

DEPARTMENT OF COMMERCE

Statement of Regulatory and Deregulatory Priorities

Established in 1903, the Department of Commerce (Commerce or Department) is one of the oldest Cabinet-level agencies in the Federal Government. Commerce's mission is to create the conditions for economic growth and opportunity across all American communities by promoting innovation, entrepreneurship, competitiveness, and environmental stewardship. Commerce has 12 operating units, which manage a diverse portfolio of programs and services ranging from trade promotion and economic development assistance to improved broadband access and the National Weather Service, and from standards development and statistical data production, including the decennial census, to patents and fisheries management. Across these varied activities, the Department seeks to provide a foundation for a more equitable, resilient, and globally competitive economy.

To fulfill its mission, Commerce works in partnership with businesses, educational institutions, community organizations, government agencies, and individuals to:

- **Innovate** by creating new ideas through cutting-edge science and technology, from advances in nanotechnology to ocean exploration to broadband deployment, and by protecting American innovations through the patent and trademark system;
- Support **entrepreneurship and commercialization** by enabling community development and strengthening minority businesses and small manufacturers;
- Maintain U.S. economic **competitiveness** in the global marketplace by promoting exports and foreign direct investment, ensuring a level playing field for U.S. businesses, and ensuring that technology transfer is consistent with our nation's economic and security interests;
- Provide effective management and **stewardship** of our nation's resources and assets to ensure sustainable economic opportunities; and

- Make informed policy decisions and enable better understanding of the economy and our communities by providing **timely, accessible, and accurate economic and demographic data**.

Commerce's Regulatory Plan tracks the most important regulations that the Department anticipates issuing to implement these policy and program priorities and foster sustainable and equitable growth. Of Commerce's 12 primary operating units, three bureaus — the National Oceanic and Atmospheric Administration (NOAA), the United States Patent and Trademark Office (USPTO), and the Bureau of Industry and Security (BIS) — issue the vast majority of the Department's regulations, and these three bureaus account for all the planned actions that are considered the Department's most important significant pre-regulatory or regulatory actions for FY 2025.

Consistent with Executive Order 14094, moreover, the Department and its bureaus routinely seek to inform their rulemaking with meaningful opportunities for public input. The efforts of NOAA, USPTO, and BIS to promote public engagement are discussed in their respective sections, below.

National Oceanic and Atmospheric Administration

NOAA's mission is built on three pillars: science, service, and stewardship – to understand and predict changes in climate, weather, oceans, and coasts; to share that knowledge and information with others; and to conserve and manage coastal and marine ecosystems and resources.

At its core, NOAA is a scientific agency. It observes, measures, monitors, and collects data from the depths of the ocean to the surface of the sun, and it does so following principles of scientific integrity. These data are turned into weather and climate models and forecasts that are then used for everything from local weather forecasts to predicting the movement of wildfire smoke to identifying the impacts of climate change on fisheries and living marine resources.

With respect to service, NOAA not only collects data but is mandated to make it operational, and NOAA seeks to be the authoritative provider of climate products and services. By providing Federal, State, local, and tribal government partners, the private sector, and the public with actionable environmental information, NOAA can facilitate decisions in the face of climate change. Such decisions

can range from businesses planning the location of offices; insurance companies trying to incorporate climate risk into their insurance policies; and municipalities looking to ensure that plans for construction of new housing developments will be resilient to increasing sea level risk, flooding, and heavy precipitation.

The final pillar of NOAA's mission is stewardship. NOAA seeks to conserve our lands, waters, and natural resources, protecting people and the environment now and for future generations. As part of Commerce, moreover, NOAA recognizes that economic growth must go hand-in-hand with environmental stewardship. For example, with respect to the nation's fisheries, NOAA looks simultaneously to optimize productivity and ensure sustainability in order to boost long-term economic growth and competitiveness in the vital fisheries sector of the U.S. economy. Similarly, national marine sanctuaries both protect important natural resources and also are significant drivers of eco-tourism and local recreation.

Within NOAA, the National Marine Fisheries Services (NMFS) and the National Ocean Service (NOS) are the components that most often exercise regulatory authority to implement NOAA's mission. NMFS oversees the management and conservation of the nation's marine fisheries; protects marine mammals and Endangered Species Act (ESA)-listed marine and anadromous species; and promotes economic development of the U.S. fishing industry. NOS assists the coastal states in their management of land and ocean resources in their coastal zones, including estuarine research reserves; manages national marine sanctuaries; monitors marine pollution; and directs the national program for deep-seabed minerals and ocean thermal energy.

Many of NOAA's rulemakings, of which roughly 15 are expected to be significant rulemakings, as defined in Executive Order 12866, are issued pursuant to the following key statutes:

Magnuson-Stevens Fishery Conservation and Management Act

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) rulemakings concern the conservation and management of fishery resources in the U.S. Exclusive Economic Zone (generally 3–200 nautical miles from shore). As itemized in the Unified Agenda, NOAA plans to take several hundred actions in FY 2025 under Magnuson-Stevens Act authority. Pursuant to the Magnuson-Stevens Act, NOAA manages the nation's fisheries with input from eight regional Fishery

Management Councils (Councils). The Councils are comprised of representatives from the commercial and recreational fishing sectors, environmental groups, academia, and Federal and State government. Under the Act, the Councils prepare fishery management plans (FMPs) and amendments to FMPs, and they recommend implementing regulations for each managed fishery. With certain exceptions, rulemakings under the Magnuson-Stevens Act are usually recommended by the actions of eight regional Fishery Management Councils (Councils). FMPs address a variety of issues, including maximizing fishing opportunities on healthy stocks, rebuilding overfished stocks, and addressing gear conflicts. Instead, after considering the Councils' recommendations in light of the standards and requirements set forth in the Magnuson-Stevens Act and other applicable laws, NOAA (exercising delegated authority) makes decisions on whether to issue regulations to implement the proposed FMPs and FMP amendments. This collaboration with the Councils gives NMFS the flexibility to incorporate local level input to develop management strategies appropriate for each region's unique fisheries, challenges, and opportunities. It also provides for a robust public process. Throughout the Council process, there is significant opportunity for public engagement, including participating on advisory panels, providing testimony at public hearings, and commenting on Council actions. After considering the Councils' recommendations in light of the standards and requirements set forth in the Magnuson-Stevens Act and in other applicable laws, NOAA may issue regulations to implement the proposed FMPs and FMP amendments.

Marine Mammal Protection Act

The Marine Mammal Protection Act of 1972 (MMPA) provides the authority for the conservation and management of marine mammals under U.S. jurisdiction. It expressly prohibits, with certain exceptions, the intentional take of marine mammals. The MMPA allows, upon request and subsequent authorization, the incidental take of marine mammals by U.S. citizens who engage in a specified activity (e.g., oil and gas development, pile driving) within a specified geographic region. NMFS authorizes incidental take under the MMPA if it finds that the taking would be of small numbers, have no more than a "negligible impact" on those marine mammal species or stock, and would not have an "unmitigable adverse impact" on the availability of the species or stock for "subsistence" uses. NMFS also initiates rulemakings under the MMPA to establish a management regime to reduce marine mammal mortalities

and injuries as a result of interactions with fisheries. In addition, the MMPA allows NMFS to permit the take or import of wild animals for scientific research or public display or to enhance the survival of a species or stock.

Endangered Species Act

The Endangered Species Act of 1973 (ESA) provides for the conservation of species that are determined to be "endangered" or "threatened," and the conservation of the ecosystems on which these species depend. NMFS and the Department of Interior's Fish and Wildlife Service (FWS) jointly administer the provisions of the ESA: NMFS manages marine and several anadromous species, and FWS manages land and freshwater species. Together, NMFS and FWS work to protect critically imperiled species from extinction. NMFS rulemaking actions under the ESA are focused on determining whether any species under its responsibility is an endangered or threatened species and whether those species must be added to the list of protected species. NMFS is also responsible for designating, reviewing and revising critical habitat for any listed species.

The National Marine Sanctuaries Act

The National Marine Sanctuaries Act (NMSA) authorizes the Secretary of Commerce to designate and protect as national marine sanctuaries areas of the marine environment with special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or aesthetic qualities. The primary objective of the NMSA is to protect marine resources, such as coral reefs, sunken historical vessels, or unique habitats.

NOAA's Office of National Marine Sanctuaries (ONMS), within NOS, has the responsibility for management of national marine sanctuaries. ONMS regulations, issued pursuant to NMSA, prohibit specific kinds of activities, describe and define the boundaries of the designated national marine sanctuaries, and set up a system of permits to allow the conduct of certain types of activities that would otherwise not be allowed.

These regulations can, among other things, regulate and restrict activities that may injure natural resources, including all extractive and destructive activities, consistent with community-specific needs and NMSA's purpose to "facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas." In FY 2025, NOAA is expected to have at least three regulatory actions under NMSA.

Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) was passed in 1972 to preserve, protect, and develop and, where possible, to restore and enhance the resources of the nation's coastal zone. The CZMA creates a voluntary state-federal partnership, where coastal states (States in, or bordering on, the Atlantic, Pacific or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes), may elect to develop comprehensive programs that meet federal approval standards. Currently, 34 of the 35 eligible entities are implementing a federally approved coastal management plan approved by the Secretary of Commerce.

Of the numerous regulatory actions that NOAA is planning for this year and that are included in the Unified Agenda, the Department describes five below.

NOAA's Regulatory Plan Actions

1. Illegal, Unreported, and Unregulated Fishing; Fisheries Enforcement; High Seas Driftnet

Fishing Moratorium Protection Act (0648-BG11): The United States is a signatory to the Port State Measures Agreement (PSMA). The agreement is aimed at combating illegal, unreported, and unregulated (IUU) fishing or fishing-related activities in support of such fishing through increased port inspection of foreign fishing vessels and thereby closing seafood markets to IUU fish and fish products. In addition, regulations to identify and certify nations for IUU fishing, bycatch of protected living marine resources, and shark catch under the authority of the High Seas Driftnet Fishing Moratorium Protection Act must be updated in light of amendments made by the Ensuring Access to Pacific Fisheries Act and the James M. Inhofe National Defense Authorization Act for Fiscal year 2023. NMFS proposes to streamline the Moratorium Protection Act regulations by removing provisions that only repeat statutory text, including

those provisions regarding identification, notification, and consultation with identified nations. This is necessary given the frequent amendments to the underlying statute, which repeatedly makes the regulations obsolete or inconsistent with the current statute.

2. Fisheries of the United States; Magnuson-Stevens Fishery Conservation and Management Act; National Standard 4, 8, and 9 Guidelines (0648-BM17): Section 301(a) of the MSA contains 10 national standards for fishery conservation and management. Any fishery management plan prepared under the MSA, and any regulation promulgated pursuant to the MSA to implement any such plan, must be consistent with these national standards. This proposed rule focuses on revising guidelines for three national standards. Since these guidelines were last revised over 15 years ago, a number of fishery management challenges have arisen related to a changing climate. For example, changing ocean conditions are affecting the location of fish stocks, the productivity of fish stocks, and the fishing industry's interactions with bycatch, protected species, and other ocean users. These changes are predicted to continue and accelerate in the future. These shifts can cause social, economic, and other impacts on fisheries and fishing-dependent communities. As a result, fishing industries and coastal businesses may face significant challenges in preparing for and adapting to changing climate and oceans, and managers face challenges when balancing the needs of current fishermen following fish to new locations, current fishermen catching new stocks of fish in their historic fishing grounds, and new users. Therefore, these three national standards that deal with communities, allocations, and bycatch, are in need of updating to keep pace with these changing fisheries issues.

3. Florida Keys National Marine Sanctuary Management Review: Blueprint for Restoration (0648-BJ14): NOAA has proposed several changes to the Florida Keys National Marine Sanctuary (FKNMS) to expand the boundary of the sanctuary, update sanctuary-wide regulations, update the individual marine zones and their associated regulations, and revise the sanctuary's terms of designation. FKNMS currently protects 3,800 square miles of waters surrounding the Florida Keys, from south of Miami westward to the Dry Tortugas, which would be expanded through this action. The blueprint for restoration final rule is necessary to improve the condition of resources in the Florida Keys through a series of regulatory measures designed to reduce threats and, where appropriate, restore coral reefs, seagrasses, and other

important habitats. The intended effect of this final rule is to protect and preserve the living and heritage resources of the Florida Keys for the benefit of the public.

4. Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule (0648-BI88): This rule seeks to further reduce the likelihood of mortalities and serious injuries to endangered North Atlantic right whales from vessel collisions. Following two decades of growth, the species has been in decline over the past decade with a best population estimate of approximately 360 individuals. The rule would mitigate vessel strikes and promote the recovery of the right whales.

5. Designation of a National Marine Sanctuary in the Pacific Remote Islands (0648-BM52): NOAA is proposing to designate a national marine sanctuary in the Pacific Remote Islands (PRI) to provide long-lasting and comprehensive protection to the nationally significant biological, cultural, and historical resources of the area. This proposed national marine sanctuary would consist of an area of approximately 753,100 square statute miles (568,605 square nautical miles) of the Pacific Ocean and the submerged lands thereunder. The proposed sanctuary would complement and supplement the area's current status as a marine national monument, with regulations that have been written to ensure seamless management across the proposed sanctuary.

The United States Patent and Trademark Office

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

Major Programs and Activities

The USPTO is responsible for granting U.S. patents and registering trademarks. This system of secured property rights, which has its foundation in Article I, Section 8, Clause 8, of the Constitution (providing that Congress shall have the power to "promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and

Discoveries") has enabled American industry to flourish. New products have been invented, new uses for old ones discovered, and employment opportunities created for millions of Americans. The continued demand for patents and trademarks underscores the importance to the U.S. economy of effective mechanisms to protect new ideas and investments in innovation, as well as the ingenuity of American inventors and entrepreneurs.

In addition to granting patents and trademarks, the USPTO advises the President of the United States, the Secretary of Commerce, and U.S. government agencies on intellectual property (IP) policy, protection, and enforcement; and promotes strong and effective IP protection around the world. The USPTO furthers effective IP protection for U.S. innovators and entrepreneurs worldwide by working with other agencies to secure strong IP provisions in free trade and other international agreements. It also provides training, education, and capacity building programs designed to foster respect for IP and encourage the development of strong IP enforcement regimes by U.S. trading partners. During the past year, we have increased our engagement efforts to help inform our priorities to date, as well as future priorities. We have held public hearings, as well as published requests for comments, on several of our regulatory actions not only to better understand our stakeholders' needs, but to ensure robust and transparent engagement throughout the rulemaking process. For example, public hearings were held in two rulemakings where the USPTO will be setting and adjusting patent and trademark fees. The USPTO is currently considering all public feedback as it develops its rulemakings. Throughout our engagement, the USPTO is ensuring that in the regulatory process, we hear from a wide array of members of the public to help the USPTO shape the provisions proposed in its proposed rule or ultimately implemented in the final rule.

Outlined below is the USPTO's most important upcoming regulatory action for this year.

The USPTO's Regulatory Plan Actions

1. Setting and Adjusting Patent Fees (0651-AD64): This final rule would set and adjust Patent fee amounts to provide USPTO with sufficient aggregate revenue to recover its aggregate cost of operations thereby maintaining a sustainable funding model. The new fee amounts would provide USPTO with additional resources to decrease patent pendency and ensure robust and reliable patents are granted

while continuing to promote access to the patent system for under resourced individuals. The final fee amounts reflect feedback received from members of the Patent Public Advisory Committee and the public, including organizations, practitioners, and independent inventors, during a public hearing held on May 18, 2023, as well as public comments received on the proposed rule.

Bureau of Industry and Security

BIS advances U.S. national security, foreign policy, and economic objectives by maintaining and strengthening adaptable, efficient, and effective export control and treaty compliance systems as well as by administering programs to prioritize certain contracts to promote the national defense and to protect and enhance the defense industrial base.

BIS Public Engagement

BIS seeks to increase participation and engagement from members of the public affected by our regulations, including in the development of our regulatory priorities. Within the regulatory process itself, BIS often requests public comments even when not legally required to do so. BIS's acceptance of comments submitted anonymously or accompanied by requests for protection of business confidential information helps bolster public trust. For nearly all rules, even those that do not include requests for public comment, BIS obtains input from its Technical Advisory Committees (TACs), constituted under the Federal Advisory Committee Act. The TACs are composed of industry experts from a variety of fields. In addition to providing technical and compliance advice on draft rules, the TACs provide technical guidance on developing proposals to multilateral export control regimes, thereby supporting control policy development even prior to rulemaking.

BIS also engages with the public outside of the rulemaking process. BIS has an Office of Exporter Services (OExS), with two divisions focused on outreach and education (the Outreach and Educational Services Division and the Western Regional Office) and a Regulatory Policy Division, which support public compliance with and understanding of BIS regulations, including by interacting personally in meetings or on phone calls and responding to written inquiries. BIS itself puts on multiple training seminars per year, many of them outside of the Washington, D.C. area or online. In addition to these smaller seminars, BIS has a large annual conference (called "Update"), at which it provides an overview

of changes to policies and regulations over the past year. The Update Conference involves review and discussion of large, complex regulatory concepts pertaining to BIS, inviting follow-on discussion and interaction from participants, which in turn informs BIS's deliberations. Many BIS staffers also participate in seminars and conferences hosted by other government agencies or private partners. Public engagement is a vital part of BIS's operations.

Major Programs and Activities

BIS administers five sets of regulations.

- The Export Administration Regulations (EAR) regulate exports and reexports to protect national security, foreign policy, and short supply interests. The EAR includes the Commerce Control List (CCL), which describes commodities, software, and technology that are subject to licensing requirements for specific reasons for control. The EAR also regulates U.S. persons' participation in certain boycotts administered by foreign governments.
- The National Security Industrial Base Regulations provide for prioritization of certain contracts and allocations of resources to promote the national defense, require reporting of foreign government-imposed offsets in defense sales, provide for surveys to assess the capabilities of the industrial base to support the national defense, and address the effect of imports on the defense industrial base.
- The Chemical Weapons Convention Regulations implement declaration, reporting, and on-site inspection requirements in the private sector necessary to meet United States treaty obligations under the Chemical Weapons Convention treaty.
- The Additional Protocol Regulations implement similar requirements for certain civil nuclear and nuclear-related items with respect to an agreement between the United States and the International Atomic Energy Agency.
- The ICTS Transaction Review Regulations (ICTS-R) are carried out by the Office of Information and Communications Technology and Services (OICTS) and implement the authority to prohibit or mitigate any acquisition, importation, transfer, installation, dealing in, or use of any information or communications technology and service (ICTS) that has been designed, developed,

manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries that pose undue or unacceptable risk to the U.S. national security or U.S. persons' safety. The BIS ICTS program reviews and addresses ICTS transactions that pose undue or unacceptable risks in the United States, which involves vetting and prioritizing referrals, compiling intelligence, and other information, conducting investigations into transactions, performing risk-based analysis, and recommending mitigation measures and/or prohibitions to the Secretary of Commerce.

BIS also has an enforcement component with nine offices covering the United States, as well as BIS export control officers stationed at several U.S. embassies and consulates abroad. BIS works with other U.S. Government agencies to promote coordinated U.S. Government efforts in export controls and other programs. BIS participates in U.S. Government efforts to strengthen multilateral export control regimes and promote effective export controls through cooperation with other governments.

In FY 2025, BIS plans to publish a number of proposed and final rules amending the EAR. These rules will cover a range of issues, including countering Russia's ongoing aggression against Ukraine and China's military modernization; imposing controls on military, intelligence, and security end uses and end users that are contrary to the national security or foreign policy interests of the United States, including human rights values; and increasing the effectiveness of U.S. actions by substantially aligning controls with ally and partner countries. BIS also continues to identify and propose controls for emerging and foundational technologies.

Outlined below are BIS's most important upcoming regulatory actions for this year.

BIS's Regulatory Plan Actions

1. Securing the Information and Communications Technology and Services Supply Chain:

Connected Vehicles (0694-AJ56): This rule prohibits the import or sale of certain connected vehicle technologies when designed, developed, manufactured, or supplied by persons with a nexus to the People's Republic of China (PRC) or Russia Federation (Russia). Specifically, this final rule implements several restrictions on certain hardware and software supporting vehicle connectivity systems and automated driving systems when designed, developed, manufactured, or supplied by

entities with a nexus to the PRC or Russia. The rule would require certain regulated entities to submit annual declarations of conformity to certify their compliance with the prohibitions and would provide mechanisms to engage in otherwise prohibited transactions in the form of general and specific authorizations. The rule would also provide a mechanism for interested parties to seek advisory opinions from BIS regarding potential transactions as well as a mechanism for BIS to inform parties that a particular transaction or type of transaction requires a specific authorization.

- 2. Implementation of Certain Australia Group Decisions (0694-AJ83):** Section 1758 of the Export Control Reform Act of 2018 authorizes BIS to establish appropriate controls on the export, reexport or transfer (in-country) of emerging and foundational technologies essential to the national security of the United States. Certain instruments for the automated synthesis of peptides (automated peptide synthesizers) have been identified by BIS for evaluation as a Section 1758 emerging and foundational technology. This final rule implements multilateral controls for these automated peptide synthesizers.
- 3. Amendments to End-Use and End-User Based Export Controls, Including U.S. Persons Activities Controls: Military and Intelligence End Uses and End Users (RIN 0694-AJ43):** This final rule adopts proposed changes to existing restrictions on military and intelligence end uses and end users and related U.S. persons activities controls, as well as the proposed addition of a military-support end-user control, implementing expanded Export Control Reform Act of 2018 (ECRA) authority to control certain “U.S. persons” activities under the EAR.
- 4. Amendments to the Export Administration Regulations: Crime Controls and Expansion/Update of U.S. Persons Controls (RIN 0694-AI35):** This final rule adopts proposed amendments to the Export Administration Regulations (EAR) in support of U.S. national security and foreign policy interests. To build upon existing controls, BIS establishes certain Foreign-Security End User (FSEU) and “U.S. persons” activities controls and Commerce Control List-based (CCL) controls. The additions of the foreign-security end user control and “U.S. persons” activity controls implement expanded authority under the Export Control Reform Act of 2018 (ECRA), as amended, to control certain “U.S. persons” activities under the EAR.

