



FEDERAL REGISTER

Vol. 77

Monday,

No. 29

February 13, 2012

Part IX

Department of Homeland Security

Semiannual Regulatory Agenda

DEPARTMENT OF HOMELAND SECURITY**Office of the Secretary****6 CFR Chs. I and II****[DHS Docket No. OGC–RP–04–001]****Unified Agenda of Federal Regulatory and Deregulatory Actions****AGENCY:** Office of the Secretary, DHS.**ACTION:** Semiannual regulatory agenda.

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

FOR FURTHER INFORMATION CONTACT:**General**

Please direct general comments and inquiries on the agenda to the Regulatory Affairs Law Division, U.S. Department of Homeland Security, Office of the General Counsel, 245 Murray Lane, Mail Stop 0485, Washington, DC 20528–0485.

Specific

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

SUPPLEMENTARY INFORMATION: DHS provides this notice pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, Sep. 19, 1980) and Executive Order 12866 “Regulatory Planning and Review” (Sep. 30, 1993) as incorporated in Executive Order 13563 “Improving Regulation & Regulatory Review” (Jan. 18, 2011), which require the Department to publish a semiannual agenda of regulations. The regulatory agenda is a summary of all current and projected rulemakings, as well as actions completed since the publication of the last regulatory agenda for the Department. DHS's last semiannual regulatory agenda was published on July 7, 2011, at 76 FR 40074.

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 9, 2011.

Christina E. McDonald,*Associate General Counsel for Regulatory Affairs.***OFFICE OF THE SECRETARY—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
373	Secure Handling of Ammonium Nitrate Program (Reg Plan Seq No. 53)	1601–AA52
374	Homeland Security Acquisition Regulation, Subcontractor Labor Hour Rates Under Time and Materials Contracts.	1601–AA65

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 No.	Title	Regulation Identifier No.
375	Registration Requirement for Petitioners Seeking To File H–1B Petitions on Behalf of Aliens Subject to Numerical Limitations.	1615–AB71

U.S. CITIZENSHIP AND IMMIGRATION SERVICES—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
376	Commonwealth of the Northern Mariana Islands Transitional Worker Classification	1615–AB76

U.S. COAST GUARD—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
377	Claims Procedures Under the Oil Pollution Act of 1990 (USCG–2004–17697)	1625–AA03

U.S. COAST GUARD—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
378	Marine Transportation-Related Facility Response Plans for Hazardous Substances	1625–AA12
379	Numbering of Undocumented Barges	1625–AA14
380	Inspection of Towing Vessels	1625–AB06
381	Updates to Maritime Security	1625–AB38
382	MARPOL Annex 1 Update	1625–AB57

U.S. COAST GUARD—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
383	Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978 (Reg Plan Seq No. 64)	1625–AA16
384	Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters	1625–AA32
385	Nontank Vessel Response Plans and Other Vessel Response Plan Requirements (Reg Plan Seq No. 66)	1625–AB27

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 No.	Title	Regulation Identifier No.
386	Commercial Fishing Industry Vessels	1625–AA77

U.S. CUSTOMS AND BORDER PROTECTION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
387	Importer Security Filing and Additional Carrier Requirements (Reg Plan Seq No. 69)	1651–AA70

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

TRANSPORTATION SECURITY ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
388	General Aviation Security and Other Aircraft Operator Security (Reg Plan Seq No. 73)	1652–AA53

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

TRANSPORTATION SECURITY ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
389	Aircraft Repair Station Security (Reg Plan Seq No. 77)	1652–AA38

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

DEPARTMENT OF HOMELAND SECURITY (DHS)*Office of the Secretary (OS)*

Proposed Rule Stage

373. Secure Handling of Ammonium Nitrate Program

Regulatory Plan: This entry is Seq. No. 53 in part II of this issue of the **Federal Register**.

RIN: 1601-AA52

374. • Homeland Security Acquisition Regulation, Subcontractor Labor Hour Rates Under Time and Materials Contracts

Legal Authority: 5 U.S.C. 301; 5 U.S.C. 302; 41 U.S.C. 418b(a); 41 U.S.C. 418b(b); 41 U.S.C. 414; 48 CFR part 1, subpart 1.3; DHS Delegation Number 0700

Abstract: The Department of Homeland Security (DHS) is proposing to amend its Homeland Security Acquisition Regulation (HSAR) parts 3016 and 3052 to require DHS contracts for time and material or labor hours (T&M/LH) to include separate labor hour rates for subcontractors and a description of the method that will be used to record and bill for labor hours for both contractors and subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	03/00/12	
NPRM Comment Period End.	05/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jeremy F. Olson, Senior Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Washington, DC 20528, *Phone:* 202 447-5197, *Fax:* 202 447-5310, *Email:* jerry.olson@dhs.gov.

RIN: 1601-AA65

DEPARTMENT OF HOMELAND SECURITY (DHS)*U.S. Citizenship and Immigration Services (USCIS)*

Final Rule Stage

375. Registration Requirement for Petitioners Seeking to File H-1B Petitions on Behalf of Aliens Subject to Numerical Limitations

Legal Authority: 8 U.S.C. 1184(g)

Abstract: The Department of Homeland Security will finalize 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 necessary because the demand for H-1B specialty occupation workers by U.S. companies may exceed the numerical limitation. This rule is intended to allow USCIS to more efficiently manage the intake and lottery process for these H-1B petitions.

Timetable:

Action	Date	FR Cite
NPRM	03/03/11	76 FR 11686
NPRM Comment Period End.	05/02/11	
Final Rule	10/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Susan Arroyo, Chief of Staff, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 202 272-1094, *Fax:* 202 272-1543, *Email:* susan.arroyo@dhs.gov.

RIN: 1615-AB71

DEPARTMENT OF HOMELAND SECURITY (DHS)*U.S. Citizenship and Immigration Services (USCIS)*

Completed Actions

376. Commonwealth of the Northern Mariana Islands Transitional Worker Classification

Legal Authority: Pub. L. 110-229

Abstract: On October 27, 2009, the Department of Homeland Security published an interim rule creating a new, temporary, Commonwealth of the Northern Mariana Islands (CNMI)-only transitional worker classification (CW classification) in accordance with title VII of the Consolidated Natural Resources Act of 2008 (CNRA). The CW classification is intended to provide for an orderly transition from the CNMI permit system to the U.S. Federal immigration system under the immigration laws of the United States, including the Immigration and Nationality Act (INA). This final rule implements the CW classification and establishes that a CW transitional worker is an alien worker who is ineligible for another classification under the INA and who performs services or labor for an employer in the CNMI during the five-year transition period. CNMI employers may now petition for such workers. The rule also

establishes employment authorization incident to CW status.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/27/09	74 FR 55094
Interim Final Rule Comment Period End.	11/27/09	
Interim Final Rule Comment Period End Extended.	12/09/09	74 FR 64997
Interim Final Rule Comment Period End.	01/08/10	
Final Rule	09/07/11	76 FR 55502
Final Rule Effective.	10/07/11	
Final Rule Correction.	11/08/11	76 FR 69119

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kevin J. Cummings, Chief of Business and Foreign Workers Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW., Washington, DC 20529-2140, *Phone:* 202 272-1470, *Fax:* 202 272-1480, *Email:* kevin.cummings@dhs.gov.

RIN: 1615-AB76

DEPARTMENT OF HOMELAND SECURITY (DHS)*U.S. Coast Guard (USCG)*

Prerule Stage

377. Claims Procedures Under the Oil Pollution Act of 1990 (USCG-2004-17697)

Legal Authority: 33 U.S.C. 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 (OPA). 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 OPA 90, 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
Interim Final Rule	12/10/92	
Comment Period End.		
Notice of Inquiry ..	11/01/11	76 FR 67385
Notice of Inquiry	01/30/12	
Comment Period End.		

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)

Proposed Rule Stage

378. Marine Transportation-Related Facility Response Plans for Hazardous Substances

Legal Authority: 33 U.S.C. 1321(j); Pub. L. 101-380; Pub. L. 108-293

Abstract: This project would implement provisions of the Oil Pollution Act of 1990 (OPA 90) that require an owner or operator of a marine transportation-related facility transferring bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to marine transportation-related facilities that, because of their location, could cause harm to the environment by discharging a hazardous substance into or on the navigable waters or adjoining shoreline. A separate rulemaking, under RIN 1625-AA13, was developed in tandem with this rulemaking and addresses hazardous substances response plan requirements for tank vessels. This project supports the Coast Guard's broad roles and responsibilities of maritime safety and maritime stewardship by reducing the consequence of pollution incidents. This action is considered significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public	07/03/96	61 FR 34775
Hearings.		
ANPRM Comment	09/03/96	
Period End.		
NPRM	03/31/00	65 FR 17416
NPRM Comment	06/29/00	
Period End.		
Notice To Reopen	02/17/11	76 FR 9276
Comment Pe-		
riod.		
Comment Period	05/18/11	
End.		
Notice of Avail-	01/00/12	
ability.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: CDR Michael Roldan, Project Manager, CG-522, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593-7126, *Phone:* 202 372-1420, *Email:* luis.m.rolan@uscg.mil, *RIN:* 1625-AA12

379. Numbering of Undocumented Barges

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

Timetable:

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

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

380. Inspection of Towing Vessels

Legal Authority: 46 U.S.C. 3103; 46 U.S.C. 3301; 46 U.S.C. 3306; 46 U.S.C. 3308; 46 U.S.C. 3316; 46 U.S.C. 3703; 46 U.S.C. 8104; 46 U.S.C. 8904; DHS Delegation No 0170.1

Abstract: This rulemaking would implement a program of inspection for certification of towing vessels, which were previously uninspected. It would prescribe standards for safety management systems and third-party auditors and surveyors, along with standards for construction, operation, vessel systems, safety equipment, and recordkeeping.

Timetable:

Action	Date	FR Cite
NPRM	08/11/11	76 FR 49976
Notice of Public	09/09/11	76 FR 55847
Meetings.		
NPRM Comment	12/09/11	
Period End.		
Final Rule	To Be Determined	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Michael Harmon, Program Manager, CG-5222, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593-7126, *Phone:* 202 372-1427, *Email:* michael.j.harmon@uscg.mil, *RIN:* 1625-AB06

381. Updates to Maritime Security

Legal Authority: 33 U.S.C. 1226; 33 U.S.C. 1231; 46 U.S.C. ch 701; 50 U.S.C. 191 and 192; EO 12656; 3 CFR 1988 Comp p 585; 33 CFR 1.05-1; 33 CFR 6.04-11; 33 CFR 6.14; 33 CFR 6.16; 33 CFR 6.19; DHS Delegation No 0170.1

Abstract: The Coast Guard proposes certain additions, changes, and amendments to 33 CFR, subchapter H. Subchapter H is comprised of parts 101 through 106. Subchapter H implements the major provisions of the Maritime Transportation Security Act of 2002. This rulemaking is the first major revision to subchapter H. The proposed changes would further the goals of domestic compliance and international cooperation by incorporating requirements from legislation implemented since the original publication of these regulations, such as the SAFE Port Act, and including

international standards such as STCW security training. This rulemaking has international interest because of the close relationship between subchapter H and the International Ship and Port Security Code (ISPS).

Timetable:

Action	Date	FR Cite
NPRM	09/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: LCDR Loan O'Brien, Project Manager, Department of Homeland Security, U.S. Coast Guard, Commandant, (CG-5442), 2100 Second Street SW., STOP 7581, Washington, DC 20593-7581, *Phone:* 202 372-1133, *Email:* loan.t.o'brien@uscg.mil.

RIN: 1625-AB38

382. Marpol Annex 1 Update

Legal Authority: 33 U.S.C. 1902; 46 U.S.C. 3306

Abstract: In this rulemaking, the Coast Guard would amend the regulations in subchapter O (Pollution) of title 33 of the CFR, including regulations on vessels carrying oil, oil pollution prevention, oil transfer operations, and rules for marine environmental protection regarding oil tank vessels, to reflect changes to international oil pollution standards adopted since 2004. Additionally, this regulation would update shipping regulations in title 46 to require Material Safety Data Sheets, in accordance with international agreements, to protect the safety of mariners at sea.

Timetable:

Action	Date	FR Cite
NPRM	03/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Harmon, Program Manager, CG-5222, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593-7126, *Phone:* 202 372-1427, *Email:* michael.j.harmon@uscg.mil.

RIN: 1625-AB57

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coast Guard (USCG)

Final Rule Stage

383. Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978

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

RIN: 1625-AA16

384. Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters

Legal Authority: 16 U.S.C. 4711

Abstract: This rulemaking adds performance standards to 33 CFR part 151, subparts C and D, for discharges of ballast water. It supports the Coast Guard's broad roles and responsibilities of maritime safety and maritime stewardship. This project is economically significant.

Timetable:

Action	Date	FR Cite
ANPRM	03/04/02	67 FR 9632
ANPRM Comment Period End.	06/03/02	
NPRM	08/28/09	74 FR 44632
Public Meeting	09/14/09	74 FR 46964
Public Meeting	09/22/09	74 FR 48190
Public Meeting	09/28/09	74 FR 49355
Notice—Extension of Comment Period.	10/15/09	74 FR 52941
Public Meeting	10/22/09	74 FR 54533
Public Meeting Correction.	10/26/09	74 FR 54944
NPRM Comment Period End.	12/04/09	74 FR 52941
Final Rule	01/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mr. John C. Morris, Project Manager, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593-7126, *Phone:* 202 372-1433, *Email:* john.c.morris@uscg.mil.

RIN: 1625-AA32

385. Nontank Vessel Response Plans and Other Vessel Response Plan Requirements

Regulatory Plan: This entry is Seq. No. 66 in part II of this issue of the **Federal Register**.

RIN: 1625-AB27

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coast Guard (USCG)

Long-Term Actions

386. Commercial Fishing Industry Vessels

Legal Authority: 46 U.S.C. 4502(a) to 4502(d); 46 U.S.C. 4505 and 4506; 46 U.S.C. 6104; 46 U.S.C. 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	To Be Determined	

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

**DEPARTMENT OF HOMELAND
SECURITY (DHS)***U.S. Customs and Border Protection
(USCBP)*

Final Rule Stage

**387. Importer Security Filing and
Additional Carrier Requirements***Regulatory Plan:* This entry is Seq.
No. 69 in part II of this issue of the
Federal Register.*RIN:* 1651-AA70**DEPARTMENT OF HOMELAND
SECURITY (DHS)***Transportation Security Administration
(TSA)*

Proposed Rule Stage

**388. General Aviation Security and
Other Aircraft Operator Security***Regulatory Plan:* This entry is Seq.
No. 73 in part II of this issue of the
Federal Register.*RIN:* 1652-AA53**DEPARTMENT OF HOMELAND
SECURITY (DHS)***Transportation Security Administration
(TSA)*

Final Rule Stage

389. Aircraft Repair Station Security*Regulatory Plan:* This entry is Seq.
No. 77 in part II of this issue of the
Federal Register.*RIN:* 1652-AA38

[FR Doc. 2012-1648 Filed 2-10-12; 8:45 am]

BILLING CODE 9110-9B-P