

# Eight Things You Absolutely Need to Know About Administrative Law Research

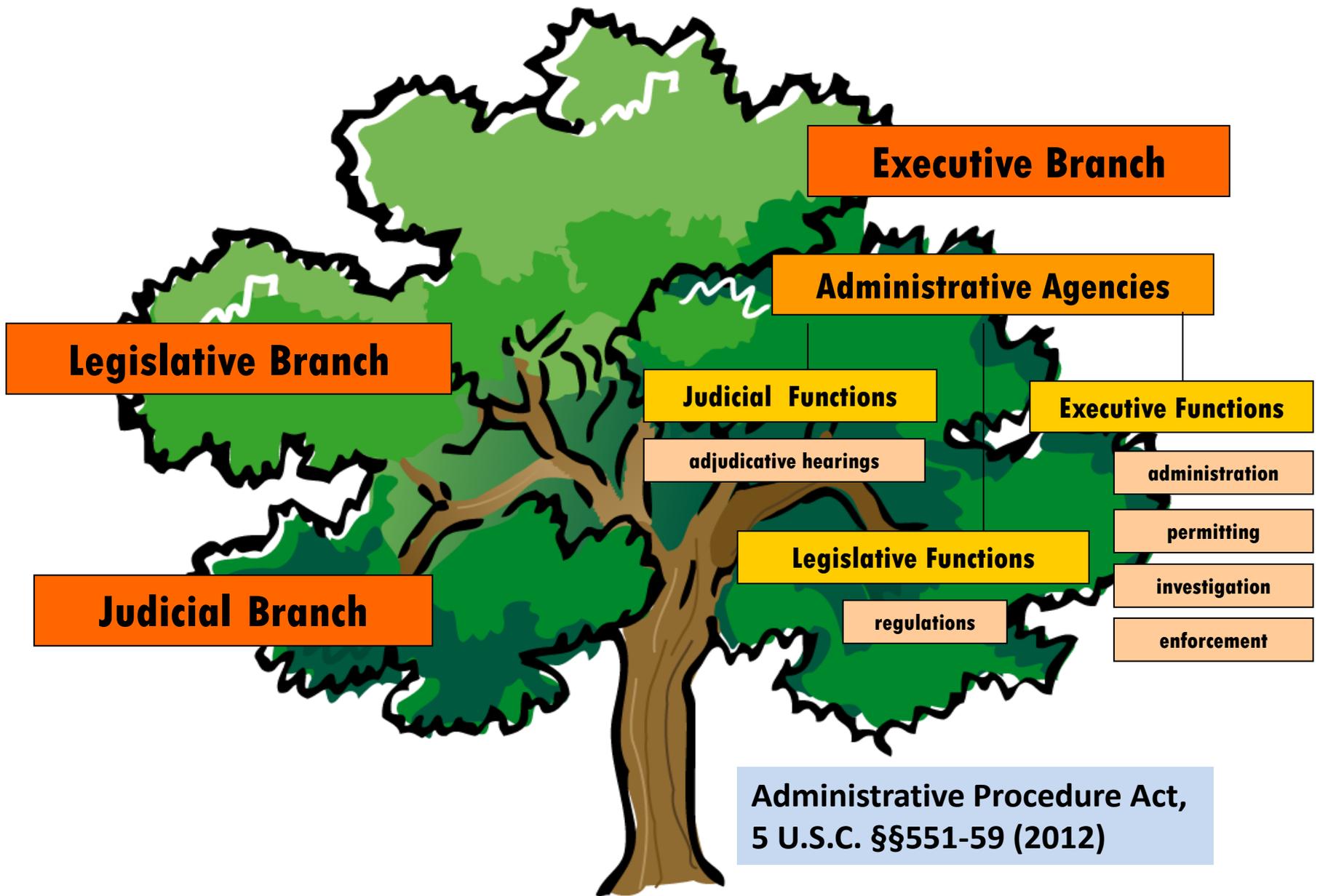
May 21, 2019

Joan Shear

Legal Information Librarian and Lecturer in Law

You need to know:

Administrative agencies can produce binding authority that may be dispositive in your case.





# Research Challenge

Your younger sister is a Girl Scout. Her troop wants to run an anti-liter campaign using the U.S. Forest Service mascot, Woodsy Owl, and his famous slogan, “Give a Hoot, Don’t Pollute.” One of the scout’s older brothers told the girls they can’t do that because the U.S. Government forbids the use of Woodsy Owl or his slogan without authorization. Can the troop use Woodsy or not?



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16 USC Ch. 3

[Front Matter.](#)

TITLE 16: CONSERVATION / CHAPTER 3: FORESTS; FOREST SERVICE; REFORESTATION; MANAGEMENT (May 19, 2019)  
... **"Woodsy Owl"** and "Smokey Bear" characters and names; definitions ...

16 USC 580p

["Woodsy Owl" and "Smokey Bear" characters and names; definitions.](#)

TITLE 16: CONSERVATION / CHAPTER 3: FORESTS; FOREST SERVICE; REFORESTATION; MANAGEMENT / SUBCHAPTER I:  
GENERAL PROVISIONS (May 19, 2019)

... 16 USC 580p: **"Woodsy Owl"** and "Smokey Bear" characters and names; definitions ... 16 USC 580p:  
**"Woodsy Owl"** and "Smokey Bear" characters and names ... !@!Sec. 580p --> §580p. **"Woodsy Owl"** ...

16 USC 580p-1

[Property of the United States.](#)

TITLE 16: CONSERVATION / CHAPTER 3: FORESTS; FOREST SERVICE; REFORESTATION; MANAGEMENT / SUBCHAPTER I:  
GENERAL PROVISIONS (May 19, 2019)

... ". (2) The name and character **"Woodsy Owl"** and the associated slogan, "Give a Hoot, Don't ...

16 USC 580p-3

[Use of royalty fees; special account.](#)

TITLE 16: CONSERVATION / CHAPTER 3: FORESTS; FOREST SERVICE; REFORESTATION; MANAGEMENT / SUBCHAPTER I:  
GENERAL PROVISIONS (May 19, 2019)

... use of the name or character **"Woodsy Owl"** and the associated slogan, "Give a Hoot, Don ... "Woodsy  
Owl" campaign. ...

16 USC 580p-4

[Injunction against unauthorized manufacture, use, or reproduction.](#)

TITLE 16: CONSERVATION / CHAPTER 3: FORESTS; FOREST SERVICE; REFORESTATION; MANAGEMENT / SUBCHAPTER I:  
GENERAL PROVISIONS (May 19, 2019)

... , or reproduces the character **"Woodsy Owl"**, the name **"Woodsy Owl"**, or the slogan ... such a manner  
as suggests **"Woodsy Owl"** may be enjoined from such manufacture, use, or ...

18 USC Ch. 33

[Front Matter.](#)

TITLE 18: CRIMES AND CRIMINAL PROCEDURE / PART I: CRIMES / CHAPTER 33: EMBLEMS, INSIGNIA, AND NAMES (May 19,  
2019)

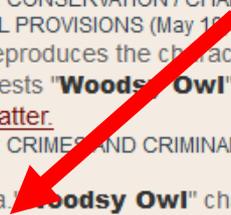
... 711a. **"Woodsy Owl"** character, name ...

18 USC 711a

["Woodsy Owl" character, name, or slogan.](#)

TITLE 18: CRIMES AND CRIMINAL PROCEDURE / PART I: CRIMES / CHAPTER 33: EMBLEMS, INSIGNIA, AND NAMES (May 19,  
2019)

... 18 USC 711a: **"Woodsy Owl"** character, name, or slogan ... 18 USC 711a: **"Woodsy Owl"** character,  
name, or slogan ... §711a. **"Woodsy Owl"** character, name, or slogan ...



**18 USC 711a: "Woodsy Owl" character, name, or slogan**

Text contains those laws in effect on May 19, 2019

**From Title 18-CRIMES AND CRIMINAL PROCEDURE**

PART I-CRIMES

CHAPTER 33-EMBLEMS, INSIGNIA, AND NAMES

**Jump To:**

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**§711a. "Woodsy Owl" character, name, or slogan**

Whoever, except as authorized under rules and regulations issued by the Secretary, knowingly and for profit manufactures, reproduces, or uses the character "Woodsy Owl", the name "Woodsy Owl", or the associated slogan, "Give a Hoot, Don't Pollute" shall be fined under this title or imprisoned not more than six months, or both.

(Added Pub. L. 93-318, §6, June 22, 1974, 88 Stat. 245 ; amended Pub. L. 103-322, title XXXIII, §330016(1)(E), Sept. 13, 1994, 108 Stat. 2146 .)

**AMENDMENTS**

**1994**-Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$250".

**DESCRIPTION OF "WOODSY OWL" CHARACTER**

For description of character of "Woodsy Owl" as referred to in this section, see section 580p of Title 16, Conservation

**16 USC 580p-4: Injunction against unauthorized manufacture, use, or reproduction**

Text contains those laws in effect on May 19, 2019

**From Title 16-CONSERVATION**

CHAPTER 3-FORESTS; FOREST SERVICE; REFORESTATION; MANAGEMENT  
SUBCHAPTER I-GENERAL PROVISIONS

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**§580p–4. Injunction against unauthorized manufacture, use, or reproduction**

(a) Whoever, except as provided by rules and regulations issued by the Secretary, manufactures, uses, or reproduces the character "Smokey Bear", or the name "Smokey Bear", or a facsimile or simulation of such character or name in such a manner as suggests "Smokey Bear" may be enjoined from such manufacture, use, or reproduction at the suit of the Attorney General upon complaint by the Secretary.

(b) Whoever, except as provided by rules and regulations issued by the Secretary, manufactures, uses, or reproduces the character "Woodsy Owl", the name "Woodsy Owl", or the slogan "Give a Hoot, Don't Pollute", or a facsimile or simulation of such character, name, or slogan in such a manner as suggests "Woodsy Owl" may be enjoined from such manufacture, use, or reproduction at the suit of the Attorney General upon complaint by the Secretary.

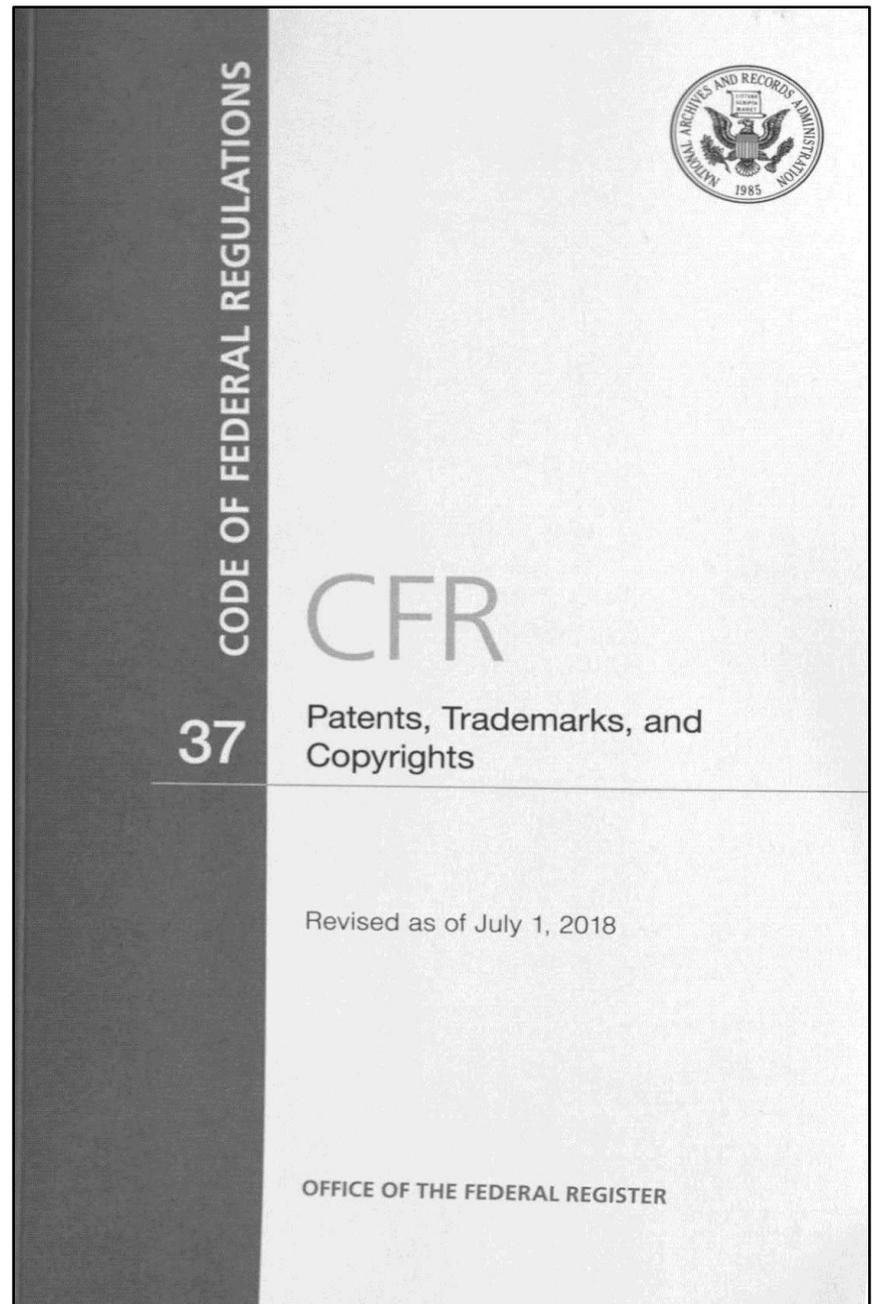
( Pub. L. 93–318, §4, June 22, 1974, 88 Stat. 245 .)

**CODIFICATION**

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## Research Challenge, cont.

“Whoever, except as authorized under rules and regulations issued by the Secretary, [knowingly and for profit] manufactures, reproduces, or uses the character "Woodsy Owl", the name "Woodsy Owl", or the associated slogan, "Give a Hoot, Don't Pollute" ....”

18 USC § 711a (2012)

16 USC § 580p-4 (2012)

Can the troop use Woodsy or not?



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Title 36: Parks, Forests, and Public Property

[PART 272—USE OF "WOODSY OWL" SYMBOL](#)

- [1] [§272.1 Definitions.](#) [Context]
- [2] [PART 272—USE OF "WOODSY OWL" SYMBOL](#) [Context]
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ory library](#).

### §272.1 Definitions.

(a) The term *Woodsy Owl* means the name and representation of a fanciful owl, who wears slacks (forest green when colored), a belt (brown when colored), and a Robin Hood style hat (forest green when colored) with a feather (red when colored), and who furthers the slogan, *Give a Hoot, Don't Pollute*, originated by the Forest Service of the United States Department of Agriculture, or a facsimile or simulation thereof, in such a manner as suggests *Woodsy Owl*.

(b) The term *Chief* means the Chief of the Forest Service, U.S. Department of Agriculture, or person designated to act for him.

[36 FR 23220, Dec. 7, 1971, as amended at 40 FR 12641, Mar. 20, 1975]

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### §272.2 Use of official campaign materials.

Official materials produced for the *Woodsy Owl* campaign may be used without express approval from the Chief of the Forest Service where such use is solely for the purpose of increasing public knowledge about wise use of the environment and programs which foster maintenance and improvement of environmental quality.

[40 FR 12641, Mar. 20, 1975]

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### §272.3 Public service use.

The Chief of the Forest Service may authorize the use of *Woodsy Owl* for noncommercial educational purposes, without charge, when such use is essentially as a public service and will, in his judgment, contribute to public information and education concerning wise use of the environment and programs which foster maintenance and improvement of environmental quality.

[40 FR 12641, Mar. 20, 1975]

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### §272.4 Commercial use.

(a) *General.* The Chief may authorize the Commercial manufacture, importation, reproduction, or use of *Woodsy Owl* upon the following findings:

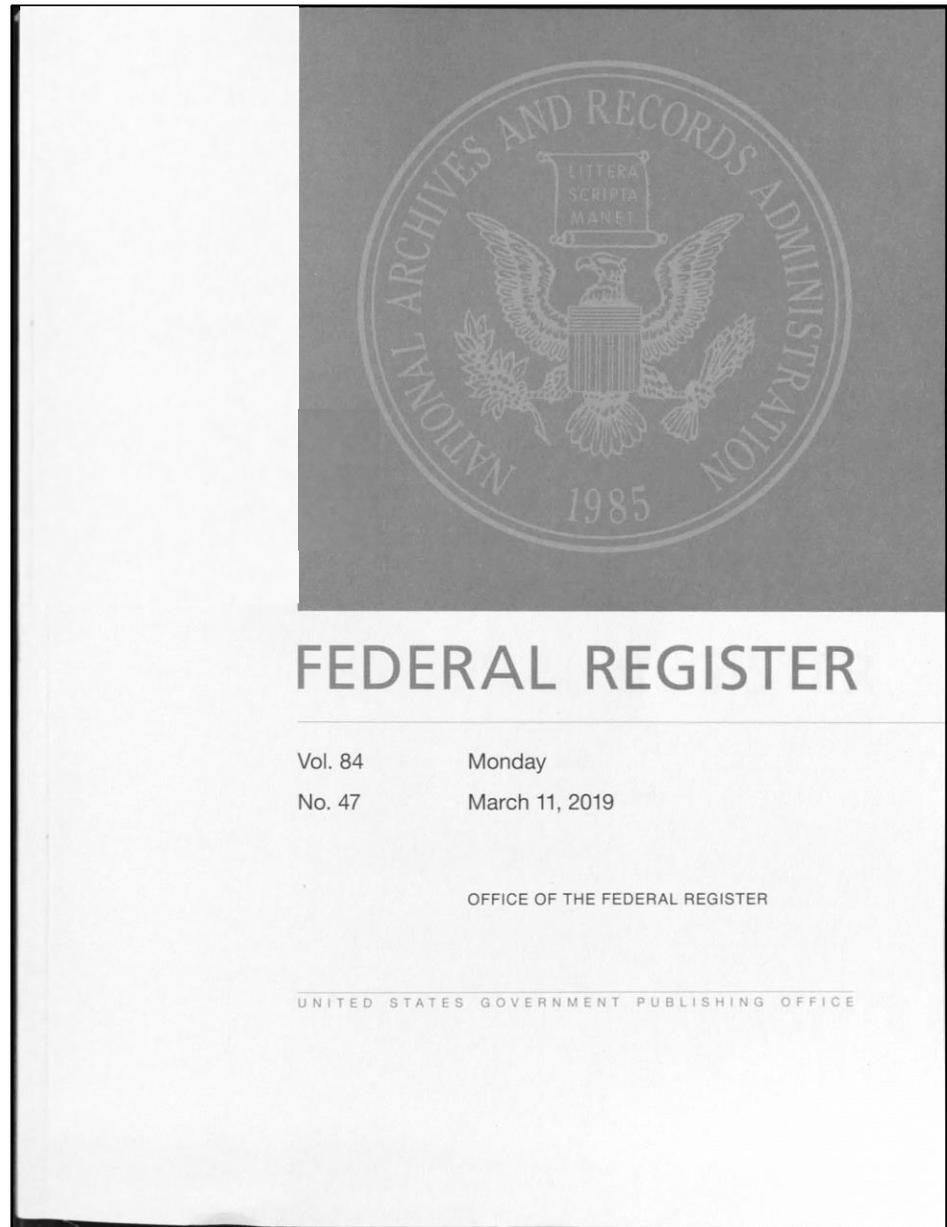
(1) That the proposed use of *Woodsy Owl* will contribute to public knowledge about wise use of the environment and programs which foster maintenance and improvement of environmental quality.

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The Daily Journal of the United States Government



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# Research Challenge

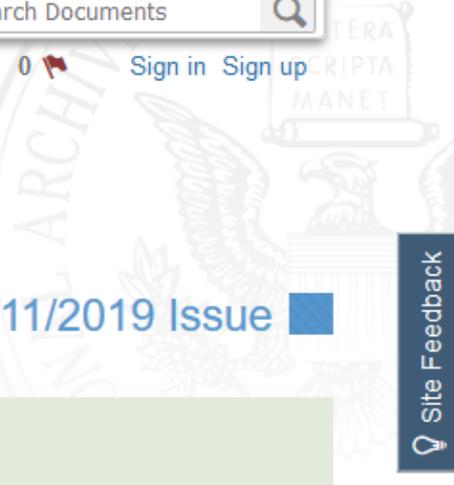
Any proposal for a consent judgment submitted by the United States for entry in any civil proceeding brought by or on behalf of the United States under the antitrust laws shall be filed with the district court before which such proceeding is pending and published by the United States in the Federal Register at least 60 days prior to the effective date of such judgment. 15 U.S.C.A. § 16(b) (2012).

Find a proposed consent judgment published by the Antitrust Division on March 11, 2019.



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### Notice

#### **Proposed Final Judgment and Competitive Impact Statement:**

#### **United States v. Thales S.A. and Gemalto N.V.**

FR Document: [2019-04293](#)

Citation: 84 FR 8745

 [PDF](#) Pages 8745-8762 (18 pages)

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# FEDERAL REGISTER

The Daily Journal of the United States Government



Notice

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## United States v. Thales S.A. and Gemalto N.V.; Proposed Final Judgment and Competitive Impact Statement

A Notice by the Antitrust Division on 03/11/2019



PUBLISHED DOCUMENT

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed Final Judgment, Stipulation, and

Start Printed Page 8746

Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America v. Thales S.A. and Gemalto N.V.*, Civil Action No. 1:19-cv-00569-BAH. On February 28, 2019, the United States filed a Complaint alleging that Thales S.A.'s proposed acquisition of Gemalto N.V. would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires Thales S.A. to divest to an acquirer, subject to the United States' approval, its General Purpose HSM Products business.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at

DOCUMENT DETAILS

Printed version:  
PDF

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03/11/2019

Agencies:  
Antitrust Division

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84 FR 8745

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8745-8762 (18 pages)

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# United States v. Thales S.A. and Gemalto N.V.; Proposed Final Judgment and Competitive Impact Statement

A Notice by the [Antitrust Division](#) on 03/11/2019



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# Marine Mammal Protection Act Amendments of 1994

allows for regulation of the unintentional taking of marine mammals incidental to commercial fishing.

108 STAT. 532

PUBLIC LAW 103-238—APR. 30, 1994

Public Law 103-238  
103d Congress

## An Act

Apr. 30, 1994  
[S. 1636]

To authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes.

Marine Mammal  
Protection Act  
Amendments of  
1994.  
16 USC 1361  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Marine Mammal Protection Act Amendments of 1994”.

### SEC. 2. AMENDMENT OF MARINE MAMMAL

PROTECTION ACT.

“(B) The Secretary shall, through consultation with appropriate experts, and after notice and opportunity for public comment, publish in the Federal Register a list of guidelines for use in safely deterring marine mammals. In the case of marine mammals listed as endangered species or threatened species under the Endangered Species Act of 1973, the Secretary shall recommend specific measures which may be used to nonlethally deter marine mammals. Actions to deter marine mammals consistent with such guidelines or specific measures shall not be a violation of this Act.

“(C) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods, after notice and opportunity for public comment, through regulation under this Act.

“(D) The authority to deter marine mammals pursuant to subparagraph (A) applies to all marine mammals, including all stocks designated as depleted under this Act.”

(5) in paragraph (5) by adding at the end the following new subparagraphs:

“(D)(i) In determining the feasibility of the United States

Federal  
Register,  
publication.

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[Docket No. 940832-4232; I.D. 080394B]

RIN 0648-AG77

**Taking of Marine Mammals Incidental to Commercial Fishing Operations; Changes to the List of Fisheries Under Section 118 of the Marine Mammal Protection Act**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed changes to the List of Fisheries.

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**SUMMARY:** On April 30, 1994, the Marine Mammal Protection Act (MMPA) was amended and a new section 118 was created to govern the taking of marine mammals incidental to commercial fishing operations. As required by section 118, this notice proposes changes to the list of fisheries, classified by frequency of incidental serious injury or mortality of marine mammals, and requests comments on the proposed list. Some suggestions for revising the criteria under which fisheries are classified are also included, with a request for further comments on other criteria which should be considered. NMFS intends to publish revised classification criteria, based on comments received, and to publish

Notice of intent to  
promulgate new  
regulations  
published  
September 1, 1994.  
59 Fed. Reg. 45,263.

Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA) published a proposed rule and request for comments on June 16, 1995. 60 Fed. Reg. 31,666

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 216 and 229**

[Docket No. 950605147-5147-01; I.D. 052395C]

RIN 0648-AH33

**Taking of Marine Mammals Incidental to Commercial Fishing Operations; Authorization for Commercial Fisheries; Proposed List of Fisheries**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule to implement the new management regime for the taking of marine mammals incidental to commercial fishing operations established by certain provisions of the Marine Mammal Protection Act of 1972 (MMPA) as added to that Act by certain amendments in 1994. The regulations would implement requirements to authorize vessels engaged in commercial fishing to incidentally, but not intentionally, take species and stocks of marine mammals upon the receipt of specified information and that

the NMFS home page on the World Wide Web at <http://kingfish.ssp.nmfs.gov:80/home-page.html> which will be available by June 19, 1995. Comments regarding the burden-hour estimate or any other aspects of the collection of information requirements contained in this rule should be sent to the above individual and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB); Attention: NOAA Desk Officer, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** Dr. Thomas Eagle or Robyn Angliss, Office of Protected Resources, 301-713-2322; Douglas Beach, Northeast Region, 508-281-9254; Charles Oravetz, Southeast Region, 813-570-5301; James Lecky, Southwest Region, 310-980-4015; Brent Norberg, Northwest Region, 206-526-6140; Dr. Steve Zimmerman, Alaska Region, 907-586-7235.

**SUPPLEMENTARY INFORMATION:**

**Legislative and Regulatory History**

Prior to passage of the 1988 amendments to the MMPA (Public Law 92-522), commercial fishers could receive an exemption from the MMPA's general moratorium on the taking of marine mammals by applying for a general permit and certificates of inclusion. The 1988 amendments to the MMPA (Public Law 100-711), added a section 114 to the MMPA that exempts, on an interim basis, commercial fishers who comply with certain registration

During July 1995, NMFS held 10 public hearings at various locations throughout the country to receive comments on the proposed rule and list of fisheries.



NMFS and  
NOAA  
published  
corrections  
to the  
proposed rule  
July 19, 1995.  
60 Fed. Reg.  
37,043.

---



---

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 216 and 229**

[I.D. 052395C]

RIN 0648-AH33

**Taking of Marine Mammals Incidental to Commercial Fishing Operations; Authorization for Commercial Fisheries; Proposed List of Fisheries; Correction**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; correction.

**SUMMARY:** This document contains corrections to the proposed List of Fisheries (LOF) contained in a proposed rule that was published on Friday, June 16, 1995. NMFS issued a proposed LOF that categorized fisheries according to frequency of incidental serious injury and mortality of marine mammals. The proposed rule is intended to provide for a limited exemption of commercial fisheries from the Marine Mammal Protection Act of 1972 (MMPA) moratorium on the taking of marine mammals.

**DATES:** Comments on the proposed rule must be received by July 31, 1995, Comments on the proposed LOF must be received by September 14, 1995.

**ADDRESSES:** Send comments to Chief, Marine Mammal Division, Office of

**SUPPLEMENTARY INFORMATION:** Section 118(c) of the MMPA requires NMFS to publish a LOF, along with the marine mammals and number of vessels or persons involved in each such fishery. A notice of proposed revisions to the last LOF is to be published in the **Federal Register** on or about July 1 of each year for the purpose of receiving public comment, and a final LOF is to be published on or about October 1 of each year, which would become effective January 1 of the next calendar year. On June 16, 1995 (60 FR 31666), NMFS published a proposed LOF for calendar year 1996 in two tables: Table 1—Proposed List of Fisheries (Commercial Fisheries in the Pacific Ocean), and Table 2—Proposed List of Fisheries (Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico and Caribbean). However, in these two tables, several marine mammal species/stocks were inadvertently omitted or misidentified in several fisheries. Also, a plus (+) designation indicating a stock is listed as threatened or endangered under the Endangered Species Act was inadvertently omitted from several stock and species codes. This document corrects these errors.

**Correction of Publication**

Accordingly, in proposed rule document FR Doc. 95-14828, beginning on page 31666 in the **Federal Register** issue of Friday, June 16, 1995, make the following corrections:

1. On page 31682, in Table 1, under Category III the entry for "AK salmon troll" is corrected to read as follows:

Dated: August 22, 1995.

Neil J. Stillman,  
Deputy Assistant Secretary for Information  
Resources Management.  
[FR Doc. 95-21543 Filed 8-29-95; 8:45 am]  
BILLING CODE 4120-01-P

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric  
Administration**

**50 CFR Parts 216 and 229**

[Docket No. 950605147-5209-02; I.D.  
052395C]

**RIN 0648-AH33**

**Taking of Marine Mammals Incidental  
to Commercial Fishing Operations;  
Authorization for Commercial  
Fisheries**

**AGENCY:** National Marine Fisheries  
Service (NMFS), National Oceanic and  
Atmospheric Administration (NOAA),  
Commerce.

**ACTION:** Final rule.

---

**SUMMARY:** NMFS issues this final rule to  
implement the new management regime  
for the unintentional taking of marine

**EFFECTIVE DATES:** September 1, 1995  
except § 229.6, which becomes effective  
January 1, 1996.

**ADDRESSES:** Copies of NOAA  
Administrative Order 216-100, the  
MMPA, as amended in 1994, and the  
Environmental Assessment (EA)  
prepared for the proposed rule in  
aggregate or summary form may be  
obtained by writing to Chief, Marine  
Mammal Division, Office of Protected  
Resources, National Marine Fisheries  
Service, 1315 East-West Highway, Silver  
Spring, MD 20910. A copy of the EA  
may also be obtained by accessing the  
NMFS "Home Page" on the World Wide  
Web at [http://kingfish.ssp.nmfs.gov:80/  
home-page.html](http://kingfish.ssp.nmfs.gov:80/home-page.html).

**FOR FURTHER INFORMATION CONTACT:**  
Robyn Angliss, Office of Protected  
Resources, 301-713-2322; Douglas  
Beach, Northeast Region, 508-281-  
9254; Charles Oravetz, Southeast  
Region, 813-570-5301; James Lecky,  
Southwest Region, 310-980-4015; Brent  
Norberg, Northwest Region, 206-526-  
6140; Steve Zimmerman, Alaska Region,  
907-586-7235.

**SUPPLEMENTARY INFORMATION:**

Section 118 of the MMPA, as added  
by the MMPA Amendments of 1994,  
establishes a new regime to govern  
interactions between marine mammals

The final rule  
was published  
August 30, 1995.  
60 Fed. Reg.  
45,086.

The agency response to the comments received both in writing and at the public hearings begins on page 45,087.

Comments were received and were taken into consideration when preparing draft proposed regulations. Informal working sessions to discuss the draft proposed regulations were held in Silver Spring, MD, on November 30, 1994, and in Seattle, WA, on December 1, 1994. These working sessions provided interested parties the opportunity to participate in discussions of how to revise the draft regulations.

The "MMPA Bulletin", a new publication of the Office of Protected Resources, is designed to increase public awareness of and participation in the regulatory process. The first edition, published in September, 1994, included a description of the 1994 Amendments to the MMPA, and subsequent editions have focused on NMFS' efforts to implement the amendments. The "MMPA Bulletin" has been sent to approximately 1,600 interested parties, including fishers, members of the environmental community, marine mammal scientists, state and Federal agencies dealing with protected species issues, Native American groups, public display facilities, and Congressional staff.

The proposed rule was published on June 16, 1995, in combination with the proposed LOF (60 FR 31666). NMFS issued a press release announcing the availability of the proposed rule and

when final section 118 implementing regulations become effective, whichever is earlier, no transition procedures are specified. In order to allow fishers time to comply with the new section 118 registration and reporting requirements which become effective on September 1, 1995, NMFS announces the following transition policies:

**Registration:** Those owners of vessels holding valid Exemption Certificates issued under section 114 will be deemed to have registered under section 118 through December 31, 1995. Fishers participating in Category I or II fisheries as identified in the current LOF who are not currently registered must register with the nearest NMFS regional office before participating in such Category I or II fisheries. Registration procedures for obtaining Authorization Certificates in 1996 will be published concurrently with the final LOF for 1996.

**Reporting:** NMFS is in the process of developing the reporting form that fishers will use after January 1, 1996. A draft of this reporting form will be published in the **Federal Register** and will be available for public comment. Commercial fishers are requested to report all injuries and mortalities to the nearest NMFS regional office until these forms are available.

**Incidental taking of species listed as endangered or threatened under the Endangered Species Act:** Under section

remain subject to the ESA prohibition against taking marine mammals from endangered or threatened stocks.

#### Responses to Comments

During July 1995, NMFS held 10 public hearings at various locations throughout the country to receive comments on the proposed rule and LOF. A total of 86 individuals attended these hearings, 28 of whom submitted oral comments on the proposed rule, LOF or both. NMFS also received 54 written comments during the comment period for the proposed rule. Many comments also addressed aspects of the LOF. Since the comment period for the LOF remains open until September 14, 1995, all comments related to the LOF will be addressed during publication of the final LOF in October 1995. Comments were received from fishers, fishing industry groups, environmental groups, animal rights groups, state departments of fisheries, other executive branch departments, and members of the general public.

Approximately 15 letters were general in nature, expressing support for the MMPA and opposition to any measures that might weaken the MMPA. Most comments from fishers, industry groups, and environmental groups expressed general support for NMFS's two-tiered approach to classifying fisheries based

# The regulation itself, exactly as it will appear in the C.F.R. begins at 60 Fed. Reg. 45,100.

**45100 Federal Register / Vol. 60, No. 168 / Wednesday, August 30, 1995 / Rules and Regulations**

a similar fee. This number is not expected to increase under the new regime.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

This final rule contains collection-of-information requirements subject to the provisions of the Paperwork Reduction Act. These collections have been approved by OMB under OMB control numbers 0648-0224 and 0648-0225.

The average reporting burden for these collections is estimated to be approximately 0.25 hours for each of approximately 20,000 fishers to register each year and 0.17 hours for each report of marine mammal injury or mortality. Because fishers are required by section 118(e) of the MMPA to submit a report for marine mammal injuries or mortalities at the end of each fishing trip, there may be multiple reports required per fisher.

The Assistant Administrator finds that it is unnecessary to delay for 30 days the effective date of most of the provisions of this final rule, because under 5 U.S.C. 553(d), this rule relieves a restriction, constitutes statements of agency policy, or good cause exists to waive the 30 day delay because a delay would be contrary to the public interest

injuries) in large part restates provisions in earlier regulations or repeats statutory requirements. Further, it is directly related to relieving a restriction because the statutory language makes relief dependent on the section's requirements. Section 229.8 (Publication of list of fisheries) is procedural and under 5 U.S.C. 553(d) is not subject to a delay in effective date. Further, in large part it only governs internal agency procedures.

Good cause exists for waiving the 30-day delayed effective date for sections 229.9 (Emergency regulations) and 229.10 (Penalties), since a delay would be contrary to the public interest because the agency would be unable to respond to emergency situations involving alarming numbers of takes of marine mammals and would be unable to assess penalties against persons who violate the provisions of the MMPA. Sections 229.11 (Confidential fisheries data) and 229.12 (Consultation with the Secretary of the Interior) repeat statutory text and state agency policy; a delay in their effective date is unnecessary because it would serve no useful purpose. Section 229.20 (Issuance of permits) authorizing the take of endangered or threatened marine mammals is procedural and, to the effect it is substantive, is related to

Dated: August 24, 1994.

Nancy Foster,  
Deputy Assistant Administrator for Fisheries,

For reasons set out in the preamble, 50 CFR parts 216 and 229 are amended as follows:

## **PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS**

1. The authority citation for part 216 continues to read as follows:

**Authority:** 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. Section 216.24 is amended by removing the phrase, under the Note to § 216.24: "for the period from June 17, 1994, through September 1, 1995".

3. Part 229 is revised to read as follows:

## **PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972**

### **Subpart A—General Provisions**

Sec.

229.1 Purpose and scope.

229.2 Definitions.

229.3 Prohibitions.

229.4 Requirements for Category I and II Fisheries



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- Consumer Financial Protection Bureau 1
- Federal Aviation Administration 1

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PUBLIC INSPECTION DOCUMENTS FOUND **10**

- PR** Debt Collection Practices (Regulation F) by the [Consumer Financial Protection Bureau](#) scheduled for publication on 05/21/2019.
- PR** Veterans Healing Veterans Medical Access and Scholarship Program by the [Veterans Affairs Department](#) scheduled for publication on 05/21/2019.
- PR** Air Quality State Implementation Plans; Approvals and Promulgations: District of Columbia; Approval of the Redesignation Request for the Washington, DC-MD-VA 2008 8-Hour Ozone National Ambient Air Quality Standard Nonattainment Area by the [Environmental Protection Agency](#) scheduled for publication on 05/21/2019.



## Research Challenge

What changes are about to happen to Medicare Advantage prices regarding step therapy, and when will they be effective?



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### TYPE

Rule 1

Agency: Centers for Medicare & Medicaid Services

PUBLIC INSPECTION DOCUMENTS FOUND 1



Ⓜ Modernizing Part D and Medicare Advantage to Lower Drug Prices and Reduce Out of Pocket Expenses  
 by the Centers for Medicare & Medicaid Services scheduled for publication on 05/23/2019.

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Public Inspection :: Rule

## Modernizing Part D and Medicare Advantage to Lower Drug Prices and Reduce Out of Pocket Expenses

An unpublished Rule by the Centers for Medicare & Medicaid Services on 05/23/2019

### PUBLIC INSPECTION DOCUMENT

This document is **unpublished**. It is scheduled to be published on 05/23/2019.

Once it is published it will be available on this page in an official form. Until then, you can [download the unpublished](#) PDF version.

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### DOCUMENT DETAILS

- Filed at:** 05/16/2019 at 4:15 pm
- Scheduled Publication Date:** 05/23/2019
- Agency:** Centers for Medicare & Medicaid Services
- Document Type:** Rule
- Pages:** 201
- Document Number:**

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amends 42 CFR chapter IV as set forth below:

## **PART 422—MEDICARE ADVANTAGE PROGRAM**

1. The authority citation for part 422 is revised to read as follows:

**AUTHORITY:** 42 U.S.C. 1302 and 1395hh.

2. Section 422.2 is amended by adding a definition for “Step therapy” in alphabetical order to read as follows:

### **§ 422.2 Definitions.**

\* \* \* \* \*

Step therapy means a utilization management policy for coverage of drugs that begins medication for a medical condition with the most preferred or cost effective drug therapy and progresses to other drug therapies if medically necessary.

3. Section 422.136 is added to subpart C to read as follows:

### **§ 422.136 Medicare Advantage (MA) and step therapy for Part B drugs.**

(a) *General.* If an MA plan implements a step therapy program to control the utilization of Part B-covered drugs, the MA organization must--

- (1) Apply step therapy only to new administrations of Part B drugs, using at least a 365

day lookback period.

**RIN 0938-AT92**

**Modernizing Part D and Medicare Advantage to Lower Drug Prices and Reduce Out-of-Pocket Expenses**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Medicare Advantage (MA) program (Part C) regulations and Prescription Drug Benefit program (Part D) regulations to support health and drug plans' negotiation for lower drug prices and reduce out-of-pocket costs for Part C and D enrollees. These amendments will improve the regulatory framework to facilitate development of Part C and Part D products that better meet the individual beneficiary's healthcare needs and reduce out-of-pocket spending for enrollees at the pharmacy and other sites of care.

**DATES:** These regulations are effective on January 1, 2020, except for the amendments to §§ 422.629, 422.631, 422.633, 423.128, and 423.160, which are effective January 1, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Joella Roland, (410) 786-7638 or Christian Bauer, (410) 786-6043, Part D Issues.

# Steps in Compiling a Regulatory History

1. Find the authority statement in the C.F.R.
2. Locate the final rules in the Federal Register.
3. Read the agency's response to comments.
4. Locate the citation to the proposed rules.
5. Locate the proposed rules and read the agency's original rationale for the proposed regulations.



## Research Challenge

What is the agency rationale behind 40 C.F.R. §122.34?

(b)(2)(i) or (ii) of this section to be co-permittees under an individual permit.

§ 122.34 Permit requirements for regulated small MS4 permits.

# Find the citation to the final rule in the source statement

to the NPDES permitting authority when specifically asked to do so. The permit must require the permittee to make records, including a written description of the storm water management program, available to the public at reasonable times during regular business hours (see §122.7 for confidentiality provision). (The permittee may assess a reasonable charge for copying. The permit may allow the permittee to require a member of the public to provide advance notice.)

(3) *Reporting.* Unless the permittee is relying on another entity to satisfy its NPDES permit obligations under §122.35(a), the permittee must submit annual reports to the NPDES permitting authority for its first permit term.

satisfy some of the permit obligations (if applicable), consistent with §122.35(a).

(e) *Qualifying local program.* If an existing qualifying local program requires the permittee to implement one or more of the minimum control measures of paragraph (b) of this section, the NPDES permitting authority may include conditions in the NPDES permit that direct the permittee to follow that qualifying program's requirements rather than the requirements of paragraph (b). A qualifying local program is a local, State or Tribal municipal storm water management program that imposes, at a minimum, the relevant requirements of paragraph (b).

[81 FR 89349, Dec. 9, 2016]]

# Go to that Federal Register



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## Rule

### **Air Quality State Implementation Plans; Approvals and Promulgations:**

#### **Oklahoma; Infrastructure for the Lead, Ozone, Nitrogen Dioxide and Sulfur Dioxide National Ambient Air Quality Standards**

FR Document: [2016-29585](#)

Citation: 81 FR 89008

 [PDF Pages 89008-89010 \(3 pages\)](#)

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#### **Virginia; Removal of Stage II Gasoline Vapor Recovery Requirements for Gasoline Dispensing Facilities**

FR Document: [2016-29586](#)

Citation: 81 FR 89007

 [PDF Pages 89007-89008 \(2 pages\)](#)

 [Permalink](#)

### **Data Elements Under the Greenhouse Gas Reporting Rule; Revisions and Confidentiality Determinations**

FR Document: [2016-28564](#)

Citation: 81 FR 89188

 [PDF Pages 89188-89274 \(87 pages\)](#)

 [Permalink](#)

### **National Pollutant Discharge Elimination System:**

#### **Municipal Separate Storm Sewer System**

FR Document: [2016-28426](#)

Citation: 81 FR 89320

 [PDF Pages 89320-89352 \(33 pages\)](#)

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## Proposed Rule

### **Air Quality State Implementation Plans; Approvals and Promulgations:**



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Rule

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# National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System General Permit Remand Rule

A Rule by the [Environmental Protection Agency](#) on 12/09/2016



## PUBLISHED DOCUMENT

Start Printed Page 89320

### AGENCY:

Environmental Protection Agency (EPA).

### ACTION:

Final rule.

## DOCUMENT DETAILS

**Printed version:**  
[PDF](#)

**Publication Date:**  
[12/09/2016](#)

**Agency:**  
[Environmental Protection Agency](#)

**Dates:**  
This final rule is effective on  
[January 9, 2017](#)

This final rule is effective on January 9, 2017.

## ADDRESSES:

EPA has established a docket for this action under Docket ID No. EPA-HQ-OW-2015-0671. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

## FOR FURTHER INFORMATION CONTACT:

Greg Schaner, Office of Wastewater Management, Water Permits Division (4203M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564-0721; email address: [schaner.greg@epa.gov](mailto:schaner.greg@epa.gov). Refer also to EPA's Web site for further information related to the final rule at <https://www.epa.gov/npdes/stormwater-rules-and-notices#proposed>.

## SUPPLEMENTARY INFORMATION:

The **Federal Register** published EPA's proposed rule on January 6, 2016 (81 FR 415).

### Table of Contents

I. General Information

A. Does this action apply to me?

Docket Number:  
EPA-HQ-OW-2015-0671

#### Docket Name:

Municipal Separate Storm Sewer  
System General Permit  
Remand Rule

#### Docket RIN

2040-AF57

#### Supporting/Related Materials:

Economic Analysis Report -  
Final Rule  
Economic Analysis  
Spreadsheets - Final Rule  
Summary of Changes Made  
During EO 12866 Review to the  
Draft...  
Meeting Summary NRDC  
061516  
Meeting Summary NACWA  
061516  
Meeting Summary WEF  
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PR Proposed Rule

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## National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System General Permit Remand

A Proposed Rule by the Environmental Protection Agency on 01/06/2016



PUBLISHED DOCUMENT

### AGENCY:

Environmental Protection Agency (EPA).

### ACTION:

Proposed rule.

### SUMMARY:

The Environmental Protection Agency (EPA) is proposing changes to the

DOCUMENT DETAILS

#### Printed version:

[PDF](#)

#### Publication Date:

01/06/2016

#### Agency:

[Environmental Protection Agency](#)

#### Dates:

Comments must be received on or before March 21, 2016.



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[Requirements for Submissions Requesting Exclusions From the Remedies Instituted in Presidential Proclamations Adjusting...](#)

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[Filing: Petition to Modify the Tolerance and Product Labels for Glyphosate with Regard to Oats](#)

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[21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program](#)

Closing on Jun 03, 2019

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# Research Challenge

You have an interview with the Massachusetts Coalition to Prevent Gun Violence. They have decided to be more active in the national movement to try to limit access to rapid-fire weapons. Before your interview you decide to locate and read the comments on recent federal regulatory changes to the definition of machine guns related to bump fire stocks.



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## PUBLICATION DATE

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- Past 365 days 4

## TYPE

- Proposed Rule 4
- Presidential Document 1
- Rule 1

## AGENCY

- Justice Department 4
- Alcohol, Tobacco, Firearms, and Explosives Bureau 3
- Executive Office of the President 1
- Regulatory Information Service 1

DOCUMENTS FOUND 6

RELEVANT NEWEST OLDEST

- PR** Application of the Definition of Machinegun to "Bump Fire" Stocks and Other Similar Devices

by the Alcohol, Tobacco, Firearms, and Explosives Bureau on 12/26/2017.

... certain devices, commonly known as "bump fire" stocks, fall within that definition ... Regulate Bump Stock-Type Devices "Bump fire" stocks (bump stocks) are devices ...
- PD** Application of the Definition of Machinegun to "Bump Fire" Stocks and Other Similar Devices

by the Executive Office of the President on 02/23/2018.

... the Definition of Machinegun to "Bump Fire" Stocks and Other Similar Devices ... , Tobacco, Firearms and Explosives regulates bump fire stocks and similar devices. Although ...
- R** Bump-Stock-Type Devices

by the Alcohol, Tobacco, Firearms, and Explosives Bureau on 12/26/2018.

... the Definition of Machinegun to "Bump Fire" Stocks and Other Similar Devices ... the Definition of Machinegun to "Bump Fire" Stocks and Other Similar Devices ... to the Attorney General concerning "



# FEDERAL REGISTER

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Rule

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## Bump-Stock-Type Devices

A Rule by the [Alcohol, Tobacco, Firearms, and Explosives Bureau](#) on 12/26/2018



### PUBLISHED DOCUMENT



Start Printed Page 66514

#### AGENCY:

Bureau of Alcohol, Tobacco, Firearms, and Explosives; Department of Justice.

#### ACTION:

Final rule.

#### SUMMARY:

The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to clarify that bump-stock-type devices—meaning “bump fire” stocks, slide-fire devices, and devices with certain similar characteristics—are “machineguns” as defined by the National Firearms Act of 1934 and the Gun Control Act of 1968 because such devices allow a shooter of a semiautomatic firearm to initiate a continuous firing cycle with a single pull of

### DOCUMENT DETAILS

#### Printed version:

[PDF](#)

#### Publication Date:

[12/26/2018](#)

#### Agencies:

[Bureau of Alcohol, Tobacco, Firearms, and Explosives](#)

#### Dates:

This rule is effective March 26, 2019.

#### Effective Date:

[03/26/2019](#)

#### Document Type:

Rule

#### Document Citation:

[83 FR 66514](#)

#### Page:

### C. Advance Notice of Proposed Rulemaking

On December 26, 2017, the Department, as an initial step in the process of promulgating a Federal regulation interpreting the definition of “machinegun” with respect to bump-stock-type devices, published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register**. Application of the Definition of Machinegun to “Bump Fire” Stocks and Other Similar Devices, [82 FR 60929](#). The ANPRM solicited comments concerning the market for bump-stock-type devices and manufacturer and retailer data. Specifically, the Department asked a series of questions of consumers, retailers, and manufacturers of bump-stock-type devices regarding the cost of bump-stock-type devices, average gross receipts of sales, and the volume and cost of manufacturing, as well as input on the potential effect of a rulemaking affecting bump-stock-type devices, including viable markets or the cost of disposing of inventory. Public comment on the ANPRM concluded on January 25, 2018. While ATF received over 115,000 comments, the vast majority of these comments were not responsive to the ANPRM.

On February 20, 2018, the President issued a memorandum to the Attorney General concerning “bump fire” stocks and similar devices. Application of the Definition of Machinegun to “Bump Fire” Stocks and Other Similar Devices, [83 FR 7949](#). The memorandum noted that the Department of Justice had already “started the process of promulgating a Federal regulation interpreting the definition of ‘machinegun’ under Federal law to clarify whether certain bump stock type devices should be illegal.” *Id.* The President then directed the Department of Justice, working within established legal protocols, “to dedicate all  available resources to complete the review of the comments received [in response to the ANPRM], and, as expeditiously as possible, to propose for notice and comment a rule banning all devices that turn legal weapons into machineguns.” *Id.*

Start Printed  
Page 66517

### III. Notice of Proposed Rulemaking

On March 29, 2018, the Department published in the **Federal Register** a notice of proposed rulemaking (NPRM) titled “Bump-Stock-Type Devices,” [83 FR 13442](#) (ATF Docket No. 2017R-22), proposing changes to the regulations in [27 CFR 447.11](#), [478.11](#), and [479.11](#). The comment period for the proposed rule concluded on June 27, 2018.

# Regulation Identifier Number

## Agency/Docket Numbers:

Docket No. 2018R-22F

AG Order No. 4367-2018

## RIN:

1140-AA52

## Document Number:

2018-27763

DOCUMENT DETAILS



## 2 results for "1140-AA52"

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### Application of the Definition of Machinegun to Bump Fire Stocks and Other Similar Devices

Proposed Rule by ATF on 12/26/2017 ID: ATF-2018-0001-0001

Comment Period Closed  
Jan 25, 2018 11:59 PM ET

[Open Docket Folder](#)  
RIN: 1140-AA52

### Bump-Stock Type Device

Proposed Rule by ATF on 03/29/2018 ID: ATF-2018-0002-0001

Comment Period Closed  
Jun 27, 2018 11:59 PM ET

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RIN: 1140-AA52



## ANPRM on "Bumpfire" Stocks and Other Similar Devices. To comment on the NPRM, search ATF-2018-0002

**Docket Folder Summary**

 [View all documents and comments in this Docket](#)

**Docket ID:** ATF-2018-0001    **Agency:** Alcohol Tobacco Firearms and Explosives Bureau (ATF)

**Parent Agency:** Department of Justice (DOJ)

**RIN:** 1140-AA52    **Impacts and Effects:** None    **CFR Citation:** 27 CFR 478,27 CFR 479

**Priority:** Economically Significant

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### Primary Documents [View All \(1\)](#)

PR

[Application of the Definition of Machinegun to Bump Fire Stocks and Other Similar Devices](#)

Comment Period Closed

Jan 25, 2018 11:59 PM ET

**Proposed Rule**    **Posted:** 12/26/2017    **ID:** ATF-2018-0001-0001

### Supporting Documents

*No documents available.*

### Comments [View All \(35,709\)](#)

“

*A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed. >being...”* 

[View Comment](#)    **Submitter Name:** Timothy Allvn    **Posted:** 03/14/2018    **ID:** ATF-2018-0001-35672

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**115,916**  
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### Regulatory Timeline

 Pre Rule

 Proposed Rule

 **Final Rule**  
Current Stage

### Agency Contact

Vivian Chu



## ANPRM on "Bumpfire" Stocks and Other Similar Devices. To comment on the NPRM, search ATF-2018-0002

Docket Browser

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**Docket ID:** ATF-2018-0001    **Agency:** Alcohol Tobacco Firearms and Explosives Bureau (ATF)    **Parent Agency:** Department of Justice (DOJ)

**RIN:** 1140-AA52    **Impacts and Effects:** None    **CFR Citation:** 27 CFR 478,27 CFR 479    **Priority:** Economically Significant

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35,710 results

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- Public Submission (35,709)

#### Posted

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#### Comment on FR Doc # 2017-27898

I oppose a bump fire and similar device ban, as well as the fact that you are trying to take away our Second Amendment right to lawfully bear arms.

**Public Submission** | Posted: 01/25/2018 | ID: ATF-2018-0001-19751

**Submitter Name:** Brett Ploszaj

Comment Period Closed

Jan 25, 2018 11:59 PM ET

#### Comment on FR Doc # 2017-27898

I believe that any regulation such as rate increasing devices need to be an act of Congress. These powers are not delegated to agencies but to the representatives of the people.

**Public Submission** | Posted: 01/11/2018 | ID: ATF-2018-0001-3106

**Submitter Name:** Jeff Seesease

Comment Period Closed

Jan 25, 2018 11:59 PM ET

#### Comment on FR Doc # 2017-27898

1. BUMP STOCKS DO NOT FALL WITHIN THE DEFINITION OF MACHINE GUN UNDER THE NEA. The Obama administration was correct when it

Comment Period Closed

You need to know:

You can find cases that interpret  
or cite to regulations.



# Research Challenge

How have courts interpreted 40  
C.F.R. §122.34?

## § 122.34 Permit requirements for regulated small MS4 permits.

Code of Federal Regulations · Title 40. Protection of Environment · Effective: January 9, 2017 (Approx. 13 pages)

Document **Notes of Decisions (4)** History (5) ▼ Citing References (300) ▼ Context & Analysis (15) ▼ Powered by KeyCite

### Notes of Decisions (4)

Sort: Procedural Order ▼



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##### 1. Construction with other laws

##### 2. Third party regulation

##### 3. Minimum measures

##### 4. Best management practices

Select all · No items selected

#### 1. Construction with other laws

General permitting scheme of Environmental Protection Agency (EPA) rules governing discharges from small municipal storm sewers and construction sites, whereby such discharges would be subject to National Pollutant Discharge Elimination System (NPDES) requirements under Clean Water Act (CWA), improperly allowed sewer system operators to design storm water pollution control programs without adequate regulatory and public oversight, and thus contravened CWA, since permitting scheme did not require EPA to review content of dischargers' notices of intent, and did not contain express requirements for public participation in NPDES permitting process. Federal Water Pollution Control Act Amendments of 1972, § 402(p)(3), 33 U.S.C.A. § 1342(p)(3); 40 C.F.R. § 122.34. [Environmental Defense Center, Inc. v. U.S. E.P.A.](#), C.A.92003, 344 F.3d 832, certiorari denied 124 S.Ct. 2811, 541 U.S. 1085, 159 L.Ed.2d 246. [Environmental Law](#)  196

#### 2. Third party regulation

All content

Enter terms, citations, databases, questions, anything ...

All State & Federal



Advanced

## § 122.34 Permit requirements for regulated small MS4 permits.

Code of Federal Regulations · Title 40. Protection of Environment · Effective: January 9, 2017 (Approx. 13 pages)

Document Notes of Decisions (4) History (5) **Citing References (300)** Context & Analysis (15) Powered by KeyCite

KeyCite **Citing References (17)** 1-17 Sort By:

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### Content types



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<input type="checkbox"/>	Title	Date	NOD Topics	Type	Depth
<input type="checkbox"/>	<b>1. Upper Missouri Waterkeeper v. Montana Department of Environmental Quality</b>	Apr. 09, 2019	—	Case	—
	438 P.3d 792, 793+, Mont.				
<input type="checkbox"/>	<b>2. Conservation Law Foundation, Inc. v. Pease Development Authority</b>	Sep. 26, 2017	—	Case	—
	2017 WL 4310997, *9+, D.N.H.				
<input type="checkbox"/>	<b>3. Citizens Alliance for Property Rights v. City of Duvall</b>	Feb. 16, 2016	—	Case	—



Document: 40 CFR 122.34 | Actions ▾

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**40 CFR 122.34**

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This document is current through the May 15, 2019 issue of the Federal Register. Title 3 is current through May 2, 2019.

[Code of Federal Regulations](#) > [TITLE 40 -- PROTECTION OF ENVIRONMENT](#) > [CHAPTER I -- ENVIRONMENTAL PROTECTION AGENCY](#) > [SUBCHAPTER D -- WATER PROGRAMS](#) > [PART 122 -- EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM](#) > [SUBPART B -- PERMIT APPLICATION AND SPECIAL NPDES PROGRAM REQUIREMENTS](#)

**§ 122.34 Permit requirements for regulated small MS4 permits.**

---

(a) General requirements. For any permit issued to a regulated small MS4, the NPDES

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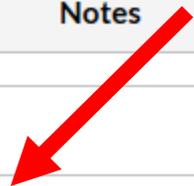
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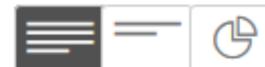
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<b>Federal Courts</b>	28
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Court (highest-lowest) ▾

1st Circuit - U.S. District Courts

- 1. [Conservation Law Found., Inc. v. Pease Dev. Auth.](#), 2017 DNH 202, 2017 U.S. Dist. LEXIS 157191, 85 Env't Rep. Cas. (BNA) 1993

**Cited by:** 2017 U.S. Dist. LEXIS 157191

... , an operator of any regulated small MS4 must seek authorization to discharge under a general or individual NPDES permit, as follows: (1) through a Small MS4 general permit; (2) through an individual NPDES permit meeting the requirements of **40 C.F.R. § 122.34(b)(1)-(6)** ; or (3) through an individual NPDES permit that meets the requirements for large and medium municipal separate storm sewer systems pursuant to 40 C.F.R. § 122.33(b)(2)(ii) . PDA is seemingly

**Court**  
D.N.H.

**Date**  
September 26,  
2017

Cited by the court as...

2. ⓘ 40 C.F.R. 122.34(b)(3) to (b)(5)

Total Cites

1

3. ⓘ 40 C.F.R. 122.34(B)(3)(I)

Total Cites

1

4. ⓘ 40 C.F.R. 122.34(b)(4)(B) to (C)

Total Cites

1

5. ⓘ 40 CFR 122.34(G)(3)(H)

Total Cites

1

6. ⓘ 40 CFR 122.34(G)(3)(I)

Total Cites

1





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### 9th Circuit - Court of Appeals

- 1. [Envtl. Def. Ctr., Inc. v. EPA](#), 319 F.3d 398, 2003 U.S. App. LEXIS 497, 2003 Cal. Daily Op. Service 369, 2003 D.A.R. 467, 55 Env't Rep. Cas. (BNA) 1833, 33 Envtl. L. Rep. 20139 ●

#### Cited by

... **40 C.F.R. § 122.34(b)(4)(B)-(C)** . This language 26 HN39 A proposed management program must include requirements for construction site operators to implement appropriate erosion and sediment control best management practices and for construction site operators to control waste such as discarded building materials, concrete truck washout

**Court**  
9th Cir.

**Date**  
January 14, 2003

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- [Valve Corp. v. Elec. Scripting Prods., Inc.](#), Case IPR2019-00062, -00063, -00084, Paper 11 (PTAB Apr. 2, 2019) (designated: May 7, 2019) [AIA § 314(a), deny institution – General Plastic factors apply to different Petitioner]
- [NHK Spring Co., Ltd. v. Intri-Plex Techs., Inc.](#), Case IPR2018-00752, Paper 8 (PTAB Sept. 12, 2018)

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571-272-7822



Patent Trial and Appeal Board  
**PRECEDENTIAL**  
Standard Operating Procedure 2  
Designated: 05/07/2019

Paper 11  
Entered: April 2, 2019

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

VALVE CORPORATION,  
Petitioner,

v.

ELECTRONIC SCRIPTING PRODUCTS, INC.,  
Patent Owner.

---

Case IPR2019-00062 (Patent 9,235,934 B2)

Case IPR2019-00063 (Patent 9,235,934 B2)

Case IPR2019-00084 (Patent 9,235,934 B2)<sup>1</sup>

---

Before ANDREI IANCU, *Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office*,  
WILLIAM M. FINK, *Vice Chief Administrative Patent Judge*, and



Patent Trial and Appeal Board

**INFORMATIVE**

Standard Operating Procedure 2

Designated: March 19, 2019

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* EILEEN C. SMITH, ANTHONY MONTESANO,  
EDWARD T. TILLY, MARK A. ESPOSITO,  
STUART J. KIPNES, and ANTHONY J. CARONE

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Appeal 2018-000064  
Application 13/715,476<sup>1</sup>  
Technology Center 3600

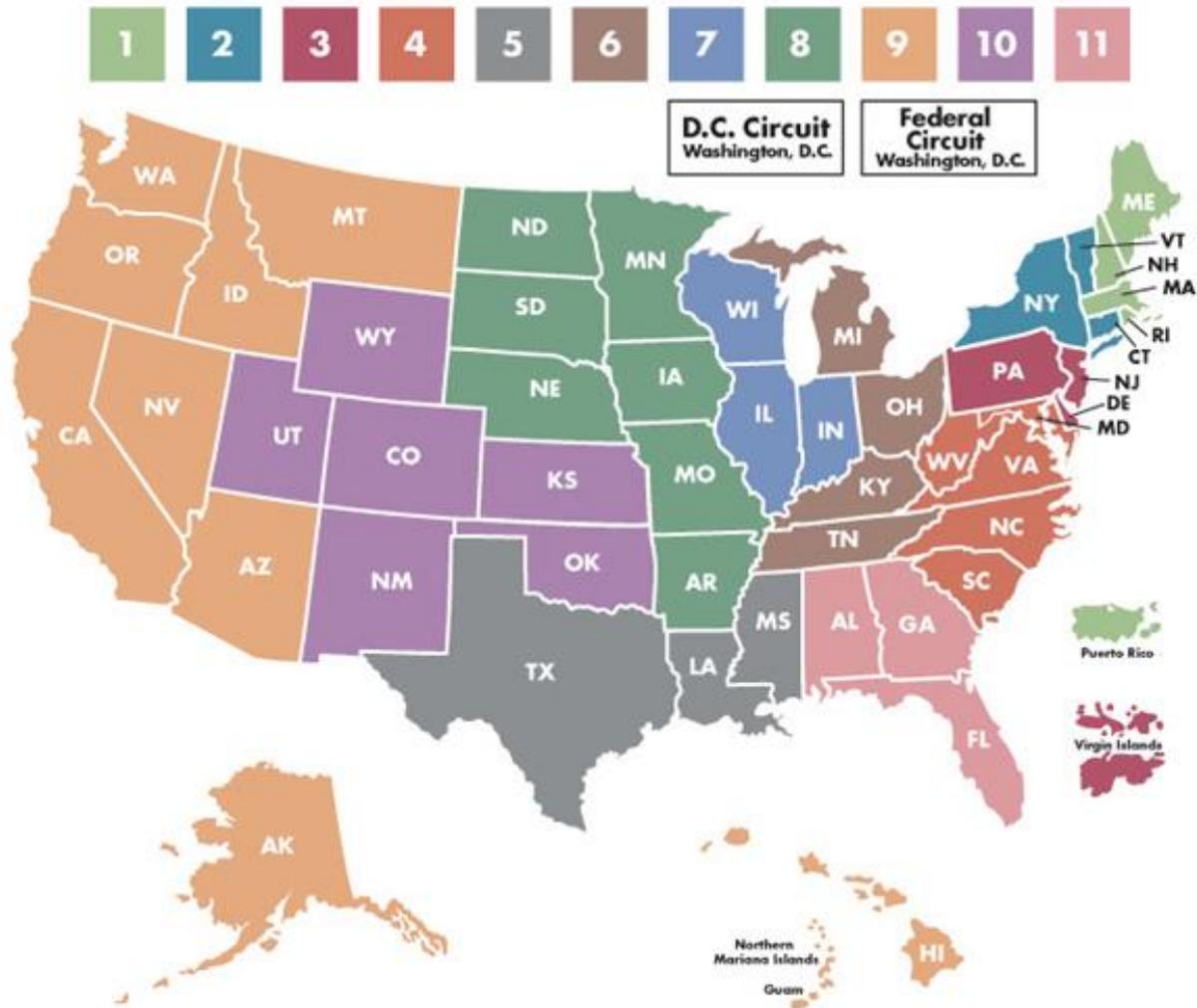
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Before HUNG H. BUI, MICHAEL M. BARRY, and  
PHILLIP A. BENNETT, *Administrative Patent Judges*.

Opinion for the Board filed by *Administrative Patent Judge*, PHILLIP A.  
BENNETT.

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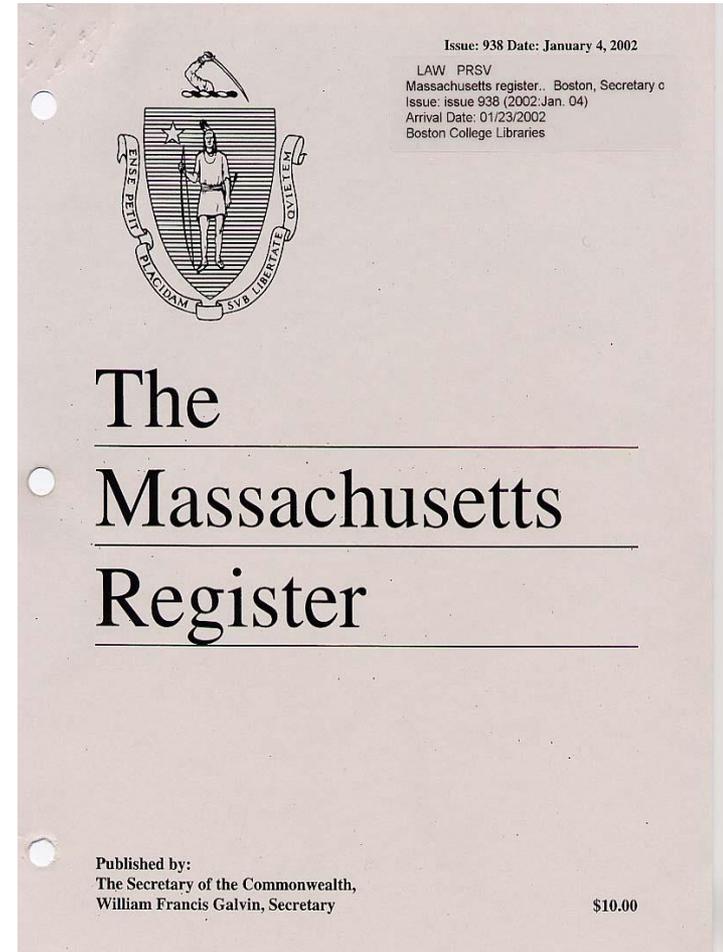
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## Code of Massachusetts Regulations

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Abortion Services, MassHealth	<a href="#">130 CMR 484</a>
Abuse of Disabled Person	<a href="#">118 CMR</a>
Accident and Sickness Insurance, Individual	<a href="#">211 CMR 42</a>
Acquired Brain Injury Home and Community Services	<a href="#">130 CMR 630</a>
Actuarial Opinions in Life Insurance	<a href="#">211 CMR 132</a>
Acupuncture	<a href="#">243 CMR 4-5</a>
Address Confidentiality Program	<a href="#">950 CMR 130</a>
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You need to know:

You need to often read multiple sections to know whether or not a regulation actually applies in your situation.



# Research Challenge

Which of these things you can drink are beverages under the Massachusetts Bottle Bill Regulations, 301 CMR 4.00?

Grape juice

Champagne

Milk

Beer

Root beer

Carbonated water

Water

301 CMR 4.00: PROVISIONS FOR RECYCLING OF BEVERAGE CONTAINERS

Section

- 4.01: Purpose
- 4.02: Definitions
- 4.03: Container Labelling
- 4.04: Deposits
- 4.05: Refunds and Acceptance of Empty Beverage Containers
- 4.06: Redemption Centers
- 4.07: Penalties
- 4.08: Effective Date
- 4.09: Severability

4.01: Purpose

403 CMR 4.00 is promulgated to effectuate the purposes of M.G.L. c. 94, §§ 321 through 326.

4.02: Definitions

As used in 301 CMR 4.00, the following terms shall have the following meanings:

American Society for Testing Materials: means a technical society with headquarters currently located at 1916 Race Street, Philadelphia, Pennsylvania, 19103, which publishes national standards for the testing and quality assurance of materials.

Beverage: soda water or similar carbonated soft drinks, mineral water, and beer and other malt beverages, but shall not include alcoholic beverages other than beer and malt beverages, dairy products, natural fruit juices or wine.