



Federal Register

**Monday,
December 20, 2010**

Part IX

**Department of
Homeland Security**

Semiannual Regulatory Agenda

DEPARTMENT OF HOMELAND SECURITY (DHS)

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Chs. I and II

[DHS Docket No. OGC-RP-04-001]

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, DHS.

ACTION: Semiannual regulatory agenda.

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

FOR FURTHER INFORMATION CONTACT:

General

Please direct general comments and inquiries on the agenda to the Regulatory Affairs Law Division, U.S. Department of Homeland Security, Office of the General Counsel, 245

Murray Lane, Mail Stop 0485, Washington, DC 20528-0485.

Specific

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

SUPPLEMENTARY INFORMATION: DHS provides this notice pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, Sep. 19, 1980) and Executive Order 12866 "Regulatory Planning and Review" (Sep. 30, 1993), which require the Department to publish a semiannual agenda of regulations. The regulatory agenda is a summary of all current and projected rulemakings, as well as actions completed since the publication of the last regulatory agenda for the Department. DHS's last semiannual regulatory agenda was published on April 26, 2010 at 75 FR 21806.

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

As part of the Unified Agenda, federal agencies are also required to prepare a Regulatory Plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal

year. As in past years, for fall editions of the Unified Agenda, the entire Regulatory Plan and agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act, are printed in the **Federal Register**.

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

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

Dated: September 10, 2010.

Christina E. McDonald,

Acting Associate General Counsel for Regulatory Affairs.

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

Sequence Number	Title	Regulation Identifier Number
374	Registration Requirement for Petitioners Seeking to File H-1B Petitions on Behalf of Aliens Subject to Numerical Limitations (Reg Plan Seq No. 64)	1615-AB71

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

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

Sequence Number	Title	Regulation Identifier Number
375	E-2 Nonimmigrant Status for Aliens in the Commonwealth of the Northern Mariana Islands With Long-Term Investor Status (Reg Plan Seq No. 69)	1615-AB75
376	Commonwealth of the Northern Mariana Islands Transitional Worker Classification (Reg Plan Seq No. 70)	1615-AB76

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

DHS

U.S. Citizenship and Immigration Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
377	U. S. Citizenship and Immigration Services Fee Schedule	1615-AB80

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
378	Numbering of Undocumented Barges	1625-AA14
379	Commercial Fishing Industry Vessels	1625-AA77
380	Inspection of Towing Vessels (Reg Plan Seq No. 73)	1625-AB06
381	Updates to Maritime Security (Reg Plan Seq No. 75)	1625-AB38

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

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
382	Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters (Reg Plan Seq No. 76)	1625-AA32
383	Passenger Weight and Inspected Vessel Stability Requirements	1625-AB20

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

U.S. Coast Guard—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
384	Claims Procedures Under the Oil Pollution Act of 1990 (USCG-2004-17697)	1625-AA03

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identifier Number
385	Bulk Solid Hazardous Materials: Harmonization With the International Maritime Solid Bulk Cargoes (IMSBC) Code	1625-AB47

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

Sequence Number	Title	Regulation Identifier Number
386	Importer Security Filing and Additional Carrier Requirements (Reg Plan Seq No. 77)	1651-AA70

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

U.S. Customs and Border Protection—Completed Actions

Sequence Number	Title	Regulation Identifier Number
387	Transportation of Certain Merchandise and Equipment Between Coastwise Points	1651-AA84

DHS

Transportation Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
388	Aircraft Repair Station Security (Reg Plan Seq No. 85)	1652-AA38

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

Transportation Security Administration—Long-Term Actions

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

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

Proposed Rule Stage

374. REGISTRATION REQUIREMENT FOR PETITIONERS SEEKING TO FILE H-1B PETITIONS ON BEHALF OF ALIENS SUBJECT TO NUMERICAL LIMITATIONS

Regulatory Plan: This entry is Seq. No. 64 in part II of this issue of the **Federal Register**.

RIN: 1615-AB71

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

Final Rule Stage

375. E-2 NONIMMIGRANT STATUS FOR ALIENS IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS WITH LONG-TERM INVESTOR STATUS

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

RIN: 1615-AB75

376. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS TRANSITIONAL WORKER CLASSIFICATION

Regulatory Plan: This entry is Seq. No. 70 in part II of this issue of the **Federal Register**.

RIN: 1615-AB76

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

Completed Actions

377. U. S. CITIZENSHIP AND IMMIGRATION SERVICES FEE SCHEDULE

Legal Authority: 8 USC 1356(m)

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

processing applications and petitions for immigration benefits and services, and USCIS' associated operating costs. USCIS is revising these fees because the current fee schedule does not adequately recover the full costs of services provided by USCIS. Without an adjustment of the fee schedule, USCIS cannot provide adequate capacity to process all applications and petitions in a timely and efficient

manner. The fee review is undertaken pursuant to the requirements of the Chief Financial Officers Act of 1990 (CFO Act), 31 U.S.C. 901-03. The CFO Act requires each agency's chief financial officer (CFO) to "review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect

DHS—USCIS

Completed Actions

costs incurred by it in providing those services and things of value.” Id. at 902(a)(8). This rule will reflect recommendations made by the DHS CFO and USCIS CFO, as required under the CFO Act.

Timetable:

Action	Date	FR Cite
NPRM	06/11/10	75 FR 33445
NPRM Comment Period End	07/26/10	
Final Rule	09/24/10	75 FR 58961
Final Rule Effective	11/23/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Timothy Rosado, Department of Homeland Security, U.S. Citizenship and Immigration Services, Suite 4018, 20 Massachusetts Avenue NW
Phone: 202 272-1969
Fax: 202 272-1970
Email: timothy.a.rosado@dhs.gov

RIN: 1615-AB80

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

Proposed Rule Stage

378. NUMBERING OF UNDOCUMENTED BARGES

Legal Authority: 46 USC 12301

Abstract: Title 46 U.S.C. 12301, as amended by the Abandoned Barge Act of 1992, requires that all undocumented barges of more than 100 gross tons operating on the navigable waters of the United States be numbered. This rulemaking would establish a numbering system for these barges. The numbering of undocumented barges will allow identification of owners of barges found abandoned and help prevent future marine pollution. This rulemaking supports the Coast Guard's broad role and responsibility of maritime stewardship.

Timetable:

Action	Date	FR Cite
Request for Comments	10/18/94	59 FR 52646
Comment Period End	01/17/95	
ANPRM	07/06/98	63 FR 36384
ANPRM Comment Period End	11/03/98	
NPRM	01/11/01	66 FR 2385
NPRM Comment Period End	04/11/01	
NPRM Reopening of Comment Period	08/12/04	69 FR 49844
NPRM Comment Period End	11/10/04	
Supplemental NPRM	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Denise Harmon, Project Manager, Department of Homeland Security, U.S. Coast Guard, National Vessel Documentation Center, 792 T.J. Jackson Drive, Falling Waters, WV 25419
Phone: 304 271-2506

RIN: 1625-AA14

379. COMMERCIAL FISHING INDUSTRY VESSELS

Legal Authority: 46 USC 4502(a) to 4502(d); 46 USC 4505 and 4506; 46 USC 6104; 46 USC 10603; DHS Delegation No. 0170.1(92)

Abstract: This rulemaking would amend commercial fishing industry vessel requirements to enhance maritime safety. Commercial fishing remains one of the most dangerous industries in America. The Commercial Fishing Industry Vessel Safety Act of 1988 (“the Act,” codified in 46 U.S.C. chapter 45) gives the Coast Guard regulatory authority to improve the safety of vessels operating in that industry. Although significant reductions in industry deaths were recorded after the Coast Guard issued its initial rules under the Act in 1991, we believe more deaths and serious injury can be avoided through compliance with new regulations in the following areas: vessel stability and watertight integrity, vessel maintenance and safety equipment including crew

immersion suits, crew training and drills, and improved documentation of regulatory compliance.

Timetable:

Action	Date	FR Cite
ANPRM	03/31/08	73 FR 16815
ANPRM Comment Period End	12/15/08	
NPRM	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jack Kemerer, Project Manager, CG-5433, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593
Phone: 202 372-1249
Email: jack.a.kemerer@uscg.mil

RIN: 1625-AA77

380. INSPECTION OF TOWING VESSELS

Regulatory Plan: This entry is Seq. No. 73 in part II of this issue of the **Federal Register**.

RIN: 1625-AB06

381. UPDATES TO MARITIME SECURITY

Regulatory Plan: This entry is Seq. No. 75 in part II of this issue of the **Federal Register**.

RIN: 1625-AB38

Department of Homeland Security (DHS)
U.S. Coast Guard (USCG)
Final Rule Stage
382. STANDARDS FOR LIVING ORGANISMS IN SHIPS' BALLAST WATER DISCHARGED IN U.S. WATERS

Regulatory Plan: This entry is Seq. No. 76 in part II of this issue of the **Federal Register**.

RIN: 1625-AA32

for certain domestic passenger vessels. The proposed rule would address the outdated per-person weight averages that are currently used in stability calculations for certain domestic passenger vessels. In addition, the proposed rule would add environmental operating requirements for domestic passenger vessels that could be adversely affected by sudden inclement weather. This rulemaking would increase passenger safety by significantly reducing the risk of certain types of passenger vessels capsizing due to either passenger overloading or operating these vessels in hazardous weather conditions. This rulemaking would support the Coast Guard's broad role and responsibility of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	08/20/08	73 FR 49244
NPRM Comment Period End	11/18/08	

Action	Date	FR Cite
NPRM Comment Period Reopened	12/08/08	73 FR 74426
NPRM Comment Period End	02/06/09	
NPRM Comment Period Reopened	02/18/09	74 FR 7576
NPRM Comment Period End	03/20/09	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: William Peters, Program Manager, Office of Design and Engineering Standards, Systems Engineering Division (CG-5212), Department of Homeland Security, U.S. Coast Guard, 2100 2nd Street SW., STOP 7126, Washington, DC 20593-7126
 Phone: 202 372-1371
 Email: william.s.peters@uscg.mil

RIN: 1625-AB20

Department of Homeland Security (DHS)
U.S. Coast Guard (USCG)
Long-Term Actions
384. CLAIMS PROCEDURES UNDER THE OIL POLLUTION ACT OF 1990 (USCG-2004-17697)

Legal Authority: 33 USC 2713 and 2714

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

includes the processing of natural resource damage (NRD) claims. The NRD claims, however, were not processed until September 25, 1997, when the Department of Justice issued an opinion that the Oil Spill Liability Trust Fund (OSLTF) is available, without further appropriation, to pay trustee NRD claims under the general claims provisions of the Oil Pollution Act (OPA) of 1990, 33 U.S.C. 2712(a)(4). This rulemaking supports the Coast Guard's broad role and responsibility of maritime stewardship.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/12/92	57 FR 36314
Correction	09/09/92	57 FR 41104

Action	Date	FR Cite
Interim Final Rule Comment Period End	12/10/92	
Supplemental NPRM	01/00/12	

Regulatory Flexibility Analysis Required: Yes

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

RIN: 1625-AA03

Department of Homeland Security (DHS)
U.S. Coast Guard (USCG)
Completed Actions
385. • BULK SOLID HAZARDOUS MATERIALS: HARMONIZATION WITH THE INTERNATIONAL MARITIME SOLID BULK CARGOES (IMSBC) CODE

Legal Authority: 33 USC 1602; 46 USC 3306; 46 USC 5111; 49 USC 5103; EO 12234; DHS Delegation No. 0170.1

Abstract: This rulemaking proposed to align national regulations with the adoption of amendments to Chapter VI of the International Convention for Safety of Life at Sea (SOLAS), 1974, as amended, for foreign and domestic vessels' international trade. It also proposed to eliminate the need to

maintain previously-issued Coast Guard special permits for the carriage of solid hazardous materials in bulk.

This project supports the Coast Guard Marine Safety and Environmental Protection program's goals to reduce crew member deaths and injuries on U.S. commercial vessels, to reduce the

DHS—USCG

Completed Actions

amount of environmentally hazardous substances discharged into the nation's waterways, and to promote the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	06/17/10	75 FR 34574

Action	Date	FR Cite
Correction	06/18/10	75 FR 34682
NPRM Comment Period End	07/19/10	
Final Rule	10/19/10	75 FR 64585
Final Rule Effective	01/01/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Richard C. Bornhorst, Project Manager (CG-5223), Department of Homeland Security, U.S. Coast Guard, 2100 2nd Street SW., STOP 7126, Washington, DC 20593-7126
Phone: 202 372-1426
Fax: 202 372-1926
Email: richard.c.bornhorst@uscg.mil
RIN: 1625-AB47

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

Final Rule Stage

386. IMPORTER SECURITY FILING AND ADDITIONAL CARRIER REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 77 in part II of this issue of the **Federal Register**.

RIN: 1651-AA70

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

Completed Actions

387. TRANSPORTATION OF CERTAIN MERCHANDISE AND EQUIPMENT BETWEEN COASTWISE POINTS

Legal Authority: 46 USC 55102

Abstract: The Jones Act provides that only coastwise-qualified vessels may transport merchandise between coastwise points. During 2009, U.S. Customs and Border Protection proposed modifying previously-issued ruling letters that determined whether the transportation of certain articles and equipment by non-coastwise-

qualified vessels between coastwise points was in violation of the Jones Act. Because any determination on this matter made by CBP would impact a broad range of regulated parties, and the scope of potential economic impact of any change in existing practice is unknown, CBP is issuing an advance notice of proposed rulemaking to solicit public comment.

Timetable:

Action	Date	FR Cite
Withdrawn	11/15/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Glen E. Vereb, Chief, Cargo Security, Carriers and Immigration Branch, Office of International Trade, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 325-0212

RIN: 1651-AA84

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

Final Rule Stage

388. AIRCRAFT REPAIR STATION SECURITY

Regulatory Plan: This entry is Seq. No. 85 in part II of this issue of the **Federal Register**.

RIN: 1652-AA38

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

Long-Term Actions

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

Legal Authority: 49 USC 44901; 49 USC 44940

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

Starting in fiscal year 2005, the Aviation and Transportation Security Act (ATSA) (Pub. L. 107-71; Nov. 19, 2001), codified at 49 U.S.C. 44940, authorizes TSA to change the methodology for imposing the ASIF on air carriers and foreign air carriers from a system based on their 2000 screening costs to a system based on market share or other appropriate measures.

On November 5, 2003, the Transportation Security Administration (TSA) published a notice requesting comment on possible changes in order to allow for open industry and public input. TSA sought comments on issues regarding how to impose the ASIF, and whether, when, and how often the

ASIF should be adjusted. The comment period was extended on the notice for an additional 30 days, until February 5, 2004. TSA is developing a market share methodology and intends to seek public comments through issuance of a notice of proposed rulemaking.

Timetable:

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

**Regulatory Flexibility Analysis
Required:** Yes

Agency Contact: Michael Gambone, Deputy Director, Office of Revenue, Department of Homeland Security, Transportation Security Administration, Office of Finance and Administration,

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Nicholas (Nick) Acheson, Sr. Economist, Regulatory Development and Economic Analysis, Department of Homeland Security, Transportation Security Administration, Office of Transportation Sector Network Management, TSA-28, HQ, E10-341N, 601 South 12th Street, Arlington, VA 20598-6028
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