ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapters I through VII

[FRL–9270–8; EPA–HQ–OA–2011–0154, –0155, –0156, –0157, –0158, –0159, –0160, –0161, –0162, –0163, –0164, –0165, –0166, –0167, –0168]

Improving EPA Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for comment; notice of public meeting.

SUMMARY: On January 18, 2011, President Obama issued Executive Order 13563, "Improving Regulation and Regulatory Review," and called on all Federal agencies to conduct a "retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome and to modify, streamline, expand, or repeal them in accordance with what has been learned." EPA seeks public input on the design of a plan to use for periodic retrospective review of its regulations.

DATES: Comments must be received on or before March 20, 2011. A public meeting will be held on March 14, 2011 in Arlington, VA.

ADDRESSES: You may submit your comments, identified by Docket ID No. EPA–HQ–OA–2011–0154, –0155, –0156, –0157, –0158, –0159, –0160, –0161, –0162, –0163, –0164, –0165, –0166, –0167 or –0168 by any one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ImprovingRegulations.SuggestionBox@epa.gov*
- *Fax:* 202–566–9744
- *Mail:* Send a copy of your comments and any enclosures to: Improving Regulations Docket, Environmental Protection Agency, EPA Docket Center, Mailcode: 2822T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.
- *Hand Delivery:* Improving Regulations Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OA–2011–0154, –0155, –0156, –0157, –0158, –0159, –0160, –0161, –0162, –0163, –0164, –0165, –0166, –0167, –0168. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov.* The *http://www.regulations.gov* website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section II of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Improving Regulations Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Improving Regulations Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: For further information on this document, please contact Stuart Miles-McLean, Office of Regulatory Policy and Management (1803A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 202–564–6581; fax number: 202–564–7322; e-mail address: *ImprovingRegulations.SuggestionBox@epa.gov.* If you have questions concerning the public meetings, contact Lucinda Power, Office of Regulatory Policy and Management (1806A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 202–566–0356; fax number: 202–564–0965; e-mail address: *ImprovingRegulations.SuggestionBox@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

EPA's mission is to protect human health and the environment. Among the Agency's goals are taking action on climate change and improving air quality; protecting America's waters; cleaning up communities and advancing sustainable development; ensuring the safety of chemicals and preventing pollution; and enforcing environmental laws. As part of these efforts, EPA has developed a number of regulations that protect Americans from significant risks to human health and the environment where they live, learn and work.

A. Submitting Comments

At this time, EPA seeks help in designing the plan it will use for periodic review of regulations. Section II of this notice provides several specific comment categories to focus the Agency's review based upon specific regulatory impacts or program areas. In the following section you will find a non-exhaustive list of issues or impacts to help you formulate your ideas, though it is not intended to restrict the issues that you may wish to address.

Please be as specific as possible when submitting your comments. In offering your input, EPA requests that you include an explanation as to why you believe a regulation should be modified, streamlined, expanded or repealed; any data or other information that supports your explanation; and suggestions on how the Agency can better achieve the regulatory program's objective. Please provide citation if you reference a specific regulation.

While it is EPA's aim is to define a method and schedule for periodically identifying certain significant rules that warrant repeal or modification because they are no longer justified or necessary, this review may also reveal that an existing rule is needed, but has not operated as well as expected, and that a stronger, expanded, or somewhat different approach is justified.

EPA is accepting your comments from now through 03/20/2011. Although the Agency won't be able to respond to every individual comment, your input is valued and your ideas merit careful consideration. By late May or early June, you will have the chance to read our retrospective review plan at *http://www.epa.gov/improvingregulations,* as well as an initial list of regulations that we plan to review first.

As you comment, EPA requests that you keep these key considerations in mind:

- EPA must uphold its mission to protect human health and the environment.
- EPA's plan will be tailored to reflect its resources, rulemaking history, and volume.
- A number of laws already direct the Agency to regularly review certain regulations. Your input is requested on developing a plan that is integrated with those existing requirements.
- See *http://www.epa.gov/improvingregulations* for additional information and updates.

B. Public Meetings

EPA will hold a public meeting at Hilton Arlington, 950 N Stafford Street, Arlington, VA on March 14, 2011. Registration information and updates are available at *http://www.epa.gov/improvingregulations/meeting.html.* In addition, EPA plans to host a variety of meetings in regional offices in March 2011. The specific location names and addresses for these regional meetings will be posted as they become available at *http:/www.epa.gov//improvingregulations/meeting.html.*

II. Design of Plan for Periodic Retrospective Review

EPA's plan will create a defined method and schedule for periodically identifying certain significant regulations that are obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive. Also, it will consider how best to strengthen, complement or modernize rules where necessary or appropriate—including, if relevant, undertaking new rulemaking. To help EPA design the plan, you are invited to provide input on specific considerations related to how the agency should conduct these periodic retrospective reviews of existing regulations.

To assist you in focusing your comments or recommendations, EPA has provided three categories relating to issue/impact, program area, or a multipurpose general area. These are not intended to restrict the issues that you may wish to address. The following sections present a series of questions under these categories as a guide for making recommendations on the design of EPA's periodic retrospective review plan. If you wish to submit comments, please address them to the appropriate docket labeled in each section or by mail as described in the **ADDRESSES** section above.

The first set of questions relating to the design plan are not intended to be restrictive but are meant to assist you in formulating your comments.

- How should EPA identify candidate regulations for periodic retrospective review?
- What criteria should EPA use to prioritize regulations for review?
- How should EPA's review plan be integrated with its existing requirements to conduct retrospective reviews?
- How often should EPA solicit input from the public?
- What should be the timing of any given regulatory review (e.g., should a regulation be in effect for a certain amount of time before it is reviewed)?

A. Issue or Impact Areas for Consideration

To more specifically focus your response, the following questions listed by issue or impact area may assist but are not meant to limit you in providing EPA input on its retrospective review plan.

1. Integration and Innovation

Submit a comment on integrating regulations or achieving innovation to the "Improving Regulations: Integration and Innovation" docket (EPA–HQ–OA–2011–0161). Use the following questions to guide your comments:

- Which regulations could achieve the intended environmental results using less costly methods, technology, or innovative techniques? How could the regulations be changed? What data support this?
- Which regulations could be improved by harmonizing requirements across programs or agencies to better meet the regulatory objectives? What suggestions do you have for how the Agency can better harmonize these requirements?
- Which regulations have requirements that are overlapping and could be streamlined or eliminated? What suggestions do you have for how the Agency could modify the regulations? Be specific about how burden can be reduced from gained efficiencies related to streamlining the requirements.
- What opportunities exist for the Agency to explore alternatives to existing regulations? How can these alternatives be designed to ensure that environmental objectives are still met?

2. Environmental Justice/Children's Health/Elderly

Submit a comment related to environmental justice, children's health, or the elderly to the "Improving Regulations: EJ, Children & Elderly" docket (EPA–HQ–OA–2011–0168). Use the following questions to guide your comments:

- Which regulations have exacerbated existing impacts or created new impacts on vulnerable populations such as low-income or minority populations, children or the elderly? Which ones and how? What suggestions do you have for how the Agency could change the regulations? What data support this?
- Which regulations have failed to protect vulnerable populations (minority or low-income, children or elderly) and why?
- Which regulations could be streamlined, modified, tightened, or expanded to mitigate or prevent impacts to vulnerable populations (minority or low-income, children or elderly)? What suggestions do you have for changing the regulations? What data support this?

3. Science/Obsolete/Technology Outdated

Submit a comment related to the science in regulations that you believe is outdated or which relies on outdated technology. Use the "Improving Regulations: Science/Obsolete/Technology Outdated" docket (EPA–HQ–OA–2011–0162) and the following questions to guide your comments:

- Which regulations could be modified because the underlying scientific data has changed since the regulation was issued, and the change supports revision to the original regulation? What data support this? What suggestions do you have for changing the regulations?
- Which regulations have achieved their original objective and have now become unnecessary or obsolete? What data support this? What suggestions do you have for how the Agency could modify, streamline, expand, or repeal the regulation?
- Have circumstances surrounding any regulations changed significantly such that the regulation's requirements should be reconsidered? Which regulations? What data support this? What suggestions can you provide the Agency about how these regulations could be changed?
- Which regulations or reporting requirements have become outdated? How can they be modernized to accomplish their regulatory objectives

better? What data support this? What suggestions do you have for how the Agency could change the regulations?

• Which regulations have new technologies that can be leveraged to modify, streamline, expand or repeal existing requirements? What data support this? What suggestions do you have for how the Agency could change these regulations?

4. State, Local and Tribal Governments

Submit a comment related to state/local/tribal government issues in the "Improving Regulations: State, Local and Tribal governments" docket (EPA–HQ–OA–2011–0163). Use the following questions to guide your comments:

• Which regulations impose burden on state, local or tribal governments? How could these regulations be changed to reduce the burden without compromising environmental protection?

• What opportunities are there within existing regulations to better partner with state, local and/or tribal governments? If so, do you have suggestions for how to better utilize those opportunities?

5. Least Burdensome/Flexible Approaches

Provide comment on a regulation that is burdensome or could be more flexible in the "Improving Regulations: Least Burden/Flexible Approaches" docket (EPA–HQ–OA–2011–0165). Use the following questions to guide your comments:

• Which regulations have proven to be excessively burdensome? What data support this? How many facilities are affected? What suggestions do you have for reducing the burden and maintaining environmental protection?

• Which regulations impose paperwork activities (reporting, recordkeeping, or 3rd party notifications) that would benefit from online reporting or electronic recordkeeping? Tell us whether regulated entities have flexibility in providing the required 3rd party disclosure or notification. What data support this? What suggestions do you have for how the Agency could change the regulation?

• Which regulations could be made more flexible within the existing legal framework? What data support this? What suggestions do you have for how the Agency could change the regulations to be more flexible?

6. Benefits and Costs

Submit a comment related to benefits and costs in the "Improving Regulations: Benefits and Costs" docket (EPA–HQ–OA–2011–0158). Use the following questions to guide your comments:

• Which regulations have high costs and low benefits? What data support this?

• Which regulations could better maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity)? What data support this? What quantitative and qualitative benefits and costs justify your suggestion (recognizing that some benefits and costs are difficult to quantify)?

7. Small Business

Submit a comment related to small business impacts in the "Improving Regulations: Small Business" docket (EPA–HQ–OA–2011–0164). Use the following questions to guide your comments:

• Which regulations have large impacts on small businesses? How could these regulations be changed to reduce the impact while maintaining environmental protection? Are there flexible approaches that might help reduce these impacts? Which of these regulations have high costs and low benefits? What data support this?

• Are there any regulations where flexible approaches for small businesses have proven successful and could serve as a model? Where else and how could these approaches be utilized?

8. Compliance

Submit a comment related to compliance in the "Improving Regulations: Compliance" docket (EPA–HQ–OA–2011–0166). Use the following questions to guide your comments:

• Which regulations have complicated or time consuming requirements? To what extent are alternative compliance tools available? Could the regulations be modified to improve compliance? What data support this?

• Which regulations or regulated sectors have particularly high compliance? How could the factors or approaches that lead to high compliance be utilized in other regulations and sectors? What data is available to support this?

9. Economic Conditions/Market

Submit a comment about economic conditions and/or markets in the "Improving Regulations: Economic Conditions/Market" docket (EPA–HQ–OA–2011–0167). Use the following questions to guide your comments:

• Which regulations have impacted an industry sector(s) that was hard hit by high unemployment in the past three years? What changes to the regulation would promote economic growth or job creation without compromising environmental protection? What data support this?

• How can regulations spur new markets, technologies and new jobs? What suggestions do you have to support this idea?

• Which regulations have impeded economic growth in an affected industry sector? What information is available to support this? How could the regulations be modified to improve both economic growth and environmental protection? What data support this?

• Where can EPA examine market-based incentives as an option to regulation? What program would you design that utilizes market-based incentives and ensures environmental objectives are still met?

• How can a regulation be improved so as to create, expand or transform a market?

• Which regulations could be modified so as to invite public/private partnerships, and how?

B. Program Area

Use one of the dockets listed below to provide comments related to a specific program area.

• "Improving Regulations: Air" docket—EPA–HQ–OA–2011–0155

• "Improving Regulations: Pesticides" docket—EPA–HQ–OA–2011–0157

• "Improving Regulations: Toxic Substances" docket—EPA–HQ–OA–2011–0159

• "Improving Regulations: Waste" docket—EPA–HQ–OA–2011–0160

• "Improving Regulations: Water" docket—EPA–HQ–OA–2011–0154

C. General Category

Use the Improving Regulations: General docket (EPA–HQ–OA–2011–0156) to submit an idea for how best to promote retrospective analysis of rules. This docket may also be used for any comment that:

• Pertains to more than one issue/impact and/or program area.

• Doesn't relate to any of the other docket categories listed in this section.

EPA welcomes comment and feedback from all parties on the issues listed herein. The Agency is collecting this information for its planning purposes and is not bound to further action or response. All submissions will be made publically available on *http://www.regulations.gov.*

Dated: February 18, 2011.

Michael Goo,

Associate Administrator, Office of Policy.

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