Federal Register

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Part XI

Environmental Protection Agency

Semiannual Regulatory Agenda

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
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ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-8702-9]

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[EPA-HQ-OAR-2008-0206

[EPA-HQ-OW-2008-0226

Fall 2008 Regulatory Agenda

AGENCY: Environmental Protection Agency.

ACTION: Semiannual regulatory flexibility agenda and semiannual regulatory agenda.

SUMMARY: The Environmental Protection Agency (EPA) publishes the semiannual regulatory agenda online (the e-agenda) at www.reginfo.gov to update the public about:

- Regulations and major policies currently under development,
- Reviews of existing regulations and major policies, and
- Rules and major policymakings completed or canceled since the last agenda.

Definitions:

''Semiannual regulatory agenda,'' ''E-Agenda,'' and ''online regulatory agenda,'' all refer to the same comprehensive collection of information that used to be published in the **Federal Register**, but which is now available through an online database but not be published in the **Federal Register**.

''Regulatory Plan'' refers to the document published in part 2 of the **Federal Register** that addresses the core of the Agency's regulatory priorities that will be issued in the coming fiscal year.

''Regulatory Flexibility Agenda'' refers to a document about regulations with a significant impact on a substantial number of small entities that will continue to be published in the **Federal Register** because of a requirement of the Regulatory Flexibility Act.

''Unified Agenda'' refers to the collection of all agencies' agendas with an introduction prepared by the Regulatory Information Service Center.

''Monthly Action Initiation List'' (AIL) refers to a list that EPA posts online each month of the regulations newly approved for development.

''Regulatory agenda preamble'' refers to the document you are reading now. It appears as part of the Regulatory Flexibility Agenda and introduces both EPA's regulatory flexibility agenda and the e-agenda.

FOR FURTHER INFORMATION CONTACT: If you have questions or comments about a particular action, please get in touch with the agency contact listed in each agenda entry. If you have general questions about EPA's regulatory agenda, regulatory plan, regulatory flexibility agenda, or EPA's regulatory development process, please contact: Phil Schwartz (schwartz.philip@epa.gov; 202-564-6564) or Caryn Muellerleile (muellerleile.caryn@epa.gov; 202-564-2855).

TO BE PLACED ON AN AGENDA MAILING LIST: If you would like to receive an e-mail with a link to new regulatory agendas as soon as they are published, please send an e-mail message to: nscep@bps-lmit.com and put ''E-Regulatory Agenda: Electronic Copy'' in the subject line.

If you would like to receive a monthly e-mail with a link to our new update, the Action Initiation List, go to http://www.epa.gov/lawsregs/search/ail.html#notification and complete the five steps listed there.

If you would like to receive a hard copy of the semiannual agenda about 2 to 3 months after publication, please send an e-mail with your name and complete address to: nscep@bps-lmit.com and put ''Regulatory Agenda Hard Copy'' in the subject line, or call 800-490-9198. There is no charge for a single copy of the agenda.

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A. Map of Regulatory Agenda Information

Part of Agenda	On-line locations	Federal Register Location
Semiannual Regulatory Agenda	www.reginfo.gov/ and www.epa.gov/opei/orpm.html	Not in FR
Annual Regulatory Plan	www.reginfo.gov/ and www.epa.gov/opei/orpm.html	Part 2 of today's issue
Semiannual Regulatory Flexibility Agenda	www.reginfo.gov/ and www.epa.gov/opei/orpm.html	Part 22 of today's issue
Monthly Action Initiation List	http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=EPA-HQ-OA-2008-0265 and http://www.epa.gov/lawsregs/search/ail.html	Not in FR

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B. What Are EPA's Regulatory Goals, and What Key Principles, Statutes, and Executive Orders Inform Our Rule and Policymaking Process?

Our primary objective is to protect human health and the environment. One way we achieve this objective is through the development of regulations. In the United States, Congress passes laws and authorizes certain Government agencies, including EPA, to create and enforce regulations. EPA regulations cover a range of environmental and public health protection issues from setting standards for clean water, to establishing requirements for proper handling of toxic wastes, to controlling air pollution from industry and other sources.

To ensure that our regulatory decisions are scientifically sound, cost-effective, fair, and effective in achieving environmental goals, we conduct high quality scientific, economic, and policy analyses. These analyses are planned and initiated at early stages in the regulatory development process so that Agency decisionmakers are well informed of the qualitative and quantitative benefits and costs as they select among alternative approaches. It is also important that we continue to apply new and improved methods to protect the environment, such as: Building flexibility into regulations from the very beginning, creating strong partnerships with the regulated community, vigorously engaging in public outreach and involvement, and using effective nonregulatory approaches. We seek collaborative solutions to shared challenges. Research, testing, and adoption of new environmental protection methods are also a central tenet in environmental problem solving. The integration of all of these elements via a well-managed regulatory development process and a strong commitment to innovative solutions will ensure that we all benefit from significant environmental improvements that are fair, efficient, and protective. Our overall success is measured by our effectiveness in protecting human health and the environment. For a more expansive discussion of our regulatory philosophy and priorities, please see the Statement of Priorities in the FY 2009 regulatory plan (http://epa.gov/opei/orpm.html#agenda).

Besides the fundamental environmental laws authorizing EPA actions such as the Clean Air Act and Clean Water Act, there are legal requirements that apply to the issuance of regulations that are generally contained in the Administrative Procedure Act, the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act, the Unfunded Mandates Reform Act, the Paperwork Reduction Act, the National Technology Transfer and Advancement Act, and the Congressional Review Act. We also must meet a number of requirements contained in Executive Orders: 12866 (Regulatory Planning and Review; 58 FR 51735; October 4, 1993), 12898 (Environmental Justice; 59 FR 7629; February 16, 1994), 13045 (Children's Health Protection; 62 FR 19885; April 23, 1997), 13132 (Federalism; 64 FR 43255; August 10, 1999), 13175 (Consultation and Coordination With Indian Tribal Governments; 65 FR 67249; November 9, 2000), 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use; FR 28355; May 22, 2001).

C. How Can You Be Involved in EPA's Rule and Policymaking Process?

You can make your voice heard by getting in touch with the contact person provided in each agenda entry. We urge you to participate as early in the process as possible. You may also participate by commenting on proposed rules that we publish in the **Federal Register** (FR). Information on submitting comments to the rulemaking docket is provided in each of our Notices of Proposed Rulemaking (NPRMs), and we always accept comments through the regulations.gov e-docket. To be most effective, comments should contain information and data that support your position, and you also should explain why we should incorporate your suggestion in the rule or nonregulatory action. You can be particularly helpful and persuasive if you provide examples to illustrate your concerns and offer specific alternatives.

We believe our actions will be more cost-effective and protective if our development process includes stakeholders working with us to identify the most practical and effective solutions to problems, and we stress this point most strongly in all of our training programs for rule and policy developers. Democracy gives real power to individual citizens, but with that power comes responsibility. We urge you to become involved in EPA's rule and policymaking process. For more information about public involvement in EPA activities, please visit www.epa.gov/publicinvolvement.

D. What Actions Are Included in the E-Agenda and the Regulatory Flexibility Agenda?

EPA includes regulations and certain major policy documents in the e-agenda. However, there is no legal significance to the omission of an item from the agenda, and we generally do not include minor amendments or the following categories of actions:

- Administrative actions such as delegations of authority, changes of address, or phone numbers;
- Under the Clean Air Act: Revisions to State Implementation Plans; Equivalent Methods for Ambient Air Quality Monitoring; Deletions from the New Source Performance Standards source categories list; Delegations of Authority to States; Area Designations for Air Quality Planning Purposes;
- Under the Federal Insecticide, Fungicide, and Rodenticide Act: Registration-related decisions, actions affecting the status of currently registered pesticides, and data call-ins;
- Under the Federal Food, Drug, and Cosmetic Act: Actions regarding pesticide tolerances and food additive regulations;
- Under the Resource Conservation and Recovery Act: Authorization of State solid waste management plans; hazardous waste delisting petitions;
- Under the Clean Water Act: State Water Quality Standards; deletions from the section 307(a) list of toxic pollutants; suspensions of toxic testing requirements under the National Pollutant Discharge Elimination System (NPDES); delegations of NPDES authority to States;
- Under the Safe Drinking Water Act: Actions on State underground injection control programs.

The Regulatory Flexibility Agenda normally includes:

- Actions that are likely to have a significant economic impact on a substantial number of small entities, and

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- Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act

E. How Are Regulatory Plan and Regulatory Flexibility Agenda Organized?

The Regulatory Plan is organized according to the current stage of development. The stages are:

1. Prerulemaking—Prerulemaking actions are generally intended to determine whether EPA should initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking (ANPRMs), significant studies or analyses of the possible need for regulatory action, announcement of reviews of existing regulations required under section 610 of the Regulatory Flexibility Act, requests for public comment on the need for regulatory action, or important preregulatory policy proposals.
2. Proposed Rule—This section includes EPA rulemaking actions that are within a year of proposal (publication of Notices of Proposed Rulemakings (NPRMs)).
3. Final Rule—This section includes rules that will be issued as a final rule within a year.

We have organized the Regulatory Flexibility Agenda as follows:

First, into divisions based on the law that would authorize a particular action. A ''General'' division which includes crosscutting actions, such as rules authorized by multiple statutes and general acquisition rules precedes the media statutes (Clean Air Act (CAA), Clean Water Act (CWA), etc.)

Second, by the current stage of development. The stages are:

1. Prerulemaking—Prerulemaking actions are generally intended to determine whether EPA should initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking (ANPRMs), significant studies or analyses of the possible need for regulatory action, announcement of reviews of existing regulations required under section 610 of the Regulatory Flexibility Act, requests for public comment on the need for regulatory action, or important preregulatory policy proposals.
2. Proposed Rule—This section includes EPA rulemaking actions that are within a year of proposal (publication of Notices of Proposed Rulemakings (NPRMs)).
3. Final Rule—This section includes rules that will be issued as a final rule within a year.
4. Long-Term Actions—This section includes rulemakings for which the next scheduled regulatory action is after October 2009.
5. Completed Actions—This section contains actions that have been promulgated and published in the **Federal Register** since publication of the spring 2008 agenda. It also includes actions that we are no longer considering. If an action appears in the completed section, it will not appear in future agendas unless we decide to initiate action again, in which case it will appear as a new entry. EPA also announces the results of our Regulatory Flexibility Act section 610 reviews in this section of the Agenda.

F. What Information Is in the Regulatory Flexibility Agenda, the E-Agenda, and the Regulatory Plan?

Regulatory Flexibility Agenda entries include:

Sequence Number, RIN, Title, Description, Statutory Authority, Section 610 Review, if applicable, Regulatory Flexibility Analysis Required, Schedule, Contact Person.

E-Agenda entries include:

Title: Titles for new entries (those that have not appeared in previous agendas) are preceded by a bullet (•). The notation ''Section 610 Review'' follows the title if we are reviewing the rule as part of our periodic review of existing rules under section 610 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 610).

Priority: Entries are placed into one of five categories described below. OMB reviews all significant rules including both of the first two categories, ''economically significant'' and ''other significant.''

Economically Significant: Under E.O. 12866, a rulemaking action that may have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Other Significant: A rulemaking that is not economically significant but is considered significant for other reasons. This category includes rules that may:

1. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
2. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients; or
3. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles in Executive Order 12866.

Substantive, Nonsignificant: A rulemaking that has substantive impacts but is not Significant, Routine and Frequent, or Informational/Administrative/Other.

Routine and Frequent: A rulemaking that is a specific case of a recurring application of a regulatory program in the Code of Federal Regulations (e.g., certain State Implementation Plans, National Priority List updates, Significant New Use Rules, State Hazardous Waste Management Program actions, and Tolerance Exemptions). If an action that would normally be classified Routine and Frequent is reviewed by the Office of Management and Budget under E.O. 12866, then we would classify the action as either ''Economically Significant'' or ''Other Significant.''

Informational/Administrative/Other: An action that is primarily informational or pertains to an action outside the scope of E.O. 12866.

Also, if we believe that a rule may be ''major'' as defined in the Congressional Review Act (5 U.S.C. 801, *et seq.*) because it is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in this law, we indicate this under the ''Priority'' heading with the statement ''Major under 5 U.S.C. 801.''

Legal Authority: The sections of the United States Code (U.S.C.), Public Law (P.L.), Executive Order (E.O.), or common name of the law that authorizes the regulatory action.

CFR Citation: The sections of the Code of Federal Regulations that would be affected by the action.

Legal Deadline: An indication of whether the rule is subject to a statutory

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or judicial deadline, the date of that deadline, and whether the deadline pertains to a Notice of Proposed Rulemaking, a Final Action, or some other action.

Abstract: A brief description of the problem the action will address.

Timetable: The dates (and citations) that documents for this action were published in the **Federal Register** and, where possible, a projected date for the next step. Projected publication dates frequently change during the course of developing an action. The projections in the agenda are our best estimates as of the date we submit the agenda for publication. For some entries, the timetable indicates that the date of the next action is ''to be determined.''

Regulatory Flexibility Analysis Required: Indicates whether EPA has prepared or anticipates that it will be preparing a regulatory flexibility analysis under section 603 or 604 of the RFA. Generally, such an analysis is required for proposed or final rules subject to the RFA that EPA believes may have a significant economic impact on a substantial number of small entities.

Small Entities Affected: Indicates whether we expect the rule to have any effect on small businesses, small governments, or small nonprofit organizations.

Government Levels Affected: Indicates whether we expect the rule to have any effect on levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Federalism Implications: Indicates whether the action is expected to have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Unfunded Mandates: Section 202 of the Unfunded Mandates Reform Act generally requires an assessment of anticipated costs and benefits if a rule includes a mandate that may result in expenditures of more than $100 million in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. If we expect to exceed this $100 million threshold, we note it in this section.

Energy Impacts: Indicates whether the action is a significant energy action under E.O. 13211.

International Trade Impacts: Indicates whether the action is likely to have international trade or investment effects, or otherwise be of international interest.

Agency Contact: The name, address, phone number, and e-mail address, if available, of a person who is knowledgeable about the regulation.

SAN Number: An identification number that EPA uses to track rulemakings and other actions under development.

URLs: For some of our actions we include the Internet addresses for: Reading copies of rulemaking documents; submitting comments on proposals; and getting more information about the rulemaking and the program of which it is a part. (Note: To submit comments on proposals, you can go to our electronic docket which is at: www.regulations.gov. Once there, follow the online instructions to access the docket and submit comments. A Docket identification (ID) number will assist in the search for materials. We include this number in the additional information section of many of the agenda entries that have already been proposed.)

RIN: The Regulatory Identifier Number is used by OMB to identify and track rulemakings. The first four digits of the RIN stand for the EPA office with lead responsibility for developing the action.

Regulatory Plan entries include all categories of information included in E-Agenda entries, plus:

Sequence Number, Statement of Need, Summary of Legal Basis, Alternatives, Anticipated Costs and Benefits, and Risks.

G. New Monthly Update Tool: The Action Initiation List

Continuing to build on EPA's tradition of open, transparent rulemaking, last April we started posting each month a list of the regulations which had been approved for development. We call this list the Action Initiation List. You can see the current list at http://www.epa.gov/lawsregs/search/ail.html where you will also find information about how to get an e-mail notification when a new list is posted.

H. What Other Tools for Finding Out About EPA Rules and Policies Are Available at Reginfo.gov, Regulations.gov, and EPA.gov?

1. Regulatory Agenda Search Engines

If you want to quickly identify the regulation(s) of interest to you, we recommend that you go to www.reginfo.gov/public/do/eAgendaMain and use the E-Agenda database and its powerful search, and advanced search features. With advanced searches you can specify the values you are interested in for up to 21 Agenda data fields. This database also lets you access information from previous versions of the Agenda and Plan.

2. Public Dockets

When EPA publishes either an Advanced Notice of Proposed Rulemaking (ANPRM) or a NPRM in the **Federal Register**, the Agency may establish a docket to accumulate materials throughout the development process for that rulemaking. The docket serves as the repository for the collection of documents or information related to a particular Agency action or activity. EPA most commonly uses dockets for rulemaking actions, but dockets may also be used for Regulatory Flexibility Act section 610 reviews of rules with significant impacts on a substantial number of small entities and various non-rulemaking activities, such as **Federal Register** documents seeking public comments on draft guidance, policy statements, information collection requests under the Paperwork Reduction Act, and other non-rule activities. If there is a docket on a particular action, information about the location will be in that action's Agenda entry. EPA opens an electronic docket for each of our proposed rules by the time we publish them in the **Federal Register**. All of our electronic dockets are housed at www.regulations.gov where you can review the proposed rule, supporting documents, and public comments, and where you may electronically submit your own comments and make use of the bookmarking and notification features.

3. Subject Matter EPA Web sites

More than 100 of the actions listed in the agenda include a URL that provides additional information about the program that the action belongs to.

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4. Listservers

If you want to get automatic e-mails about areas of particular interest, we maintain 12 listservers including:

a. Air
b. Water
c. Wastes and emergency response
d. Pesticides
e. Toxic substances
f. Right-to-know and toxic release inventory
g. Environmental impacts
h. Endangered species
i. Meetings
j. The Science Advisory Board
k. Daily full-text notices with page numbers, and
l. General information.

For more information and to subscribe via our FR Web site, visit:

www.epa.gov/fedrgstr/subscribe.htm. If you have e-mail without full Internet access, please send an e-mail to envsubset@epa.gov to request instructions for subscribing to the EPA **Federal Register** listservers.

I. What Special Attention Do We Give to the Impacts of Rules on Small Businesses, Small Governments, and Small Nonprofit Organizations?

For each of our rulemakings, we consider whether there will be any adverse impact on any small entity. We attempt to fit the regulatory requirements, to the extent feasible, to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulation. Under RFA/SBREFA (the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act), the Agency must prepare a formal analysis of the potential negative impacts on small entities, convene a Small Business Advocacy Review Panel (proposed rule stage), and prepare a Small Entity Compliance Guide (final rule stage) unless the Agency certifies a rule will not have a significant economic impact on a substantial number of small entities. For more detailed information about the Agency's policy and practice with respect to implementing RFA/SBREFA, please visit the RFA/SBREFA Web site at http://www.epa.gov/sbrefa/. You may search http://www.reginfo.gov/public/do/eAgendaAdvancedSearch to find a list of EPA's entries for which a Regulatory Flexibility Analysis is required or for a list of EPA's entries that may affect small entities, but which we do not expect will have a significant economic impact on a substantial number of them.

Section 610 of the RFA requires that an agency review, within 10 years of promulgation, each rule that has or will have a significant economic impact on a substantial number of small entities (SEIOSNOSE). EPA has three rules under 610 review in 2008.

Rule Being Reviewed	RIN	Docket ID
VOC Regulation for Architectural Coatings (Section 610 Review)	2060-AP09	EPA-HQ-OAR-2008-0205
Control of Emissions of Air Pollution From Nonroad Diesel Engines (Section 610 Review)	2060-AO82	EPA-HQ-OAR-2008-0206
National Primary Drinking Water Regulations: Stage I Disinfectant/Disinfection By-Products Rule (Section 610 Review)	2040-AE97	EPA-HQ-OW-2008-0226

EPA undertakes section 610 reviews to decide whether the agency should continue a rule unchanged, amend it, or withdraw it. EPA announced these three 610 reviews in the ''Prerule'' section of the spring 2008 Agenda. We encouraged small entities to provide comments on the need to change these rules, and in particular, how the rules could be made clearer, more effective, or if there is need to remove conflicting or overlapping requirements with other Federal or State regulations. More information on the results of each of these reviews is available in the abstract section of each individual 610 review Agenda entry.

J. Thank You for Collaborating With Us.

Finally, we would like to thank those of you who choose to join with us in solving the complex issues involved in protecting human health and the environment. Collaborative efforts such as EPA's open rulemaking process are a proven tool for solving the environmental problems we face and the regulatory agenda is an important part of that process.

Dated: August 29, 2008.

Louise P. Wise,

Deputy Associate Administrator, Office of Policy, Economics, and Innovation.

CLEAN AIR ACT (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
405	SAN No. 4884 Combined Rulemaking for Industrial, Commercial, and Institutional Boilers, and Process Heaters at Major Sources of HAP and Industrial, Commercial, and Institutional Boilers at Area Sources	2060–AM44
406	SAN No. 5250 Renewable Fuels Standard Program **(Reg Plan Seq No. 103)**	2060–AO81

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

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CLEAN AIR ACT (CAA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
407	SAN No. 4882 Control of Emissions From Nonroad Spark-Ignition Engines and Equipment	2060–AM34
408	SAN No. 5254 Control of Emissions of Air Pollution From Nonroad Diesel Engines **(Completion of a Section 610 Review)**	2060–AO82
409	SAN No. 5255 VOC Regulation for Architectural Coatings **(Completion of a Section 610 Review)**	2060–AP09

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
410	SAN No. 5007 Pesticides; Competency Standards for Occupational Users	2070–AJ20
411	SAN No. 5006 Pesticides; Agricultural Worker Protection Standard Revisions	2070–AJ22

SAFE DRINKING WATER ACT (SDWA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
412	SAN No. 2281 National Primary Drinking Water Regulations: Radon	2040–AA94
413	SAN No. 4775 National Primary Drinking Water Regulations: Revisions to the Total Coliform Monitoring and Analytical Requirements and Consideration of Distribution System Issues	2040–AD94

SAFE DRINKING WATER ACT (SDWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
414	SAN No. 5258 National Primary Drinking Water Regulations: Stage I Disinfectant/Disinfection By-Products Rule **(Completion of a Section 610 Review)**	2040–AE97

Environmental Protection Agency (EPA) — Proposed Rule Stage

Clean Air Act (CAA)

405. COMBINED RULEMAKING FOR INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS, AND PROCESS HEATERS AT MAJOR SOURCES OF HAP AND INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS AT AREA SOURCES

Legal Authority: CAA sec 112

Abstract: Section 112 of the Clean Air Act (CAA) outlines the statutory requirements for EPA's stationary source air toxics program. Section 112 mandates that EPA develop standards for hazardous air pollutants (HAP) for both major and area sources listed under section 112(c). Industrial boilers, commercial/institutional boilers, and process heaters are listed as major sources of HAP. Section 112(k) requires development of standards for area sources which account for 90 percent of the emissions in urban areas of the 33 urban (HAP) listed in the Integrated Urban Air Toxics Strategy. These area source standards can require control levels which are equivalent to either maximum achievable control technology (MACT) or generally available control technology (GACT). The Integrated Air Toxics Strategy lists industrial boilers and commercial/institutional boilers as area source categories. Both industrial boilers and institutional/commercial boilers are on the list of section 112(c)(6) source categories.

Timetable:

Action	Date	FR Cite
NPRM	11/00/08	
Final Action	12/00/09	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jim Eddinger, Environmental Protection Agency, Air and Radiation, C439–01, Research Triangle Park, NC 27711
Phone: 919 541–5426
Email: eddinger.jim@epamail.epa.gov

Robert J. Wayland, Environmental Protection Agency, Air and Radiation, C439–01, Research Triangle Park, NC 27711
Phone: 919 541–1045

EPA—Clean Air Act (CAA) — Proposed Rule Stage

Email:
wayland.robertj@epamail.epa.gov

RIN: 2060–AM44

406. RENEWABLE FUELS STANDARD PROGRAM

Regulatory Plan: This entry is Seq. No. 103 in part II of this issue of the **Federal Register**.

RIN: 2060–AO81

Environmental Protection Agency (EPA) — Completed Actions

Clean Air Act (CAA)

407. CONTROL OF EMISSIONS FROM NONROAD SPARK–IGNITION ENGINES AND EQUIPMENT

Legal Authority: 42 USC 7521 to 7601(a)

Abstract: In this rulemaking, EPA is promulgating exhaust emission standards for new nonroad spark-ignition engines that will substantially reduce emissions from these engines. The standards would apply starting in 2009 for new marine spark-ignition engines, including first-time EPA standards for sterndrive and inboard engines. The standards would apply starting in 2011 and 2012 for different sizes of new land-based, spark-ignition engines at or below 19 kilowatts (kW), which is equivalent to about 25 horsepower. These small engines are used primarily in lawn and garden applications. We are also promulgating evaporative emission standards for vessels and equipment using any of these engines. Nationwide, these emission sources contribute to ozone, carbon monoxide (CO), and particulate matter (PM) nonattainment.

We estimate that by 2030, this rule would result in significantly reduced pollutant emissions from regulated engine and equipment sources, including estimated annual nationwide reductions of 631,000 tons of volatile organic hydrocarbon emissions, 98,200 tons of NOx emissions, and 6,300 tons of direct particulate matter (PM2.5) emissions. These reductions correspond to significant reductions in the formation of ground-level ozone. We would also expect to see annual reductions of 2,690,000 tons of carbon monoxide emissions, with the greatest reductions in areas where there have been problems with individual exposures. The requirements in this rule will substantially benefit public health and welfare and the environment. We estimate that by 2030, the rule's emission reductions would annually prevent 450 PM-related premature deaths, approximately 500 hospitalizations, and 52,000 work days lost. The total estimated annual benefits of the rule in 2030 would be $3.4 billion. Estimated costs in 2030 would be many times less at $240 million.

Completed:

Reason	Date	FR Cite
Final Action	10/08/08	73 FR 59034
Final Action Effective	12/08/08	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Glenn Passavant
Phone: 734 214–4408
Fax: 734 214–4816
Email:
passavant.glenn@epamail.epa.gov

RIN: 2060–AM34

408. CONTROL OF EMISSIONS OF AIR POLLUTION FROM NONROAD DIESEL ENGINES (COMPLETION OF A SECTION 610 REVIEW)

Legal Authority: 5 USC 610

Abstract: On October 23, 1998 (63 FR 56968), EPA promulgated a rule setting emission standards for nonroad compression-ignition (CI) engines under authority of section 213 of the Clean Air Act. These standards are codified in the Code of Federal Regulations at 40 CFR part 89. Pursuant to section 610 of the Regulatory Flexibility Act, EPA has reviewed this rule to determine if it should be continued without change, or should be rescinded or amended to minimize adverse economic impacts on small entities. This review was announced in the Regulatory Agenda on May 5, 2008 (73 FR 24761). As part of this review, EPA considered, and solicited comments on, the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. No comments were received. The results of EPA's review have been summarized in a report and placed in the rulemaking docket (docket number EPA-HQ-OAR-2008-0206 at www.regulations.gov). These results are briefly summarized here.

One of the factors that must be considered in a section 610 review is the continued need for the rule under review. The Agency finds that there is a continued need for the emission standards and related provisions for nonroad CI engines. Many areas of the country do not meet the National Ambient Air Quality Standards (NAAQS) for ozone or particulate matter (PM2.5). Both of these environmental problems are addressed in part by the October 1998 rule. The Agency must also consider the complexity of the rule under review. The 1998 rule incorporated a number of provisions aimed at easing the burden of compliance for equipment manufacturers, many of whom are small businesses. These included provisions that allow the limited use of engines meeting the previous emission standards during the initial years of the program to help smooth the transition to the new standards. EPA believes that the transitional flexibilities afforded by these provisions mitigate the implementation complexity of the rule while meeting statutory objectives. The Agency must also consider the extent to which the nonroad CI engine rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules. The Agency believes the rules for nonroad CI engines do not duplicate or conflict with any other rule. Under the CAA, both EPA and the state of California are authorized to have emission control program requirements

covering these engines and, indeed, both do now have such programs. EPA worked closely with the State of California in developing the October 1998 Federal rule to assure that the two rules do not conflict or overlap. Finally, the Agency must consider the length of time since the rule in question has been evaluated, or the degree to which technology, economic conditions, or other factors have changed. Technology advances since 1998 have enabled EPA to adopt a new set of emission requirements that will succeed the 1998 standards between 2008 and 2015. These new standards include provisions similar to those from the 1998 rule aimed at easing the burden of compliance for both engine manufacturers and equipment manufacturers, many of which are small businesses. Based on EPA's section 610 review, including the fact that no comments were received as a result of the review, no amendments are planned at this time. As part of any future rulemakings in this area, EPA will continue to work with small-entity representatives to reduce unfavorable impacts to the extent appropriate while meeting the need for emission reductions.

Timetable:

Action	Date	FR Cite
Final Rule	10/23/98	63 FR 56967
Begin Review	05/05/08	73 FR 24755
End Comment Period	08/04/08	
End Review	09/02/08	

Regulatory Flexibility Analysis Required: No

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RIN: 2060–AO82

409. VOC REGULATION FOR ARCHITECTURAL COATINGS (COMPLETION OF A SECTION 610 REVIEW)

Legal Authority: 5 USC 610

Abstract: On September 11, 1998 (63 FR 48848), EPA promulgated a regulation to control volatile organic compound (VOC) emissions from architectural coatings. These requirements, codified at 40 CFR part 79, subpart D, were promulgated under section 183(e) of the Clean Air Act (CAA). Pursuant to section 610 of the Regulatory Flexibility Act, EPA has reviewed this rule to determine if it should be continued without change, or should be rescinded or amended to minimize adverse economic impacts on small entities. As part of this review, EPA considered, and solicited comments on, the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. The results of EPA's review have been summarized in a report and placed in the rulemaking docket (docket number EPA-HQ-OAR-2008-0205 at www.regulations.gov). These results are briefly summarized here.

One of the factors that must be considered in a section 610 review is the continued need for the rule under review. The rule remains necessary to help fulfill the requirements of CAA section 183(e), which addresses the persistent ozone nonattainment problem in many areas. The Agency must also consider the nature of any complaints about the rule. One comment letter was received. The commenter asserted that the use of relative reactivity should be incorporated into this rule. We agree that not all VOC are equal in their effects on ground-level ozone formation. However, we believe that adoption of a reactivity-based approach for the architectural coatings rule at this time would not provide significant benefits to small coatings manufacturers and, in some cases, could present small businesses with the additional burden of research and development to carry out product reformulation that could be required to comply with a new, reactivity-based rule. The Agency must also consider the complexity of the rule under review. The 1998 rule incorporated a number of provisions aimed at easing the burden of compliance, and the Agency published accompanying guidance to help small businesses comply with the rule. Accordingly, and in light of the fact that we received no comments on rule complexity, we do not believe that complexity is a barrier to understanding and complying with the rule. The Agency must also consider the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules. Several States have architectural coatings rules that are more stringent and cover more categories than the 1998 Federal architectural coatings rule. Consequently, many entities are marketing architectural coatings that are lower in VOC content than required by the Federal rule. However, we know of no instances where the federal rule conflicts with existing State rules. Finally, the Agency must consider the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since it was promulgated. Many low-VOC and non-VOC architectural coatings have been developed since promulgation of this rule in 1998. Consequently, the VOC limits in the existing Federal rule pose no unreasonable burden on small or large companies. Regarding reactivity, as discussed above, although we believe that changes in technology do not warrant revision of the architectural coatings rule at this time, we are open to initiating dialogue on the subject of broadly applied reactivity-based approaches to VOC regulation. Based on the foregoing considerations, the Agency believes that the current architectural coatings rule provides for needed VOC reductions without undue burden on small entities, and does not warrant revision at thistime.

Timetable:

Action	Date	FR Cite
Final Action	09/11/98	63 FR 48848
Begin Review	05/05/08	73 FR 24755
End Comment Period	08/04/08	
End Review	09/02/08	

Regulatory Flexibility Analysis Required: No

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RIN: 2060–AP09

Environmental Protection Agency (EPA) — Long-Term Actions

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

410. PESTICIDES; COMPETENCY STANDARDS FOR OCCUPATIONAL USERS

Legal Authority: 7 USC 136; 7 USC 136i; 7 USC 136w

Abstract: The EPA is proposing change to federal regulations guiding the certified pesticide applicator program (40 CFR 171). Change is sought to strengthen the regulations to better protect pesticide applicators and the public and the environment from harm due to pesticide exposure. Changes may include having certain occupational users of pesticides demonstrate competency by meeting minimum competency requirements. The need for change arose from EPA discussions with key stakeholders. EPA has been in extensive discussions with stakeholders since 1997 when the Certification and Training Assessment Group (CTAG) was established. CTAG is a forum used by regulatory and academic stakeholders to discuss the current state of, and the need for improvements in, the national certified pesticide applicator program. Throughout these extensive interactions with stakeholders, EPA has learned of the need for changes to the regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 2070–AJ20

411. PESTICIDES; AGRICULTURAL WORKER PROTECTION STANDARD REVISIONS

Legal Authority: 7 USC 136; 7 USC 136w

Abstract: The EPA is developing a proposal to revise the federal regulations guiding agricultural worker protection (40 CFR 170). The changes under consideration are intended to improve agricultural workers' ability to protect themselves from potential exposure to pesticides and pesticide residues. In addition, EPA is proposing to make adjustments to improve and clarify current requirements and facilitate enforcement. Other changes sought are to establish a right-to-know Hazard Communication program and make improvements to pesticide safety training, with improved worker safety the intended outcome. The need for change arose from EPA discussions with key stakeholders beginning in 1996 and continuing through 2004. EPA held nine public meetings throughout the country during which the public submitted written and verbal comments on issues of their concern. In 2000 through 2004, EPA held meetings where invited stakeholders identified their issues and concerns with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 2070–AJ22

Environmental Protection Agency (EPA) — Long-Term Actions

Safe Drinking Water Act (SDWA)

412. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADON

Legal Authority: 42 USC 300f et seq

Abstract: In 1999, EPA proposed regulations for radon which provide flexibility in how to manage the health risks from radon in drinking water. The proposal was based on the unique framework in the 1996 SDWA. The proposed regulation would provide for either a maximum contaminant level (MCL), or an alternative maximum contaminant level (AMCL) with a multimedia mitigation (MMM) program to address radon in indoor air. Under the proposal, public water systems in States that adopted qualifying MMM programs would be subject to the AMCL, while those in States that did not adopt such programs would be subject to the MCL.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM original	07/18/91	56 FR 33050
Notice 99	02/26/99	64 FR 9560
NPRM	11/02/99	64 FR 59246
Final Action	05/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 2040–AA94

413. NATIONAL PRIMARY DRINKING WATER REGULATIONS: REVISIONS TO THE TOTAL COLIFORM MONITORING AND ANALYTICAL REQUIREMENTS AND CONSIDERATION OF DISTRIBUTION SYSTEM ISSUES

Legal Authority: 42 USC 300f et seq

Abstract: EPA is revising the Total Coliform Rule (TCR), which was

EPA—Safe Drinking Water Act (SDWA) — Long-Term Actions

published in 1989. On July 18, 2003, EPA published a Federal Register (68 FR 42907) Notice of Intent to revise the TCR. EPA intends revisions to the TCR to maintain or provide for greater human health protection than under the existing TCR while improving system efficiency. A Federal Advisory Committee recommended that EPA, as part of the TCR 6-year review process, ''initiate a process for addressing cross-connection control and backflow prevention requirements and consider additional distribution system requirements related to significant health risks.''The original TCR, promulgated in 1989, protects human health by requiring microbial monitoring in drinking water distribution systems. The TCR does not include distribution system corrective or protective requirements to reduce contamination from coliforms and other contaminants. Since then, EPA has gained a better understanding of distribution system impacts on human health and, therefore, intends to strengthen the TCR and to consider how to address distribution system contamination issues. The process to do so involves a performance evaluation, development of issue papers on both distribution systems and total coliform, stakeholders meetings, and proposed and final rules.

In September 2008, members of a Federal Advisory Committee signed an agreement in principle (AIP) that recommended revisions to the TCR, as well as research and information collection needed to better understand potential public health impacts from conditions in the distribution system and control microbial drinking water contamination.

Timetable:

Action	Date	FR Cite
NPRM	08/00/10	
Final Action	11/00/12	

Regulatory Flexibility Analysis Required: Yes

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RIN: 2040–AD94

Environmental Protection Agency (EPA) — Completed Actions
Safe Drinking Water Act (SDWA)

414. NATIONAL PRIMARY DRINKING WATER REGULATIONS: STAGE I DISINFECTANT/DISINFECTION BY–PRODUCTS RULE (COMPLETION OF A SECTION 610 REVIEW)

Legal Authority: 5 USC 610

Abstract: Congress required EPA to promulgate a Stage 1 and a Stage 2 Distribution Disinfection By-products Rule (DBPR) as part of the 1996 Safe Drinking Water Act Amendments (sec. 1412 (b)(2)(C)). The Stage 1 DPBR was finalized in 1998 (63 FR 69390, Dec. 16, 1998). Under the Stage 1 DBPR, EPA set maximum disinfectant level goals or maximum contaminant level goals for several disinfectants and disinfection by-products. EPA also set monitoring, reporting and public notification requirements for these compounds. EPA performed a regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (5 U.S.C. 604) and was not able to certify that the final Stage 1 DBPR will not have a significant economic impact on a substantial number of small entities. The Stage 2 DBPR (71 FR 388, Jan. 4, 2006) augments Stage 1 DBPR. EPA re-evaluated the Stage 1 DBPR and worked with stakeholders to develop the Stage 2 DBPR through consultation with a DBP Federal Advisory Committee (including small water system owners): State, local, and tribal governments; the National Drinking Water Advisory Committee; the Science Advisory Board; a Small Business Regulatory Enforcement Fairness Act consultation; a pre-proposal draft for comment as well as formal notice and public comment on the proposed Stage 2 DBPR. This entry in the regulatory agenda announced that while EPA has taken steps to evaluate and mitigate impacts on small entities of the Stage 1 DBPR as part of the promulgation of the final Stage 2 DBPR, pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610), EPA reviewed the Stage 1 DBPR. As part of this review, EPA considered and solicited comments on the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal State, or local government rules; and (5) the degree to which the technology, economic conditions or other factors have changed in the area affected by the rule. EPA received no comments and completed the review. Based on the evaluation of the Stage 1 DBPR during the promulgation of the Stage 2 DBPR, EPA believes there is a continued need for the Stage 1 DBPR.

Timetable:

Action	Date	FR Cite
Final Rule	12/16/98	63 FR 69389
Begin Review	05/05/08	73 FR 24755
End Comment Period	08/04/08	
End Review	08/19/08	

Regulatory Flexibility Analysis Required: No

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RIN: 2040–AE97

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