



FEDERAL REGISTER

Vol. 84

Monday,

No. 121

June 24, 2019

Part VII

Department of Homeland Security

Office of the Secretary

Unified Agenda

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Chs. I and II

[DHS Docket No. OGC–RP–04–001]

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, DHS.
ACTION: Semiannual regulatory agenda.

SUMMARY: This regulatory agenda is a semiannual summary of projected regulations, existing regulations, and completed actions of the Department of Homeland Security (DHS) and its components. This agenda provides the public with information about DHS’s regulatory and deregulatory activity. DHS expects that this information will enable the public to be more aware of, and effectively participate in, the Department’s regulatory and deregulatory activity. DHS invites the public to submit comments on any aspect of this agenda.

FOR FURTHER INFORMATION CONTACT:

General

Please direct general comments and inquiries on the agenda to the Regulatory Affairs Law Division, Office

of the General Counsel, U.S. Department of Homeland Security, 245 Murray Lane, Mail Stop 0485, Washington, DC 20528–0485.

Specific

Please direct specific comments and inquiries on individual actions identified in this agenda to the individual listed in the summary portion as the point of contact for that action.

SUPPLEMENTARY INFORMATION: DHS provides this notice pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, Sept. 19, 1980) and Executive Order 12866 “Regulatory Planning and Review” (Sept. 30, 1993) as incorporated in Executive Order 13563 “Improving Regulation and Regulatory Review” (Jan. 18, 2011) and Executive Order 13771 “Reducing Regulation and Controlling Regulatory Costs” (Jan. 30, 2017), which require the Department to publish a semiannual agenda of regulations. The regulatory agenda is a summary of existing and projected regulations as well as actions completed since the publication of the last regulatory agenda for the Department. DHS’s last semiannual regulatory agenda was published on November 16, 2018, at 83 FR 58031.

Beginning in fall 2007, the internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at www.reginfo.gov.

The Regulatory Flexibility Act (5 U.S.C. 602) requires Federal agencies to publish their regulatory flexibility agendas in the **Federal Register**. A regulatory flexibility agenda shall contain, among other things, a brief description of the subject area of any rule which is likely to have a significant economic impact on a substantial number of small entities. DHS’s printed agenda entries include regulatory actions that are in the Department’s regulatory flexibility agenda. Printing of these entries is limited to fields that contain information required by the agenda provisions of the Regulatory Flexibility Act. Additional information on these entries is available in the Unified Agenda published on the internet.

The semiannual agenda of the Department conforms to the Unified Agenda format developed by the Regulatory Information Service Center.

Dated: March 6, 2019.

Christina E. McDonald,
Associate General Counsel for Regulatory Affairs.

OFFICE OF THE SECRETARY—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
101	Homeland Security Acquisition Regulation, Enhancement of Whistleblower Protections for Contractor Employees.	1601–AA72

OFFICE OF THE SECRETARY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
102	Homeland Security Acquisition Regulation: Safeguarding of Controlled Unclassified Sensitive Information (HSAR Case 2015–001).	1601–AA76
103	Homeland Security Acquisition Regulation: Information Technology Security Awareness Training (HSAR Case 2015–002).	1601–AA78
104	Homeland Security Acquisition Regulation: Privacy Training (HSAR Case 2015–003)	1601–AA79

OFFICE OF THE SECRETARY—COMPLETED ACTIONS

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106	Chemical Facility Anti-Terrorism Standards (CFATS)	1601–AA69

U.S. CITIZENSHIP AND IMMIGRATION SERVICES—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
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108	EB–5 Immigrant Investor Regional Center Program	1615–AC11

U.S. CITIZENSHIP AND IMMIGRATION SERVICES—PROPOSED RULE STAGE—Continued

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U.S. CITIZENSHIP AND IMMIGRATION SERVICES—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
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U.S. COAST GUARD—LONG-TERM ACTIONS

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U.S. COAST GUARD—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
117	Seafarers' Access to Maritime Facilities	1625-AC15

U.S. CUSTOMS AND BORDER PROTECTION—LONG-TERM ACTIONS

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118	Importer Security Filing and Additional Carrier Requirements (Section 610 Review)	1651-AA70
119	Implementation of the Guam-CNMI Visa Waiver Program (Section 610 Review)	1651-AA77

TRANSPORTATION SECURITY ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
120	Security Training for Surface Transportation Employees	1652-AA55

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
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U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT—FINAL RULE STAGE

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122	Procedures and Standards for Declining Surety Immigration Bonds and Administrative Appeal Requirement for Breaches.	1653-AA67
123	Adjusting Program Fees for the Student and Exchange Visitor Program	1653-AA74
124	Apprehension, Processing, Care and Custody of Alien Minors and Unaccompanied Alien Children	1653-AA75

CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
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CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
126	Chemical Facility Anti-Terrorism Standards (CFATS)	1670-AA01

DEPARTMENT OF HOMELAND SECURITY (DHS)

Office of the Secretary (OS)

Proposed Rule Stage

101. Homeland Security Acquisition Regulation, Enhancement of Whistleblower Protections for Contractor Employees

E.O. 13771 Designation: Other.
Legal Authority: Sec. 827 of the National Defense Authorization Act (NDAA) for Fiscal Year 2013, (Pub. L. 112–239, enacted January 2, 2013); 41 U.S.C. 1302(a)(2); 41 U.S.C. 1707
Abstract: The Department of Homeland Security (DHS) is proposing to amend its Homeland Security Acquisition Regulation (HSAR) parts 3003 and 3052 to implement section 827 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239, enacted January 2, 2013) for the United States Coast Guard (USCG). Section 827 of the NDAA for FY 2013 established enhancements to the Whistleblower Protections for Contractor Employees for all agencies subject to section 2409 of title 10, United States Code, which includes the USCG.

Timetable:

Action	Date	FR Cite
NPRM	04/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636–15,

301 7th Street SW, Washington, DC 20528, *Phone:* 202 447–0956, *Email:* nancy.harvey@hq.dhs.gov.
RIN: 1601–AA72

DEPARTMENT OF HOMELAND SECURITY (DHS)

Office of the Secretary (OS)

Final Rule Stage

102. Homeland Security Acquisition Regulation: Safeguarding of Controlled Unclassified Sensitive Information (HSAR Case 2015–001)

E.O. 13771 Designation: Fully or Partially Exempt.
Legal Authority: 5 U.S.C. 301 to 302; 41 U.S.C. 1302; 41 U.S.C. 1303; 41 U.S.C. 1707
Abstract: This Homeland Security Acquisition Regulation (HSAR) rule would implement security and privacy measures to ensure Controlled Unclassified Information (CUI), such as Personally Identifiable Information (PII), is adequately safeguarded by DHS contractors. Specifically, the rule would define key terms, outline security requirements and inspection provisions for contractor information technology (IT) systems that store, process or transmit CUI, institute incident notification and response procedures, and identify post-incident credit monitoring requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/19/17	82 FR 6429
NPRM Comment Period End.	03/20/17	

Action	Date	FR Cite
NPRM Comment Period Extended.	03/20/17	82 FR 14341
NPRM Comment Period Extended.	04/19/17	
Final Rule	12/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Shaundra Duggans, Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, 245 Murray Lane SW, Washington, DC 20528, *Phone:* 202 447–0056, *Email:* shaundra.duggans@hq.dhs.gov.

Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636–15, 301 7th Street SW, Washington, DC 20528, *Phone:* 202 447–0956, *Email:* nancy.harvey@hq.dhs.gov.
RIN: 1601–AA76

103. Homeland Security Acquisition Regulation: Information Technology Security Awareness Training (HSAR Case 2015–002)

E.O. 13771 Designation: Fully or Partially Exempt.
Legal Authority: 5 U.S.C. 301 and 302; 41 U.S.C. 1707; 41 U.S.C. 1302 and 1303
Abstract: This Homeland Security Acquisition Regulation (HSAR) rule would standardize information technology security awareness training and DHS Rules of Behavior requirements for contractor and subcontractor employees who access DHS information systems and information resources or contractor-

owned and/or operated information systems and information resources capable of collecting, processing, storing, or transmitting controlled unclassified information (CUI).

Timetable:

Action	Date	FR Cite
NPRM	01/19/17	82 FR 6446
NPRM Comment Period End.	03/20/17	
NPRM Comment Period Extended.	03/20/17	82 FR 14341
NPRM Comment Period Extended End.	04/19/17	
Final Rule	12/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Shaundra Duggans, Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, 245 Murray Lane SW, Washington, DC 20528, *Phone:* 202 447-0056, *Email:* shaundra.duggans@hq.dhs.gov.

Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636-15, 301 7th Street SW, Washington, DC 20528, *Phone:* 202 447-0956, *Email:* nancy.harvey@hq.dhs.gov. *RIN:* 1601-AA78

104. Homeland Security Acquisition Regulation: Privacy Training (HSAR Case 2015-003)

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

Legal Authority: 5 U.S.C. 301 and 302; 41 U.S.C. 1707; 41 U.S.C. 1702; 41 U.S.C. 1303

Abstract: This Homeland Security Acquisition Regulation (HSAR) rule would require contractors to complete training that addresses the protection of privacy, in accordance with the Privacy Act of 1974, and the handling and safeguarding of Personally Identifiable Information and Sensitive Personally Identifiable Information.

Timetable:

Action	Date	FR Cite
NPRM	01/19/17	82 FR 6425
NPRM Comment Period End.	03/20/17	
NPRM Comment Period Extended.	03/20/17	82 FR 14341
NPRM Comment Period Extended End.	04/19/17	
Final Rule	12/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Candace Lightfoot, Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, Room 3636-15, 301 7th Street SW, Washington, DC 20528, *Phone:* 202 447-0082, *Email:* candace.lightfoot@hq.dhs.gov.

Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636-15, 301 7th Street SW, Washington, DC 20528, *Phone:* 202 447-0956, *Email:* nancy.harvey@hq.dhs.gov. *RIN:* 1601-AA79

DEPARTMENT OF HOMELAND SECURITY (DHS)

Office of the Secretary (OS)

Completed Actions

105. Ammonium Nitrate Security Program

E.O. 13771 Designation: Other. *Legal Authority:* 6 U.S.C. 488 *et seq.*

Abstract: This rulemaking will implement the December 2007 amendment to the Homeland Security Act entitled "Secure Handling of Ammonium Nitrate." The amendment requires the Department of Homeland Security to "regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility . . . to prevent the misappropriation or use of ammonium nitrate in an act of terrorism." DHS intends to publish a notice announcing the availability of a redacted version of a technical report developed by Sandia National Laboratories titled Ammonium Nitrate Security Program Technical Assessment." The report documents Sandia National Laboratories' technical research, testing, and findings related to the feasibility of weaponizing commercially available products containing ammonium nitrate. DHS intends to use this notice to solicit comments on the report and its application to the proposed Ammonium Nitrate Security Program rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/08	73 FR 64280
Correction	11/05/08	73 FR 65783
ANPRM Comment Period End.	12/29/08	
NPRM	08/03/11	76 FR 46908
Notice of Public Meetings.	10/07/11	76 FR 62311
Notice of Public Meetings.	11/14/11	76 FR 70366
NPRM Comment Period End.	12/01/11	

Action	Date	FR Cite
Withdrawn	02/21/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jon MacLaren, Group Leader, Strategic Policy and Rulemaking, Department of Homeland Security, National Protection and Programs Directorate, Infrastructure Security Compliance Division (NPPD/ISCD), 245 Murray Lane SW, Mail Stop 0610, Arlington, VA 20528-0610, *Phone:* 703 235-5263, *Fax:* 703 603-4935, *Email:* jon.m.maclaren@hq.dhs.gov.

RIN: 1601-AA52

106. Chemical Facility Anti-Terrorism Standards (CFATS)

E.O. 13771 Designation: Other.

Legal Authority: 6 U.S.C. 621 to 629

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

Timetable:

Action	Date	FR Cite
ANPRM	08/18/14	79 FR 48693
ANPRM Comment Period End.	10/17/14	
Withdrawn	02/21/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jon MacLaren, Group Leader, Strategic Policy and Rulemaking, Department of Homeland Security, National Protection and Programs Directorate, Infrastructure Security Compliance Division (NPPD/ISCD), 245 Murray Lane SW, Mail Stop 0610, Arlington, VA 20528-0610, *Phone:* 703 235-5263, *Fax:* 703 603-4935, *Email:* jon.m.maclaren@hq.dhs.gov.

RIN: 1601-AA69

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Citizenship and Immigration Services (USCIS)

Proposed Rule Stage

107. Requirements for Filing Motions and Administrative Appeals

E.O. 13771 Designation: Other.

Legal Authority: 5 U.S.C. 552 and 552a; 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1304; 6 U.S.C. 112

Abstract: This rule proposes to revise the requirements and procedures for the filing of motions and appeals before the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), and its Administrative Appeals Office (AAO). The proposed changes are intended to streamline the existing processes for filing motions and appeals and will reduce delays in the review and appellate process. This rule also proposes additional changes necessitated by the establishment of DHS and its components. The proposed changes are intended to promote simplicity, accessibility, and efficiency in the administration of USCIS appeals and motions. The Department also solicits public comment on proposed changes to the AAO's appellate jurisdiction.

Timetable:

Action	Date	FR Cite
NPRM	12/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William K. Renwick, Jr., Acting Deputy Chief, Department of Homeland Security, U.S. Citizenship and Immigration Services, Administrative Appeals Office, 20 Massachusetts Avenue NW, Washington, DC 20529-2090, *Phone:* 202 272-8377, *Fax:* 202 272-1480, *Email:* william.k.renwick@uscis.dhs.gov. *RIN:* 1615-AB98

108. EB-5 Immigrant Investor Regional Center Program

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

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.

Timetable:

Action	Date	FR Cite
ANPRM	01/11/17	82 FR 3211
ANPRM Comment Period End.	04/11/17	
NPRM	03/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brian Hunt, Acting Chief, Business and Foreign Workers Division, Office of Policy and Strategy, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW, Suite 1200, Washington, DC 20529-2200, *Phone:* 202 272-8377 *Fax:* 202 272-1480, *Email:* brian.j.hunt@uscis.dhs.gov. *RIN:* 1615-AC11

109. Removing H-4 Dependent Spouses From the Classes of Aliens Eligible for Employment Authorization

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)

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.

Timetable:

Action	Date	FR Cite
NPRM	05/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brian Hunt, Acting Chief, Business and Foreign Workers Division, Office of Policy and Strategy, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW, Suite 1200, Washington, DC 20529-2200, *Phone:* 202 272-8377, *Fax:* 202 272-1480, *Email:* brian.j.hunt@uscis.dhs.gov. *RIN:* 1615-AC15

110. U.S. Citizenship and Immigration Services Fee Schedule

E.O. 13771 Designation: Other.

Legal Authority: 8 U.S.C. 1356(m)

Abstract: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) conducted a FY 2019/2020 fee review for its Immigration Examinations Fee Account (IEFA), pursuant to the requirements of the Chief Financial Officers Act of 1990 (CFO Act), 31 U.S.C. 901-03 and the Immigration and Nationality Act, section 286(m), 8 U.S.C. 1356(m). The CFO Act requires each agency's chief financial officer to "review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value." As a result of the FY 2019/2020 IEFA fee review, DHS will propose to adjust USCIS' fee schedule via notice and comment rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	08/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kika M. Scott, Deputy Chief Financial Officer, Department of Homeland Security, U.S. Citizenship and Immigration Services, Suite 4018, 20 Massachusetts Avenue NW, Washington, DC 20529, *Phone:* 202 272-8377, *Fax:* 202 272-1480, *Email:* kika.m.scott@uscis.dhs.gov. *RIN:* 1615-AC18

111. Electronic Processing of Immigration Benefit Requests

E.O. 13771 Designation: Other.

Legal Authority: 6 U.S.C. 112; 8 U.S.C. 1103; 44 U.S.C. 3504

Abstract: The Department of Homeland Security (DHS) will propose to: (1) Set requirements for online submission for immigration benefit requests and explain the requirements associated with electronic processing;

and (2) make changes to existing regulations to allow end-to-end digital processing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/19	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Michael Mayhew, Chief of Staff, Immigration Records and Identity Services Directorate, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW, Washington, DC 20529, *Phone:* 202 272-8377, *Fax:* 202 272-1480, *Email:* michael.x.mayhew@uscis.dhs.gov. *RIN:* 1615-AC20

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Citizenship and Immigration Services (USCIS)

Final Rule Stage

112. Inadmissibility on Public Charge Grounds

E.O. 13771 Designation: Other. *Legal Authority:* 8 U.S.C. 1101 to 1103; 8 U.S.C. 1182 and 1183; . . .

Abstract: The Department of Homeland Security (DHS) is reviewing public feedback received on the notice of proposed rulemaking published on October 10, 2018. After considering public input, DHS will finalize regulatory provisions guiding the inadmissibility determination on whether an alien is likely at any time to become a public charge under 8 U.S.C. 1182(a)(4). DHS proposed to add a regulatory provision, which would define the term public charge and would outline DHS's public charge considerations.

Timetable:

Action	Date	FR Cite
NPRM	05/26/99	64 FR 28676
NPRM Comment Period End.	07/26/99	
NPRM	10/10/18	83 FR 51114
NPRM Comment Period End.	12/10/18	
Final Action	09/00/19	

Regulatory Flexibility Analysis

Required: Yes.

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, *Fax:* 202 272-1480, *Email:* mark.phillips@uscis.dhs.gov.

RIN: 1615-AA22

113. EB-5 Immigrant Investor Program Modernization

E.O. 13771 Designation: Other. *Legal Authority:* 8 U.S.C. 1153(b)(5) *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.

Timetable:

Action	Date	FR Cite
NPRM	01/13/17	82 FR 4738
NPRM Comment Period End.	04/11/17	
Final Rule	05/00/19	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Edie Pearson, Chief of Policy, Immigrant Investor Program Office, Department of Homeland Security, U.S. Citizenship and Immigration Services, 131 M Street NE, Washington, DC 20529-2200, *Phone:* 202 272-8377, *Fax:* 202 272-1480, *Email:* edie.c.pearson@uscis.dhs.gov. *RIN:* 1615-AC07

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Citizenship and Immigration Services (USCIS)

Completed Actions

114. Registration Requirement for Petitioners Seeking to File H-1B Petitions on Behalf of Cap Subject Aliens

E.O. 13771 Designation: Other. *Legal Authority:* 8 U.S.C. 1184(g) *Abstract:* The Department of Homeland Security proposes to amend

its regulations governing petitions filed on behalf of H-1B beneficiaries who may be counted under section 214(g)(1)(A) of the Immigration and Nationality Act (INA) ("H-1B regular cap") or under section 214(g)(5)(C) of the INA ("H-1B master's cap"). 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. employers has often exceeded the numerical limitation. This rule is intended to allow U.S. Citizenship and Immigration Services (USCIS) to more efficiently manage the intake and selection 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.

Timetable:

Action	Date	FR Cite
NPRM	03/03/11	76 FR 11686
NPRM Comment Period End.	05/02/11	
NPRM	12/03/18	83 FR 62406
NPRM Comment Period End.	01/02/19	
Final Rule	01/31/19	84 FR 888
Final Rule Effective.	04/01/19	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Brian Hunt, Acting Chief, Business and Foreign Workers Division, Office of Policy and Strategy, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW, Suite 1200, Washington, DC 20529-2200, *Phone:* 202 272-8377, *Fax:* 202 272-1480, *Email:* brian.j.hunt@uscis.dhs.gov. *RIN:* 1615-AB71

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coast Guard (USCG)

Proposed Rule Stage

115. Financial Responsibility—Vessels; Superseded Pollution Funds (USCG-2017-0788)

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

Legal Authority: 33 U.S.C. 2704; 33 U.S.C. 2716 and 2716a; 42 U.S.C. 9607

to 9609; 6 U.S.C. 552; E.O. 12580; sec. 7(b), 3 CFR, 1987; Comp., p. 193; E.O. 12777, secs. 4 and 5, 3 CFR, 1991 Comp., p. 351, as amended by E.O. 13286, sec. 89, 3; 3 CFR, 2004 Comp., p. 166, and by E.O. 13638, sec. 1, 3 CFR, 2014 Comp., p. 227; Department of Homeland Security Delegation Nos. 0170.1 and 5110, Revision 01

Abstract: The Coast Guard proposes to amend its rule on vessel financial responsibility to include tank vessels greater than 100 gross tons, to clarify and strengthen the rule's reporting requirements, to conform its rule to current practice, and to remove two superseded regulations. This rulemaking will ensure the Coast Guard has current information when there are significant changes in a vessel's operation, ownership, or evidence of financial responsibility, and reflect current best practices in the Coast Guard's management of the Certificate of Financial Responsibility Program. This rulemaking will also promote the Coast Guard's missions of maritime stewardship, maritime security, and maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	07/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Benjamin White, Project Manager, National Pollution Funds Center, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, STOP 7605, Washington, DC 20593-7605, *Phone:* 202 795-6066, *Email:* benjamin.h.white@uscg.mil, *RIN:* 1625-AC39

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coast Guard (USCG)

Long-Term Actions

116. Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation

E.O. 13771 Designation: Other. *Legal Authority:* Pub. L. 111-281 *Abstract:* The Coast Guard proposes to implement those requirements of 2010 and 2012 legislation that pertain to uninspected commercial fishing industry vessels and that took effect upon enactment of the legislation but that, to be implemented, require amendments to Coast Guard regulations affecting those vessels. The applicability of the regulations is being changed, and

new requirements are being added to safety training, equipment, vessel examinations, vessel safety standards, the documentation of maintenance, and the termination of unsafe operations. This rulemaking promotes the Coast Guard's maritime safety mission.

Timetable:

Action	Date	FR Cite
NPRM	06/21/16	81 FR 40437
NPRM Comment Period Extended.	08/15/16	81 FR 53986
NPRM Comment Period End.	10/19/16	
Second NPRM Comment Period End.	12/18/16	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Joseph Myers, Project Manager, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, STOP 7501, Washington, DC 20593-7501, *Phone:* 202 372-1249, *Email:* joseph.d.myers@uscg.mil, *RIN:* 1625-AB85

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coast Guard (USCG)

Completed Actions

117. Seafarers' Access to Maritime Facilities

E.O. 13771 Designation: Not subject to, not significant. *Legal Authority:* 33 U.S.C. 1226; 33 U.S.C. 1231; Pub. L. 111-281, sec. 811 *Abstract:* This regulatory action will implement section 811 of the Coast Guard Authorization Act of 2010 (Pub. L. 111-281), which requires the owner/operator of a facility regulated by the Coast Guard under the Maritime Transportation Security Act of 2002 (Pub. L. 107-295) (MTSA) to provide a system that enables seafarers and certain other individuals to transit between vessels moored at the facility and the facility gate in a timely manner at no cost to the seafarer or other individual. Ensuring that such access through a facility is consistent with the security requirements in MTSA is part of the Coast Guard's Ports, Waterways, and Coastal Security (PWCS) mission.

Timetable:

Action	Date	FR Cite
NPRM	12/29/14	79 FR 77981

Action	Date	FR Cite
NPRM Comment Period Re-opened.	05/27/15	80 FR 30189
NPRM Comment Period End.	07/01/15	
Final Rule	04/01/19	84 FR 12102
Final Action Effective.	05/01/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: LCDR Yamaris Barril, Project Manager, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, Commandant (CG-FAC-2) STOP 7501, Washington, DC 20593, *Phone:* 202 372-1151, *Email:* yamaris.d.barril@uscg.mil, *RIN:* 1625-AC15

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Customs and Border Protection (USCBP)

Long-Term Actions

118. Importer Security Filing and Additional Carrier Requirements (Section 610 Review)

E.O. 13771 Designation: Regulatory. *Legal Authority:* Pub. L. 109-347, sec. 203; 5 U.S.C. 301; 19 U.S.C. 66; 19 U.S.C. 1431; 19 U.S.C. 1433 and 1434; 19 U.S.C. 1624; 19 U.S.C. 2071 (note); 46 U.S.C. 60105

Abstract: This final rule implements the provisions of section 203 of the Security and Accountability for Every Port Act of 2006. On November 25, 2008, Customs and Border Protection (CBP) published an interim final rule (CBP Dec. 08-46) in the **Federal Register** (73 FR 71730), that finalized most of the provisions proposed in the Notice of Proposed Rulemaking. It requires carrier and importers to provide to CBP, via a CBP approved electronic data interchange system, certain advance information pertaining to cargo brought into the United States by vessel to enable CBP to identify high-risk shipments to prevent smuggling and ensure cargo safety and security. The interim final rule did not finalize six data elements that were identified as areas of potential concern for industry during the rulemaking process and, for which, CBP provided some type of flexibility for compliance with those data elements. CBP solicited public comment on these six data elements and also invited comments on the revised Regulatory Assessment and Final Regulatory Flexibility Analysis. (See 73 FR 71782-85 for regulatory text and 73

CFR 71733–34 for general discussion.) The remaining requirements of the rule were adopted as final.

Timetable:

Action	Date	FR Cite
NPRM	01/02/08	73 FR 90
NPRM Comment Period End.	03/03/08	
NPRM Comment Period Extended.	02/01/08	73 FR 6061
NPRM Comment Period End.	03/18/08	
Interim Final Rule	11/25/08	73 FR 71730
Interim Final Rule Effective.	01/26/09	
Interim Final Rule Comment Period End.	06/01/09	
Correction	07/14/09	74 FR 33920
Correction	12/24/09	74 FR 68376
Final Action	To Be Determined	

Regulatory Flexibility Analysis

Required: Yes.

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–AA70

119. Implementation of the Guam-CNMI Visa Waiver Program (Section 610 Review)

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

Legal Authority: Pub. L. 110–229, sec. 702

Abstract: The interim final rule amends Department of Homeland Security (DHS) regulations to implement section 702 of the Consolidated Natural Resources Act of 2008 (CNRA). This law extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a joint visa waiver program for travel to Guam and the CNMI. This rule implements section 702 of the CNRA by amending the regulations to replace the current Guam Visa Waiver Program with a new Guam-CNMI Visa Waiver Program. The amended regulations set forth the requirements for nonimmigrant visitors who seek admission for business or pleasure and solely for entry into and stay on Guam or the CNMI without a visa. This rule also establishes six ports of entry in the CNMI for purposes of administering and enforcing the Guam-CNMI Visa Waiver Program. Section 702 of the Consolidated Natural Resources Act of 2008 (CNRA), subject

to a transition period, extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a visa waiver program for travel to Guam and/or the CNMI. On January 16, 2009, the Department of Homeland Security (DHS), Customs and Border Protection (CBP), issued an interim final rule in the **Federal Register** replacing the then-existing Guam Visa Waiver Program with the Guam-CNMI Visa Waiver Program and setting forth the requirements for nonimmigrant visitors seeking admission into Guam and/or the CNMI under the Guam-CNMI Visa Waiver Program. As of November 28, 2009, the Guam-CNMI Visa Waiver Program is operational. This program allows nonimmigrant visitors from eligible countries to seek admission for business or pleasure for entry into Guam and/or the CNMI without a visa for a period of authorized stay not to exceed 45 days. This rulemaking would finalize the January 2009 interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/09	74 FR 2824
Interim Final Rule Effective.	01/16/09	
Interim Final Rule Comment Period End.	03/17/09	
Technical Amendment; Change of Implementation Date.	05/28/09	74 FR 25387
Final Action	12/00/20	

Regulatory Flexibility Analysis

Required: No.

Agency Contact: Cheryl C. Peters, Program Manager, Office of Field Operations, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, 3.3C–12, Washington, DC 20229, *Phone:* 202 344–1707, *Email:* cheryl.c.peters@cbp.dhs.gov, *RIN:* 1651–AA77

DEPARTMENT OF HOMELAND SECURITY (DHS)

Transportation Security Administration (TSA)

Final Rule Stage

120. Security Training for Surface Transportation Employees

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
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.

Timetable:

Action	Date	FR Cite
Notice; Request for Comment.	06/14/13	78 FR 35945
Notice; Comment Period End.	07/15/13	
NPRM	12/16/16	81 FR 91336
NPRM Comment Period End.	03/16/17	
Final Rule	07/00/19	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Chandru (Jack) Kalro, Deputy Director, Surface Division, Department of Homeland Security, Transportation Security Administration, Policy, Plans, and 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, Policy, Plans, and Engagement, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–5839, *Email:* alex.moscoso@tsa.dhs.gov.

Traci Klemm, Assistant Chief Counsel, Regulations and Security Standards, Department of Homeland Security, Transportation Security Administration, Chief Counsel’s Office, 601 South 12th Street, Arlington, VA

20598–6002, Phone: 571 227–3596,
Email: traci.klemm@tsa.dhs.gov.

RIN: 1652-AA55

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Immigration and Customs Enforcement (USICE)

Proposed Rule Stage

121. VISA Security Program Fee

E.O. 13771 Designation: Other.

Legal Authority: 8 U.S.C. 1356

Abstract: ICE seeks to enable the expansion of the Visa Security Program (VSP) by proposing to move it to a user-fee funded model (as opposed to relying on appropriations). The VSP leverages resources in the National Capital Region (NCR) and at U.S. diplomatic posts overseas to vet and screen visa applicants; identifies and prevents the travel of those who constitute potential national security and/or public safety threats; and launches investigations into criminal and/or terrorist affiliated networks operating in the U.S. and abroad. The fees collected as a result of this rule would fund an expansion of the VSP, enabling ICE to extend visa security screening and vetting operations and investigative efforts to more visa-issuing posts overseas, and in turn, enhance the U.S. government’s ability to prevent travel to the United States by those who pose a threat to the national security interests of the U.S.

Timetable:

Action	Date	FR Cite
NPRM	01/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Austin Moore, Unit Chief, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Washington, DC 20536, Phone: 202 732–5117, Email: austin.l.moore@ice.dhs.gov.

RIN: 1653-AA77

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Immigration and Customs Enforcement (USICE)

Final Rule Stage

122. Procedures and Standards for Declining Surety Immigration Bonds and Administrative Appeal Requirement for Breaches

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

Legal Authority: 8 U.S.C. 1103

Abstract: U.S. Immigration and Customs Enforcement (ICE) proposes to set forth standards and procedures ICE will follow before making a determination to stop accepting immigration bonds posted by a surety company that has been certified to issue bonds by the Department of the Treasury when the company does not cure deficient performance. Treasury administers the Federal corporate surety program and, in its current regulations, allows agencies to prescribe “for cause” standards and procedures for declining to accept new bonds from Treasury-certified sureties. ICE would also require surety companies seeking to overturn a breach determination to file an administrative appeal raising all legal and factual defenses.

Timetable:

Action	Date	FR Cite
NPRM	06/05/18	83 FR 25951
NPRM Comment Period End.	08/06/18	
Final Action	09/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mark Lawyer, Chief, Regulations, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Mail Stop 5006, Washington, DC 20536, Phone: 202 732–5683, Email: mark.lawyer@ice.dhs.gov.

RIN: 1653-AA67

123. Adjusting Program Fees for the Student and Exchange Visitor Program

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 to 903; 31 U.S.C. 902; . . .

Abstract: ICE will publish a final rule 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. The final rule will adjust fees for individuals and organizations. The SEVP fee schedule was last adjusted in a rule published on September 26, 2008.

Timetable:

Action	Date	FR Cite
NPRM	07/17/18	83 FR 33762
NPRM Comment Period End.	09/17/18	
Final Rule	05/00/19	

Regulatory Flexibility Analysis Required: Yes.

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

124. Apprehension, Processing, Care and Custody of Alien Minors and Unaccompanied Alien Children

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

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 45 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 rule would codify the relevant and 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, HHS, and DOJ 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.

Timetable:

Action	Date	FR Cite
NPRM	09/07/18	83 FR 45486
NPRM Comment Period End.	11/06/18	
Final Action	09/00/19	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Mark Lawyer, Chief, Regulations, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Mail Stop 5006, Washington, DC 20536, *Phone:* 202 732-5683, *Email:* mark.lawyer@ice.dhs.gov.
RIN: 1653-AA75

DEPARTMENT OF HOMELAND SECURITY (DHS)

Cybersecurity and Infrastructure Security Agency (CISA)

Proposed Rule Stage

125. • Ammonium Nitrate Security Program

E.O. 13771 Designation: Other.
Legal Authority: 6 U.S.C. 488 *et seq.*
Abstract: This rulemaking will implement the December 2007 amendment to the Homeland Security Act entitled “Secure Handling of Ammonium Nitrate.” The amendment requires the Department of Homeland Security to “regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility . . . to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.” DHS intends to publish a notice announcing the availability of a

redacted version of a technical report developed by Sandia National Laboratories titled Ammonium Nitrate Security Program Technical Assessment. The report documents Sandia National Laboratories’ technical research, testing, and findings related to the feasibility of weaponizing commercially available products containing ammonium nitrate. DHS intends to use this notice to solicit comments on the report and its application to the proposed Ammonium Nitrate Security Program rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/08	73 FR 64280
ANPRM Correction.	11/05/08	73 FR 65783
ANPRM Comment Period End.	12/29/08	
NPRM	08/03/11	76 FR 46908
Notice of Public Meetings.	10/07/11	76 FR 62311
Notice of Public Meetings.	11/14/11	76 FR 70366
NPRM Comment Period End.	12/01/11	
Notice of Availability.	05/00/19	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Jon MacLaren, Group Leader, Strategic Policy and Rulemaking, Department of Homeland Security, Cybersecurity and Infrastructure Security Agency, Infrastructure Security Compliance Division, 245 Murray Lane SW, Mail Stop 0610, Arlington, VA 20528-0610, *Phone:* 703 235-5263, *Fax:* 703 603-4935, *Email:* jon.m.maclaren@hq.dhs.gov.

RIN: 1670-AA00

DEPARTMENT OF HOMELAND SECURITY (DHS)

Cybersecurity and Infrastructure Security Agency (CISA)

Long-Term Actions

126. • Chemical Facility Anti-Terrorism Standards (CFATS)

E.O. 13771 Designation: Other.
Legal Authority: 6 U.S.C. 621 to 629
Abstract: The Department of Homeland Security (DHS) previously invited public comment on an advance notice of proposed rulemaking (ANPRM) for potential revisions to the Chemical Facility Anti-Terrorism Standards (CFATS) regulations. The ANPRM provided an opportunity for the public to provide recommendations for possible program changes. DHS is reviewing the public comments received in response to the ANPRM, after which DHS intends to publish a Notice of Proposed Rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	08/18/14	79 FR 48693
ANPRM Comment Period End.	10/17/14	
NPRM	To Be Determined	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Jon MacLaren, Group Leader, Strategic Policy and Rulemaking, Department of Homeland Security, Cybersecurity and Infrastructure Security Agency, Infrastructure Security Compliance Division, 245 Murray Lane SW, Mail Stop 0610, Arlington, VA 20528-0610, *Phone:* 703 235-5263, *Fax:* 703 603-4935, *Email:* jon.m.maclaren@hq.dhs.gov.

RIN: 1670-AA01

[FR Doc. 2019-12076 Filed 6-21-19; 8:45 am]

BILLING CODE 9110-9B-P