy of the data we collect by codifying our authority to access and use electronic payroll data (RIN 0960–AH88);
- Propose to impose deadlines on when claimant representatives must file fee petitions, to mandate standardized registration for all individuals wishing to be representatives, and will propose to add educational requirements for direct pay non-attorney representatives (RIN 0960–AI22);
- Clarify our rules regarding the redetermination of entitlement when fraud or similar fault is involved. (RIN 0960–AI10);
- Impose that SSA can assess the maximum allowable civil monetary penalty for certain violations of the Social Security Act (RIN 0960–AH91 and 0960–AI04);
- Update our Freedom of Information act policies to reflect recent legislation (RIN 0960–AI07); and
- Allow SSA to create two new categories of Privacy Act exemptions, enabling the retention of important records (RIN 0960–AH97 and 0960–AI08).

### IV. Regulations in the Final Rule Stage

Our regulation in the final rule stage will:

- Make permanent the Attorney Advisor program, helping to reduce the hearings backlog (RIN 0960–AI23).

*Retrospective Review of Existing Regulations*

Pursuant to section 6 of Executive Order 13563, ''Improving Regulation and Regulatory Review'' (January 18, 2011), SSA regularly engages in retrospective review and analysis for multiple existing regulatory initiatives. These initiatives may be proposed or completed actions, and they do not necessarily appear in The Regulatory Plan. You can find more information on these completed rulemakings in past publications of the Unified Agenda at *www.reginfo.gov* in the ''Completed Actions'' section for the Social Security Administration.

## SSA

Prerule Stage

### 122. Investigative Policies for Organizational Representative Payees

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* Not Yet Determined

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* This ANPRM will solicit public input about whether and how we should strengthen our investigative policies and practices for organizational representative payees. Currently, we obtain and verify an Employer Identification Number for organizational representative payee applicants. We do not collect and verify the Social Security numbers of anyone in these organizations, and we do not conduct a criminal background investigation on any individual in these organizations. We are considering how we should treat organizational representative payee applicants who employ individuals convicted of certain crimes.

*Statement of Need:* Under our current policy, we prohibit persons convicted of certain crimes from serving as a representative payee. We believe this policy helps to protect beneficiaries

from persons whose criminal history indicates they may pose an increased risk of exploiting vulnerable individuals. We believe a similar bar policy should apply to individuals employed by organizational payees. Given the complexities of applying a criminal bar policy to individuals employed by organizational payees, we need public input on how to apply such a policy.

*Summary of Legal Basis:* N/A ANPRM.

*Alternatives:* None.

*Anticipated Cost and Benefits:* N/A. This is a solicitation for public input. We do not anticipate that any proposal we formulate from this ANPRM will impose a cost on members of the public.

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 05/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*URL For Public Comments: www.regulations.gov*.

*Agency Contact:* Eric Ice, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 966–3233, *Email: eric.ice.ssa.gov*.

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–AH79

## SSA

Proposed Rule Stage

### 123. Revised Medical Criteria for Evaluating Musculoskeletal Disorders (3318P)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*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. We propose to revise the criteria in these sections to reflect our adjudicative experience, advances in medical knowledge and treatment of musculoskeletal disorders, and comments from medical experts.

*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.

These rules are necessary to evaluate claims for Social Security disability benefits.

*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 to ensure that our criteria reflect advances in medical knowledge and treatment since we last revised these rules.

*Anticipated Cost and Benefits:* Anticipated costs and benefits—not yet 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 ..... | 01/00/18 | |

*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:* Michael Goldstein, Social Insurance Specialist, Social Security Administration, Office of Medical Policy, 6401 Security Boulevard, Woodlawn, MD 21235–6401, *Phone:* 410 966–2733 *Email: michael.j.goldstein@ssa.gov.*

Cheryl A. Williams, Director, Social Security Administration, Office of Medical Policy, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020, *Email: cheryl.a.williams@ssa.gov.*

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

### 124. Update to the Comprehensive Medical Listings—Revised Medical Criteria for Evaluating Digestive Disorders, Cardiovascular Disorders, and Skin Disorders

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*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 4.00 and 104.00, Cardiovascular Systems; Sections 5.00 and 105.00, Digestive Systems; and sections 8.00 and 108.00, Skin Disorders, of appendix 1 to subpart P of part 404 of our regulations describe those 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 rules are necessary to evaluate claims for Social Security disability benefits.

*Summary of Legal Basis:* Sections 4.00 and 104.00, Cardiovascular Systems; Sections 5.00 and 105.00, Digestive

Systems; and Sections 8.00 and 108.00, Skin Disorders, of appendix 1 to subpart P of part 404 of our regulations.

This proposed rule is 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 advances in medical, technology, and treatment since we last revised these rules.

*Anticipated Cost and Benefits:* Ensuring that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge, technology, and treatment will provide for accurate disability evaluations.

*Costs:* None.

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| ANPRM ..... | 12/12/07 | 72 FR 70527 |
| ANPRM Comment Period End. | 02/11/08 | |
| NPRM ..... | 04/00/18 | |

*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 Policy, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020, *Email: cheryl.a.williams@ssa.gov.*

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*Related RIN:* Related to 0960–AG74, Related to 0960–AG91

*RIN:* 0960–AG65

## SSA

### 125. Minimum Monthly Withholding Amount for Recovery of Title II Benefit Overpayments (3752P)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 31 U.S.C. 3716; 31 U.S.C. 3720A; 42 U.S.C. 404; 42 U.S.C. 405(a); 42 U.S.C. 902(a)(5); 42 U.S.C. 1320b–17

*CFR Citation:* 20 CFR 404.502.

*Legal Deadline:* None.

*Abstract:* The numbers below present the estimated effects on OASDI overpayment collections of a regulatory proposal to increase the minimum monthly benefit withholding from $10 to 10 percent of the benefit payable for the month. Debtors could still pay less if the negotiated amount would allow for repayment of the debt in 36 months.

Under the proposed regulation, we estimate that previously negotiated withholding schedules would remain in place. For fiscal years 2013 through 2017, we estimate an increase in overpayment collections of $137 million; and for fiscal years 2013 through 2022, we estimate an increase in overpayment collections of $644 million.

*Statement of Need:* We propose to change the minimum monthly withholding amount for recovery of title II benefit overpayments to reflect the increase in the average monthly title II benefit since we established the current minimum of $10 in 1960. By changing this amount from $10 to 10 percent of the monthly benefit payable, we would recover overpayments more effectively and better fulfill our stewardship obligations to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

*Summary of Legal Basis:* 42 U.S.C. 902(a)(5).

*Alternatives:* None.

*Anticipated Cost and Benefits:* The numbers below present the estimated effects on OASDI overpayment collections of a regulatory proposal to increase the minimum monthly benefit withholding from $10 to 10 percent of the benefit payable for the month. Debtors could still pay less if the negotiated amount would allow for repayment of the debt in 36 months.

The estimate is based on the historical record of overpayment collections over the period January 2002 to December 2011, prepared for us by the Office of Quality Performance. We used this file of individual-level data to compute what the collections would have been had the 10-percent minimum been put in place at the beginning of this period. We used the same record to ascertain the growth in incurred debt over time, which we then projected to the fiscal year 2013–22 period.

The proposal is effective for partial-withholding agreements, negotiated after the effective date of the change assumed to be July 1, 2013. Under the proposed regulation, withholding schedules negotiated before that date would remain in place. For fiscal years 2013 through 2017, we estimate an increase in overpayment collections of $137 million; and for fiscal years 2013 through 2022 we estimate an increase in overpayment collections of $644 million.

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 06/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Undetermined.

*URL For Public Comments: www.regulations.gov.*

*Agency Contact:* Schelli Collins, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1954.

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–AH42

## SSA

### 126. Removing Ability To Communicate in English as a Vocational Factor

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 42 U.S.C. 402; 42 U.S.C. 405(a) to 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(h) to (j); 42 U.S.C. 422(c); 42 U.S.C. 423; 42 U.S.C. 425; 42 U.S.C. 902(a)(5)

*CFR Citation:* 20 CFR 404.1564, Part 404 Subpart P Appendix; 20 CFR 416.964.

*Legal Deadline:* None.

*Abstract:* We propose to revise existing disability evaluation rules relating to the ability to communicate in English. Specifically, we will clarify that an inability to communicate in English is not tantamount to illiteracy or inadequate verbal communication. Rather, an inability to communicate adequately verbally or in writing in any language will be the effective standard. The proposed revisions will reflect

current research, analysis of our disability program data, Federal agency data about workforce participation, and comments we received from the public in response to an Advance Notice of Proposed Rulemaking.

*Statement of Need:* These changes would modernize our disability program consistent with current research and data about disability and workforce participation.

*Summary of Legal Basis:* 42 U.S.C. 902(a)(5). Multiple sections of the Social Security Act. No aspect is required by statute or court order.

*Alternatives:* Undetermined at this time.

*Anticipated Cost and Benefits:* No costs on the public are anticipated as a result of this proposed rule. Benefits include more consistent and appropriate evaluations of vocational factors by eliminating the false equivalence between an inability to communicate in English and illiteracy.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/18 | |

*Regulatory Flexibility Analysis Required:* Undetermined.

*Government Levels Affected:* None.

*URL For Public Comments:* *www.regulations.gov*.

*Agency Contact:* Daniel O'Brien, Director, Social Security Administration, Office of Ticket Operations and Provider Support, Office of Employment Support Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 597–1632.

William P. Gibson, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations and Reports Clearance, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 966–9039, *Email: william.gibson@ssa.gov*.

*RIN:* 0960–AH86

## SSA

### 127. Use of Electronic Payroll Data To Improve Program Administration

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* Bipartisan Budget Act of 2015 sec. 824

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* We propose to implement the Commissioner's access to and use of the information held by payroll providers. The Agency will use this data to help administer the disability and SSI programs and prevent improper payments.

*Statement of Need:* In accordance with the Bipartisan Budget Act of 2015, section 824; the Commissioner of Social Security has the authority to enter into an information exchange with a payroll or data provider, allowing us to efficiently administer monthly insurance and supplemental security income benefits, while preventing improper payments.

*Summary of Legal Basis:* Bipartisan Budget Act of 2015, section 824.

*Alternatives:* None.

*Anticipated Cost and Benefits:* The costs below represent estimated costs to the Agency for implementation of this rule:

*FY18:* $7,305,164.

*FY19:* $1,753,675.

*FY20:* $1,753,675.

*FY21:* $1,753,675.

*FY22:* $1,753,675.

*Risks:* To be determined.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 06/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Elizabeth Teachey, Director, Social Security Administration, SSA: OISP/OEMP/DHSLT, 6401 Security Boulevard, Woodlawn, MD 21235, *Phone:* 410 965–9145, *Email: elizabeth.teachey@ssa.gov*.

Eric Skidmore, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235, *Phone:* 410 597–1833, *Email: eric.skidmore@ssa.gov*.

*RIN:* 0960–AH88

## SSA

### 128. Newer and Stronger Penalties (Conforming Changes)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* Bipartisan Budget Act of 2015, sec. 813; 42 U.S.C. 1320a–8

*CFR Citation:* 20 CFR 498.

*Legal Deadline:* None.

*Abstract:* Section 813 of the BBA establishes civil monetary penalties in section 1129 of the *Social Security Act* against individuals in a position of trust that make false statements, misrepresentations, or omissions in connection with obtaining or retaining SSA benefits or payments. *Section 813 also establishes a new felony for conspiracy to commit Social Security fraud, increases felony penalties for individuals in positions of trust who defraud the SSA, and disqualifies individuals from receiving benefits during a trial work period if they are assessed a civil monetary penalty for concealing work activity.*

*Statement of Need:* Upon enactment of the BBA on November 2, 2015, civil monetary penalties for individuals in a position of trust took effect immediately. Imposing penalties against individuals in a position of trust assists in deterring fraud and maintaining the integrity of SSA's disability programs. The regulations at 20 CFR 498 should be updated to reflect the BBA's provisions.

*Summary of Legal Basis:* Section 813 of the Bipartisan Budget Act of 2015.

*Alternatives:* none.

*Anticipated Cost and Benefits:* SSA projects no anticipated costs on the public with completing this regulatory action. Costs for the agency are as yet undetermined, but are expected to be mostly administrative in nature. Benefits include strengthening our civil monetary assessment processes.

*Risks:* No risk is anticipated since this regulatory action reflects statutory requirements and authority.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 08/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Kathi Moore, Director, OPRD, DCBFM/OFPO, Social Security Administration, Office of Financial Policy and Operations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–0624.

*RIN:* 0960–AH91.

## SSA

### 129. Privacy Act Exemption: Personnel Security and Suitability Program Files

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 5 U.S.C. 522a; 5 U.S.C. 553

*CFR Citation:* 20 CFR 401.85.

*Legal Deadline:* None.

*Abstract:* This NPRM will propose to create a Security and Suitability Files system to cover any additional security

and suitability related information generated by SSA that is not sent to the Office of Personnel Management. We will use the information we collect to conduct background investigations and establish that applicants or incumbents, either employed by SSA or working for SSA under contract, are suitable for employment with us. Additionally, the NPRM will propose to remove two unused systems listed in our regulations.

*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.

This update will replace the two following systems of records currently reflected in 401.85:

(iii) Pursuant to subsection (k)(5) of the Privacy Act:

(A) The Investigatory Material Compiled for Security and Suitability Purposes System, SSA; and,

(B) The Suitability for Employment Records, SSA.

*Summary of Legal Basis:* In accordance with the Privacy Act (5 U.S.C. 552a), and Subsection (k)(5) of the Privacy Act, 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:* There are no anticipated costs. We stand to benefit through better administrative efficiency by updating the systems we use for accurately tracking investigatory employment records.

*Risks:* Violation of the Privacy Act and OMB requirements.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 03/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Pamela Carcirieri, Division Director, Social Security Administration, Office of General Counsel—Policy Disclosure, 6401 Security Boulevard, Woodlawn, MD 21235–6401, *Phone:* 410 965–0355, *Email: pamela.carcirieri@ssa.gov*.

William P. Gibson, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations and Reports Clearance, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 966–9039, *Email: william.gibson@ssa.gov*.

*RIN:* 0960–AH97

## SSA

### 130. References to Social Security and Medicare in Electronic Communications

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* Bipartisan Budget Act of 2015, sec. 814; 42 U.S.C. 1320b–10

*CFR Citation:* 20 CFR 498.

*Legal Deadline:* None.

*Abstract:* Section 814 of the BBA clarifies that electronic and internet communications are included in the prohibitions against misusing SSA's names, symbols and emblems to convey the false impression that such items are approved, endorsed, or authorized by SSA, as stated in Section 1140 of the *Social Security Act.* In addition, it treats each dissemination, viewing, or accessing of a communication as a separate violation.

*Statement of Need:* Section 814 of the BBA took effect upon enactment. However, our regulations do not currently reflect this statutory change. Imposing penalties against individuals in a position of trust assists in deterring fraud and maintaining the integrity of SSA's disability programs. The regulations at 20 CFR 498 should be updated to reflect the BBA's provisions.

*Summary of Legal Basis:* The legal basis for this action is section 814 of the Bipartisan Budget Act of 2015, which went into effect on November 2, 2015. 42 U.S.C. 1320b–10

*Alternatives:* None.

*Anticipated Cost and Benefits:* There are no anticipated costs associated with this regulatory action. However, the benefit of this regulatory action is that it will clarify the applicability of section 1140 to electronic and internet communications and minimize unnecessary litigation as to the applicability of the section 1140 statute.

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 08/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* Businesses.

*Government Levels Affected:* None.

*Agency Contact:* Ranju Shrestha, Chief Counsel to the Inspector General, Social Security Administration, 6401 Security Blvd., Woodlawn, MD 21235, *Phone:* 410 966–4440, *Email: ranju.shrestha@ssa.gov*.

*RIN:* 0960–AI04

## SSA

### 131. Availability of Information and Records to the Public

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* Pub. L. 114–185, FOIA Reform Act of 2016, 5 U.S.C. 552

*CFR Citation:* 20 CFR 402.

*Legal Deadline:* Other, Statutory, December 27, 2016, FOIA Reform Act 2016. Other, Statutory, 12/27/2016, FOIA Reform Act 2016

*Abstract:* Revisions of our FOIA regulations will address the requirements of the FOIA Improvement Act of 2016 and ensure that our regulations are consistent with all applicable laws.

*Statement of Need:* Revisions of our FOIA regulation will address the requirements of the FOIA Improvement Act of 2016 and ensure that our regulations are consistent with all applicable laws.

*Summary of Legal Basis:* FOIA Reform Act of 2016, 5 U.S.C. 552.

*Alternatives:* None.

*Anticipated Cost and Benefits:* There are no anticipated costs to the implementation of the statutory requirements.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 07/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* Federal.

*Agency Contact:* Monica Chyn, Division Director, Social Security Administration, Office of General Counsel, Office of Privacy and Disclosure, 6401 Security Boulevard, Woodlawn, MD 21235, *Phone:* 410 965–0817, *Email: c.t.monica.chyn@ssa.gov*.

*RIN:* 0960–AI07

## SSA

### 132. Privacy Act Exemption: Social Security Administration Violence and Reporting System (SSAVERS)

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 5 U.S.C. 552a

*CFR Citation:* 20 CFR 401.85.

*Legal Deadline:* None.

*Abstract:* This NPRM will propose to create the Social Security Administration Violence Evaluation and Reporting System (SSAvers) to cover information we collect about employees, contractors, and members of the public who are allegedly involved in, or witness incidents of workplace or domestic violence.

*Statement of Need:* This NPRM will propose to create a new system of records entitled 'Social Security Administration Violence Evaluation and Reporting System (SSAvers)' to cover any information we collect about employees, contractors, and members of the public who are allegedly involved in, or witness incidents of workplace or domestic violence. It is required for compliance with the Privacy Act.

*Summary of Legal Basis:* The Privacy Act of 1974 (5 U.S.C. 552a).

*Alternatives:* None.

*Anticipated Cost and Benefits:* There are no anticipated costs to the operation of this system.

*Risks:* There are no risks for the operation of this system of records.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 05/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Pamela Carcirieri, Division Director, Social Security Administration, Office of General Counsel—Policy Disclosure, 6401 Security Boulevard, Woodlawn, MD 21235–6401, *Phone:* 410 965–0355, *Email: pamela.carcirieri@ssa.gov.*

*RIN:* 0960–AI08

## SSA

### 133. Redeterminations When There Is a Reason to Believe Fraud or Similar Fault Was Involved in an Individual's Application for Benefits

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 205(u) and 1631(e)(7) and 1129(l) of the Social Security Act; 42 U.S.C. 405(u); 42 U.S.C. 1383(E)(7); 42 U.S.C. 1320a–8(l)

*CFR Citation:* Not Yet Determined.

*Legal Deadline:* None.

*Abstract:* We are clarifying our rules regarding the redetermination of the entitlement or eligibility of individuals when there is reason to believe fraud or similar fault was involved in the individual's application for benefits. We intend to clarify how and when we redetermine the entitlement, and the administrative review process when we decide to terminate benefits.

*Statement of Need:* Over time, our business processes evolved to support our statutory redetermination authority. We are now codifying the basic parameters for redetermination, including relevant definitions, clarification of notice and redetermination procedures, as well as a process for administratively reviewing redetermination termination and overpayment assessment decisions under secs. 205(u) and 1631(e)(7) of the Act, in order to provide the public the opportunity for comment under the Administrative Procedures Act while providing our customers and their representatives the ability to find our redetermination process within our regulatory text.

*Summary of Legal Basis:* Sections 205(u), 1129(l), and 1631(e)(7) of the Social Security Act. 42 U.S.C. 405(u)(1), 1320a–8(l), and 1383(e)(7). 206(d) of Public Law 103–296, the Social Security Independence and Program Improvements Act of 1994, 108 Stat. 1464, 1509.

*Alternatives:* We could continue to manage our redetermination processes and procedures under our statutory authority and sub-regulatory guidances.

*Anticipated Cost and Benefits:* Without enumerated regulations, we may experience additional litigation alleging lack of due process and violation of the Administrative Procedures Act.

*Risks:* Without enumerated regulations, we may experience litigation alleging lack of due process and violation of the Administrative Procedures Act.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 04/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Lindsay Norris, Attorney, Social Security Administration, Office of General Counsel, Office of Program Law, 6401 Security Boulevard, Woodlawn, MD 21235, *Phone:* 410 966–4970, *Email: lindsay.norris@ssa.gov.*

William P. Gibson, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations and Reports Clearance, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 966–9039, *Email: william.gibson@ssa.gov.*

*RIN:* 0960–AI10

## SSA

### 134. • Changes to the Requirements for Claimant Representation

*Priority:* Other Significant.

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 42 U.S.C. 406

*CFR Citation:* 20 CFR part 404 Subpart R; 20 CFR part 404 Subpart O; 20 CFR 404.1717(a)(3); 20 CFR 416.1517(a)(3).

*Legal Deadline:* None.

*Abstract:* We propose to make changes to the requirements for representing claimants. Specifically, we plan to impose a deadline(s) on when representatives must file their fee petitions and all supporting documents and to prohibit representatives from merely stating their intent to file a fee petition. We also propose to mandate registration and use of a prescribed form (SSA–1696) from all representatives who are or wish to be appointed as a representative. Additionally, we proposed to add educational requirements at the Associate's level for direct pay non-attorney representatives.

*Statement of Need:* This regulation will address procedures we intend to implement regarding how we handle representatives, which improves our administrative efficiency. We will change to the representative fee petition and alleviate a significant workload burden on Office of Hearings Operations (OHO) and Operations. We will mandate representative registration and completion of Form SSA–1696, critical requirements for our implementation of the Registration, Appointment and Services for Representatives system (RASR). We will add educational requirements for non-attorneys who seek direct fee payment.

*Summary of Legal Basis:* 42 U.S.C 902(a)(5), 42 U.S.C. 406.

*Alternatives:*

*Anticipated Cost and Benefits:* We are in the early planning stage and data gathering for this rulemaking. Anticipated costs and benefits are too early to formally project, but we expect no more than a de minimis costs, if any, at this time.

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 09/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Daniel O'Brien, Director, Social Security Administration, Office of Ticket Operations and Provider Support, Office of Employment Support Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 597–1632.

*RIN:* 0960–AI22

## SSA

Final Rule Stage

### 135. • Making Permanent the Attorney Advisor Program

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

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 42 U.S.C. 902(a)(5); 42 U.S.C. 1383; 42 U.S.C. 1383b

*CFR Citation:* 20 CFR 404.942; 20 CFR 416.1442.

*Legal Deadline:* None.

*Abstract:* The Agency is making permanent the Attorney Advisory Program to continue reducing the hearings backlog and enhance the service we provide to the public. Specifically, the attorney advisor initiative is an integral tool that permits some attorney advisors to develop claims, including holding prehearing conferences, and, in cases in which the documentary record clearly establishes a fully favorable decision is warranted, issue fully favorable decisions before a hearing is conducted.

*Statement of Need:* Given the historic nature of the disability hearings backlog, the agency will prioritize scheduling more hearing faster while ensuring quality decisions. Permanency of the attorney advisor program gives the agency a way for some attorney advisors to develop claims, including holding pre-hearing conferences, and in some cases issue fully favorable decisions before a hearing is conducted.

*Summary of Legal Basis:* None.

*Alternatives:* None.

*Anticipated Cost and Benefits:* Any costs associated with this program would be administrative and are expected to be minimal to zero.

*Risks:* None.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| Direct Final Rule | 02/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Small Entities Affected:* No.

*Government Levels Affected:* None.

*Agency Contact:* Patrick McGuire, Acting Director Program Analysis Staff, Social Security Administration, 5107 Leesburg Pike, Falls Church, VA 22041, *Phone:* 703 605–7109, *Email: patrick.mcguire@ssa.gov.*

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–AI23

BILLING CODE 4191–02–P

## FEDERAL ACQUISITION REGULATION (FAR)

The Federal Acquisition Regulation (FAR) is the principal set of rules governing the acquisition process for acquiring goods and services from planning, through contract formation, and contract administration. It regulates the activities of Executive Branch government personnel in carrying out that process.

The FAR was issued pursuant to the Office of Federal Procurement Policy Act of 1974. The FAR Council membership consists of: The Administrator for Federal Procurement Policy and the Secretary of Defense, the Administrator of National Aeronautics and Space; and the Administrator of General Services. Statutory authority to issue and maintain the FAR resides with the *Secretary of Defense,* the *Administrator of General Services,* and the *Administrator of the National Aeronautics and Space Administration* subject to the approval of the Administrator of Federal Procurement Policy. It was established to codify uniform policies for acquisition of supplies and services by agencies. Statutory authorities to issue and revise the FAR have been delegated to the procurement executives in the Department of Defense (DoD), the General Services Administration (GSA), and National Aeronautics and Space Administration (NASA). The FAR System is codified at Title 48, Chapter 1 of the *Code of Federal Regulations.*

### The FAR Council's Regulatory Philosophy and Principles

Executive Order 13777, ''Enforcing the Regulatory Reform Agenda'' (February 24, 2017), required GSA to appoint a Regulatory Reform Officer to oversee the implementation of regulatory reform initiatives and policies and establish a Regulatory Reform Task Force (Task Force) to review and evaluate existing regulations and make recommendations to the agency head regarding their repeal, replacement, or modification, consistent with applicable law.

These reform initiatives and policies include Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs'' (January 30, 2017), section 6 of Executive Order 13563, ''Improving Regulation and Regulatory Review'' (January 18, 2011), and Executive Order 12866.

All of the FAR Council's rulemakings are based on requirements of executive orders, laws, and other agency rulemakings that are based on laws, Office of Management and Budget policy guidance or GAO recommendations. The Council dose very little discretionary rulemaking.

Dated: September 19, 2017.

**William Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

BILLING CODE 6820–EP–P

## FAR

Proposed Rule Stage

### 136. • Federal Acquisition Regulation (FAR); FAR Case 2018–002, Protecting Life in Global Health Assistance

*Priority:* Other Significant.

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. 137; 51 U.S.C. 20113

*CFR Citation:* 48 CFR 2; 48 CFR 37; 48 CFR 52.

*Legal Deadline:* None.

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Presidential Memorandum, entitled the Mexico City Policy, issued on January 13, 2017, in accordance with the Department of State's implementation plan dated May 9, 2017. This rule would extend requirements of the memorandum and plan to new funding agreements for global health assistance furnished by all departments or agencies. This expanded policy will cover global health assistance to include funding for international health

programs, such as those for HIV/AIDS, maternal and child health, malaria, global health security, and certain family planning and reproductive health.

*Statement of Need:* Protecting Life in Global Health Assistance. This case implements Presidential Memorandum, entitled the Mexico City Policy, issued on January 13, 2017. This rule would extend requirements of the memorandum. The expanded policy will cover global health assistance to include funding for international health programs, such as those for HIV/AIDS, maternal and child health, malaria, global health security, and certain family planning and reproductive health. (FAR Case 2018–002).

*Summary of Legal Basis:*

*Alternatives:*

*Anticipated Cost and Benefits:*

*Risks:*

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM ..... | 06/00/18 | |
| NPRM Comment Period End. | 09/00/18 | |

*Regulatory Flexibility Analysis Required:* Yes.

*Small Entities Affected:* Businesses, Governmental Jurisdictions.

*Government Levels Affected:* Federal.

*URL For More Information:* *www.regulations.gov.*

*URL For Public Comments:* *www.regulations.gov.*

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* *michaelo.jackson@gsa.gov.*

*RIN:* 9000–AN62

**BILLING CODE 6820–EP–P**

## FALL 2017 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 (Pub. L. 111–203, 124 Stat. 1376) (Dodd-Frank Act). Pursuant to the Dodd-Frank Act, the CFPB has rulemaking, supervisory, enforcement, and other authorities relating to consumer financial products and services. Among these are the consumer financial protection authorities that transferred to the CFPB from seven Federal agencies on the designated transfer date, July 21, 2011. These authorities include the ability to issue regulations under more than a dozen Federal consumer financial laws.

As provided in section 1021 of the Dodd-Frank Act, the purpose of the CFPB is to implement and enforce Federal consumer financial laws consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that such markets are fair, transparent, and competitive. The CFPB is authorized to exercise its authorities for the purpose of ensuring that, 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, 2017, to October 31, 2018, include continuing rulemaking activities to (1) Implement statutory directives; (2) address market failures, facilitate fair competition among financial service providers, and improve consumer understanding; and (3) modernize, clarify, and streamline consumer financial regulations to reduce unwarranted regulatory burdens.

*Bureau Regulatory Efforts To Implement Statutory Directives*

Much of the Bureau's rulemaking work is focusing on implementing directives mandated in the Dodd-Frank Act and other statutes. As part of these rulemakings, the Bureau is working to achieve the consumer protection objectives of the statutes while minimizing regulatory burden on financial services providers and facilitating a smooth implementation process for both industry and consumers.

For example, the Bureau is continuing efforts to facilitate implementation of critical consumer protections under the Dodd-Frank Act that guard against mortgage market practices that contributed to the nation's most significant financial crisis in several decades. Since 2013, the Bureau has issued regulations as directed by the Dodd-Frank Act to implement certain protections for mortgage originations and servicing, integrate various Federal mortgage disclosures, and amend mortgage reporting requirements under the Home Mortgage Disclosure Act (HMDA). The Bureau is conducting follow-up rulemakings as warranted to address issues that have arisen during the implementation process for these rules and to provide greater clarification and certainty to financial services providers. As discussed below, the Bureau has begun the preparation of reports assessing significant rules implementing provisions of the Dodd-Frank Act.

The Bureau is also working to implement section 1071 of the Dodd-Frank Act, which amends ECOA to require financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. This rulemaking could provide critical information about how these businesses—which are critical engines for economic growth—access credit. The Bureau held a public hearing on this subject in spring 2017, and released a white paper summarizing preliminary research on the small business lending market. In May 2017, the Bureau also issued a Request for Information seeking public comment on, among other things, the types of credit products offered and the types of data currently collected by lenders in this market and the potential complexity, cost of, and privacy issues related to, small business data collection. The information received will help the Bureau determine how to implement the rule effectively and minimize burdens on lenders.

*Addressing Market Failures, Facilitating Fair Competition Among Financial Services Providers, and Improving Consumer Understanding*

The Bureau is considering rules in places where there are substantial market failures that make it difficult for consumers to engage in informed decision making and otherwise protect their own interests. In addition, the Dodd-Frank Act directs the Bureau to focus on activities that promote fair competition among financial services providers, which itself has substantial benefits for consumers.

For example, the Bureau released a Notice of Proposed Rulemaking in June 2016, building on several years of research documenting consumer harms from practices related to payday loans,

auto title loans, and other similar credit products. In particular, the Bureau is concerned that product structure, lack of underwriting, and certain other lender practices are interfering with consumer decision making with regard to such products and trapping large numbers of consumers in extended cycles of debt that they do not expect. The Bureau is also concerned that certain lenders' payment collection practices are causing substantial harm to consumers, including substantial unexpected fees and heightened risk of losing their checking accounts. The Bureau received more than one million comments in response to the proposal and is carefully considering how best to address concerns raised in the proposal in a manner consistent with the Bureau's objectives under the Dodd-Frank Act.

The Bureau is also engaged in rulemaking activities regarding the debt collection market, which continues to be a top source of complaints to the Bureau. The Bureau is concerned that, because consumers cannot choose their debt collectors or ''vote with their feet,'' consumers have less ability to protect themselves from harmful practices. In January 2017, the Bureau published the results of a survey of consumers about their experiences with debt collection. The Bureau has also received encouragement from industry to engage in rulemaking to resolve conflicts in case law and address issues of concern under the Fair Debt Collection Practices Act (FDCPA), such as the application of the 40-year-old statute to modern communication technologies. The Bureau released an outline of proposals under consideration in July 2016, concerning practices by companies that are ''debt collectors'' under the FDCPA, in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy to consult with representatives of small businesses that might be affected by the rulemaking. The Bureau expects to release a proposed rule in late 2017 concerning FDCPA collectors' communications practices and consumer disclosures. The Bureau intends to follow up separately at a later time about concerns regarding information flows between creditors and FDCPA collectors and about potential rules to govern creditors that collect their own debts.

The Bureau is also engaged in policy analysis and further research initiatives in preparation for a potential rulemaking regarding overdraft programs on checking accounts. After several years of research, the Bureau believes that there are consumer protection concerns with regard to these programs. Consumers do not shop based on overdraft fee amounts and policies, and the market for overdraft services does not appear to be competitive. Under the current regulatory regime consumers can opt in to permit their financial institution to charge fees for ATM and point-of-sale debit overdrafts, but the complexity of the system may complicate consumer decision making. Despite widespread use of disclosure forms, the regime produces substantially different opt-in rates across different depository institutions and the Bureau's supervisory and enforcement work indicates that some institutions are aggressively steering consumers to opt in. The CFPB is engaged in consumer testing of revised opt-in forms and considering whether other regulatory changes may be warranted to enhance consumer decision making.

In addition, the Bureau is continuing rulemaking activities that will ensure meaningful supervision of non-bank financial services providers in order to create a more level playing field for depository and non-depository institutions. Under section 1024 of the Dodd-Frank Act, the CFPB is authorized to supervise ''larger participants'' of markets for various consumer financial products and services as defined by Bureau rule. The Bureau has defined the threshold for larger participants in several markets in past rulemakings, and is now working to develop a proposed rule that would define non-bank ''larger participants'' in the market for personal loans, including consumer installment loans and vehicle title loans. 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's October 2016, rulemaking concerning prepaid financial products also advanced fairness and consistency objectives by creating a uniform disclosure regime and providing basic protections similar to those enjoyed by users of debit cards and credit cards. In April 2017, the Bureau extended the general effective date of the rule to April 1, 2018. In June 2017, the Bureau issued a proposal that would make targeted changes to the 2016 prepaid rule to reduce implementation and compliance burdens on the industry and ensure consumer understanding of and access to these products. The Bureau expects to issue a final rule in fall 2017.

*Modernizing, Streamlining, and Clarifying Consumer Financial Regulations*

The Bureau's third group of activities concerns modernizing, streamlining, and clarifying consumer financial regulations and other activities to reduce unwarranted regulatory burden and facilitate consumer-friendly innovation and increased access to consumer financial markets as directed by the Dodd-Frank Act. Since most of the Federal consumer financial laws that the Bureau administers were enacted in the 1960s and 1970s, there is often substantial demand for these activities from both industry and consumer advocates alike.

The Bureau is also beginning work this fall on the first in a series of reviews of existing regulations that it inherited from other agencies through the transfer of authorities under the Dodd-Frank Act. The Bureau had previously sought feedback on the inherited rules as a whole, and identified and executed burden reduction projects from that undertaking. The Bureau has largely completed those initial projects and believes that the next logical step is to review individual regulations—or portions of large regulations—in more detail to identify opportunities to clarify ambiguities, address developments in the marketplace, or modernize or streamline provisions. The Bureau notes that other Federal financial services regulators have engaged in these types of reviews over time and believes that such an initiative would be a natural complement to its work to facilitate implementation of new regulations.

For its first review, the Bureau expects to focus primarily on Subparts B and G of Regulation Z, which implement TILA with respect to open-end credit generally and credit cards in particular. As part of this general effort, the Bureau is considering rules to modernize the Bureau's database of credit card agreements to reduce burden on issuers that submit credit card agreements to the Bureau and make the database more useful for consumers and the general public. The Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act) requires credit card issuers to post their credit card agreements to their internet site, and submit those agreements to the Bureau to be posted on an internet site maintained by the Bureau. The Bureau believes an improved submission process and database would be more efficient for both industry and the Bureau and would allow consumers and

the general public to access and analyze information more easily.

In addition to these rulemaking activities noted in the Unified Agenda, the Bureau is conducting other activities to modernize, streamline, and clarify consumer financial regulatory activities. For example, section 1022(d) of the Dodd-Frank Act specifically directs the Bureau to assess the effectiveness of significant rules five years after they are implemented, including seeking public comment. The Bureau has sought public comment on three significant rules: The remittance rule, the ability to repay rule, and the RESPA mortgage servicing rule. The Bureau is currently reviewing those comments as part of its work to develop the reports mandated by section 1022(d) of the Dodd-Frank Act. The findings in these reports will help the Bureau and the public evaluate the recommendations the Bureau received and inform the Bureau's decisions whether adjustments to rules are warranted. The Bureau has also added items to its long-term regulatory agenda, including a potential rulemaking to modernize Regulation E, which implements the Electronic Fund Transfer Act (EFTA), and to address issues of concern in connection with data aggregators, either under existing regulatory regimes such as EFTA and the Fair Credit Reporting Act (FCRA) or under the Dodd-Frank Act more generally. The Bureau believes that technological and market developments may warrant rulemaking under EFTA and FCRA to clarify the application of existing statutes and regulations, modernize and streamline those laws, and address emerging consumer protection concerns. The Bureau continues to look at other methods of modernizing, streamlining, and clarifying its regulations, consistent with the goal of reducing overall regulatory burden.

**BILLING CODE 4810–AM–P**

## 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 not considering taking action in the next twelve months on any rules that would constitute a ''significant regulatory action'' under the definition of the term in Executive Order 12866.

**BILLING CODE 6355–01–P**

## FEDERAL TRADE COMMISSION (FTC)

### Statement of Regulatory and Deregulatory Priorities

### I. Regulatory and Deregulatory Priorities

*Background*

The Federal Trade Commission (FTC or Commission) is an independent agency charged by its enabling statute, the Federal Trade Commission Act (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. 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, to ensure that consumers have a choice of products and services at competitive prices and quality, the marketplace must be policed for anticompetitive business practices and to prohibit anticompetitive mergers. These two complementary missions make the Commission unique insofar as it is the nation's only Federal agency with this combination of statutory authority to protect consumers.

The Commission is also charged with the responsibility of issuing and enforcing regulations under a number of statutes, including 16 trade regulation rules promulgated pursuant to the FTC Act and numerous regulations issued pursuant to certain credit, financial and marketing practice statutes [2] and energy laws.[3] 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.

For the remainder of the *Background* section, the Commission sets out a brief overview of its ongoing law enforcement efforts, followed by a more detailed list of current regulatory reform-related initiatives and other focus areas.

(A) Law Enforcement Mission

The Commission is, first and foremost, a law enforcement agency. It pursues its mandate to enhance competition and protect consumers primarily through case-by-case enforcement of the FTC Act and other statutes. This includes:

*(1) Consumer Protection Enforcement.* The agency has continued to pursue its long-standing consumer protection mission by filing or obtaining settlements in 56 consumer protection

[2] 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).

[3] 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) (codified in relevant part at 42 U.S.C. 17021, 17301–17305).

matters in district court, reaching 21 administrative consent agreements related to consumer protection, and distributing over $91 million in redress to more than two million consumers in 2017.

One recent example is the FTC's enforcement action along with its law enforcement partners, the U.S. Department of Justice and the Environmental Protection Agency, to compensate consumers who were harmed by Volkswagen both because the company allegedly unfairly sold cars with illegal defeat-emissions-testing devices and deceptively advertised these cars with claims that they were ''clean.'' Under the Commission's 2.0 liter and 3.0 liter settlements, Volkswagen will offer consumers more than $11 billion in compensation.[4] This is the largest consumer refund program in the FTC's history.

The Western Union Company (Western Union), a global money services business headquartered in Englewood, Colorado, agreed to pay $586 million to settle FTC and Department of Justice charges that the company allowed scammers to use its money transfer system to collect money from their victims. The FTC alleged that the company's failures, including not taking effective action against complicit agents, resulted in hundreds of millions of dollars in fraudulent transfers since 2004. As part of this global settlement, the FTC also required Western Union to implement an effective anti-fraud program. The Department of Justice and the FTC will use the $586 million payment to provide redress to defrauded consumers.

In a historic decision, an Illinois federal court ordered Dish Network to pay $280 million in civil penalties and to stop alleged violations of the FTC's Telemarketing Sales Rule and other federal and state laws. The Department of Justice filed charges on behalf of the FTC and four states against the satellite TV provider. Dish allegedly made millions of illegal calls, including to numbers on the Do Not Call Registry, and used unscrupulous tactics to generate programming sales. The court also ordered Dish to ensure its marketing practices comply with the law. The civil penalties include a record-setting $168 million to the federal government, with the remainder going to the states.

*(2) Competition Enforcement.* In FY2017, the agency pursued 29 law enforcement actions, including 20 merger challenges and 9 non-merger challenges.

In the *Draft Kings/FanDuel* matter, the parties abandoned their planned merger after the Commission sought a preliminary injunction in federal district court. The combination of the two largest daily fantasy sports sites, DraftKings and FanDuel, would have controlled more than ninety percent of the U.S. market for paid daily fantasy sports contests, the FTC alleged. The FTC has also successfully negotiated merger settlements requiring divestitures in a variety of industries, including pharmaceuticals, agricultural chemicals, animal vaccines, and others.

The FTC, jointly with the Office of the Attorney General of North Dakota, filed a complaint in federal court to block Sanford Health's proposed acquisition of Mid Dakota Clinic, alleging that the deal would violate antitrust law by significantly reducing competition for adult primary care physician services, pediatric services, obstetrics and gynecology services, and general surgery physician services in the greater Bismarck, North Dakota and Mandan, North Dakota metropolitan area.[5] According to the complaint, Sanford and Mid Dakota are each other's closest rivals in the four-county Bismarck-Mandan region of North Dakota, an area with a population of 125,000. The agencies seek a temporary restraining order and preliminary injunction to stop the deal and to maintain the status quo pending an administrative trial on the merits of the case.

The agency also continues to focus on non-merger enforcement. For example, the agency brought a case against ViroPharma Inc. alleging it engaged in sham petitioning to delay the market entry of generic competitors.[6] The Commission also continues to challenge anticompetitive reverse payment agreements between branded and generic pharmaceutical mergers after a favorable ruling from the Supreme Court in *FTC* v. *Actavis* supported the agency's antitrust enforcement in this area. In January 2017, the Commission filed a stipulated injunction in federal court in which Malinckrodt ARD Inc., formerly Questcor Pharmaceuticals, Inc., agreed to settle Commission charges that it monopolized the market for adrenocorticotropic hormone (ACTH) drugs. These drugs are typically the last line of defense in treating infantile spasms, a rare and serious seizure disorder. According to the Commission's complaint, the company purchased the rights to develop Synacthen Depot, a drug that threatened the firm's existing monopoly in the U.S. market. The Commission charged that the company undertook this acquisition to prevent any other company from using the Synacthen assets to develop a synthetic ACTH drug in the United States, thereby preserving Questcor's monopoly and allowing it to raise and maintain extremely high prices. Questcor raised its prices from $40 a vial to more than $34,000 a vial between 2001 and 2017, when it faced no competition for this critical infant medicine. To resolve this matter, Malinckrodt ARD Inc. agreed to grant a license to Synacthen Depot to a Commission-approved licensee and to pay $100 million.

(B) Regulatory Reform-Related Initiatives

In addition to consumer protection and competition enforcement matters, the agency is leading several regulatory reform initiatives under the leadership of Acting Chairman Ohlhausen. Her priorities in this regard are threefold: Promoting economic liberty, reforming regulation, and increasing agency transparency:

*(1) Economic Liberty Task Force.* In February 2017, Acting Chairman Ohlhausen established an FTC Economic Liberty Task Force to collaborate with state leaders and other stakeholders on occupational licensing reform. Nearly thirty percent of American jobs require a license today, up from less than five percent in the 1950s. For some professions, licensing is necessary to protect the public against legitimate health and safety concerns. But, many more occupations could be practiced safely and effectively with fewer, or no, licensing requirements.

In many situations, the expansion of occupational licensing threatens economic liberty. Unnecessary licensing restrictions erect significant barriers and impose costs that cause real harm to American workers, employers, consumers, and the economy as a whole, with no measurable benefits to consumers or society. These restrictions can:

[4] Amended Second Partial Stipulated Order for Permanent Injunction and Monetary Judgment, FTC v. Volkswagen Group of America, Inc., No. 3:15–md–2672 (N.D. Cal. May 17, 2017), *available at https://www.ftc.gov/system/files/documents/cases/170517_volkwagen_ftc_final_order_.pdf; see also* related proposed consent decree between the United States Department of Justice and the State of California and Volkswagen at *https://www.justice.gov/opa/file/871306/download.*

[5] Complaint for Temporary Restraining Order and Preliminary Injunction, *FTC and State of North Dakota* v. *Sanford Health, Sanford Bismarck, and Mid Dakota Clinic, P.C.,* No. 1:17–cv–00133–DLH–CSM (W.D. N.D. June 22, 2017), available at *https://www.ftc.gov/es/system/files/documents/cases/1710019sanfordfedcomplaint.pdf.*

[6] Complaint for Injunctive and Other Equitable Relief, *FTC* v. *Shire ViroPharma, Inc.,* No. 1:17–cv–00131–UNA (D. Del. May 25, 2017), available at *https://www.ftc.gov/enforcement/cases-proceedings/121-0062/shire-viropharma.*

• Close the door on job opportunities for people who are ready to work, especially the nation's most economically disadvantaged citizens;
• prevent workers from marketing their skills to employers and consumers;
• reduce entrepreneurship and business innovation, insulating current service providers from new forms of competition; and
• Stifle price, quality, and service competition among professionals, which hurts all consumers.

This Task Force has submitted comments on a state bill to reduce licensing requirements; launched a new website (*www.ftc.gov/econliberty*); and conducted dozens of interviews with a variety of stakeholders. On July 27, 2017, the Task Force hosted a roundtable in Washington, DC, that highlighted approaches that make it easier for workers in state-licensed occupations to offer their services across state lines or move between states. The agency announced a second public roundtable to occur on November 7, 2017, to examine the economic and legal aspects of occupational licensing regulations. The FTC's Economic Liberty Task Force will continue working with state partners and other interested stakeholders to bring greater attention to these important issues. Occupational licensing reform is good for competition, workers, consumers, and the American economy.

*(2) Regulatory Reform and Agency Streamlining.* Excessive regulation and bureaucracy create significant burdens on the public, while diverting resources from the agency's core mission to protect consumers and promote competition. Acting Chairman Ohlhausen directed staff to find ways to streamline agency information requests, add transparency, and lighten regulatory burdens. In June 2017, the agency also announced proposals to minimize or eliminate certain regulations that may no longer be in the public interest, including the 1966 Picture Tube Rule and the 1959 Textile Rule.[7] In July 2017, the FTC announced several reforms within the Bureau of Consumer Protection that will streamline information requests and improve transparency in Commission investigations, while preserving the agency's ability to conduct thorough investigations. On September 15, 2017, the Commission announced the streamlining of requirements under the Fur, Textile and Wool Labeling Rules as part of the regulatory reform agenda. 83 FR 43690 (Sept. 19, 2017). Effective October 19, 2017, these three rules were updated to require the public in most instances to submit via the FTC's website any requests to obtain, update, or cancel registered identification numbers (RN) used on fur, textile and wool product labels. Use of the web-based RN system streamlines the application process for participating businesses and greatly increases the agency's efficiency in delivering RN services to the public. Further streamlining will occur as the FTC continues its regular, systematic reviews of all rules and guides, assessing their costs and benefits to consumers and businesses.[8]

(C) Increasing Agency Transparency

Under the Acting Chairman's direction, the FTC is exploring additional ways to provide practical guidance on how the FTC Act applies to data security. The agency is building on existing business guidance materials, including *Start with Security,* a nuts-and-bolts brochure that distills the lessons learned from FTC cases down to ten fundamental concepts applicable to and manageable by companies of any size. Since 2002, approximately 60 companies have settled FTC cases alleging that they engaged in deceptive or unfair practices that unreasonably put consumers' personal data at risk. The FTC's law enforcement experience informs the agency's educational materials for businesses.

Businesses have asked the Commission to keep the guidance coming, which is why the Acting Chairman launched a new initiative, Stick with Security. Starting in late July 2017 and going into the fall, agency staff is publishing a weekly Business Blog post focusing on each of the ten Start with Security principles.

*Other Ongoing Focus Areas*

As set out below, the Commission is focused on helping small business owners avoid scams and protect their systems and customer data from threats, balancing the privacy and safety impacts of emerging technologies with consumer benefits, and assisting military consumers.

*(1) 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.

In June 2017, the Commission and the National Highway Traffic and Safety Administration (NHTSA) together sponsored the Connected Cars workshop, which examined the privacy and safety impacts of automated and connected motor vehicle technologies along with consumer benefits. Modern motor vehicles increasingly are being equipped with technologies that enable them to access information via the internet and gather, store and transmit data for entertainment, performance and safety purposes. Automated vehicles, vehicles with Vehicle-to-Vehicle Communications technology, and other connected vehicles (*i.e.* with some form of wireless connectivity) can provide important benefits to consumers and have the potential to revolutionize motor vehicle safety. At the same time, these automated and connected vehicles are expected to generate an enormous amount of data, some of which will be personal and sensitive, such as real time precise geolocation data and the contents of driver communications that result when drivers connect their mobile phones to a vehicle's computer system. The workshop brought together a variety of stakeholders, including industry representatives, consumer advocates, academics, and government regulators, to discuss various issues related to connected and automated vehicles that collect data. They included the types of data vehicles with wireless interfaces collect, store, transmit, and share; potential benefits and challenges posed by such data collection; the privacy and security practices of vehicle manufacturers; the role of the FTC, NHTSA, and other government agencies regarding privacy and security issues related to connected vehicles; and self-regulatory standards that might apply to privacy and security issues related to connected vehicles.

Building on the success of its two previous PrivacyCon events held in 2016 and 2017, the Commission announced a call for presentations for its third PrivacyCon, which will take place on February 28, 2018. The 2018 event will focus on economic questions including how to quantify the harms that result from companies' failure to secure consumer information, and how to balance the costs and benefits of privacy-protective technologies and practices. As part of this initiative, the

[7] *See Ongoing Rule and Guide Reviews* for further information about specific rule reviews.

[8] *See Retrospective Review of Existing Regulations* for further information.

FTC is also seeking general research that explores the privacy and security implications of emerging technologies, such as the Internet of Things, artificial intelligence and virtual reality.

The Internet of Things is also an expanding part of the Commission's work. It comes in the form of products such as fitness devices, wearables, smart cars, and connected smoke detectors, light bulbs, and refrigerators. While these products are innovative and exciting, they are also collecting, storing, and often sharing vast amounts of consumer data, some of it very personal, raising familiar and new concerns relating to privacy and security. Manufacturers and service providers are finding ways to track consumers across multiple devices, often without disclosing they are doing so. The FTC released a report on so-called cross-device tracking.[9] The Commission's report found that many companies do not explicitly discuss their cross-device tracking practices in their privacy policies. As companies increasingly track consumers across not only desktops and smartphones but other smart devices—like TVs—it is important that companies not only reassess their approaches to privacy but also simplify consumer choices wherever possible and get affirmative consent from consumers before tracking sensitive information across devices.

On March 9, 2017, the Commission also hosted its third FinTech Forum, focusing on the consumer implications of two rapidly developing technologies: Artificial intelligence and blockchain. The FinTech Forum series is part of the FTC's ongoing work to protect consumers taking advantage of new and emerging financial technology. As technological advances expand the ways consumers can store, share, spend, and borrow money, the FTC is working to keep consumers protected while encouraging innovation for consumers' benefit. Artificial intelligence focuses on the capability for machines to mimic rational or human-like thought processes or behaviors, including learning and problem solving. The technology may be used, for example, to provide personalized financial services for consumers, including providing money management tools. Blockchain technology involves a distributed digital ledger for recording transactions that can be shared widely. It first emerged as the foundation for digital currency, and it is now being explored for other consumer-focused uses including payment systems and ''smart contracts.''

*(2) Small Business.* There are more than 28 million small businesses nationwide, employing nearly 57 million people, according to the Small Business Administration (SBA). The agency has launched a new small business website (*www.ftc.gov/SmallBusiness*) with information to help small business owners avoid scams and protect their systems and customer data from threats. The site, which includes a new Small Business Computer Security Basics guide, also has information on other cyber threats such as ransomware and phishing schemes. The FTC also kicked off a new ''Engage, Connect, and Protect'' Initiative in partnership with the SBA, launching a nationwide dialogue on cybersecurity with small businesses. The first event was held in Portland, Oregon, on July 25, 2017, in conjunction with the National Cybersecurity Alliance's conference on ''Understanding your Cybersecurity: 5 Steps to Protect Your Business.'' This event was followed by a roundtable discussion (hosted by the FTC and the Council of Smaller Enterprises and in collaboration with the SBA) in Cleveland, Ohio, on September 6, and another roundtable event (sponsored by the NCSA) on September 18, 2017, in Des Moines, Iowa.

*(3) Military Consumers.* The agency also has expanded its focus on military consumers. This includes a new *military.consumer.gov* website and a series of Military Financial Consumer conferences, the first of which was held in Los Angeles, CA, on September 7, 2017. The new website provides advice and assistance on a number of topics including financial advice and alerts on numerous scams directed at military consumers and their families.

*(4) Fostering Innovation & Competition.* For more than two decades, the Commission has examined difficult issues at the intersection of antitrust and intellectual property law—including those 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 has used its authority under Section 6(b) of the Federal Trade Commission Act to explore the impact of patent assertion entities (PAE), firms that acquire patents from third parties and then try to make money by licensing or suing accused infringers. In 2014, the FTC received clearance under the Paperwork Reduction Act 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. In October 2016, the FTC published a staff report that spotlighted the business practices of PAEs and recommended patent litigation reforms.[10]

In conjunction with the Department of Justice, the Commission updated the Antitrust Guidelines for the Licensing of Intellectual Property, also known as the IP Licensing Guidelines to reflect changes in law and accumulated antitrust enforcement experience over the past 20 years.[11] The changes reaffirmed the Commission's commitment to an economically grounded approach to antitrust analysis of IP licensing and to a strong and competitive IP licensing system that benefits consumers and fosters innovation.

*(5) Remedy Study.* In January 2017, the Commission released a report that examined the effectiveness of the Commission's orders in past merger cases where it has required a divestiture or other remedy.[12] This effort expanded on a similar remedy study conducted in the 1990s that led to important improvements in the Commission's orders.[13] The new study was broader, covering 89 merger orders entered between 2006 and 2012, and benefited from information collected from respondents, buyers of divested assets, other significant competitors, and customers. The report found that the agency's process for maintaining competition when companies merge is generally effective. The new report concluded that in most cases the Commission's remedies protected or restored competition. Also, divestitures

[9] *Cross-Device Tracking: An FTC Staff Report* (January 2017), *https://www.ftc.gov/system/files/documents/reports/cross-device-tracking-federal-trade-commission-staff-report-january-2017/ftc_cross-device_tracking_report_1-23-17.pdf.*

[10] FTC Study, *Patent Assertion Entity Activity* (Oct. 2016), *https://www.ftc.gov/system/files/documents/reports/patent-assertion-entity-activity-ftc-study/p131203_patent_assertion_entity_activity_an_ftc_study.pdf.*

[11] Press Release, FTC and DOJ Issue Updated Antitrust Guidelines for the Licensing of Intellectual Property (Jan. 13, 2017), *https://www.ftc.gov/news-events/press-releases/2017/01/ftc-doj-issue-updated-antitrust-guidelines-licensing-intellectual.*

[12] *See* The FTC's Merger Remedies 2006–2012: A Report of the Bureaus of Competition and Economics (Jan. 2017), *https://www.ftc.gov/system/files/documents/reports/ftcs-merger-remedies-2006-2012-report-bureaus-competition-economics/p143100_ftc_merger_remedies_2006-2012.pdf.*

[13] FTC, A Study of the Commission's Divestiture Process (1999), *https://www.ftc.gov/sites/default/files/attachments/merger-review/divestiture.pdf.*

of ongoing businesses were particularly successful. Finally, the study provided valuable insight into best practices for designing and implementing merger remedies in future cases.

*(6) Protecting Consumers from Cross-Border Harm.* The FTC cooperates with competition and consumer protection agencies in other countries to halt deceptive and anticompetitive business practices that affect U.S. consumers, and promotes sound approaches to issues of mutual international interest by building relationships with counterpart agencies around the world on competition and consumer protection issues.

The FTC cooperated on enforcement-related matters with foreign agencies or multilateral organizations in consumer protection and privacy matters, using its authority under the U.S. SAFE WEB Act in these matters to share information or provide investigative assistance to foreign authorities. One highlight was the FTC's successful collaboration with the Office of the Privacy Commissioner of Canada and the Australian Information Commissioner in investigating a massive data breach and other allegedly deceptive practices of the Toronto-based adult dating website, *AshleyMadison.com*.[14] The website had members in nearly 50 countries. The operators of the website settled FTC and state charges that they deceived consumers and failed to protect 36 million users' account and profile information. The Australian and Canadian agencies contributed to the FTC's investigation and reached their own settlements with the company. The FTC also continues to advance enforcement cooperation through networks such as the International Consumer Protection and Enforcement Network (ICPEN), the Global Privacy Enforcement Network (GPEN), the anti-spam Unsolicited Communications Enforcement Network (UCENet, formerly known as the London Action Plan) and the International Mass Marketing Fraud Working Group.

In the policy arena, the FTC played a leading role in revising the Organization for Economic Co-operation and Development (OECD)'s Guidelines on Consumer Protection in Electronic Commerce, which were adopted by the OECD Council in early 2016 to address new developments in e-commerce including mobile applications, digital content, and peer platform marketplaces as well as the revised United Nations Guidelines on Consumer Protection, which include provisions on e-commerce, consumer financial services, dispute resolution and redress, and international cooperation.

The FTC also continues to advocate for global interoperability and strong enforcement of data privacy laws through collaboration with the Department of Commerce on the E.U.-U.S. Privacy Shield. The Privacy Shield provides a mechanism for transatlantic data transfers and strengthens cooperation between the FTC and EU Data Protection Authorities by providing for vigorous enforcement of the Framework's requirements.

Throughout 2017, the FTC's international competition program promoted cooperation with competition agencies in other jurisdictions and advocated convergence of international antitrust policies toward best practice. As co-chair of the Mergers Working Group of the International Competition Network (ICN), the FTC is leading an update of the ICN's signature recommended practices for merger notification and review procedures, and for merger analysis, and developing practical guidance on merger investigative techniques and on merger remedies. It also hosted the ICN's 2017 merger workshop. The FTC also originated and leads the ICN Training on Demand project, which is creating a comprehensive curriculum of video training materials on competition law and practice. The FTC also continues to further the important roles that it plays in the competition groups of the OECD, the United Nations Conference on Trade and Development (UNCTAD), and Asia-Pacific Economic Cooperation (APEC).

In addition to promoting convergence toward sound competition policy and enforcement, the FTC advocates fair and transparent enforcement procedures. Through its leadership of the ICN's implementation efforts, the FTC continues to play a key role in promoting implementation of the ICN's Guidance on Investigative Process, the most comprehensive agency-led effort to articulate principles and practices of procedural fairness in antitrust investigations, as well as the ICN's work on merger notification and review procedures. In the OECD, the FTC played a key role in the Competition Committee's project on international cooperation and evaluating the impact of competition enforcement. The FTC is also playing an active role in developing the competition chapters of the renegotiated North American Free Trade Agreement.

On January 13, 2017, the Federal Trade Commission and Department of Justice issued revised Antitrust Guidelines for International Enforcement and Cooperation.[15] The Guidelines, which had previously been updated in 1996, describe the agencies' current practices and analysis of key issues of international consumer protection enforcement and cooperation.

Finally, the FTC has continued its robust technical assistance program to share its experience with competition and consumer protection agencies around the world. In 2017, the FTC conducted programs in jurisdictions around the globe, including Argentina, Brazil, Central America, India, Mexico, the Philippines, Ukraine and the Southern African region. Through its International Fellows Program, the FTC brought ten international competition colleagues from five competition agencies to work alongside FTC staff on antitrust enforcement matters for fiscal year 2017. Under the same program, the FTC brought international consumer protection colleagues from agencies to work alongside FTC staff on consumer protection matters and research for fiscal year 2017.

*(7) Self-Regulatory and Compliance Initiatives with Industry.* The Commission continues to engage industry in compliance partnerships in the funeral and franchise industries, among others. For example, the Commission's Funeral Rule Offender Program, conducted in partnership with the National Funeral Directors Association, is designed to educate funeral home operators found in violation of the requirements of the Funeral Rule, 16 CFR 453, so that they can meet the rule's disclosure requirements. Four hundred and ninety-nine 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 assists 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 FTC Act 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

[14] See Press Release, Ashley Madison settles with FTC over data security (Dec. 14, 2014), *https://www.ftc.gov/news-events/blogs/business-blog/2016/12/ashley-madison-settles-ftc-over-data-security*.

[15] See Press Release, Federal Trade Commission and Department of Justice Announce Updated International Antitrust Guidelines (Jan. 13, 2017), *https://www.ftc.gov/news-events/blogs/business-blog/2016/12/ashley-madison-settles-ftc-over-data-security*.

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.

*(8) Second Chance and Leniency Policies.* The Commission complements its compliance assistance efforts by considering the particular circumstance when enforcing business obligations. For example, the Commission has a small business leniency policy statement that analyzes various factors that may result in reduction or waiver of penalties. See 62 FR 16809 (Apr. 8, 1997) (issuing policy), 62 FR 46363 (Sept. 2, 1997) (responding to comment received). As such cases arise; the Commission considers these leniency factors whenever a civil penalty may be assessed against a small business.

The Commission continued its ''second chance'' policy for certain minor and inadvertent violations of the textile and wool labeling rules, which can apply to small businesses. The Textile Corporate Leniency Policy helps increase overall compliance with the rules while minimizing the burden on business of correcting inadvertent labeling errors that are not likely to injure consumers. Since the Policy was announced (2002), 242 companies have been granted ''leniency'' for self-reported minor violations of the FTC textile regulations.

**Regulatory and Deregulatory Measures**

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 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). Under the Commission's program, rules are reviewed on a 10-year schedule that results 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. In each rule review, the Commission requests public comments on, among other things, the economic impact and benefits of the rule; possible conflict between the rule and state, local, or other federal laws or regulations; and the effect on the rule of any technological, economic, or other industry changes.

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. 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.

The FTC continues to take a fresh look at its long-standing regulatory review process. In June 2017, the Commission issued a revised 10-year review schedule. The Commission is currently reviewing 16 of the 65 rules and guides within its jurisdiction. 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 2018, the Commission proposes initiating reviews of four of its rules or guides: (1) Test Procedures and Labeling Standards for Recycled Oil, 16 CFR 311; (2) Disclosure Requirements and Prohibitions Concerning Franchising, 16 CFR 436; and (3) Identity Theft [Red Flags] Rules, 16 CFR 681, and (4) The Nursery Guides, 16 CFR 18.

*Ongoing Rule and Guide Reviews*

The Commission is continuing review of a number of rules and guides, which are discussed below.

(a) Rules

*CAN–SPAM Rule, 16 CFR 316.* As part of its ongoing systematic review of its rules and guides, the Commission initiated a periodic review of the Rule on June 28, 2017 82 FR 29254. The public comment period closed on August 31, 2017. Commission staff anticipates sending a recommendation to the Commission by January 2018. The Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (''CAN–SPAM Rule'') sets rules for commercial email, establishes requirements for commercial messages, gives recipients the right to have senders of commercial email stop emailing them, and provides for penalties for violations. The FTC issued the CAN–SPAM Rule to implement the Act, as authorized by the statute.

*Care Labeling Rule, 16 CFR 423.* Promulgated in 1971, the Rule on Care Labeling of Textile Apparel and Certain Piece Goods as Amended (the Care Labeling Rule) makes it an unfair or deceptive act or practice for manufacturers and importers of textile wearing apparel and certain piece goods to sell these items without attaching care labels stating ''what regular care is needed for the ordinary use of the product.'' The Rule also requires that the manufacturer or importer possess, prior to sale, a reasonable basis for the care instructions and allows the use of approved care symbols in lieu of words to disclose care instructions. After reviewing the comments from a periodic rule review (76 FR 41148, July 13, 2011), the Commission concluded on September 20, 2012, that the Rule continued to benefit consumers and would be retained, and sought comments on potential updates to the Rule, including changes that would allow garment manufacturers and marketers to include instructions for professional wetcleaning on labels; permit the use of ASTM Standard D5489–07, ''Standard Guide for Care Symbols for Care Instructions on Textile Products,'' or ISO 3758:2005(E), ''Textiles—Care labeling code using symbols,'' in lieu of terms; clarify what can constitute a reasonable basis for care instructions; and update the definition of ''dryclean.'' 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 Commission action by January 2018.

*Contact Lens Rule, 16 CFR 315.* As part of the systematic rule review process, on September 3, 2015, the Commission issued a **Federal Register** notice seeking public comments about the Contact Lens Rule. 80 FR 53272. The comment period closed on October 26, 2015. After Commission staff completed review of the 660 comments received from consumers, eye care professionals, industry members, trade associations, and consumer advocacy groups, the Commission published a notice of proposed rulemaking on December 7, 2016, seeking comment on its proposal to amend the Rule to require contact lens prescribers to obtain a signed acknowledgement after releasing a contact lens prescription to a patient, and to maintain it for at least three years. In addition, to conform language

of the Rule to the language of the FCLCA, the Commission proposed to amend section 315.5(e) of the Rule to remove the words ''private label.'' The Commission also sought comment on this proposal. The comment period closed on January 30, 2017, and staff is reviewing more than 4000 comments that were received, and anticipates the Commission taking next action by early 2018. The Contact Lens Rule requires contact lens prescribers to provide prescriptions to their patients upon the completion of a contact lens fitting, and to 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.

*Energy Labeling Rule, 16 CFR 305.* The Energy Labeling Rule is officially known as the Rule concerning Energy and Water Use Labeling for Consumer Products Under the Energy Policy and Conservation Act. On November 9, 2017, the Commission issued proposed rule changes containing scheduled, routine updates to the comparability ranges and unit energy cost figures on EnergyGuide labels for dishwashers, furnaces, room air conditioners, and pool heaters. The Commission also proposed to set a compliance date for EnergyGuide labels on room air conditioner boxes. The comment period will close on December 4, 2017.[16]

*Eyeglass Rule, 16 CFR 456.* As part of the systematic rule review process, on September 3, 2015, the Commission issued a **Federal Register** notice seeking public comments about the Eyeglass Rule (or Trade Regulation Rule on Ophthalmic Practice Rules). 80 FR 53274. The comment period closed on October 26, 2015. Commission staff has completed the review of 831 comments on the Eyeglass Rule and is formulating next steps. Commission staff anticipates Commission action on the Eyeglass Rule by early 2018. 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 agree to purchase ophthalmic goods from the optometrist or ophthalmologist.

[16] See *Final Actions* below for information about a separate completed rulemaking proceeding for the Energy Labeling Rule.

*Franchise Rule, 16 CFR 436.* During 2018, the Commission plans to initiate periodic review of the Franchise Rule (officially titled Disclosure Requirements and Prohibitions Concerning Franchising). The Rule gives prospective purchasers of franchises the material information they need in order to weigh the risks and benefits of such an investment. The Rule requires franchisors to provide all potential franchisees with a disclosure document containing 23 specific items of information about the offered franchise, its officers, and other franchisees. Required disclosure topics include, for example: The franchise's litigation history, past and current franchisees and their contact information, any exclusive territory that comes with the franchise, assistance the franchisor provides franchisees, and the cost of purchasing and starting up a franchise.

*Holder in Due Course Rule, 16 CFR 433.* On December 1, 2015, the Commission initiated a periodic review of this Rule, officially the Preservation of Consumers' Claims and Defenses Rule. 80 FR 75018. The comment period closed on February 12, 2016. Staff is reviewing the comments and anticipates sending a recommendation to the Commission by June 2018. The Holder in Due Course Rule requires sellers to include language in consumer credit contracts that preserves consumers' claims and defenses against the seller. This rule eliminated the holder in due course doctrine as a legal defense for separating a consumer's obligation to pay from the seller's duty to perform by requiring that consumer credit and loan contracts contain one of two clauses to preserve the buyer's right to assert sales-related claims and defenses against any ''holder'' of the contracts.

*Identity Theft [Red Flags] Rules, 16 CFR 681.* During 2018, the Commission expects to initiate periodic review of the Identity Theft Rules. The Rules require financial institutions and creditors to develop and implement a written identity theft prevention program (a Red Flags Program). By identifying red flags for identity theft in advance, businesses can be better equipped to spot suspicious patterns that may arise—and take steps to prevent potential problems from escalating into a costly episode of identity theft.

*Picture Tube Rule, 16 CFR 410.* As part of the systematic review of its rules and guides, the Commission initiated a periodic review of this rule on June 28, 2017. 82 FR 29256. The comment period closed on August 31, 2017. Commission staff anticipates sending a recommendation to the Commission by June 2018. The Picture Tube Rule, officially the Rule on Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets, became effective in 1967 and sets forth appropriate methods for measuring television screens when that measure is included in any advertisement or promotional material for the television set. If the measurement of the screen size is based on a measurement other than the horizontal dimension of the actual viewable picture area, the method of measurement must be clearly and conspicuously disclosed in close proximity to the size designation.

*Premerger Notification Rules and Report Form (or HSR Rules), 16 CFR 801–803.* The HSR Rules and the Antitrust Improvements Act Notification and Report Form (HSR Form) were adopted pursuant to section 7(A) of the Clayton Act which requires firms of a certain size contemplating mergers, acquisitions or other transactions of a specified size to file notification with the Federal Trade Commission (FTC) and the U.S. Department of Justice (DOJ) and to wait a designated period of time before consummating the transaction. These Rules are continually reviewed in order to improve the program's effectiveness and to reduce the paperwork burden on the business community.

Staff anticipates sending a recommendation to the Commission by early 2018 that would clarify the definition of foreign issuer in the HSR Rules. The definition in the HSR Rules for U.S. and Foreign persons and issuers focuses on three tests: (1) Location of incorporation, (2) country whose laws organized under and (3) principal offices. The term ''principal offices'' is not defined in the rules and is often a source of confusion for parties. This rulemaking would provide a definition.

*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 website, 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 website, 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. Since the Commission proposed amending the Rule, Congress enacted the Fixing America's Surface Transportation Act (FAST Act) which included a provision amending the Gramm-Leach-Bliley Act to create a new exception to the annual notice requirement. Staff anticipates that the Commission will issue a final rule, to include changes reflecting the FAST Act amendment, by January 2018.

*Recycled Oil Rule, 16 CFR 311.* During 2018, the Commission anticipates initiating its periodic review of the Rule (officially the Rule on Test Procedures and Labeling Standards for Recycled Oil) by publishing a notice seeking public comments on the effectiveness and impact of the Rule. This Rule governs labeling of containers for recycled or ''re-refined'' oil intended for use as engine oil. The Rule, which implemented statutory requirements designed to encourage the use of recycled oil, permits manufacturers and other sellers to represent on a recycled engine-oil container label that the oil is substantially equivalent to new engine oil, as long as the determination of equivalency is based on National Institute of Standards and Technology test procedures prescribed by the Rule.

*R-value Rule, 16 CFR 460.* On April 6, 2016, the Commission initiated a periodic review of the R-value Rule, officially the Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation, as part of its ongoing systematic review of all rules and guides. 81 FR 19936. The comment period was later extended to September 6, 2016. 81 FR 35661 (June 3, 2016). Staff anticipates the next Commission action before the end of 2017. The R-value Rule is designed to assist consumers in evaluating and comparing the thermal performance characteristics of competing home insulation products by specifically requiring manufacturers of home insulation products to provide information about the product's degree of resistance to the flow of heat (R-value). The Rule also establishes uniform standards for testing, information disclosure, and substantiation of product performance claims.

*Safeguards Rule (or Standards for Safeguarding Customer Information), 16 CFR 314.* On September 7, 2016, the Commission initiated a periodic review of the Safeguards Rule as part of its ongoing systematic review of all rules and guides. 81 FR 61632. The comment period closed on November 7, 2016, and staff anticipates that the Commission will take its next action by January 2018. The FTC's Safeguards Rule, as directed by the Gramm-Leach-Bliley Act (GLB), requires each financial institution subject to the FTC's jurisdiction 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.

*Telemarketing Sales Rule (TSR), 16 CFR 308.* On August 11, 2014, the Commission initiated a periodic review of the TSR as set out on the 10-year review schedule.[17] 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 June 2018.

*Textile Rules, 16 CFR 303.* On June 28, 2017, the Commission proposed amending the Textile Rules (or Rules and Regulations Under the Textile Fiber Identification Act) to delete the requirement that an owner of a registered word trademark furnish the FTC with a copy of the mark's registration with the United States Patent and Trademark Office (USPTO) before using the mark on labels, and to no longer restrict the use of such trademarks to only those also employed as house marks. 82 FR 29251. The comment period closed on July 31, 2017. Staff anticipates submitting a recommendation to the Commission by early 2018.

The Textile Fiber Products Identification Act requires wearing apparel and other covered household textile articles to be marked with (1) the generic names and percentages by weight of the constituent fibers present in the textile fiber product; (2) the name under which the manufacturer or another responsible USA company does business, or in lieu thereof, the registered identification number (RN) of such a company; and (3) the name of the country where the textile product was processed or manufactured. The implementing rules are set forth at 16 CFR 303.

(b) Guides

*Fuel Economy Guide, 16 CFR 259.* On September 19, 2017, the Commission published final amendments to the Guide Concerning Fuel Economy Advertising for New Automobiles (''Fuel Economy Guide'' or ''Guide'') to address advertising claims prevalent in the market and harmonize with current Environmental Protection Agency (''EPA'') and National Highway Traffic Safety Administration (''NHTSA'') fuel economy labeling rules. 82 FR 43682. [81 FR 36216, June 6, 2016 (proposed amendments) (extended comment period closed on September 8, 2016)]. The Fuel Economy Guide was adopted in 1975 to prevent deceptive fuel economy advertising and to facilitate the use of fuel economy information in advertising.

*Jewelry Guides, 16 CFR 23.* On July 2, 2012, 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. 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. Based on comments received, and on information obtained during a public roundtable in June 2013, the FTC proposed revisions to the Guides on January 12, 2016, regarding below-threshold alloys, precious metal content of products containing more than one precious metal, surface application of precious metals, lead-glass filled stones, ''cultured'' diamonds, pearl treatments, varietals, and misuse of the word ''gem.'' 81 FR 1349. The extended comment period closed on June 3, 2016, and Commission staff anticipates forwarding a recommendation to the Commission before the end of 2017.

*Nursery Guides, 16 CFR 18.* The Commission plans to initiate periodic review of the Guides for the Nursery Industry during 2018. Adopted in 1979 and last reviewed in 2007, the Guides address a number of sales practices for outdoor plants, trees and flowers and prohibit deception as to such things as size, grade, age, condition, price, origin or the place where the products were grown.

*Final Actions*

Since the publication of the 2016 Regulatory Plan, the Commission has issued the following final rules or taken other actions to close other rulemaking proceedings. These final rules continue to be consistent with the President's Statement of Regulatory Philosophy and Principles contained in Executive Order 12866 and Executive Order 13771.

*Disposal Rule, 16 CFR 682.* On September 15, 2016, the Commission initiated a periodic review of the Disposal Rule (formally the Disposal of Consumer Report Information and Records) as part of its ongoing systematic review of all rules and guides. 81 FR 63435. The comment

[17] *See Final Actions* below for information about a separate completed rulemaking proceeding for the Telemarketing Sales Rule.

period closed on November 21, 2016. During November 2017, the Commission announced the completion of the review of the Disposal Rule and that the rule is being retained in its current form.

The Disposal Rule requires any person or entity that maintains or otherwise possesses consumer information for a business purpose to properly dispose of the information to protect against unauthorized access to or use of the information. Consumer information means any record about an individual that is a consumer report or is derived from a consumer report, or a compilation of such records. This Rule implements section 216 of the Fair and Accurate Credit Transactions Act of 2003, which is designed to reduce the risk of consumer fraud and related harms, including identity theft, created by improper disposal of consumer information.

*Energy Labeling Rule, 16 CFR 305.* On June 28, 2017, the Commission issued a final rule amending the Energy Labeling Rule to eliminate certain marking requirements for plumbing products and to exempt certain ceiling fans from labeling requirements. 82 FR 29230. Additionally, the amendments updated the Rule to include labeling requirements for electric instantaneous water heaters. The Commission also made non-substantive, conforming changes to the testing provisions for LED (or light-emitting diode) covered lamps and minor corrections to other provisions.[18]

*Fur Rules, 16 CFR 301, Textile Rules, 16 CFR 303, and Wool Rules, 16 CFR 300.* On September 15, 2017, the Commission announced the streamlining of requirements under the Fur,[19] Textile and Wool Labeling [20] Rules as part of the regulatory reform agenda. 83 FR 43690 (Sept. 19, 2017). Effective October 19, 2017, these three rules were updated to require the public in most instances to submit via the FTC's website any requests to obtain, update, or cancel registered identification numbers (RN) used on fur, textile and wool product labels. Use of the web-based RN system streamlines the application process for participating businesses and greatly increases the agency's efficiency in delivering RN services to the public.

*Premerger Notification Rules and Report Form (or HSR Rules), 16 CFR 801–803.* On July 12, 2017, the Commission issued a final rule making ministerial changes to the HSR Form. Among other things, the changes eliminated certain language about the filing fee to conform to previously published amendments to the associated Instructions, changed the Form version dates from 2011/2012 to 2017, updated the minimum penalty for failure to file, and updated the Premerger Notification Office's Constitution Center address.[21] 82 FR 32123.

*Used Car Rule (or Used Motor Vehicle Trade Regulation Rule), 16 CFR 455.* On November 18, 2016, the Commission issued a final rule that added a Buyer's Guide statement recommending that consumers obtain a vehicle history report (''VHR''), and directing them to an FTC website for more information about VHRs and safety recalls; revised the Buyers Guide statement describing the meaning of an ''As Is'' sale in which a dealer offers a vehicle for sale without a warranty; added boxes to the front of the Buyers Guide where dealers can indicate additional warranty and service contract coverage; added a Spanish statement to the English Buyers Guide advising consumers to ask for a copy of the Buyers Guide in Spanish if the dealer is conducting the sale in Spanish (and providing a Spanish translation of the optional consumer acknowledgment of receipt of the Buyers Guide); and added air bags and catalytic converters to the list of major defects on the back of the Buyers Guide. 81 FR 81664. The final rule was effective on January 27, 2017.

This Rule sets out the general duties of a used vehicle dealer and requires that a completed Buyers Guide be posted at all times on the side window of each used car a dealer offers for sale. Dealers must disclose on the Buyers Guide whether the vehicle is covered by a warranty, and if so, the type and duration of the warranty coverage, or whether the vehicle is being sold ''as is no warranty.''

*Summary*

The actions under consideration inform and protect consumers, while minimizing the regulatory burdens on legitimate businesses. The Commission continues to identify and weigh the costs and benefits of proposed regulatory actions and possible alternative actions and to seek and consider 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.[22] The Commission also has no proposed rules that would have significant international impacts or any international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations as defined in Executive Order 13609.

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## NATIONAL INDIAN GAMING COMMISSION (NIGC)

**Statement of Regulatory Priorities**

In 1988, Congress adopted the Indian Gaming Regulatory Act (IGRA) (Pub L. 100–497, 102 Stat. 2475) with a primary purpose of providing ''a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.'' IGRA established the National Indian Gaming Commission (NIGC or the Commission) to protect such gaming, amongst other things, as a means of generating tribal revenue.

At its core, Indian gaming is a function of sovereignty exercised by tribal governments. In addition, the Federal government maintains a government-to-government relationship with the tribes—a responsibility of the NIGC. Thus, while the Agency is committed to strong regulation of Indian gaming, the Commission is equally committed to strengthening government-to-government relations by

[18] Please see *Ongoing Rule and Guide Reviews (a) Rules* above for information about a separate and ongoing rulemaking under the Energy Labeling Rule.

[19] This is officially the Rules and Regulations Under the Fur Products Labeling Act.

[20] This is officially the Rules and Regulations Under the Wool Products Labeling Act of 1939.

[21] Please see *Ongoing Rule and Guide Reviews (a) Rules* above for information about a separate and ongoing rulemaking under the HSR Rules.

[22] 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.

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 13771 was issued on January 30, 2017. The NIGC, however, recognizes the importance of Executive Order 13771 and its regulatory review is being conducted in the spirit of Executive Order 13771, 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, issued on November 6, 2000, 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 | Definitions. |
| 3141–AA55 | Minimum Internal Control Standards. |
| 3141–AA58 | Management Contracts. |
| 3141–AA60 | Class II Minimum Internal Control Standards. |
| 3141–AA62 | Buy Indian Goods and Services (BIGS) Rule. |
| 3141–AA64 | Class II Minimum Technical Standards. |
| 3141–AA66 | Freedom of Information Act Procedures. |
| 3141–AA67 | Fees. |

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 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) regulation that would provide a preference to qualified Indian-owned businesses when purchasing goods or services for the Commission at a fair market price; (vi) revisions to the minimum technical standards for gaming equipment used with the play of Class II games; (vii) revisions to the existing Freedom of Information Act procedures in part 517 as a means to bring them into full compliance with the Freedom of Information Act; and (viii) revisions to the NIGC's fee publication schedule to provide for one, yearly publication no later than November 1st each year.

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.

## NIGC

Proposed Rule Stage

### 137. Class II Minimum Internal Control Standards

*Priority:* Other Significant.
*E.O. 13771 Designation:* Fully or Partially Exempt.
*Legal Authority:* 25 U.S.C. 2706(b)(1) to (4); 25 U.S.C. 2706(b)(10); 25 U.S.C. 2710(d)(7)(B)(vii)
*CFR Citation:* 25 CFR 543.
*Legal Deadline:* None.
*Abstract:* The NIGC continues to review and revise the minimum internal control standards (MICS) for Class II gaming. The NIGC anticipates proposing minor but substantive corrections to the Class II MICS, including adding clarifying language and reinserting critical key controls that were inadvertently removed by the last revisions.
*Statement of Need:* Periodic review and revision of existing standards based on input by a wide array of tribal entities ensures that the MICS remain relevant and appropriate. Recent review has uncovered a need for correction and clarification to specific provisions of the MICS, as well as a need to re-insert standards that were accidentally overwritten when kiosk standards were added.
*Summary of Legal Basis:* The NIGC is charged with monitoring class II gaming conducted on Indian lands 25 U.S.C. 2706(b)(1). With regard to Class II gaming, NIGC's responsibility includes inspecting and examining the premises located on Indian lands on which Class II gaming is conducted and auditing all papers, books, and records respecting gross revenues of Class II gaming conducted on Indian lands, and any other matters necessary to carry out the duties of the NIGC pursuant to the Indian Gaming Regulatory Act of 1988 (IGRA). 25 U.S.C. 2706(b)(2), (4).
*Alternatives:* Maintain the current regulations.
*Anticipated Cost and Benefits:* There are no anticipated cost increases to the Federal Government or to tribal governments as a result of this regulatory action.
*Risks:* There are no known risks to this regulatory action.
*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| NPRM | 12/00/17 | |

*Regulatory Flexibility Analysis Required:* No.
*Small Entities Affected:* No.
*Government Levels Affected:* Federal, Tribal.
*Sectors Affected:* 92115 American Indian and Alaska Native Tribal Governments; 72112 Casino Hotels; 71321 Casinos (except Casino Hotels).
*Agency Contact:* Michael Hoenig, General Counsel, National Indian Gaming Commission, 1849 C Street NW, Mailstop #1621, Washington, DC 20240, *Phone:* 202 632–7003.
*Related RIN:* Split from 3141–AA56
*RIN:* 3141–AA60

## NIGC

Final Rule Stage

### 138. Minimum Internal Control Standards

*Priority:* Other Significant.
*E.O. 13771 Designation:* Deregulatory.
*Legal Authority:* 25 U.S.C. 2706(b)(1) to (4); 25 U.S.C. 2706(b)(10); 25 U.S.C. 2710(d)(7)(B)(vii)
*CFR Citation:* 25 CFR 542.
*Legal Deadline:* None.
*Abstract:* The NIGC is considering suspending the existing Class III minimum internal control standards (MICS) in part 542 and issuing guidance.
*Statement of Need:* The NIGC cannot enforce Class III MICS.

*Summary of Legal Basis:* The D.C. Circuit Court's decision in Colorado River Indian Tribes v. National Indian Gaming Commission 383 F.Supp.2d 123 (D.D.C. 2005), affd., 466 F.3d 134 (D.C. Cir. 2006), held that the NIGC cannot enforce Class III control standards.

*Alternatives:* The NIGC has a number of options: (1) Retain the status quo; (2) remove the standards; or (3) remove the standards and publish updated standards as guidance documents. At this time, the NIGC has decided to suspend the standards provided in the regulations and publish updated standards as guidance documents.

*Anticipated Cost and Benefits:* There are no anticipated cost increases to the Federal Government or to tribal governments as a result of this regulatory action.

*Risks:* There are no known risks to this regulatory action.

*Timetable:*

| Action | Date | FR Cite |
|---|---|---|
| First NPRM ..... | 12/01/04 | 69 FR 69847 |
| First NPRM Comment Period End. | 01/18/05 | |
| Second NPRM .... | 03/10/05 | 70 FR 11893 |
| Second NPRM Comment Period End. | 04/25/05 | |
| Final Action on First NPRM. | 05/04/05 | 70 FR 23011 |
| Final Action on Second NPRM. | 08/12/05 | 70 FR 47097 |
| Third NPRM ..... | 11/15/05 | 70 FR 69293 |
| Third NPRM Comment Period End. | 12/30/05 | |
| Final Action on Third NPRM. | 05/11/06 | 71 FR 27385 |
| Final Rule; Delay of Effective Date and Request for Comments. | 08/30/12 | 77 FR 53817 |
| Final Rule; Delay of Effective Date and Request for Comments. | 10/04/12 | 77 FR 60625 |
| Effective Date Delayed. | 04/22/14 | |
| Final Action ..... | 01/00/18 | |

*Regulatory Flexibility Analysis Required:* No.

*Government Levels Affected:* Federal, Tribal.

*Sectors Affected:* 92115 American Indian and Alaska Native Tribal Governments; 72112 Casino Hotels; 71321 Casinos (except Casino Hotels).

*Agency Contact:* Michael Hoenig, General Counsel, National Indian Gaming Commission, 1849 C Street NW, Mailstop #1621, Washington, DC 20240, *Phone:* 202 632–7003.

*Related RIN:* Split from 3141–AA27
*RIN:* 3141–AA55

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## NUCLEAR REGULATORY COMMISSION

### Statement of Regulatory Priorities for Fiscal Year 2018

### I. Introduction

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. Our 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, and promote the common defense and security. As part of our mission, we regulate 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, we license the import and export of radioactive materials.

As part of our regulatory process, we routinely conduct comprehensive regulatory analyses that examine the costs and benefits of contemplated regulations. We have developed internal procedures and programs to ensure that we impose only necessary requirements on our licensees and to review existing regulations to determine whether the requirements imposed are still necessary.

Our regulatory priorities for fiscal year (FY) 2018 reflect our complex mission and will enable us to achieve our two strategic goals described in NUREG–1614, Volume 6, ''Strategic Plan: Fiscal Years 2014–2018'' (*http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1614/v6/*): (1) To ensure the safe use of radioactive materials, and (2) to ensure the secure use of radioactive materials.

### II. Regulatory Priorities

This section contains information on some of our most important and significant regulatory actions that we are considering issuing in proposed or final form during FY 2018. For additional information on these regulatory actions and on a broader spectrum of our upcoming regulatory actions, see our portion of the Unified Agenda of Regulatory and Deregulatory Actions. We also provide additional information on planned rulemaking and petition for rulemaking activities, including priority and schedule, on our website at *https://www.nrc.gov/about-nrc/regulatory/rulemaking/rules-petitions.html*.

*A. Proposed Rules*

*Cyber Security for Fuel Facilities (RIN 3150–AJ64):* This proposed rule would assure that NRC-licensed fuel cycle facilities provide reasonable assurance that digital assets associated with safety, security, emergency preparedness, and safeguards are adequately protected from cyber-attacks.

*Regulatory Guide (RG) 1.84, Rev. 38; RG 1.147, Rev. 19; and RG 1.192, Rev. 3; Approval of American Society of Mechanical Engineers Code Cases (RIN 3150–AJ93; NRC–2017–0024):* This proposed rule would incorporate by reference the American Society of Mechanical Engineers Code Cases that the NRC finds to be acceptable or conditionally acceptable in the *Code of Federal Regulations* (CFR).

*U.S. Advanced Boiling Water Reactor (US–ABWR) Design Certification Renewal (RIN 3150–AK04; NRC–2017–0090):* This rule would amend the NRC's regulations in Appendix A to 10 CFR part 52 to renew the certification of the US–ABWR design.

*Enhanced Security for Special Nuclear Material (formerly Physical Protection for Category I, II, and III Special Nuclear Material) (RIN 3150–AJ41; NRC–2014–0018):* This proposed rule would update fuel cycle and special nuclear material security regulations to make generically applicable security requirements imposed in post-September 11, 2001, security orders, and enhance existing security requirements through continued monitoring of threat information and updated technical analyses. This rulemaking is on hold pending completion of interagency interactions.

*B. Final Rules*

The following rulemaking activities meet the requirements of a significant regulatory action in Executive Order 12866, ''Regulatory Planning and Review,'' because they are likely to have an annual effect on the economy of $100 million or more.

*Mitigation of Beyond Design Basis Events (RIN 3150–AJ49; NRC–2011–0189, NRC–2014–0240):* This final rule would enhance mitigation strategies for

nuclear power reactors for beyond-design-basis external events.

*Revision of Fee Schedules: Fee Recovery for FY 2018 (RIN 3150–AJ95; NRC–2017–0026):* This final rule would amend the NRC's fee schedules for licensing, inspection, and annual fees charged to its applicants and licensees.

[FR Doc. 2017–28207 Filed 1–11–18; 8:45 am]

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