

July 2008
Federal Mandate Report

January 14th, 2008

to

July 1st, 2008



Commonwealth of Virginia

Office of the Governor

Virginia Liaison Office

The Federal Mandate Report is published semiannually by the Virginia Liaison Office (VLO). This report provides reviews of federal legislation containing unfunded mandates that have become public law (Part I), or passed at least one chamber of Congress (Part II). The report also provides reviews of federal regulatory action completed that may affect the Commonwealth (Part III). The VLO relies on the Congressional Budget Office's (CBO) interpretations of the Federal Unfunded Mandate Reform Act (UMRA) to determine what legislation contains intergovernmental mandates. Descriptions of the mandates provided in this analysis are based upon, or excerpted from, these CBO documents. Likewise the VLO relies on the recommendations of the Regulatory Information Service Center (RISC) of the General Services Administration to determine which federal regulatory actions may affect the states.

This edition of the Federal Mandate Report is intended to provide an overview of the legislative and regulatory requirements imposed upon the Commonwealth for the period from January 14th, 2008 to July 1st, 2008.

Of the bills reviewed by the CBO two (2) have become public law, while six (6) have passed at least one chamber of congress.

Likewise, the RISC identified a total of forty-seven (47) completed federal regulations affecting States, all of which may impact the Commonwealth.

We would especially like to thank Rebecca Kasper for all of her hard work on this report.

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Part I – Mandates in Public Law

Title I of the Unfunded Mandate Reform Act (UMRA) of 1995 requires the Congressional Budget Office (CBO) to prepare mandate statements for bills approved by authorizing committees. In those statements, CBO must address whether a bill contains federal mandates and, if so, whether the direct costs of those mandates would be greater than the thresholds established in the law. The thresholds for 2007, which are adjusted annually for inflation, are \$68 million for intergovernmental mandates (state, local, or tribal governments) and \$136 million or more per year for the private sector.

Bill Number	Bill Title	Unfunded Mandate on State	Bill Status (Including Congressional Vote)
H.R.2419	Food, Conservation, and Energy Act of 2008	According to a CBO score on May 13 th ,2008, The Congressional Budget Office and the Joint Committee on Taxation (JCT) have estimated the effects on direct spending and revenues of the conference agreement for H.R. 2419, the Food, Conservation, and Energy Act of 2008. Under H.R. 2419, the bulk of the legislation’s policies would extend only through 2012; but following baseline construction rules for mandatory programs, we assume that expiring programs are continued indefinitely. Relative to CBO’s March 2008 baseline projections, we estimate that enacting H.R. 2419 would increase direct spending by about \$3.6 billion over the 2008-2018 period, assuming that the legislation would remain in effect throughout that period. JCT and CBO estimate that revenues would increase under the legislation by \$0.7 billion over the same period. On balance, those changes would produce net costs (increases in deficits or reductions in) of about \$2.9 billion over the 11-year period, relative to surpluses CBO’s most recent baseline projections.	5/22/2007: Introduced in House 7/23/2007: Reported (Amended) by the Committee on Agriculture. 7/23/2007: Committee on Foreign Affairs discharged. 7/27/2007: Passed/agreed to in House:: 231 - 191 Yeas: Scott, Forbes, Boucher Nays: Cantor, Davis, Drake, Goode, Wolf, Goodlatte,

		<p>CBO estimates that relative to its March 2007 baseline assumptions, enactment of H.R. 2419 would increase direct spending by \$0.5 billion over the 2008-2017 period. (Fiscal year 2017 is currently the last year used for budget enforcement in the Senate under S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008.) JCT and CBO estimate that revenues would increase under the legislation by \$0.7 billion over the same period. On balance, those changes would produce net savings (reductions in deficits or increases in surpluses) of about \$0.1 billion over the 10-year period, relative to CBO's March 2007 baseline projections. The enclosed tables 3 and 4 provide more details on those estimates.</p>	<p>Moran</p> <p>Not Voting: Wittman</p> <p>12/14/2007: Passed/agreed to in Senate: Vote. 79 - 14</p> <p>Yeas: Warner, Webb</p> <p>5/21/2008: Vetoed by President.</p> <p>5/21/2008: Passed House over veto: 316 - 108</p> <p>Yeas: Boucher, Drake, Forbes. Goodlatte, Moran, Scott</p> <p>Nays: Cantor, Davis, Goode, Wolf</p> <p>5/22/2008: Passed Senate over veto: Yea-Nay Vote. 82 - 13..</p> <p>Yeas: Warner, Webb</p> <p>5/22/2008:</p>
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			Became Public Law No: 110-234
H.R.6	Energy Independence and Security Act of 2007	<p>H.R. 6 (enacted as Public Law 110-140) modifies numerous federal energy policies, programs, and tax measures. CBO and the Joint Committee on Taxation (JCT) estimate that the legislation will:</p> <ul style="list-style-type: none"> • Increase direct spending by \$582 million over the 2008-2012 period and reduce it by \$85 million over the 2008-2017 period; • Increase revenues by \$976 million over the 2008-2012 period and reduce them by \$33 million over the 2008-2017 period; and • Reduce future deficits (or increase future surpluses) by \$394 million over the 2008-2012 period and by \$52 million over the 2008-2017 period. <p>CBO estimates that H.R. 6 will increase direct spending by \$582 million over the 2008-2012 period and reduce it by \$85 million over the 2008-2017 period. Those effects result primarily from provisions that increase mandates related to the use of renewable motor fuels, require federal agencies to meet new goals related to the efficiency of energy and water use, extend and expand federal agencies' authority to enter into energy savings performance contracts (ESPCs), and direct the General Services Administration (GSA) to install a photovoltaic system at a federal facility in Washington, D.C.</p>	<p>1/12/2007: Introduced in the House</p> <p>1/18/2007: Passed/agreed to in House: 264 – 163</p> <p>Ayes: Boucher, Moran, Wolf, Scott</p> <p>Nays: Cantor, Davis, Drake, Forbes, Goode, Goodlatte, Davis, Jo Ann</p> <p>6/21/2007: Passed/agreed to in Senate: 65 - 27.</p> <p>Ayes: Warner, Webb</p> <p>12/6/2007: Resolving differences -- House actions: On motion that the House agree with amendments to the Senate amendments Agreed to by the Yeas and Nays: 235 – 181</p> <p>Ayes: Boucher, Moran,</p>

			<p>Scott</p> <p>Nays: Cantor, Davis, Drake, Forbes, Goode, Goodlatte, Wolf</p> <p>12/13/2007: Resolving differences -- Senate actions: Senate concurred in the House amendment to the Senate amendment to the text of H.R. 6, with an amendment (SA 3850) by Yea-Nay Vote. 86 - 8.</p> <p>Ayes: Warner, Webb</p> <p>12/18/2007: Resolving differences -- House actions: On motion that the House agree to the Senate amendment to the House amendments to the Senate amendments Agreed to by the Yeas and Nays: 314 – 100</p> <p>Ayes: Boucher, Davis, Forbes, Goode, Moran. Scott, Wolf</p>
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			Nays: Cantor, Drake, Goodlatte, Wittman 12/19/2007: Signed by President. Became Public Law No: 110-140
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Part II - Mandates in Pending Legislation

Title II of the Unfunded Mandate Reform Act (UMRA) of 1995 requires the Congressional Budget Office (CBO) to prepare mandate statements for bills approved by authorizing committees. In those statements, CBO must address whether a bill contains federal mandates and, if so, whether the direct costs of those mandates would be greater than the thresholds established in the law. The thresholds for 2007, which are adjusted annually for inflation, are \$68 million for intergovernmental mandates (state, local, or tribal governments) and \$136 million or more per year for the private sector.

Bill Number	Bill Title	Unfunded Mandate on State	Bill Status (Including Congressional Vote)
H.R.5658	Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	H.R. 5658 would authorize appropriations totaling \$602 billion for fiscal year 2009 for the military functions of the Department of Defense (DoD), for certain activities of the Department of Energy (DOE), and for other purposes. That total includes \$70 billion for military operations in Iraq and Afghanistan. The bill also would authorize \$1.6 billion in 2008 supplemental appropriations, primarily for military construction projects. In addition, H.R. 5658 would prescribe personnel strengths for each active-duty and selected reserve component of the U.S. armed forces. CBO estimates that appropriation of the authorized amounts would result in additional outlays of \$596 billion over the 2008-2013 period. Including outlays from funds previously appropriated, spending for defense programs authorized by the bill would total about \$600 billion in 2009, CBO estimates. That figure, however, excludes outlays from the likely enactment of supplemental appropriations for 2008 that are not authorized by the bill. Including the effects of those additional supplemental appropriations for 2008 now being considered by the Congress, spending in 2009 would total more than \$630 billion.	<p>3/31/2008: Introduced in the House</p> <p>5/16/2008: Reported (Amended) by the Committee on Armed Services. H. Rept. 110-652</p> <p>5/20/2008: Passed/agreed to in House: 384 – 23</p> <p>Ayes: Boucher, Cantor, Davis, Drake, Goode, Goodlatte, Forbes, Moran, Scott, Wittman, Wolf</p>

		<p>The bill also contains provisions that would both increase and decrease costs of discretionary defense programs in years after 2009. Most of those provisions would affect force structure, compensation, and benefits. In total, such provisions would raise costs by about \$3 billion annually, assuming appropriation of the necessary amounts. The bill contains provisions that would both increase and decrease direct spending, primarily from changes in the TRICARE pharmacy benefit and retirement programs, and from the sale of assets from the National Defense Stockpile. We estimate that those provisions combined would increase direct spending by \$2 million in 2009, but would decrease such spending by \$13 million over the 2009-2013 period and \$75 million over the 2009-2018 period. Enacting the bill would not affect federal revenues. Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that enforce the constitutional rights of individuals. CBO has determined that section 591 would fall within that exclusion because it would modify the authority of the President to employ the armed services to protect individuals' civil rights. Therefore, CBO has not reviewed that section of the bill for mandates. Other provisions of H.R. 5658 contain both intergovernmental and private-sector mandates, but CBO estimates that the annual cost of those mandates would not exceed the thresholds established in UMRA (\$68 million for intergovernmental mandates in 2008 and \$136 million for private-sector mandates in 2008, adjusted annually for inflation).</p>	<p>6/3/2008: Received in the Senate. Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 758</p>
<p>H.R.4841</p>	<p>Soboba Band of Luiseno Indians Settlement Act</p>	<p>H.R. 4841 would approve and ratify a water rights settlement agreement among the Soboba Band of Luiseno Indians and its members, the United States, and three water districts in Riverside County, California, provided that certain conditions are</p>	<p>12/19/2007: Introduced in the House 5/15/2008</p>

		<p>met. As part of the agreement, H.R. 4841 would create two funds—the San Jacinto Basin Restoration Fund and the Soboba Band of Luiseno Indians Water Development Fund. Under the bill, money in those funds could not be spent until the agreement is approved by all parties involved and other requirements have been met.</p> <p>Based on information from the Department of the Interior (DOI), CBO estimates that implementing H.R. 4841 would cost \$21 million over the 2010-2011 period, assuming appropriation of the authorized amounts. Enacting the legislation would have no significant impact on direct spending and would not affect revenues. H.R. 4841 would restrict the tribe’s ability to use and lease water it receives as part of the settlement agreement, and that restriction would be an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the mandate would impose no new costs on the tribe, and therefore, the threshold established in UMRA (\$68 million in 2008, adjusted annually for inflation) would not be exceeded. H.R. 4841 contains no private-sector mandate as defined in UMRA.</p>	<p>Reported (Amended) by the Committee on Natural Resources. H. Rept. 110-649</p> <p>5/21/2008: Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote.</p> <p>5/22/2008: Received in the Senate.</p>
H.R.4137	College Opportunity and Affordability Act of 2008	H.R. 4137 would reauthorize and amend most postsecondary education programs under the Higher Education Act of 1965 through 2013. Under the General Education Provisions Act, those authorizations would automatically be extended through 2014. The act also would create several new student and institutional aid programs and amend several other acts. CBO estimates that enacting H.R. 4137 would increase direct spending by \$27 million over the 2008-2013 period and decrease	<p>11/9/2007: Introduced in the House</p> <p>12/19/2007: Reported (Amended) by the Committee on Education and Labor. H. Rept. 110-</p>

		<p>spending by \$73 million over the 2008-2018 period. (This estimate is relative to CBO’s March 2008 baseline, and also reflects legislation enacted since then. See the “Previous CBO Estimates” section for the estimated costs of H.R. 4137 at the time it passed the House.) For discretionary programs, CBO estimates that implementing the act would cost \$142 billion over the 2009-2013 period, assuming appropriation of the necessary amounts. H.R. 4137 contains several intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the aggregate costs to state, local, and tribal governments and private entities to comply with those mandates would not exceed the thresholds established in UMRA (\$68 million and \$136 million, respectively, in 2008, adjusted annually for inflation).</p>	<p>500, Part I.</p> <p>12/19/2007: Committee on Judiciary discharged</p> <p>12/19/2007: Committee on Science and Technology discharged.</p> <p>12/19/2007: Committee on Financial Services discharged.</p> <p>2/7/2008: Passed/agreed to in House:: 354 – 58</p> <p>Ayes: Drake, Forbes, Goode, Goodlatte, Moran, Scott, Wittman, Wolf</p> <p>Nays: Cantor</p> <p>Not Voting: Boucher, Davis</p> <p>2/25/2008: Referred to Senate committee: Received in the Senate and Read twice and referred to the Committee</p>
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			on Health, Education, Labor, and Pensions.
H.R.1237	A bill to amend the Public Service Act to provide revised standards for quality assurance in screening and evaluation of gynecologic cytology preparations	H.R. 1237 would amend the Clinical Laboratory Improvement Act (CLIA) by requiring clinical laboratories to ensure that all individuals involved in screening and interpreting cytological preparations participate in annual continuing medical education programs in gynecologic cytology. The bill would repeal the current requirement for proficiency testing for laboratory personnel performing cytology laboratory tests. CLIA activities, which are administered by the Centers for Medicare & Medicaid Services (CMS), are funded through user fees, which cover 100 percent of the cost of implementing the program. This legislation would have a minor impact on CMS’s workload. However, because the CLIA program recovers 100 percent of its costs through fees (which are accounted for in the budget as offsetting collections), any change in its administrative costs would be offset by an equal change in the fees that CMS charges. Hence, CBO estimates that implementing H.R. 1237 would have no net budgetary effect. Enacting the legislation would not affect direct spending or revenues. The bill would require clinical laboratories, including laboratories of public and private hospitals, to comply with record-keeping and management standards for personnel performing cytology laboratory tests. That requirement would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates, however, that the costs to laboratories would be small because compliance would probably involve minor adjustments to existing administrative procedures. The bill also would impose a private	<p>2/28/2008: Introduced in the House</p> <p>4/8/2008: Reported (Amended) by the Committee on Energy and Commerce. H. Rept. 110-566.</p> <p>4/8/2008: Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote.</p> <p>4/9/2008: Referred to Senate committee: Received in the Senate and Read twice and referred to the Committee on Health, Education, Labor, and Pensions.</p>

		<p>sector mandate on individuals who screen and interpret cytological preparations by requiring them to participate in continuing medical education programs. CBO estimates that the costs of carrying out that mandate also would be small because only several thousand individuals would be subject to the education requirements and most of them are already enrolled in such programs. Thus, CBO estimates that the costs to governmental and private-sector entities of the mandates in the bill would be small and would not exceed the thresholds established in UMRA (\$68 million for intergovernmental mandates and \$136 million for private-sector mandates, in 2008 adjusted annually for inflation).</p>	
<p>H.R.1759</p>	<p>Managing Arson Through Criminal History (MATCH) Act of 2007</p>	<p>H.R. 1759 would authorize the appropriation of whatever sums are necessary for fiscal years 2009 through 2014 for the Department of Justice (DOJ) to make grants to states and other jurisdictions to establish registration programs for persons convicted of arson. The act also would direct DOJ to establish a national arsonist registry and Web site. Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 1759 would cost \$17 million over the 2009-2013 period. Enacting the legislation would not affect direct spending or receipts. H.R. 1759 would impose an intergovernmental mandate, as defined in the Unfunded Mandates Reform Act (UMRA), by requiring Indian tribes that choose not to establish registries of arsonists to enter into agreements with nearby states to provide such services. CBO estimates that the cost, if any, of that mandate would be small and well below the threshold established in UMRA (\$68 million in 2008, adjusted annually for inflation). H.R. 1759</p>	<p>3/29/2007: Introduced in the House 12/4/2007: Reported (Amended) by the Committee on Judiciary. H. Rept. 110-467. 12/5/2007: Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. 12/6/2007: Referred to Senate committee: Received in the Senate and Read twice and</p>

		contains no new private-sector mandates as defined in UMRA.	referred to the Committee on the Judiciary.
H.R.3079	Northern Mariana Islands Immigration, Security, and Labor Act	H.R. 3079 would amend the current law that governs the relationship between the United States and the Commonwealth of the Northern Mariana Islands (CNMI), a territory of the United States, to reform the immigration laws of CNMI. In addition, the act would provide Congressional representation for CNMI by creating a nonvoting delegate in the House of Representatives beginning in January 2009. CBO estimates that implementing H.R. 3079 would result in additional discretionary outlays of \$12 million over the 2008-2013 period, assuming appropriation of the necessary amounts. Enacting H.R. 3079 also would increase direct spending for payment of the salary of the new nonvoting delegate and the costs of associated benefits. In addition, the legislation would reduce direct spending by cutting certain payments to CNMI. CBO estimates that those provisions would result in no significant net effect on direct spending in any fiscal year over the 2009-2018 period. H.R. 3079 could affect revenues, but CBO estimates that any net changes in revenues would be insignificant in each year. H.R. 3079 contains intergovernmental mandates, as defined in the Unfunded Mandates Reform Act (UMRA), because it would preempt the immigration laws of CNMI and require that government to comply with additional federal requirements. CBO estimates that the direct costs of those mandates would be small and would not exceed the threshold established in UMRA (\$68 million in 2008, adjusted annually for inflation). By modifying the laws that govern immigration in CNMI, H.R. 3079 would impose private-sector	<p>7/18/2007: Introduced in the House</p> <p>12/4/2007: Reported (Amended) by the Committee on Natural Resources. H. Rept. 110-469, Part I.</p> <p>12/11/2007: Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote.</p> <p>4/10/2008: Committee on Energy and Natural Resources. Reported by Senator Bingaman without amendment. With written report No. 110-324.</p> <p>6/11/2008: Senate floor actions: Indefinitely postponed by Senate by Unanimous Consent.</p>

		<p>mandates, as defined in UMRA, on employers and temporary alien workers in CNMI. The cost to comply with those mandates would depend in part on regulations to be developed by the Secretary under the act. Therefore, CBO cannot determine whether the aggregate cost of those mandates would exceed the annual threshold established in UMRA for private-sector mandates (\$136 million in 2008, adjusted annually for inflation).</p>	
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Part III - Federal Regulatory Mandates

The Regulatory Information Service Center of the General Services Administration identified forty-seven (47) completed federal regulatory actions that may affect the states, all of which may mandate specific requirements on the Commonwealth.

TITLE: Interstate Movement of Citrus Fruit

RIN: 0579-AC34

ABSTRACT: This rulemaking amends the regulations to relieve restrictions that currently require citrus producers to ensure that citrus groves in the State of Florida are certified to be free of citrus canker prior to interstate movement of citrus fruit. This action also requires that all inspection of fruit for symptoms of citrus canker as well as treatments and packaging of citrus fruit to be moved interstate occur in packinghouses that operate under a compliance agreement with APHIS. This action allows the interstate movement of fresh citrus fruit from Florida, provided the fruit does not exhibit symptoms of citrus canker and is handled in accordance with the regulations.

TITLE: National Organic Program: Sunset (Expiration) of Allowances and Prohibitions Contained on the National List

RIN: 0581-AC51

ABSTRACT: The Agricultural Marketing Service (AMS) is revising regulations pertaining to the use of allowed and prohibited substances contained on the National List. The Organic Foods Production Act (OFPA) (7 U.S.C. 6501 et seq.) authorizes the establishment of the National List of allowed and prohibited substances. The National List identifies synthetic substances that are allowed and nonsynthetic substances that are prohibited in organic crop and livestock production. The National List also identifies nonsynthetics and synthetics that are allowed for use in organic handling.

The allowances and prohibitions granted under the OFPA are required to be reviewed every 5 years by the National Organic Standards Board (NOSB). If they are not reviewed by the NOSB and renewed by the Secretary within 5 years of their inclusion on the National List, their authorized use or prohibition expires.

Expiration of the exempted or prohibited use of substances is provided for under the OFPA's sunset provision. AMS will conduct informal rulemaking to facilitate the sunset review of 165 exempted and 9 prohibited substances currently on the National List. On June 17, 2005, AMS published an ANPRM that established October 21, 2007, as the date by which the sunset review and renewal process must be concluded. This ANPRM discussed how the NOP will manage the sunset review and renewal process. The ANPRM also began the public comment process on whether the existing specific exemptions or prohibitions on the National List should be continued for organic production and handling. The comment period for the ANPRM closed on August 16, 2005.

TITLE: National Organic Program: Amending the National List (Crop and Livestock) (TM-06-04)

RIN: 0581-AC61

ABSTRACT: The Agricultural Marketing Service is amending the National Organic Programs' National List of Allowed and Prohibited Substances (National List) regulations to reflect recommendations submitted to the Secretary of Agriculture (Secretary) by the National Organic

Standards Board (NOSB) on August 17, 2005. Consistent with the recommendations from the NOSB, this rule would add one new substance, along with any restrictive annotations to the National List. The NOSB recommended adding "Sucrose octanoate esters."

TITLE: National Organic Program: Amendments to the National List (Livestock) (TM-03-04)

RIN: 0581-AC62

ABSTRACT: The Agricultural Marketing Services is amending regulations pertaining to the National Organic Program National List to reflect recommendations submitted to the Secretary of Agriculture by the National Organic Standards Board. This rule will add 13 substances, along with any restrictive annotations to the National List of Allowed and Prohibited Substances.

TITLE: Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Miscellaneous Vendor-Related Provisions

RIN: 0584-AD36

ABSTRACT: This final rule amends the WIC regulations to clarify issues that have arisen subsequent to the publication of the WIC Food Delivery Systems final rule. It includes the following provisions: Allows the release of vendor information such as telephone numbers, e-mail/website addresses, store type, and whether the vendor has been disqualified; provides for an abbreviated administrative review when a State agency issues a civil money penalty in lieu of a reciprocal WIC disqualification; and prohibits State agencies from requiring infant formula manufacturers to provide free formula or other items as part of their infant formula rebate solicitations and contracts. (02-013)

TITLE: Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations

RIN: 0648-AS01

ABSTRACT: This action would implement modifications of the Atlantic Large Whale Take Reduction Plan (ALWTRP). The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act. The commercial fishery requirements provided in this rule are intended to implement the additional requirements recommended by the Atlantic Large Whale Take Reduction Team and the National Marine Fisheries Service.

TITLE: Compensatory Mitigation for Losses of Aquatic Resources

RIN: 0710-AA55

ABSTRACT: Section 314(b) of the National Defense Authorization Act of 2004 (Pub. L. 108-136) requires the Secretary of the Army, acting through the Chief of Engineers, to issue regulations establishing performance standards and criteria for on-site, off-site, and in lieu fee mitigation and mitigation banking consistent with section 404 of the Clean Water Act. The requirements and standards in the regulations will improve the quality and performance of compensatory mitigation in replacing aquatic resource functions lost as a result of activities authorized by Department of the Army permits.

TITLE: Status of Certain Additional Over-the-Counter Drug Category II and III Active Ingredients

RIN: 0910-AF75

ABSTRACT: Section 310.545 (21 CFR part 310.545) codifies a final rule that was issued stating certain first aid antiseptic, vaginal contraceptive, and antimicrobial diaper rash ingredients in over-the-counter (OTC) drug products are not generally recognized as safe and effective and are misbranded. This rule

took into consideration the reports and recommendations of various OTC drug advisory review panels and public comment on proposed Agency regulations. Based on the absence of substantive comments in opposition to the Agency's proposed nonmonograph status for various ingredients, as well as the failure of interested parties to submit new data or information to FDA, the Agency determined that the presence of the subject ingredients in an OTC drug product would result in that product not being generally recognized as safe and effective and would result in misbranding.

FDA initiated a review under section 610 of the Regulatory Flexibility Act for the regulation in section 310.545. The purpose of this review was to determine whether the regulation in section 310.545 should be continued without change, or whether it should be further amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize adverse impacts on a substantial number of small entities. FDA considered, and solicited comments on the following: (1) The continued need for the regulation in section 310.545; (2) the nature of the complaints or comments received concerning the regulation in section 310.545; (3) the complexity of the regulations in section 310.545; (4) the extent to which the regulation in section 310.545 overlaps, duplicates, or conflicts with other Federal, State, or governmental rules; and (5) the degree to which technology, economic conditions, or other factors have changed for the products still subject to the regulation in section 310.545.

The section 610 review was carried out along with a regulatory review under section 5 of Executive Order 12866, which calls for agencies to periodically review existing regulations to determine whether any should be modified or eliminated so as to make the Agency's regulatory program more effective in achieving its goals, less burdensome, or in

greater alignment with the President's priorities and the principles set forth in the Executive order. This review concluded with a FDA determination that there is a continual need for this regulation in 310.545, because this section lists ingredients that have not been shown to be safe and effective in OTC drug products for various uses. FDA uses this section in evaluating possible regulatory action.

TITLE: Beverages: Bottled Water

RIN: 0910-AF80

ABSTRACT: Section 165.110 (21 CFR part 165.110) describes requirements for identity and quality standards for bottled water. FDA is undertaking a review of section 165.110 under section 610 of the Regulatory Flexibility Act. The purpose of this review is to determine whether the regulations in section 165.110 should be continued without change, or whether they should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact on a substantial number of small entities. FDA will consider the following: (1) The continued need for the regulations in section 165.110; (2) the nature of complaints or comments received concerning the regulations in section 165.110; (3) the complexity of the regulations; (4) the extent to which the regulations in section 165.110 overlap, duplicate, or conflict with other Federal rules, and to the extent feasible, with State or governmental rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulations in section 165.110. FDA received two comments on these issues and is considering them.

TITLE: Food Labeling; Nutrient Content Claims: Definition for "High Potency" and Definition of "Antioxidant" for Use in

Nutrient Content Claims for Dietary Supplements and Conventional Foods

RIN: 0910-AF83

ABSTRACT: Section 101.54 (21 CFR part 101.54) describes the requirements for when the terms "high potency" and "antioxidant" may be used on the label or in the labeling of foods, including dietary supplements. Section 101.60 (21 CFR part 101.60) describes the requirements for when the terms "low calorie" or "reduced calorie" may be used on the label or in the labeling of such foods. FDA undertook a review of sections 101.54 and 101.60 under section 610 of the Regulatory Flexibility Act. The purpose of this review was to determine whether the regulations should be continued without change, or whether they should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact on a substantial number of small entities. FDA solicited comments on the following: (1) The continued need for the regulations in sections 101.54 and 101.60; (2) the nature of complaints or comments received concerning the regulations; (3) the complexity of the regulations; (4) the extent to which the regulations in sections 101.54 and 101.60 overlap, duplicate, or conflict with other Federal rules, and to the extent feasible, with State or governmental rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulations in sections 101.54 and 101.60. No comments were received. FDA's review of these regulations concluded that they should be continued without change.

TITLE: Standards for E-Prescribing Under Medicare Part D (CMS-0016-F)

RIN: 0938-AO66

ABSTRACT: This rule finalizes standards for electronic prescribing (e-prescribing) under Medicare Part D. This rule requires Medicare

Part D and Medicare Advantage plans to support electronic transmission of basic prescription data to and from doctors and pharmacies and to adopt final standards for e-prescribing as required by section 101 of the MMA.

TITLE: Standards for E-Prescribing Under Medicare Part-D (CMS-0016-F)

RIN: 0938-AO78

ABSTRACT: This rule finalizes standards for electronic prescribing (e-prescribing) under Medicare Part D. This rule requires Medicare Part D and Medicare Advantage plans to support electronic transmission of basic prescription data to and from doctors and pharmacies and to adopt final standards for e-prescribing as required by section 101 of the MMA.

TITLE: Revisions to the Medicare Advantage and Part D Prescription Drug Contract Determinations, Appeals, and Intermediate Sanctions Processes (CMS-4124-F)

RIN: 0938-AO78

ABSTRACT: This rule clarifies and modifies the Medicare Advantage (MA) program provisions relating to disclosure of information, and contract determinations by MA organizations and Part D prescription drug plan sponsors. This rule also revises requirements concerning the reconsideration of determinations and clarifies the schedule for MA organizations and Part D plan sponsors to complete corrective action plans. In addition, it clarifies the intermediate sanction and civil money penalty (CMP) provisions relating to MA organizations and Medicare Part D prescription drug plan sponsors.

TITLE: Health Care-Related Tax Revisions (CMS-2275-F)

RIN: 0938-AO80

ABSTRACT: This rule revises the threshold under the indirect guarantee hold harmless arrangement test to reflect the provisions of the Tax Relief and Health Care Act of 2006 by providing that, when determining whether there is an indirect guarantee under the two-prong test for any part of a fiscal year on or after January 1, 2008, through September 30, 2011, the allowable amount that can be collected from a health care-related tax is reduced from 6 to 5.5 percent of net patient revenues received by the taxpayers. This rule also clarifies the standard for determining the existence of a hold harmless arrangement under the positive correlation test, Medicaid payment test, and the guarantee test (with conforming changes to parallel provisions concerning hold harmless arrangements with respect to provider-related donations); codifies descriptions for two classes of health care services permissible under Federal statute for purposes of taxes on health care providers; and removes obsolete transition period regulatory language.

TITLE: Limitation on Contractor Liability (CMS-2264-F)

RIN: 0938-AO88

ABSTRACT: Section 6034 of the Deficit Reduction Act of 2005 established the Medicaid Integrity Program to promote the integrity of the Medicaid program by authorizing the Centers for Medicare and Medicaid Services (CMS) to enter into contracts with contractors that will: (1) Review the actions of individuals or entities furnishing items or services (whether fee-for-service, risk, or other basis) for which payment may be made under an approved State plan and/or any waiver of the plan approved under section 1115 of the Social Security Act; (2) audit claims for payment of items or services furnished, or administrative services furnished, under a State plan; (3) identify overpayment of individuals or entities receiving Federal funds; and (4)

educate providers of services, managed care entities, beneficiaries, and other individuals with respect to payment integrity and quality of care. This proposed rule would set forth limitations on a contractor's liability while performing these services under the Medicaid Integrity Program.

This final rule provides for limitation of a contractor's liability for actions taken to carry out a contract under the Medicaid Integrity Program. The final rule will, to the extent possible, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157 of the Social Security Act.

TITLE: State Children's Health Insurance Program (SCHIP); Additional Allotments To Eliminate FY 2007 Funding Short-Falls (CMS-2273-N)

RIN: 0938-AO99

ABSTRACT: This non major notice describes the methodology and process used for determining the amounts of certain States' remaining SCHIP funding shortfalls in Federal fiscal year (FY) 2007, in accordance with the provisions of the U.S. Troop Readiness, Veteran's Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007. This notice also contains the amounts of the additional allotments to be provided to such States to eliminate such FY 2007, funding shortfalls, determined in accordance with this methodology.

TITLE: Fiscal Year Disproportionate Share Hospital Allotments and Disproportionate Share Hospital Institutions for Mental Disease Limits (CMS-2269-N)

RIN: 0938-AP08

ABSTRACT: This notice sets forth the States' final fiscal year (FY) 2006, preliminary FY 2007, and preliminary FY 2008 disproportionate share hospital (DSH)

payment allotments and States' institutions for mental disease (IMD) DSH limits in the Medicaid program.

TITLE: Elimination of Reimbursement Under Medicaid for School-Based Administration Expenditures and Certain Transportation Costs (CMS-2287-F)

RIN: 0938-AP13

ABSTRACT: As part of the President's 2008 Budget, this rule eliminates reimbursement for school-based administrative expenditures and certain transportation costs.

TITLE: Medicaid Program; Final State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals for Federal Fiscal Year 2007 (CMS-2231-N)

RIN: 0938-AP23

ABSTRACT: This notice sets forth the methodology and process used to compute and issue each State's final allotment for fiscal year (FY 2007) is available to pay Medicare Part B premiums for qualifying individuals.

TITLE: Chafee National Youth in Transition Database

RIN: 0970-AC21

ABSTRACT: This rule would require States to collect and report data on youth who are receiving independent living services and the outcomes of certain youth who are in foster care or who age out of foster care.

TITLE: TANF Work Provisions of the Deficit Reduction Act

RIN: 0970-AC27

ABSTRACT: This rule will address new work requirements associated with the Deficit Reduction Act of 2005, including what counts as work activities, reporting and verifying hours of work, and who should be included in the work participation rate.

TITLE: Ownership, Control, and Transfer, Assignment, or Sale of Permit Rights

RIN: 1029-AC52

ABSTRACT: This rule amends the definitions pertaining to ownership, control, and transfer, assignment, or sale of permit rights and revises OSM's regulatory provisions governing permit eligibility determinations; improvidently issued permits; ownership or control challenges; post-permit issuance actions and requirements; transfer, assignment or sale of permit rights; application and permit information; and alternative enforcement.

TITLE: Fees, Liens, and Miscellaneous Provisions

RIN: 1029-AC55

ABSTRACT: This rule would implement provisions of the Surface Mining Control and Reclamation Act Amendments of 2006 that require expedited implementation because of the statutory time frames. The 2006 amendments revised and extended the abandoned mine land program and its fee rate.

TITLE: Employer Payment for Personal Protective Equipment

RIN: 1218-AB77

ABSTRACT: Generally, OSHA standards require that protective equipment (including personal protective equipment (PPE)) be provided and used when necessary to protect employees from hazards that can cause them injury, illness, or physical harm. In this discussion, OSHA uses the abbreviation PPE to cover both personal protective equipment and other protective equipment. In 1999, OSHA proposed to require employers to pay for PPE, with a few exceptions. The Agency re-opened the record on July 8, 2004, to get input on issues related to PPE considered to be a "tool of the trade." The final rule was published on November 15, 2007.

TITLE: Mine Rescue Teams

RIN: 1219-AB53

ABSTRACT: On June 15, 2006, Pub. L. 109-236 or the Mine Improvement and New Emergency Response Act (MINER Act) of 2006 became effective. This rulemaking implements section 4 of the MINER Act by amending existing standards and developing new standards to provide for certification, composition, and training requirements for mine rescue teams in underground coal mines. Mine rescue team members also must be at the mine within an hour from the mine rescue station; requirements for mine rescue teams are set forth in 30 CFR part 49.

TITLE: Exchange Visitor Program—Sanctions

RIN: 1400-AC29

ABSTRACT: This rule will amend section 22 CFR 62.50, which pertains to sanctions to clearly define the revocation process.

TITLE: Federal Claims Collection Standard--Collection by Installments

RIN: 1510-AA91

ABSTRACT: Section 901.9, paragraph (f) is being modified to state that when an administrative charge is being paid out of amounts collected from the debtor, the amounts collected should be applied to that charge first. Remaining amounts are then applied to penalties, any other administrative charges, interest, and principal.

TITLE: Section 3121(a)(5)(D) Regulation (Salary Reduction Agreement)

RIN: 1545-BH00

ABSTRACT: The proposed regulations define the term salary reduction agreement within the meaning of section 3121(a)(5)(D) as a plan or arrangement whereby payment will be made by an employer to an annuity described in section 403(b) if an employee

elects to reduce his compensation or if an employee agrees as a condition of employment to make a mandatory contribution that reduces his compensation.

TITLE: Documents and Receipts Acceptable for Employment Eligibility Verification

RIN: 1615-AB69

ABSTRACT: The Department of Homeland Security is amending its regulations listing the identity and employment authorization documents and receipts that individuals may present to their employers for completion of Form I-9, "Employment Eligibility Verification." This rule changes the list of documents by: requiring that acceptable documents be unexpired, and eliminating several identity (List B) and employment authorization (List C) documents. A copy of the amended Form I-9 reflecting these changes will be published as an attachment to this rule. The purpose of this rule is to improve the integrity of the employment eligibility verification process by simplifying the list of acceptable documents for ease of use by employers, ensuring that the list contains secure and fraud-resistant documents, and adding safeguards to the verification process.

TITLE: Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System To Produce Synthesis Gas

RIN: 2050-AE78

ABSTRACT: The U.S. Environmental Protection Agency (EPA) revised the RCRA hazardous regulations to exclude oil-bearing secondary materials, generated by the petroleum refining industry, from the definition of solid waste if the materials are destined to be processed in a gasification device manufacturing synthesis gas fuel. This exclusion clarifies and simplifies RCRA jurisdiction and is consistent with other

comparable existing exclusions in the petroleum refining industry.

TITLE: NESHAP: National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors: Amendments

RIN: 2050-AG35

ABSTRACT: EPA is finalizing amendments to the national emission standards for hazardous air pollutants (NESHAP) for hazardous waste combustors, which EPA promulgated on October 12, 2005. The amendments to the October 2005 final rule clarify several compliance and monitoring provisions and also correct several omissions and typographical errors in the final rule. We are finalizing the amendments to facilitate compliance and improve understanding of the final rule requirements.

TITLE: Area Source National Emission Standards for Hazardous Air Pollutants (NESHAP) for Iron and Steel Foundries

RIN: 2060-AM36

ABSTRACT: Section 112 of the Clean Air Act (CAA) outlines the statutory requirements for the EPA's stationary source air toxics program. Section 112(k) requires the development of standards for area sources which account for 90 percent of the emissions in urban areas of the 33 urban hazardous air pollutants (HAP) listed in the Integrated Urban Air Toxics Strategy. These area source standards can require control levels that are equivalent to either maximum achievable control technology (MACT) or generally available control technology (GACT), as defined in section 112. Both iron foundries and steel foundries were listed as high priority source categories via a toxicity-weighting analysis. Extensive data gathering and analyses were performed during the development of MACT standards for major iron and steel foundries in 1998. Although primarily a 1998 snapshot of the industry, this

database was continually updated with new information regarding plant closures and new control equipment installation throughout the major source rule development.

Consequently, this database includes the most recent data for a substantial number of area source foundries, and forms the foundation of the environmental and economic impact analysis for area source iron and steel foundries. We intend to apply GACT as control options for regulated emission sources. Several HAPs have been identified that may be present in air emissions in significant enough quantities to be of concern. The metal HAPs emitted from melting furnaces include cadmium, chromium, lead, manganese, and nickel. Aromatic organic HAPs produced by mold-and-core-making lines, melting furnaces, and pouring, cooling and shakeout (PCS) lines contain acetophenone, benzene, cumene, dibenzofurans, dioxins, naphthalene, phenol, pyrene, toluene, and xylene. The nonaromatic organic HAPs emitted are formaldehyde, methanol, and triethylamine. There are approximately 240 area source iron foundries in the U.S., with about 70 percent being small businesses. We estimate that 60 percent of the area source iron foundries have production under 10,000 tons per year. There are approximately 190 area source steel foundries in the U.S., with about 70 percent being small businesses. We estimate that 80 percent of the area source steel foundries have production under 10,000 tons per year. Approximately 75 percent of the iron foundries are located in the urbanized areas or urban clusters; approximately 80 percent of the steel foundries are located in the urbanized areas or urban clusters.

TITLE: Standards of Performance for Stationary Spark Ignited Internal Combustion Engines and Area Source NESHAP for RICE

RIN: 2060-AM81

ABSTRACT: This project is to develop New Source Performance Standards (NSPS) for stationary reciprocating internal combustion spark ignited engines. This includes two stroke lean burn (2SLB) engines, four stroke lean burn (4SLB) engines, and four stroke rich burn (4SRB) engines. These standards are being developed under section 111 of the CAA to require the application of the best system of emission reduction taking into account the cost of achieving emission reductions and environmental and energy impacts. The pollutants that will be addressed in this rulemaking are PM, NOx, SO2, and CO.

Area Source NESHAP for RICE--We are under a consent decree to propose area-source emission standards for hazardous air pollutants (HAP) from stationary reciprocating internal combustion engines. This action proposed standards for stationary engines smaller than 500 horsepower located at major sources of HAP. In addition we proposed standards for stationary engines of all sizes located at area sources of HAP.

TITLE: NESHAP: Paint Stripping and Miscellaneous Surface Coating Operations--Area Sources (Includes Autobody, Paint Stripping, and Misc. Coating Plastic Parts)

RIN: 2060-AN21

ABSTRACT: These standards are being developed under the Clean Air Act, Section 112(k). Under section 112(k), EPA developed a national strategy to address air-toxic pollution from "area" sources, which are sources that emit hazardous air pollutants (HAP) below the major source level of 10 tons/year of a single HAP or 25 tons/year of all HAP. As part of that strategy, Autobody Refinishing, Paint Stripping, and Plastic Parts and Products (Surface Coating) source categories were listed for regulation. These standards will establish requirements to control pollution from facilities engaged in

autobody refinishing, paint stripping, and surface coating of miscellaneous parts and products comprised of metal and plastic substrates. Facilities in these source categories are known to emit methylene chloride, cadmium compounds, chromium compounds, lead compounds, manganese compounds, and nickel compounds. Previously EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for major sources engaged in refinishing, paint stripping, and surface coating activities.

TITLE: Review of the National Ambient Air Quality Standards for Ozone

RIN: 2060-AN24

ABSTRACT: The Clean Air Act Amendments of 1977 require EPA to review and, if necessary, revise national ambient air quality standards (NAAQS) periodically. On July 18, 1997, the EPA published a final rule revising the NAAQS for ozone. The primary and secondary NAAQS were strengthened to provide increased protection against both health and environmental effects of ozone. The EPA's work plan/schedule for the next review of the ozone Criteria Document was published on November 2002. The first external review draft Criteria Document, a rigorous assessment of relevant scientific information, was released on January 31, 2005. The EPA's Office of Air Quality Planning and Standards will prepare a Staff Paper for the Administrator, which will evaluate the policy implications of the key studies and scientific information contained in the Criteria Document and additional technical analyses, and identify critical elements that EPA staff believe should be considered in reviewing the standards. The Criteria Document was reviewed by CASAC and the public, changes were incorporated, and the final Criteria Document was released on March 21, 2006. The Staff Paper was released on January 31, 2007 and updated to

correct an error in the exposure analysis on July 31, 2007. The Administrator's proposal to revise the ozone NAAQS was published on July 11, 2007. The public comment period ended October 19, 2007. The final rule is scheduled to be signed by the Administrator on March 11, 2008.

TITLE: Transportation Conformity Rule Amendments To Implement Provisions Contained in the 2005 Transportation Bill (SAFETEA-LU)

RIN: 2060-AN82

ABSTRACT: The transportation conformity rule ensures that transportation planning is consistent with a state's plan for achieving the air quality standards. These amendments to the rule are necessary as a result of the changes to the Clean Air Act's transportation conformity provisions as mandated by the recent transportation bill, SAFETEA-LU. SAFETEA-LU revised a number of aspects of the Clean Air Act's transportation conformity provisions including: 1) Providing an additional 6 months to re-determine conformity after new state implementation plan (SIP) motor vehicle emissions budgets are either found adequate, approved or promulgated; 2) changing the frequency requirements for transportation conformity determinations; 3) providing an option for reducing the time period covered by conformity determinations; 4) providing procedures for areas to use in substituting or adding transportation control measures (TCMs) to approved SIPs; 5) adding a 1-year grace period for conformity lapses; and 6) streamlining requirements for conformity SIPs.

TITLE: Extension of the Deferred Effective Date for 8-Hour Ozone National Ambient Air Quality Standards for the Denver Early Action Compact

RIN: 2060-AO05

ABSTRACT: EPA is taking final action to extend the deferral of the effective date of the 8-hour ozone National Ambient Air Quality Standard (NAAQS) designation for the Denver Early Action Compact (EAC) from September 14, 2007 to November 20, 2007. The EAC areas have agreed to reduce ground-level ozone pollution earlier than the Clean Air Act (CAA) requires. On November 29, 2006, EPA extended the deferred effective date for the Denver EAC area from December 31, 2006, to July 1, 2007. In that final rulemaking, EPA noted that there was litigation regarding the deferral of the effective date for the Denver EAC and that the parties were discussing settlement. Thus, in the interest of maintaining the status quo while settlement discussion proceeded, EPA issued a brief further deferral of the effective date of the nonattainment designation until September 14, 2007. The parties have reached an agreement in principle, but before finalizing the proposed settlement, the settlement must be subject to notice and an opportunity for public comment. EPA is issuing at this time a short further deferral of the effective date of Denver's designation for the 8-hour ozone standard from September 14, 2007 to November 20, 2007.

TITLE: Revisions to Consolidated Federal Air Rule

RIN: 2060-AO45

ABSTRACT: This direct final rule will extend the time period required for source owners and operators to conduct performance tests during force majeure situations. A force majeure is an event caused by circumstances beyond the control of the affected facility that results in not meeting the regulatory requirement to conduct performance tests within the specified timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the

control of the affected facility.

The EPA is publishing this rule without a prior proposed rule because we view this as a non-controversial action and anticipate no adverse comment. On May 16, 2007, we published a final rule that revised the General Provisions for Standards of Performance for New Stationary Sources, for National Emission Standards for Hazardous Air Pollutants, and for National Emission Standards for Hazardous Air Pollutants for Source Categories to allow extensions to the deadline imposed for source owners and operators to conduct performance tests due to force majeure circumstances. We recently realized that we should have also revised the Consolidated Federal Air Rule to allow extensions to the deadline imposed for source owners and operators to conduct performance tests in these circumstances.

TITLE: Interpretation of the National Ambient Air Quality Standards for PM2.5-Correcting and Simplifying Amendment

RIN: 2060-AO59

ABSTRACT: EPA recently finalized changes to the data handling conventions and computations in 40 CFR part 50 necessary for determining when the annual and 24-hour primary national ambient air quality standards for fine particles (PM2.5) are met (Appendix N). These changes were made in support of revisions to the Particulate Matter Ambient Air Quality Standards that were finalized in the same rulemaking. Following the publication of this rule, an omission was discovered in the rule text explaining the procedures for calculating the key statistic (98th percentile) involved with determining compliance with the 24-hour standard in situations when extra samples were taken above the intended sampling frequency. If the rule text error is left unchanged, the resulting statistic for calculating compliance with the 24-hour fine particle standard would be biased low at some samplers, leading to

potentially incorrect decisions concerning the attainment or nonattainment of areas with respect to the 24-hour PM2.5 ambient standard. In this Direct Final Action, EPA will correct the error that leads to incorrectly calculated 24-hour fine particle 98th percentile statistics. The correction will involve the replacement of the currently-used statistical formulae and instructions with a simpler look-up table approach that will be easier for data users to employ while retaining numerical consistency with historical EPA practice.

TITLE: Final 8-Hour Ozone National Ambient Air Quality Designations for Early Action Compact Areas

RIN: 2060-AO83

ABSTRACT: This final EAC action proposes to designate 13 EAC areas as attainment for the 8-hour NAAQS. The Denver EAC area has become nonattainment effective November 2007. The current deferral date for these 13 areas is April 15, 2008. This FR notice also proposes to revoke the 1-hour ozone standard for these areas 1 year after their designations are effective. This proposal must be signed and published in time to allow a 15 day comment period and to go final with publication by April 15, 2008.

TITLE: Findings of Failure To Submit Related to Section 110(a)(2) SIP Submittals

RIN: 2060-AP03

ABSTRACT: This final rule would make a finding that certain States have failed to submit State Implementation Plans (SIPs) to satisfy the requirements of section 110(a)(1) and (2) of the Clean Air Act (CAA) for the 8-hour ozone National Ambient Air Quality Standards (NAAQS). Section 110(a)(1) of the CAA requires that States submit SIPs to meet the applicable requirements of section 110(a)(2) within 3 years after the promulgation of a new or revised NAAQS, or within such shorter period as EPA may

provide. Pursuant to section 110(a)(1), States are required to submit SIPs that satisfy the requirements of section 110(a)(2) related to attainment, maintenance, and enforcement of the NAAQS for the 8-hour ozone standard. At present, certain States have not yet submitted SIPs to satisfy these requirements of the Act, and EPA is by this action making a finding of failure to submit, which starts a 2 year clock for the promulgation of a Federal Implementation Plan (FIP) by EPA unless, prior to that time, the affected States make a submission that meets the requirements of section 110(a)(2) for the 8-hour ozone standard.

TITLE: Lead-Based Paint; Amendments for Renovation, Repair, and Painting

RIN: 2070-AC83

ABSTRACT: In 2008, EPA will continue its work toward the Administration goal of eliminating childhood lead poisoning as a national health concern by 2010 by implementing a comprehensive program to address lead-based paint hazards associated with renovation, repair and painting activities. The program will be comprised of a combination of approaches including regulations, and an extensive education and outreach campaign that will include elements specifically designed for industry and consumers. Industry outreach will include dissemination of information regarding the regulation, lead-safe work practices, and training opportunities. Consumer outreach will be designed to expand consumer awareness, and create demand for the use of lead-safe work practices. EPA plans to finalize and begin implementation of the Renovation, Repair and Painting Program regulations in 2008. EPA proposed these regulations on January 10, 2006 and amended that proposal on June 5, 2007 to include child occupied facilities within the scope of the rule. The regulation should minimize the introduction of lead hazards resulting from

the disturbance of lead-based paint during renovation, repair, and painting activities. The regulations would require contractors conducting renovation, repair and painting activities in most target housing and child occupied facilities to be trained, certified, and to follow work practice standards designed to minimize the creation of lead hazards.

TITLE: Utilization of Small, Minority, and Women's Business Enterprises in Procurement Under Assistance Agreements

RIN: 2090-AA38

ABSTRACT: The regulation will codify revisions to the Agency's program for the utilization of Small, Minority and Women's Business Enterprises in procurements under assistance agreements (i.e., grants and cooperative agreements awarded by EPA as well as grants and cooperative agreements awarded by other agencies under interagency agreements with EPA). The revisions are necessary to ensure consistency with the Supreme Court's decision in *Adarand Constructors, Inc. v. Peña*, 115 S. Ct. 2097 (1995), and were identified as part of the Clinton Administration's review of affirmative action programs. They include: (1) Placing greater emphasis on requiring assistance agreement recipients to submit documentation supporting proposed fair share procurement objectives for Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) based on the availability of qualified MBEs and WBEs in the relevant geographic market; (2) authorizing or requiring recipients and their prime contractors to take reasonable race/gender-conscious measures (e.g., bidding credits) in the event that race/gender-neutral efforts prove inadequate to meet fair share objectives; and (3) administering statutory MBE/WBE objectives as a national goal, allowing smaller or larger fair share

objectives for particular grants or cooperative agreements based on the availability standard.

TITLE: Temporary Traffic Control Devices

RIN: 2125-AF10

ABSTRACT: This rulemaking would establish, pursuant to SAFETEA-LU, the conditions for the appropriate use of, and expenditure of funds for, uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations.

TITLE: Charter Bus Operations

RIN: 2132-AA85

ABSTRACT: This final rule amends regulations which govern the provision of charter service by recipients of Federal funds from the Federal Transit Administration. This rule also clarifies the existing requirements, sets out a new definition of charter service, allows for electronic registration of private charter providers, which replaces the old "willing and able" process, includes a new provision allowing private charter operators to request a cease and desist order, and establishes more detailed complaint, hearing, and appeal procedures.

TITLE: Coordination of Retiree Health Benefits With Medicare and State Health Benefits

RIN: 3046-AA72

ABSTRACT: The Commission proposes to exempt from the prohibitions of the Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 et seq. (ADEA or Act), the practice of altering, reducing, or eliminating employer-sponsored retiree health benefits when retirees become eligible for Medicare or comparable State retiree health benefits.

TITLE: Detariffing of Competitive Local Exchange Carriers' Interstate Exchange Access Services

RIN: 3060-AG73

ABSTRACT: In an Order on Reconsideration released on May 18, 2004, the Commission addressed a number of petitions for reconsideration of the tariff rules governing the charges for interstate switched access services provided by competitive local exchange carriers (CLECs). With this decision, the Commission denied petitions for reconsideration and retained the existing regime governing interstate switched access services provided by CLECs. Although the Commission denied petitions for reconsideration, it addressed a number of issues raised in petitions for clarification and amended the tariff rules accordingly. In the attached Report and Order, the Commission concluded that CLEC-provided access rates for toll free, or "8YY" traffic should not be afforded different treatment than CLEC tariffed interstate switched access traffic generally. =