

Federal Reserve System

**Monday
May 13, 1996**

Part XXIII

**Equal Employment
Opportunity
Commission**

Semiannual Regulatory Agenda

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or

Commission) is publishing its semiannual regulatory agenda pursuant to Executive Order 12866, 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The agenda lists all regulations that are scheduled for review or development during the next 12 months or that have been finalized since the publication of the last agenda.

FOR FURTHER INFORMATION CONTACT: Ellen J. Vargyas, Legal Counsel, Office of the Legal Counsel, Equal Employment

Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-4637.

SUPPLEMENTARY INFORMATION: The Commission has identified nine current or projected rulemakings for inclusion in this regulatory agenda.

Signed in Washington, DC, this 16th day of February 1996.

For the Commission.

Gilbert F. Casellas,
Chairman.

Proposed Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 3556 | Regulations Interpreting Title II of the Older Workers Benefit Protection Act of 1990 (OWBPA) | 3046-AA58 |

Final Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--|------------------------------|
| 3557 | Supplemental Standards of Ethical Conduct for Employees of the Equal Employment Opportunity Commission | 3046-AA61 |
| 3558 | Recordkeeping and Reporting Requirements Under Title VII and the ADA | 3046-AA63 |

Long-Term Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--|------------------------------|
| 3559 | Guidelines on the Application of the Americans With Disabilities Act of 1990 to Employer Provided Health Insurance | 3046-AA53 |
| 3560 | Procedures—The Age Discrimination in Employment Act | 3046-AA54 |
| 3561 | Procedures on Interagency Coordination of Equal Employment Opportunity Issuances | 3046-AA55 |
| 3562 | Procedures for Handling Complaints of Employment Discrimination Under the Government Employee Rights Act of 1991 | 3046-AA56 |
| 3563 | Federal Sector Equal Employment Opportunity | 3046-AA57 |

Completed Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--|------------------------------|
| 3564 | Interpretation Relating to Apprenticeship Programs Under the Age Discrimination in Employment Act (ADEA) | 3046-AA59 |

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Proposed Rule Stage

3556. REGULATIONS INTERPRETING TITLE II OF THE OLDER WORKERS BENEFIT PROTECTION ACT OF 1990 (OWBPA)**Priority:** Other Significant**Legal Authority:** 29 USC 628**CFR Citation:** 29 CFR 1625**Legal Deadline:** None

Abstract: The Age Discrimination in Employment Act of 1967 (ADEA) was amended in 1990 by OWBPA. Title II of OWBPA sets forth the statutory requirements for a valid waiver of rights under the ADEA.

Regulations under title II would provide guidance on implementing OWBPA's requirements for

unsupervised ADEA waivers. As part of the development of this regulation, the Commission is engaging in a regulatory negotiation on waivers of rights and claims under the ADEA.

Timetable:

| Action | Date | FR Cite |
|--|----------|-------------|
| ANPRM | 03/27/92 | 57 FR 10626 |
| ANPRM Comment Period End | 07/27/92 | |
| Notice of Intent To Form Rulemaking Advisory Committee | 08/31/95 | 60 FR 45388 |
| Notice of Establishment of Rulemaking Advisory Committee | 10/20/95 | 60 FR 54207 |
| NPRM | 09/00/96 | |

Small Entities Affected: Undetermined**Government Levels Affected:** Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4690
TDD: 202 663-7026

RIN: 3046-AA58

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Final Rule Stage

3557. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**Priority:** Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 7301; 5 USC app; EO 12674; EO 12731; 5 USC 5514**CFR Citation:** 29 CFR 1600; 5 CFR 2201; 29 CFR 1650**Legal Deadline:** None

Abstract: With the concurrence of the U.S. Office of Government Ethics (OGE), EEOC is issuing supplemental ethical standards for EEOC employees. These standards supplement OGE's Standards of Conduct for Employees of the Executive Branch. The OGE regulations and the EEOC supplemental regulations supersede subparts A through D of 29 CFR 1600, which are therefore being deleted. Subpart E of 29 CFR 1600, concerning debt collection, is being moved and redesignated as subpart A of 29 CFR 1650.

Timetable:

| Action | Date | FR Cite |
|--------------------|----------|------------|
| Interim Final Rule | 02/26/96 | 61 FR 7065 |

| Action | Date | FR Cite |
|--------------------|----------|---------|
| Interim Final Rule | 04/26/96 | |
| Comment Period End | | |
| Final Action | 06/00/96 | |

Small Entities Affected: None**Government Levels Affected:** None

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046-AA61**3558. • RECORDKEEPING AND REPORTING REQUIREMENTS UNDER TITLE VII AND THE ADA****Priority:** Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2000e-8; 42 USC 2000e-12; 44 USC 3501 et seq; 42 USC 12117**CFR Citation:** 29 CFR 1602.41; 29 CFR 1602.43; 29 CFR 1602.44**Legal Deadline:** None

Abstract: Currently, elementary and secondary public school systems and districts are required to submit EEO-5 reports to the EEOC. Two types of EEO-5 reports have been used: EEOC Form 168A covering the entire school system or district; and EEOC form 168B covering each individual school and annex within the system or district. On October 5, 1995, the Commission voted to discontinue the Form 168B for individual schools and annexes in order to streamline the collection of information. This rulemaking process implements that vote.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|-------------|
| NPRM | 12/08/95 | 60 FR 63010 |
| NPRM Comment Period End | 02/06/96 | |
| Final Action | 04/00/96 | |

Small Entities Affected: None**Government Levels Affected:** Local

Agency Contact: Joachim Neckere, Director, Program Research and Surveys Division, Office of Program Operations, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4958
TDD: 202 663-7063

RIN: 3046-AA63

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Long-Term Actions

3559. GUIDELINES ON THE APPLICATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990 TO EMPLOYER PROVIDED HEALTH INSURANCE**Priority:** Other Significant**Legal Authority:** 42 USC 12111 et seq**CFR Citation:** 29 CFR 1631**Legal Deadline:** None

Abstract: The Commission proposes to issue guidelines to explain how the Americans with Disabilities Act (ADA) applies to employer provided health insurance plans. The guidelines will reexamine the issues addressed in the Commission's "Interim Enforcement Guidance on the Application of the ADA to Disability-Based Distinctions in Employer Provided Health Insurance," issued on June 8, 1993. The guidelines will also address a number of issues that were not addressed in either the Interim Enforcement Guidance or in the Commission regulations implementing title I of the ADA, including the ADA's application to corporate "wellness" programs. The proposed guidelines will be published for public comment. After consideration of the comments, the Commission will issue final guidelines.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 00/00/00 | |

Small Entities Affected: Undetermined**Government Levels Affected:** Undetermined

Agency Contact: Peggy R. Mastroianni, Associate Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4503
TDD: 202 663-7026

RIN: 3046-AA53**3560. PROCEDURES—THE AGE DISCRIMINATION IN EMPLOYMENT ACT****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 628, sec 115, Civil Rights Act of 1991**CFR Citation:** 29 CFR 1626**Legal Deadline:** None

Abstract: Section 115 of the Civil Rights Act of 1991 deleted references to the Portal to Portal Act from the private suit provisions of the Age

Discrimination in Employment Act (ADEA) and replaced them with a requirement that suit be filed no later than 90 days after termination of proceedings or dismissal of a charge by EEOC. Accordingly, section 1626.7(a) is being deleted and section 1626.15(b) is being revised because they were both based upon the Portal to Portal Act. New sections are being added concerning termination of EEOC proceedings and the issuance of notices of the new 90-day limitation period.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 00/00/00 | |

Small Entities Affected: None**Government Levels Affected:** None

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046-AA54**3561. PROCEDURES ON INTERAGENCY COORDINATION OF EQUAL EMPLOYMENT OPPORTUNITY ISSUANCES****Priority:** Substantive, Nonsignificant**Legal Authority:** EO 12067**CFR Citation:** 29 CFR 1690**Legal Deadline:** None

Abstract: Executive Order 12067 requires the Equal Employment Opportunity Commission and other Federal agencies to informally and formally coordinate with each other when they develop rules, policies, procedures, and other issuances affecting equal employment opportunity. 29 CFR part 1690 sets forth specific procedures for this interagency coordination. These amendments to 29 CFR part 1690 will update the coordination process to suit the broad range of materials now being presented to EEOC for review, and also formalize existing practices as to the sequence of review between the EEOC under Executive Order 12067; the Department of Justice under Executive Order 12250; and the Office of Management and Budget under Executive Order 12866 and the Paperwork Reduction Act.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 00/00/00 | |

Small Entities Affected: Undetermined**Government Levels Affected:** Federal

Agency Contact: Ellen J. Vargyas, Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4637
TDD: 202 663-7026

RIN: 3046-AA55**3562. PROCEDURES FOR HANDLING COMPLAINTS OF EMPLOYMENT DISCRIMINATION UNDER THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991****Priority:** Substantive, Nonsignificant

Legal Authority: 2 USC 1219 to 1220, Government Employee Rights Act of 1991; 42 USC 2000e et seq, Title VII of the Civil Rights Act; 29 USC 621 et seq, Age Discrimination in Employment Act; 42 USC 12112 to 12114, Americans With Disabilities Act

CFR Citation: 29 CFR 1603**Legal Deadline:** None

Abstract: Under title VII of the Civil Rights Act of 1964, the ADEA and the ADA, certain staff members of State and local elected officials were exempt from protection against employment discrimination. Section 321 of the Government Employee Rights Act of 1991 extends employment discrimination protections to the employment of persons who have been chosen or appointed by a State or local elected public official to serve on his or her personal staff, to serve the elected official on the policymaking level, or to serve as an immediate advisor with respect to the exercise of the constitutional or legal powers of the official's office.

Section 320 of the Government Employee Rights Act of 1991 extends protection to certain presidential appointees who were not otherwise protected under the ADEA, title VII, or the ADA. Section 320 does not cover individuals whose appointment is made by and with the advice and consent of the Senate, advisory committee members or members of the uniformed services. These are procedural regulations for processing

EEOC

Long-Term Actions

such complaints of discrimination by previously exempt or uncovered individuals.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 00/00/00 | |

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046-AA56

3563. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-569, The Rehabilitation Act Amendments of 1992; 42 USC 2000e-16; 29 USC 633a; 29 USC 794a

CFR Citation: 29 CFR 1614

Legal Deadline: None

Abstract: The proposed amendments to this regulation implement the Rehabilitation Act Amendments of 1992. Those amendments provide that the standards used to determine if title I of the Americans With Disabilities Act has been violated will apply to complaints of nonaffirmative action employment discrimination under the Rehabilitation Act. The Commission

may also make other changes to the Federal Sector complaint processing regulations as appropriate.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 00/00/00 | |

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046-AA57

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Completed Actions

3564. INTERPRETATION RELATING TO APPRENTICESHIP PROGRAMS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Priority: Other Significant

CFR Citation: 29 CFR 1625.13

Completed:

| Reason | Date | FR Cite |
|--------------|----------|-------------|
| Final Action | 04/08/96 | 61 FR 15374 |

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph N. Cleary
Phone: 202 663-4690
TDD: 202 663-7026

RIN: 3046-AA59

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