July 2010

Federal Mandate Report

January 16th, 2010

To

July 9th, 2010

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 and Congressional Research Service (CRS) reports. 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 of January 18, 2010 to July 9, 2010. Of the bills reviewed by the CBO, 5 have become public law, while 10 have passed at least one chamber of Congress.

Likewise, the RISC identified a total of 40 completed federal regulations affecting States, 36 of which may impact the Commonwealth.

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Part I – Mandates in Public Laws

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 2010, which are adjusted annually for inflation, are $70 million for intergovernmental mandates (state, local, or tribal governments) and $141 million or more per year for the private sector.

Bill Number	Bill Title	Unfunded Mandate on the State	Bill Status
H.R. 3590	Patient Protection and Affordable Care Act	HR 3590, the Patient Protection and Affordable Care Act, was passed by both the House and Senate. However, soon after the bill was passed, the bill was modified by the H.R. 4872, the Health Care and Education Affordability Reconciliation Act of 2010. H.R. 3590 consists of 10 titles that cover a variety of topics. In general, H.R. 3590 would provide health insurance coverage to many currently uninsured Americans, while attempting to reduce expenditures, and offering mechanisms to increase care coordination, encourage more use of health prevention, and improve quality of care. The bill would reform the private health insurance market, impose a mandate for most legal U.S. residents to obtain health insurance, establish health insurance "Exchanges" that would subsidize health insurance coverage for eligible individuals; expand Medicaid eligibility; create programs to improve quality of care and encourage more use of preventive services; address healthcare workforce issues; and propose a number of other Medicaid and Medicare program and federal tax code changes. According to a March 11, 2010 CBO report, CBO and JCT estimated that the direct spending and revenue effects of enacting H.R. 3590 as passed by the Senate (without modification of H.R. 4872) would yield a net reduction in federal deficits of $118 billion over the 2010–2019 period. Approximately $65 billion of that reduction would be on-budget. CBO did not complete an estimate of all discretionary costs associated with the bill (grant funds, etc.) that would depend on future appropriations. CBO and JCT have determined that the legislation contains several intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The total cost of those mandates to state, local, and	*9/17/2009* Introduced in House *10/8/2009* Passed/agreed to in House: On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 416 - 0 (Roll no. 768). Ayes: Wittman, Nye, Scott, Forbes, Perriello, Goodlatte, Cantor, Boucher, Wolf, Connolly Not Voting: Moran *12/24/2009* Passed/agreed to in Senate: Passed Senate with an amendment and an amendment to the Title by Yea-Nay Vote. 60 - 39. Record Vote Number: 396. Ayes: Warner, Webb *3/21/2010* Resolving differences -- House actions: On motion that the House agree to the Senate amendments Agreed to by recorded

		tribal governments and the private sector would greatly exceed the thresholds established in UMRA ($70 million and $141 million, respectively, in 2010,adjusted annually for inflation). This was modified upward slightly from CBO's earlier report in December 2009. CBO identified in December 2009 the most costly mandate for the private sector – requiring individuals to obtain acceptable health insurance coverage, as defined in the legislation. The legislation also would penalize medium-sized and large employers that did not offer health insurance to their employees if any of their workers obtained subsidized coverage through the insurance exchanges. The legislation would impose a number of mandates, including requirements on issuers of health insurance, new standards governing health information, and nutrition labeling requirements. CBO estimated that the total cost of intergovernmental mandates would greatly exceed the annual threshold established in UMRA for state, local, and tribal entities ($70 million in 2010, adjusted annually for inflation). The legislation would penalize these entities if they did not offer health insurance to their employees and any of their workers obtained subsidized coverage through the insurance exchanges— this accounts for most of the mandate costs. In addition, the legislation would preempt state and local laws that conflict with or are in addition to new federal standards established by the legislation. Those preemptions would limit the application of state and local laws, but CBO estimated that they would not impose significant costs. CBO only provides estimates that are mandates as defined by UMRA. However, as a condition of federal assistance, H.R. 3590 requires state and local governments to comply with "maintenance of effort" provisions associated with high-risk insurance pools. CBO also indicated that new requirements in the Medicaid program also would result in an increase in state spending. However, because states have significant flexibility to make programmatic adjustments in their Medicaid programs to accommodate changes, the new requirements would not be intergovernmental mandates as defined in UMRA and therefore not scored by CBO. As of July 13, 2010, the Virginia Department of Medical Assistance Services estimates that health care reform will cost an additional $1.5 billion in General	vote: 219 - 212 (Roll no. 165). Ayes: Scott, Periello, Moran, Connolly Nays: Wittman, Nye, Forbes, Goodlatte, Cantor, Boucher, Wolf *3/21/2010* Cleared for White House. *3/22/2010* Presented to President. *3/23/2010* Signed by President. *3/23/2010* Became Public Law No: 111-148 [Text, PDF]

		funds to Medicaid from 2010-2022 plus an additional $163 million due to the fact that FMAP funds under ARRA have not been extended. **The total impact is $1.66 billion.**	
H.R. 4872	The Reconciliation Act of 2010 (Final Health Care Reform Legislation)	H.R. 4872, the Health Care and Education Affordability Reconciliation Act of 2010, was enacted by Congress through the reconciliation process in order to make changes to the Patient Protection and Affordable Care Act (H.R. 3590). The reconciliation bill includes two titles: (1) Coverage, Medicare, Medicaid, and Revenues, and (2) Education and Health. Title I contains provisions related to health care and revenues, including modifications to H.R. 3590's Medicaid and CHIP provisions. Title II includes amendments to the Higher Education Act of 1965, which authorizes most of the federal programs involving postsecondary education, and other health amendments. Title I contains several changes to H.R. 3590, including financing for Medicaid expansion provisions, a delay in the effective date of a new tax on high-cost insurance plans to 2018 from 2013, eliminating the Medicare Part D coverage gap – known as the "donut hole" and changes in the federal subsidies for purchasing health coverage through an exchange. According to projections by CBO and JCT, this would raise $391.5 billion in health-related provisions over 10 years. Other revenues would come from penalties on individuals and employers as well as other non-health related revenue provisions. According to a March 20, 2010 CBO preliminary estimate, CBO and JCT estimated that the total costs of those mandates to state, local, and tribal governments and the private sector would greatly exceed the annual thresholds established in UMRA ($70 million and $141 million, respectively, in 2010, adjusted annually for inflation) in each of the first five years that the mandates would be in effect. (***see H.R. 3590 analysis)*** CBO only provides estimates that are mandates as defined by UMRA. However, as a condition of federal assistance, H.R. 3590 requires state and local governments to comply with "maintenance of effort" provisions associated with high-risk insurance pools. CBO also indicated that new requirements in the Medicaid program would result in an increase in state spending. However, because states have significant flexibility to make programmatic adjustments in their Medicaid programs to	*3/17/2010* Introduced in House *3/21/2010* Passed/agreed to in House: On passage Passed by recorded vote: 220 - 211 (Roll no. 167). Ayes: Scott, Perriello, Moran, Connolly Nays: Wittman, Nye, Forbes, Goodlatte, Cantor, Boucher, Wolf *3/25/2010* Passed/agreed to in Senate: Passed Senate with amendments by Yea-Nay Vote. 56 - 43. Record Vote Number: 105. Ayes: Webb, Warner *3/25/2010* Resolving differences -- House actions: On motion that the House agree to the Senate amendments Agreed to by the Yeas and Nays: 220 - 207 (Roll no. 194). Ayes: Scott, Perriello, Moran, Connolly Nays: Wittman, Nye, Forbes, Goodlatte, Cantor, Boucher, Wolf

		accommodate changes, the new requirements would not be intergovernmental mandates as defined in UMRA and therefore not scored by CBO. As of July 13, 2010, the Virginia Department of Medical Assistance Services estimates that health care reform will cost an additional $1.5 billion in General funds to Medicaid from 2010-2022 plus an additional $163 million due to the fact that FMAP funds under ARRA have not been extended. **The total impact is $1.66 billion.**	*3/30/2010* Signed by President; Became Public Law No: 111-152 [Text, PDF]
S. 1147	The Prevent All Cigarette Trafficking Act of 2009	According to a CBO cost estimate analysis dated February 25, 2010, S. 1147 would require individuals and businesses that make interstate sales of cigarettes or smokeless tobacco to comply with state tax laws and register with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATFE). The bill would permit ATFE to inspect the premises of anyone who distributes or sells more than 10,000 cigarettes or 500 cans or packages of smokeless tobacco in a month via telephone, the mail, or the Internet. S. 1147 also would increase penalties, including criminal and civil fines, for violations of the laws relating to taxation of cigarettes and smokeless tobacco. Finally, the bill would prohibit the use of the United States Postal Service to mail certain tobacco products. S. 1147 would impose both intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on certain tobacco sellers, common carriers, and individuals. <u>Intergovernmental and Private-Sector Impact</u> S. 1147 would require delivery sellers of tobacco products to comply with certain requirements regarding reporting, shipping, recordkeeping, and collecting taxes. Delivery sellers include those businesses that sell or deliver tobacco products purchased online, by catalog, or by phone. The bill also would prohibit importers and interstate sellers of tobacco from selling cigarettes produced by companies that are not in full compliance with the terms of the tobacco settlement agreement between states and tobacco manufacturers and sellers. Those requirements would be both intergovernmental and private-sector mandates because tobacco delivery sales are conducted by both private sector and tribal entities. <u>Preemption of State, Local, and Tribal Laws</u> The bill also would preempt state, local, and tribal laws that require common carriers and delivery services to verify the age and require the signature of the	*5/21/2009* Introduced in Senate *11/19/2009* Committee on the Judiciary. Reported by Senator Leahy with an amendment in the nature of a substitute. Without written report. *3/11/2010* Passed/agreed to in Senate: Passed Senate with an amendment by Unanimous Consent. *3/17/2010* Passed/agreed to in House: On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 387 - 25 (Roll no. 124). Ayes: Wittman, Nye, Scott, Forbes, Perriello, Goodlatte, Cantor, Moran, Boucher, Wolf, Connolly *3/31/2010* Signed by President; Became Public Law No: 111-154 [Text, PDF]

		individual accepting a tobacco delivery or place other restrictions on those services. CBO expects that the preemption would impose minimal costs on state, local, or tribal governments. S. 1147 would benefit state, local, and tribal governments by expanding their authority to collect cigarette taxes through the Jenkins Act. This expanded authority would allow state attorneys general or the chief law enforcement official of a local or tribal government to file charges in U.S. district courts against sellers or deliverers who violate this law. The bill also would preserve existing agreements between states and tribal governments regarding cigarette taxes.	
H.R. 5139	Extending Immunities to the Office of the High Representative and the International Civilian Office in Kosovo Act of 2010	According to a CBO cost estimate analysis dated May 18, 2010, H.R. 5139 would extend certain privileges and immunities to select American offices in the countries of Bosnia and Herzegovina and Kosovo. The bill would amend the International Organization Immunities Act (IOIA) to give the immunities to the office, officers, and employees. Under the IOIA, international organizations and their employees enjoy privileges and immunities such as exemptions from paying property taxes, customs duties, taxes on imports, and certain judicial proceedings. The CBO estimates that a small number of people and properties would benefit if this provision was implemented, and that the forgone taxes, duties, fines, and criminal penalties would be less than $500,000 each year, and over both the 2011-2015 and 2011-2020 periods. H.R. 5139 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), by extending privileges and immunities to employees of the two organizations. Those mandates would eliminate the right to take legal action in U.S. courts against the offices and their employees, limit some taxing authority in the District of Columbia, and preempt state laws governing the search and seizure of property. However, the bill would continue to allow the use of alternative dispute resolution procedures, such as arbitration, instead of court procedures. Because it is unlikely that public entities would take legal action against the offices or levy taxes on them in the absence of this bill, CBO estimates that the costs to public entities would be insignificant and would fall well below the annual threshold established in UMRA for intergovernmental mandates ($70 million in	*4/26/2010* Introduced in House *5/19/2010* Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. *5/20/2010* Passed/agreed to in Senate: Received in the Senate, read twice, considered, read the third time, and passed without amendment by Unanimous Consent. *5/20/2010* Cleared for White House. *5/27/2010* Presented to President. *6/8/2010* Signed by President. *6/8/2010* Became Public Law No: 111-177 [Text, PDF]

		2010, adjusted annually for inflation). CBO further estimates that the costs to private entities would fall below the annual threshold for private-sector mandates ($141 million in 2010, adjusted annually for inflation) because, according to the Department of State, the protections in the bill are rarely invoked.	
H.R. 3962	Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010	H.R. 3962, the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act had several incarnations. Initially the bill was the health care overhaul passed by the House in November 2009. The original bill focused on reducing the number of uninsured, restructured the private health insurance market, set minimum standards for health benefits, provided assistance to certain individuals, and included provisions to raise revenues. The bill did impose a mandate on individuals to maintain health coverage and employers to provide insurance; called for insurance to be offered through newly created "exchanges" run under a new independent federal agency; provided subsidies for individuals below 400% of the federal poverty level; included a new long term program; and limited employer deductions for certain health insurance plans. According to a November 6, 2009 CBO report, CBO and JCT indicated that the bill contained several private-sector and intergovernmental mandates as defined in the Unfunded Mandates Reform Act. The total cost of mandates to the private sector would greatly exceed the threshold established by that act for private entities ($139 million in 2009, adjusted annually for inflation). The most costly mandates would be the new requirements regarding health insurance coverage that apply to the private sector. The bill would require individuals to obtain acceptable health insurance coverage, as defined in the bill, and would require employers to either offer health insurance to their employees or pay an excise tax to the federal government. The bill also imposed other mandates, including requirements on issuers of health insurance, new standards governing health information, nutrition labeling requirements, and limits on certain agreements between drug manufacturers for settling patent infringement claims. In the same report, CBO estimated that the total cost of intergovernmental mandates would be small and would not exceed the annual threshold established in UMRA for state, local, and tribal entities ($69 million in 2009, adjusted annually for inflation). The new standards governing health information and nutrition labeling that apply to private-sector entities would also apply to governmental entities. In addition, the bill would preempt state and local laws that conflict with or are in	*10/29/2009* Introduced in House *11/7/2009* Passed/agreed to in House: On passage Passed by recorded vote: 220 - 215 (Roll no. 887). Ayes: Scott, Perriello, Moran, Connolly Nays: Wittman, Nye, Forbes, Goodlatte, Cantor, Boucher, Wolf *6/18/2010* Passed/agreed to in Senate: Passed Senate with an amendment and an amendment to the Title by Unanimous Consent. *6/24/2010* Resolving differences -- House actions: On motion that the House suspend the rules and concur in the Senate amendments Agreed to by the Yeas and Nays: (2/3 required): 417 - 1 (Roll no. 393). Ayes: Wittman, Nye, Scott, Forbes, Perriello, Goodlatte, Cantor, Moran, Boucher, Wolf, Connolly *6/24/2010* Cleared for White House.

		addition to new federal standards established by the bill. Those preemptions would limit the application of state and local laws, but CBO estimated that they would not impose significant costs. CBO only provides estimates that are mandates as defined by UMRA. However, as a condition of federal assistance, H.R. 3962 requires state and local governments to comply with "maintenance of effort" provisions associated with high-risk insurance pools. CBO also indicated that new requirements in the Medicaid program also would result in an increase in state spending. However, because states have significant flexibility to make programmatic adjustments in their Medicaid programs to accommodate changes, the new requirements would not be intergovernmental mandates as defined in UMRA and therefore not scored by CBO. While the House passed H.R. 3962 as its health care reform measure, the Senate instead passed H.R. 3590, the Patient Protection and Affordable Care Act which later was modified and signed into law as "health care reform". ***(See analysis for H.R. 3590)*** One issue that was not included in H.R. 3590 was the "doc fix". The 1997 Balanced Budget Act implemented the current system used to determine physician reimbursements under Medicare Part B, known as the sustainable growth rate (SGR). Since 2002, the SGR formula has required that reductions be made to the fees that Medicare pays physicians, but Congress has intervened to pass a "doc fix" to prevent the reductions. Despite attempts to gain votes for a tax extender bill which included the "doc fix", the Senate was unable to garner the votes needed. The Senate used H.R. 3962 and amended it for the sole purpose of correcting the "doc fix" problem. The amended H.R. 3962 modified the Medicare sustainable growth rate (SGR) formula to reverse a 21 percent cut in Medicare payment rates for doctors through November 30, 2010 and gave physicians a 2.2 percent pay increase. The bill was retroactive to June 1, 2010. While CBO provided estimates for previous incarnations of the doc fix bill, no estimate was completed on H.R.3962 in its final form. Earlier CBO estimates on the doc fix did not impact UMRA.	*6/24/2010* Presented to President. 6/25/2010 Signed by President. *6/25/2010* Became Public Law No: 111-192 [Text, PDF]

Part II – Mandates in Pending Legislation

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 2010, which are adjusted annually for inflation, are $70 million for intergovernmental mandates (state, local, or tribal governments) and $141 million or more per year for the private sector.

Bill Number	Bill Title	Unfunded Mandate on the State	Bill Status
H.R. 4173	Restoring American Financial Stability Act of 2010	According to a CBO cost estimate analysis dated June 9, 2010, the Senate-amended and passed version of H.R. 4173 would grant new federal regulatory powers and reassign existing regulatory authority among federal agencies with the aim of reducing the likelihood and severity of financial crises. The legislation would establish a program to facilitate the resolution of large financial institutions that become insolvent or are in danger of becoming insolvent when their failure is determined to threaten the stability of the nation's financial system (such institutions are known as systemically important firms). The Federal Deposit Insurance Corporation (FDIC) would be authorized to borrow funds from the Treasury to finance liquidation activities and to assess fees on large financial firms to recoup any losses, including interest costs. Other provisions of H.R. 4173 would change how financial institutions and securities markets are regulated, create a new Bureau of Consumer Financial Protection (BCFP), broaden the authority of the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC), establish a grant program to encourage the use of traditional banking services, expand the supervision of firms that settle payments between financial institutions, and make many other changes to current laws. H.R. 4173 also would change the terms and conditions of FDIC programs to guarantee financial obligations of banks and bank holding companies when federal officials determine that market conditions are impeding the normal provision of financing to creditworthy borrowers (known as a liquidity crisis). Under the program, participants would be charged fees designed to	*12/2/2009* Introduced in House *12/11/2009* Passed/agreed to in House: On passage Passed by recorded vote: 223 - 202 (Roll no. 968). Ayes: Nye, Scott, Connolly Nays: Wittman, Forbes, Perriello, Goodlatte, Cantor, Boucher, Wolf Not Voting: Moran *5/20/2010* Senate Committee on Banking, Housing, and Urban Affairs discharged by Unanimous Consent. *5/20/2010* Passed/agreed to in Senate: Passed Senate in lieu of S. 3217 with an amendment and an amendment to the Title by Yea-Nay Vote. 59 - 39. Record Vote Number: 162. Ayes: Warner, Webb

		recover the costs of the government guarantees. The act would repeal the agency's existing authority to provide such assistance and create a new framework for future guarantees. <u>Intergovernmental and Private-Sector Impact</u> The act would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act, on banks and other private and public entities that participate in financial markets. The legislation also would impose intergovernmental mandates by prohibiting states from taxing and regulating certain insurance products issued by companies that are based in other states and by preempting certain state laws. Because the costs of complying with some of the mandates would depend on future regulations that would be established by the act, and because CBO has limited information about the extent to which public entities enter into swaps with unregulated entities, CBO cannot determine whether the aggregate costs of the intergovernmental mandates would exceed the annual threshold established in UMRA ($70 million in 2010, adjusted annually for inflation). However, CBO estimates that the total amount of fees alone that would be collected from private entities would significantly exceed the annual threshold established in UMRA for private-sector mandates ($141 million in 2010, adjusted annually for inflation). <u>Mandates that Apply to Both Intergovernmental and Private-Sector Entities</u> Some mandates in the act would affect both public and private entities, including pension funds and public finance authorities. Unless otherwise noted, the cost of complying with each of the following mandates is uncertain and would depend on the nature of future regulations and the range of entities subject to them. a) <u>Consumer Financial Protection.</u> The legislation would authorize the BCFP to regulate banks and credit unions with assets over $10 million, all mortgage-related businesses (housing finance agencies, lenders, servicers, mortgage brokers, and foreclosure operators), and all large nonbank financial companies (such as payday lenders, debt collectors, and consumer reporting agencies). The BCFP, along with the FTC, would enforce federal laws related to consumer protection by establishing rules and issuing orders	*6/29/2010* Conference report H. Rept. 111-517 filed. *6/30/2010* Conference report agreed to in House: On agreeing to the conference report Agreed to by the Yeas and Nays: 237 - 192 (Roll no. 413). Ayes: Nye, Scott, Moran, Connolly Nays: Wittman, Forbes, Perriello, Goodlatte, Cantor, Boucher, Wolf

		and guidance. Bank and nonbank entities that offer financial services or products would be required to make disclosures to customers and submit information to the BCFP. The legislation also would require certain financial institutions to maintain records regarding deposit accounts of customers and would prohibit prepayment penalties for residential mortgage loans. b) Regulation of Over-the-Counter Derivatives Markets. The act would impose several mandates on public and private entities such as pension funds, swap dealers, and other participants in derivatives markets. For example, the act would place new requirements on derivatives; require reporting by entities that gather trading information about swaps, organizations that clear derivatives, facilities that execute swaps, pension funds, and swap dealers; and establish capital requirements for pension funds, swap dealers and major swap participants. c) Regulation of Financial Securities. The act would require entities (including public finance authorities) that sell products such as mortgage-backed securities to hold at least 5 percent of the credit risk of each asset that they securitize. Under the act, the BCFP could exempt classes of assets from the retention requirement. The legislation also would require issuers of securities to disclose information to the SEC about the underlying assets and to analyze the quality of those assets. d) Prohibition on Certain Payments. For any consumer credit transaction secured by real property, a loan originator would be prohibited from receiving compensation that is based on the terms of the loan. In addition the act would prohibit a creditor from making such a loan unless they have determined and verified that the consumer has a reasonable ability to repay the loan. The cost to comply with the mandates is uncertain because CBO does not have sufficient information about how these provisions would affect industry practices. e) Requirement on Issuers that Seek Credit Ratings. Under current law, issuers of asset backed securities—including public housing finance agencies and student loan authorities—may apply to one of several rating	

		agencies to rate their securities prior to issuance. The act would require those issuers to use a rating agency assigned by the Credit Rating Agency Board, and authorize the Board to set reasonable fees that the selected credit rating agency could charge to produce the rating. The cost of the mandate to issuers would be equal to any increase in fees and any change in the cost of borrowing arising from a rating given by an assigned rating agency that differs from one that would have been given by a rating agency chosen by the issuer. Because CBO has limited information about the extent to which issuers would receive higher or lower ratings under the act than they do currently, CBO has no basis for estimating the cost of the mandates on public or private-sector entities. f) Consumer Rights to Access Information**.** The act would require banks and other users of credit scores to provide consumers, upon request, the credit score used to deny them a loan or employment, or to charge a higher interest rate. Current law allows consumers free access to their credit report each year but does not give them free access to their credit scores. Because the credit scores are readily available to banks and other users of those scores, CBO estimates that the cost of complying with this mandate to public and private entities would be small relative to the annual thresholds. Mandates that Only Apply to Intergovernmental Entities – a) Prohibition on Investments by Small Public Entities**.** The act would impose a mandate on public entities that invest more than $25 million but less than $50 million by prohibiting them from entering into swaps with entities that are not federally regulated. The costs of complying with this mandate would be equal to the difference between the cost of entering into a swap with an unregulated entity and the cost of entering into one with a regulated entity, but because CBO has limited information about the extent to which public entities enter into such arrangements, CBO has no basis for estimating the cost of complying with this mandate. b) Prohibition on Taxation of Surplus Lines. The act would establish national standards for how states may regulate, collect, and allocate taxes for a type of insurance that covers unique or atypical risks—known as surplus	

		lines or non-admitted insurance. The act also would establish national standards for how states regulate reinsurance. As defined in UMRA, the direct costs of a mandate include any amounts that state and local governments would be prohibited from raising revenues as a result of the mandate. The direct costs of this mandate would be the amount of taxes on premiums for surplus lines issued by out-of-state brokers that states would be precluded from collecting. While there is some uncertainty surrounding the amount of tax that states currently collect, the portion of the surplus lines market that would be affected, and the flexibility available to states after enactment of H.R. 4173, CBO estimates that forgone revenues would total less than $50 million, annually, beginning one year after enactment. For the purpose of estimating the direct costs of the mandates, CBO considered only the taxes that industry estimates it is paying and only the revenues that states, as a whole, would no longer be able to collect under H.R. 4173. <u>c) Prohibition on Fees for Licensing Brokers.</u> The act would prohibit states from collecting licensing fees from brokers of surplus lines unless states participate in a national database of insurance brokers. CBO estimates that the costs of participating in the database would be small. <u>d) Regulation of Reinsurance.</u> H.R. 4173 would prohibit states other than the state where a reinsurer is incorporated and licensed from regulating the financial solvency of that reinsurer, if that state is accredited by the National Association of Insurance Commissioners. The act also would limit the way states regulate insurers that purchase reinsurance. The mandates would impose no direct costs on states. <u>e) Preemption of State Laws.</u> The act would preempt state laws that affect the offer, sale, or distribution of swaps as well as consumer protection and insurance laws. The preemptions would be mandates as defined in UMRA, but they would not impose any new costs on states. <u>f) Other Impacts on State and Local Governments</u> H.R. 4173 would allow the Board of Governors of the Federal Reserve to require prepaid card companies to only charge transaction fees that are	

		proportional to the cost of providing the service. Some state, local, and tribal governments issue pre-paid cards to recipients of benefits such as unemployment benefits. To the extent that credit card companies increase the fees they charge those governments for the use of their cards, those governments would incur higher costs that they do currently. However, those costs would not result from intergovernmental mandates. Rather, the increase in costs would be an indirect effect on state and local governments resulting from the new federal regulations imposed on companies that issue pre-paid cards.	
H.R. 3619	Coast Guard Authorization Act for Fiscal Years 2010 and 2011	According to a CBO cost estimate analysis dated October 2, 2009, H.R. 3619 would amend various laws that govern the activities of the U.S. Coast Guard (USCG). The bill also would authorize appropriations totaling $9 billion through fiscal year 2014, primarily for ongoing USCG operations during fiscal year 2010. CBO estimates that appropriating the amounts specifically authorized by the bill or estimated to be necessary to carry out certain titles would result in discretionary spending of about $8.8 billion over the 2010-2014 period. Intergovernmental and Private-Sector Impact H.R. 3619 contains intergovernmental and private-sector mandates as defined in UMRA because it would impose new requirements on vessel owners and operators and others in the maritime industry. The bill also would increase the costs of complying with existing mandates related to protections for active-duty personnel in the Coast Guard. CBO estimates that such costs would not exceed the annual threshold established in UMRA for intergovernmental mandates ($69 million in 2009, adjusted annually for inflation). UMRA excludes from the application of that act any legislative provision that is necessary for the ratification or implementation of international treaty obligations. Mandates That Apply to Both Public and Private Entities – a) Safety Equipment and Management Requirements. H.R. 3619 would require certain commercial and public vessels to carry approved survival craft that ensure that no part of an individual is immersed in water. All survival craft would have to meet this standard by January 1,	*9/22/2009* Introduced in House *10/16/2009* Reported (Amended) by the Committee on Transportation. H. Rept. 111-303, Part I. *10/16/2009* Committee on Homeland Security discharged. *10/23/2009* Passed/agreed to in House: On passage Passed by the Yeas and Nays: 385 - 11 (Roll no. 813). Ayes: Wittman, Nye, Scott, Perriello, Goodlatte, Cantor, Moran, Boucher, Wolf, Connolly Not Voting: Forbes *5/7/2010* Passed/agreed to in Senate: Passed Senate with an amendment by Unanimous Consent.

		2015. The costs to comply with this mandate would depend on how the Coast Guard implements the new standard. However, based on information about the range in costs of survival crafts, CBO expects that the cost of replacing hundreds of survival craft on private vessels would probably be relatively small. Further, because most public vessels do not use survival craft that immerse individuals in water, CBO estimates that additional costs to public entities would be minimal. The bill also would require owners and operators of certain domestic passenger vessels to implement safety management procedures as determined by the Secretary of Homeland Security. According to the Coast Guard and industry sources, the costs to public and private entities could vary widely depending on the coverage and scope of those procedures. However, only a small number of public entities would be affected by those requirements, and CBO estimates that the cost to those entities to be small. <u>b) Increasing Authorized Coast Guard Personnel.</u> The bill would increase the costs of complying with existing intergovernmental and private-sector mandates by increasing the number of active-duty personnel in the Coast Guard. The additional personnel would be eligible for protections under the Servicemembers Civil Relief Act (SCRA). Under SCRA, service members have the right to maintain a single state of residence for purposes of paying state and local personal income taxes. They also have the right to request a deferral in the payment of certain state and local taxes and fees. SCRA also requires creditors to charge no more than 6 percent interest on servicemembers' obligations when such obligations predate active-duty service and allows courts to temporarily stay certain civil proceedings, such as evictions, foreclosures, and repossessions. Extending these existing protections to additional service members would constitute mandates as defined in UMRA and could result in lost revenues to government and private-sector entities. The number of active-duty service members covered by SCRA would increase by less than 1 percent, CBO estimates. Servicemembers' utilization of the various provisions of the SCRA depends on a number of uncertain factors, including how often and how long they are deployed. CBO expects, however, that relatively few of the added service members would take	

		advantage of the deferrals in certain state and local tax payments; the lost revenues to those governments thus would be insignificant.	
H.R. 3695	Help Find the Missing Act	According to a CBO cost estimate analysis dated February 5, 2010, H.R. 3695 would authorize the appropriation of $12.4 million annually over the 2011-2015 period for Department of Justice (DOJ) programs and grants to improve the reporting and recording of information relating to cases involving missing persons and unidentified human remains. In addition, the bill would direct DOJ to upgrade certain databases and prepare reports relating to collecting and analyzing information on missing persons and unidentified human remains. Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 3695 would cost about $45 million over the 2011-2015 period. Enacting the bill would not affect direct spending or revenues. H.R. 3695 would expand an existing intergovernmental mandate, as defined in the Unfunded Mandates Reform Act (UMRA), which requires state and local law enforcement agencies to share and update information about missing persons under the age of 21. CBO estimates that the costs for those agencies to comply with the reporting requirement would be small and well below the annual threshold for intergovernmental mandates established in UMRA ($70 million in 2010, adjusted annually for inflation). <u>Estimated Impact on State, Local, and Tribal Governments</u> H.R. 3695 would expand an existing intergovernmental mandate, as defined in UMRA, which requires state and local law enforcement agencies to share and update information about missing persons under the age of 21. Under current law, those entities are required to report that information to a federal database; therefore, CBO estimates that the costs for state and local law enforcement agencies to comply with the additional reporting requirement would be small and well below the annual threshold for intergovernmental mandates established in UMRA ($70 million in 2010, adjusted annually for inflation).	*10/1/2009* Introduced in House *2/22/2010* Reported (Amended) by the Committee on Judiciary. H. Rept. 111-416. *2/23/2010* Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. *2/24/2010* Referred to Senate committee: Received in the Senate and Read twice and referred to the Committee on the Judiciary.

		The bill would authorize a grant for state and local agencies to increase the amount of information about unidentified remains and missing adults that is entered into the public system. Assuming appropriation of authorized amounts, those entities would receive $33 million over the 2011-2015 period. Any costs to those entities would be incurred voluntarily as a condition of federal assistance.	
H.R. 1879	The National Guard Employment Protection Act of 2010	The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) requires employers (both governmental and private) to provide certain employment benefits, including guaranteed reemployment, to employees who miss work because of their military service. Under USERRA, those protections are guaranteed for up to five years of cumulative absence from a job due to service in the military. However, some service members have their jobs protected for longer than five years, because some specific types of military duty do not count against the period of guaranteed USERRA protection. According to a CBO cost estimate analysis dated March 16, 2010, H.R. 1879 would amend current law to add a type of National Guard duty to the list of duties exempted from counting against the limited period of USERRA protection. CBO estimates that relatively few National Guard members, if any, who are current or previous federal employees, would receive additional job protection or other benefits because of this new exemption. Thus, CBO estimates that enacting this bill would have no impact on the federal budget. Enacting H.R. 1879 would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply. Under current law, state, local, and tribal governments as well as private-sector employers must reemploy military service members as required by USERRA. Such a requirement is an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA). By expanding the individuals protected under USERRA, state, local, and tribal governments as well as private-sector employers would face additional costs to comply with these reemployment protections. Based on annual reporting under USERRA and on discussions with agency	4/2/2009 Introduced in House *3/22/2010* Reported (Amended) by the Committee on Veterans' Affairs. H. Rept. 111-450. *3/24/2010* Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 416 - 1 (Roll no. 184). Ayes: Wittman, Nye, Scott, Forbes, Perriello, Goodlatte, Cantor, Moran, Boucher, Wolf, Connolly *3/25/2010* Referred to Senate committee: Received in the Senate and Read twice and referred to the Committee on Veterans' Affairs.

		officials, CBO estimates that few additional service members would qualify for reemployment. Thus the cost of complying with the mandates would fall well below the annual thresholds in UMRA for both intergovernmental and private-sector mandates ($70 million and $141 million in 2010, respectively, adjusted annually for inflation).	
H.R. 1258	Truth in Caller ID Act of 2010	According to a CBO cost estimate analysis dated April 7, 2010, H.R. 1258 would amend the Communications Act of 1934 to prohibit caller identification services (known as Caller ID) from transmitting misleading or inaccurate information with the intent to defraud or deceive. Caller ID allows consumers to see the names and telephone numbers of incoming calls. Prohibitions under the bill would apply to both traditional telephone and voice over Internet protocol services. Based on information from the Federal Communications Commission (FCC), CBO expects that developing and enforcing regulations required under the bill would cost about $1 million annually, assuming appropriation of the necessary amounts. Furthermore, under current law, the FCC is authorized to collect fees from the telecommunications industry sufficient to offset the cost of its regulatory program. Therefore, CBO estimates the net budgetary impact of H.R. 1258 would be negligible. Enacting H.R. 1258 would not affect direct spending or revenues; therefore, pay-as-you go procedures would not apply. By prohibiting entities from providing caller ID information that is deceptive, the bill would impose an intergovernmental and private-sector mandate, as defined in the Unfunded Mandates Reform Act (UMRA). The number of entities affected by the mandate would depend on decisions made by the FCC in its rulemaking process. For example, the prohibition could affect entities such as domestic violence shelters that provide false caller ID numbers to prevent call recipients from discovering the location of victims. The costs of complying with the mandate would be the expenditures necessary to use other means to protect the identity of a caller, such as using disposable cell phones to make calls. The legislation also would direct the FCC to consider requiring entities to transmit accurate caller ID information when making noncommercial calls with an artificial or prerecorded message	*3/3/2009* Introduced in House *4/13/2010* Reported (Amended) by the Committee on Energy and Commerce. H. Rept. 111-461. *4/14/2010* Passed in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. *4/15/2010* Received in the Senate. Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 346.

		to households. Such a requirement, if implemented by the FCC, would impose a mandate on those entities. Based on information from industry sources, CBO expects that the total cost of the mandates in the bill would fall well below the annual thresholds for intergovernmental and private-sector mandates establish in UMRA ($70 million and $141 million, respectively, in 2010, adjusted annually for inflation).	
H.R. 5136	National Defense Reauthorization Act for Fiscal Year 2011	According to a CBO cost estimate analysis dated May 26, 2010, H.R. 5136 would authorize appropriations totaling $726 billion for fiscal year 2011 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 $159 billion for the cost of overseas contingency operations, primarily in Iraq and Afghanistan. In addition, H.R. 5136 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 outlays of $749 billion over the 2010-2015 period. The bill also contains provisions that would increase costs of discretionary defense programs in future years. Those provisions would affect force structure, DoD compensation and benefits, the defense health program, and various other programs and activities. In total, such provisions would raise costs by an average of about $4.5 billion annually from 2012 to 2015, assuming appropriation of the necessary amounts. Intergovernmental and Private-Sector Impact H.R. 5136 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act. CBO estimates the costs of the intergovernmental mandates would not exceed the threshold established in UMRA ($70 million in 2010, adjusted annually for inflation). a) Increasing the End Strength of Active Duty Forces Section 401 would increase the costs of complying with existing intergovernmental and private-sector mandates by increasing the number of service members on active-duty by more than 7,000 for fiscal year 2011. Those additional service members would be eligible for existing protections under the Servicemembers Civil Relief Act (SCRA). SCRA allows service members to maintain a single state of residence for purposes of paying state	*4/26/2010* Introduced in House *5/21/2010* Reported (Amended) by the Committee on Armed Services. H. Rept. 111-491. *5/26/2010* Supplemental report filed by the Committee on Armed Services, H. Rept. 111-491, Part II. *5/28/2010* Passed/agreed to in House: On passage Passed by recorded vote: 229 - 186 (Roll no. 336). Ayes: Nye, Scott, Perriello, Moran, Boucher, Connolly Nays: Wittman, Forbes, Goodlatte, Cantor, Wolf *6/28/2010* Received in the Senate. Read twice. Placed on Senate Calendar under General Orders. Calendar No. 447.

		and local personal income taxes and to request deferrals for certain state and local fees. CBO estimates that the additional cost of those mandates on state and local governments would be small. b) Preemptions of State Law Section 713 would authorize health care professionals who are members of the National Guard and who are serving in response to actual or potential disasters to practice in military and civilian health care facilities regardless of state licensing laws. That preemption of state laws would impose an intergovernmental mandate as defined in UMRA, but CBO estimates that the cost of complying with the mandate would be small. Section 544 would preempt state laws governing child custody if they are inconsistent with or provide less protection to the rights of a parent who is a servicemember than those provided under the bill. Because the preemption would simply limit the application of state laws, CBO estimates that it would not impose significant costs on state governments. c) Providing Benefits to State and Local Governments The bill would authorize aid to local educational agencies that have significant numbers of students who are dependents of members of the Armed Forces and Department of Defense civilian employees. Any costs to those governments would be incurred voluntarily as conditions of receiving that federal assistance.	
H.R. 5026	Grid Reliability and Infrastructure Defense Act	According to a CBO cost estimate analysis dated May 19, 2010, H.R. 5026 would amend existing law regarding the regulation of electric power transmission facilities. Under current law, most of the standards governing the reliability of the bulk-power system are issued by the Electric Reliability Organization (ERO), subject to approval and enforcement by the Federal Energy Regulatory Commission (FERC). This bill would set deadlines for FERC to issue standards regarding the security of computer networks used in electric power transmission (known as cybersecurity) and other risks to the electric power transmission grid, subject to certain conditions. In addition, both FERC and ERO would be directed to ensure that utilities maintain adequate supplies of large electrical transformers and implement measures to protect their systems against geomagnetic storms (incidents	*4/14/2010* Introduced in House *5/25/2010* Reported (Amended) by the Committee on Energy and Commerce. H. Rept. 111-493. *6/9/2010* Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. *6/10/2010* Referred to Senate

		involving solar radiation). Other provisions would authorize a new technical assistance program related to grid security and establish terms and procedures for responding to emergencies, protecting information, and identifying strategically important electric facilities. <u>Intergovernmental and Private-Sector Impact</u> H.R. 5026 would impose intergovernmental and private-sector mandates, as defined in UMRA, on owners and operators of electric infrastructure. Because of uncertainty about the number of entities affected, the scope of future regulations, and the implementation timeline, CBO cannot determine whether the aggregate cost of the mandates in the bill would exceed the annual thresholds established in UMRA for intergovernmental and private-sector mandates ($70 million and $141 million in 2010, respectively, adjusted annually for inflation). CBO has not reviewed a provision that would provide FERC with emergency authority to protect the electric transmission grid from security threats for intergovernmental or private-sector mandates. Section 4 of UMRA excludes from the application of that act any legislative provisions that are necessary for national security. CBO has interpreted that exclusion to encompass provisions dealing with activities that are immediately necessary to protect vital national security interests. CBO has determined that the provision dealing with emergency authority falls within the exclusion for national security. <u>Mandates That Apply to Both Public and Private Entities</u> By requiring ERO and FERC to issue new standards to address vulnerabilities in the nation's energy grid, the bill would impose mandates on public and private owners and operators of electric infrastructure. The standards would address vulnerabilities related to cybersecurity, disruptions related to geomagnetic or electromagnetic events and unexpected losses of large transformers. Based on information from FERC and industry sources, the cost of complying with each of the mandates could equal tens of millions of dollars annually, depending on the scope and implementation timeline of future regulations. Because of those uncertainties, however, CBO cannot estimate the total costs of the mandates.	committee: Received in the Senate and Read twice and referred to the Committee on Energy and Natural Resources.

		a) Cybersecurity. The bill would require owners and operators of electric infrastructure to implement measures to mitigate the risk to the power grid from cybersecurity vulnerabilities. FERC would establish the standards for cybersecurity and implementation timelines after an assessment of current standards. b) Geomagnetic Storms and Electromagnetic Pulse Events. The bill would require owners and operators of electric infrastructure to protect against risks posed by natural or malicious disruptions to the grid resulting from geomagnetic storms or electromagnetic pulse events. Based on information from government reports, potential mitigation measures could involve significant capital investments in equipment and facilities. c) Large Transformers. The bill would require owners and operators of large transformers to maintain an adequate supply of spare transformers in order to restore the reliability of the power grid if any transformer is disabled. The number of spare transformers required by the bill would depend on future regulations. Mandate That Applies to Public Entities Only The bill would preempt state, local, and tribal laws relating to the disclosure of information or records. Those preemptions would be intergovernmental mandates as defined in UMRA, but CBO estimates that they would impose no duty on states that would result in additional spending.	
H.R. 3993	Calling Card Consumer Protection Act	According to a CBO cost estimate analysis dated June 7, 2010, H.R. 3993 would establish new requirements for information that must be displayed on prepaid telephone calling cards, on their packaging, and in advertisements for the cards. The bill would require the Federal Trade Commission (FTC) to develop regulations within one year of enactment that would specify the information to be displayed, including the company name and information, the number of minutes available, the dollar amount of the card, and the expiration date. Within three years of enactment, the FTC and would be required to report to the Congress on the results of studies on the business practices of the calling card industry and the effectiveness of the disclosures required by the bill.	*11/3/2009* Introduced in House *6/15/2010* Reported (Amended) by the Committee on Energy and Commerce. H. Rept. 111-507. *6/23/2010* Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 381 - 41 (Roll no. 383).

		Based on information from the FTC, CBO estimates that implementing the bill's requirements would cost about $1 million over the 2011-2015 period, assuming appropriation of the necessary amounts, to cover the costs to write and enforce new regulations and prepare reports. Enacting H.R. 3993 would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply. H.R. 3993 bill would preempt laws in at least four states that require disclosures to be printed on calling cards. The bill also would impose notification requirements and limitations on State Attorneys General, utility commissions, and consumer protection agencies. Because the limits on state authority would not require the expenditure of funds and because the notification requirements would result in minimal additional spending, CBO estimates that the costs of the mandates would be small and would not exceed the threshold established in UMRA ($70 million in 2010, adjusted annually for inflation).	Ayes: Wittman, Nye, Scott, Forbes, Perriello, Moran, Boucher, Wolf, Connolly Nays: Goodlatte, Cantor *6/24/2010* Referred to Senate committee: Received in the Senate and Read twice and referred to the Committee on Commerce, Science, and Transportation.
S. 1132	Law Enforcement Officers Safety Act Improvements Act of 2010	Current federal law exempts certain active and retired law enforcement officers from most state and local laws prohibiting the carrying of concealed firearms. According to a CBO cost estimate analysis dated March 19, 2010, S. 1132 would clarify that officers of the Amtrak Police Department, the Federal Reserve, and the executive branch of the federal government would qualify as individuals who may carry concealed firearms. The bill also would change the requirements that retired officers must meet to carry concealed firearms. S. 1132 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would expand an existing mandate that preempts state or local laws prohibiting the carrying of concealed weapons. CBO estimates that the costs, if any, for state, local, or tribal governments to comply would be insignificant and well below the annual threshold established in UMRA ($70 million in 2010, adjusted annually for inflation). S. 1132 contains no private-sector mandates as defined in UMRA.	*5/21/2009* Introduced in Senate *3/11/2010* Committee on the Judiciary. Reported by Senator Leahy with an amendment in the nature of a substitute. Without written report. *5/13/2010* Passed/agreed to in Senate: Passed Senate with an amendment by Unanimous Consent. 5/14/2010 Referred to House committee: Referred to the House Committee on the Judiciary.

Part III - Federal Regulatory Mandates

The Regulatory Information Service Center of the General Services Administration identified forty (40) completed federal regulatory actions that may affect states, thirty-six (36) of which may mandate specific requirements on the Commonwealth.

TITLE: Low Pathogenic Avian Influenza; Voluntary Control Program and Payment of Indemnity

RIN: 0579-AB99
Agency: Department of Agriculture (USDA)
Abstract: This action amended the regulations to establish a voluntary program for the control of the H5/H7 subtypes of low pathogenic avian influenza in commercial poultry under the auspices of the National Poultry Improvement Plan (the Plan). The control program was voted on and approved by the voting delegates at the Plan's 2004 National Plan Conference. This action also provided for the payment of indemnity for costs associated with eradication of the H5/H7 subtypes of low pathogenic avian influenza in both breeding and commercial poultry. The H5/H7 subtypes of low pathogenic avian influenza can mutate into highly pathogenic avian influenza, a disease that can have serious economic and public health consequences. This combination of a control program and indemnity provisions is necessary to help ensure that the H5/H7 subtypes of low pathogenic avian influenza are detected and eradicated when they occur within U.S. commercial poultry production.

TITLE: National Organic Program: Access to Pasture, TM-05-14

RIN: 0581-AC57
Agency: Department of Agriculture (USDA)
Abstract: The National Organic Program (NOP) is administered by the Agricultural Marketing Service (AMS). Under the NOP, AMS established national standards for the production and handling of organically produced agricultural products. Since implementation of the NOP, some members of the public have advocated for a more explicit regulatory standard on the relationship between livestock, particularly dairy animals, and grazing land. They have asserted the current regulatory language on access to pasture for ruminants and temporary confinement based on an animal's stage of production, when applied together; do not provide a uniform requirement for the pasturing of ruminant animals that meet the principles underlying an organic management system for livestock and livestock products that consumers expect. Comments received as a result of the proposed rule will assist in determining the Agency's next steps in rulemaking on this issue.

TITLE: Food Distribution Program on Indian Reservations: Resource Limits and Exclusions, Extended Certification Periods, and Transitional Benefits

RIN: 0584-AD12
Agency: Department of Agriculture (USDA)
Abstract: This rule amends FDPIR regulations by: 1) Bringing the maximum level of allowable resources in line with the Food Stamp Program by: a) Establishing a new resource limit of $3,000 for households with a disabled member and b) increasing the resource limit from $1,750 to $2,000 for households without elderly or disabled members; 2) allowing a resource exclusion for the first $1,500 of the value of one prepaid funeral arrangement per household member; and 3) allowing households in which all members are elderly or disabled to be certified for up to 24 months. The above provisions are modeled after Food Stamp Program provisions (01-005).

TITLE: Child and Adult Care Food Program (CACFP): At-Risk Afterschool Meals

RIN: 0584-AD15
Agency: Department of Agriculture (USDA)
Abstract: This rule would revise the Child and Adult Care Food Program (CACFP) regulations to allow reimbursement of meals provided by at-risk afterschool care programs in 13 States. Six States were initially authorized by the Agricultural Risk Protection Act (Pub. L. 106-224). At-risk meals in these States (Delaware, Illinois, Pennsylvania,

Michigan, Missouri, New York, Oregon, West Virginia, Maryland, Vermont, Connecticut, Nevada, and Wisconsin) and the District of Columbia are reimbursed under the same conditions set forth in the National School Lunch Act (NSLA) for at-risk snacks in the CACFP. Children who are 18 or younger and participating in qualifying afterschool programs located in the eight States may receive free meals. To qualify, afterschool care programs must be located in low-income areas, provide care to children, and have an educational or enrichment purpose (01-007).

TITLE: SNAP: Eligibility and Certification Provisions of the Farm Security and Rural Investment Act of 2002

RIN: 0584-AD30
Agency: Department of Agriculture (USDA)
Abstract: This rulemaking will amend the regulations of the Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp Program, to implement 11 provisions of the Farm Security and Rural Investment Act of 2002 that establish new eligibility and certification requirements for the receipt of food stamps (02-007).

TITLE: School Food Safety: Hazard Analysis and Critical Control Point System

RIN: 0584-AD65
Agency: Department of Agriculture (USDA)
Abstract: In response to Public Law 108-265, which amended the Richard B. Russell National School Lunch Act, the National School Lunch Program and School Breakfast Program regulations will be revised to require that school food authorities implement a school food safety program for the preparation and service of meals that complies with any "hazard analysis and critical control point" system established by USDA through guidance, training, and technical assistance (04-023).

TITLE: Commodity Supplemental Food Program (CSFP): Amendment Removing Prioritizing of Women, Infants, and Children Before the Elderly in Program Participation

RIN: 0584-AD93
Agency: Department of Agriculture (USDA)
Abstract: This Direct Final Rule will amend regulations at 7 CFR, part 247 to remove all references to prioritization of women, infants, and children before the elderly in program participation. Section 4221 of the recently enacted Food, Conservation, and Energy Act of 2008 (the Farm Bill) amends section 5 of the Agriculture and Consumer Protection Act of 1973 (the Act) by eliminating the requirement in CSFP that all eligible women, infants, and children are to be served in CSFP before eligible elderly persons are served by the program. The language of section 4221 is clear and mandatory, leaving no room for discretion, and it makes program regulations at 7 CFR 247.11(b), 247.16(a)(2), 247.21(a)(2), and 247.21(a)(3) inconsistent with section 5 of the Act. This Direct Final Rule will amend these program regulations, bringing them into compliance with the Act. As a result of the rulemaking, all CSFP participants will be served on a first-come, first-served basis. No additional costs are anticipated as a result of removing the prioritization of women, infants, and children before the elderly in CSFP participation; nor will there be an increase in the administrative and paperwork burden on States or the public as a result of this rulemaking (09-004).

TITLE: The Emergency Food Assistance Program (TEFAP): Amendments to Requirements Regarding the Submission of State Plans and Allowability of Certain Administrative Costs

RIN: 0584-AD94
Agency: Department of Agriculture (USDA)
Abstract: Section 4201(b) of the recently enacted Food, Conservation, and Energy Act of 2008 (the Farm Bill) amends section 202A of the Emergency Food Assistance Act of 1983 (the Act) by making State plans permanent. Previously, the Act required TEFAP State agencies to submit operating plans to USDA for approval every four years. The language of section 4201(b) of the Farm Bill of 2008 is clear, leaving no room for discretion, and it makes program regulations at 7 CFR, part 251.6(b) inconsistent with section 202A of the Act. Therefore, FNS is proposing a Final Rule that will amend 7 CFR, part 251.6(b), thereby bringing it into compliance with the Act. Making State plans permanent will also decrease the

administrative burden imposed on the States. Section 4201(b) (2) of the Farm Bill also amends section 204(a) (1) of the Act to specifically allow the use of TEFAP administrative funds to process donated wild game for distribution to program participants. Although the processing of donated wild game has long been an allowable administrative cost, the Act previously did not specifically identify it as such. The language of section 4201(c) (2) of the Farm Bill is unambiguous, leaving no room for interpretation. Including specific reference to the processing of donated wild game as an allowable us of TEFAP administrative funds in a Final Rule that will amend 7 CFR part 251.8(e) will clarify current policy (09-005).

TITLE: Temporary Suspension of the Population Estimates Challenge Program

RIN: 0607-AA49
Agency: Department of Commerce (DOC)
Abstract: Beginning on February 1, 2010, the Census Bureau will temporarily suspend the Population Estimates Challenge Program and indefinitely suspend the Per Capita Income Estimates Challenge Program (also known as Procedure for Challenging Certain Population and Income Estimates; 15 CFR 90) during the decennial census year and the year following it to accommodate the taking of the 2010 Census. During this time, the Census Bureau will not provide the operations necessary to review the July 1, 2009, population or per capita income estimates for State and other general-purpose governments, such as cities, towns, and villages. The Population Estimates Challenge Program will resume in 2012 as the program begins operations based upon the results of the 2010 Census. The Per Capita Income Estimates Challenge Program will be suspended with a rulemaking initiated to remove those regulations from the Code of Federal Regulations. This final rule notice also summarizes the comments received on the October 7, 2009, Federal Register notice (74 FR 51526) requesting comments on the proposed Temporary Suspension of the Population Estimates and Income Estimates Challenge Programs.

TITLE: Harbor Porpoise Take Reduction Plan Regulations

RIN: 0648-AW51
Agency: Department of Commerce (DOC)
Abstract: The National Marine Fisheries Service is taking this action to reduce the number of harbor porpoise taken in sink gillnet fisheries in the Gulf of Maine and Mid-Atlantic. The Harbor Porpoise Take Reduction Plan of 1999 implemented measures to reduce the incidental capture of harbor porpoises in sink gillnets to below the stock's Potential Biological Removal level (PBR). Measures included management areas in which deterrent devices (pingers) are required on gillnets, gear modifications, and seasonal closures. Between 2001 and 2005, incidental takes of harbor porpoise showed an increasing trend, and currently takes exceed PBR. This action would implement measures developed through discussions with the Harbor Porpoise Take Reduction Team, which was reconvened in 2007, when it was clear that existing measures were not sufficient to keep porpoise bycatch to below PBR. For the Gulf of Maine, this action would expand pinger use in Massachusetts Bay to include November; establish Stellwagen Bank Management Area, requiring pingers from November-May; establish Coastal Gulf of Maine Consequence Closure Area and require closure in October and November only if, after the most current two years, the average bycatch rate exceeds the trigger rate of .031, identified from observed compliant boats from the Mid-Coast, Massachusetts Bay, and Stellwagen Bank Management Areas; create Southern New England Management Area (includes current Cape Cod South Management Area); require pingers from December-May; establish Cape Cod South Expansion and Eastern Cape Cod Consequence Closure Areas; and require closure from February-April only if, after the most current two years, the average bycatch rate exceeds the trigger rate of 0.023, identified from observed compliant vessels fishing in the Southern New England Management Area. For the Mid Atlantic, this action would establish Mudhole South Management Area; close from February 1-March 15; and modify the tie-down requirement.

TITLE: Re-Affirming Control Date for Atlantic Squid Catch Share Program

RIN: 0648-AY44

Agency: Department of Commerce (DOC)

Abstract: NMFS takes this action to reaffirm the most recent control date of May 20, 2003, for the Loligo and Illex fisheries, which may be used for establishing eligibility criteria for determining levels of future access to the squid fisheries. NMFS also announces a future proposed rulemaking for the Atlantic mackerel, squid, and butterfish (MSB) fisheries. This rulemaking could institute catch share programs in the Loligo and Illex fisheries to manage future access in these fisheries in order to control capacity. This announcement alerts interested parties of potential eligibility criteria for future access so as to discourage speculative entry into the squid fisheries while the Mid-Atlantic Fishery Management Council considers if and how access to the squid fisheries should be controlled with catch share programs.

TITLE: National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Reporting Adverse and Negative Actions

RIN: 0906-AA57

Agency: Department of Health and Human Services (HHS)

Abstract: Public Law 100-93 amended section 1921 of the Social Security Act to require that each State has in effect a system of reporting disciplinary licensure actions taken against all licensed health care practitioners and entities. It also requires States to report any negative action or finding that a peer review organization, private accreditation entity, or a State has concluded against a health care practitioner or entity. Section 1921 directs the Secretary to provide for maximum appropriate coordination in the implementation of these reporting requirements with those of the Health Care Quality Improvement Act of 1986 (title IV of Pub. L. 99-660). Section 1921 requirements will be incorporated into the National Practitioner Data Bank.

TITLE: Positron Emission Tomography Drugs; Current Good Manufacturing Practices

RIN: 0910-AC55

Agency: Department of Health and Human Services (HHS)

Abstract: Section 121 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) directs FDA to establish requirements for current good manufacturing practices (CGMPs) for positron emission tomography (PET) drugs, a type of radiopharmaceutical. The final rule adopts CGMPs that reflect the unique characteristics of PET drugs.

TITLE: Over-the-Counter (OTC) Drug Review--Acne Drug Products Containing Benzoyl Peroxide

RIN: 0910-AG00

Agency: Department of Health and Human Services (HHS)

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action will address acne drug products containing benzoyl peroxide.

TITLE: List of Migratory Birds

RIN: 1018-AB72

Agency: Department of the Interior (DOI)

Abstract: Interior will revise the List of Migratory Birds to conform with generally accepted taxonomy and nomenclature (i.e., English (common) and scientific names--as reflected in six published supplements to the 7th (1998) edition of the American Ornithologists' Union's Checklist of North American Birds); and to add species of known occurrence in the United States that are subject to protection under the Migratory Bird Treaty Act that do not appear on the current list.

TITLE: Migratory Bird Permits; Control of Purple Swamphens

RIN: 1018-AV33
Agency: Department of the Interior (DOI)
Abstract: Although protected under the Migratory Bird Treaty Act, the purple swamphen (Porphyrio porphyrio) is not native to any State, and competes with native species. Interior proposes to allow removal of purple swamphens in the contiguous United States, Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands.

TITLE: Migratory Bird Permits; Control of Muscovy Ducks

RIN: 1018-AV34
Agency: Department of the Interior (DOI)
Abstract: Although protected under the Migratory Bird Treaty Act, the muscovy duck (Cairina moschata) occurs naturally in four Texas counties only, and is not native in any other U.S. States or territories. Interior will propose to allow removal of muscovy ducks in the contiguous United States, Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands, except where the species occurs naturally in Texas.

TITLE: Migratory Bird Permits; Revisions to Falconry Regulations

RIN: 1018-AW98
Agency: Department of the Interior (DOI)
Abstract: Interior published a final rule in the Federal Register on October 8, 2008 (73 FR 59447), to revise our regulations governing falconry in the United States. Interior now corrects inconsistencies and oversights and makes the regulations clearer.

TITLE: Attestations by Facilities Temporarily Employing H-1C Nonimmigrant Aliens as Registered Nurses

RIN: 1205-AB52
Agency: Department of Labor (DOL)
Abstract: This Final Rule reflects the extension of the H-1C visa program, which was extended by the Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005 (NRDARA), Public Law 109-423, 120 Stat. 2900 (2006). In 2000, the Nursing Relief for Disadvantaged Areas Act of 1999 (NRDAA), Public Law 106-95, 113 Stat. 1312 (1999), amended the Immigration and Nationality Act to create a temporary visa program for nonimmigrant aliens to work as registered nurses for up to 3 years in facilities serving health professional shortage areas, subject to certain conditions. The NRDAA specified that the H-1C visas were available only during the 4-year period beginning on the date that interim or final regulations were promulgated. Under this Act, the Department published an interim rule, on August 22, 2000 (65 FR 51137), which was open for public comment through September 21, 2000. Before the NRDARA was enacted on December 20, 2006, the Department determined on April 24, 2006, that continued rulemaking was neither necessary nor appropriate at that time, because health care facilities could not sponsor new H-1C visas and no new H-1C visa could be issued. Therefore, the Department discontinued this rulemaking (71 FR 22912). However, after the NRDARA was enacted, the Department decided to continue its rulemaking efforts. Although no more H-1C applications could be filed after December 20, 2009, the Department has determined that it is appropriate to finalize the rule, since the Department is still obligated to enforce the terms of H-1C attestations, and H-1C visa holders can remain in the U.S. for up to 3 years. Section 3 of Public Law 109-423 has exempted this rulemaking from the Administrative Procedure Act, so additional notice and comment is unnecessary.

TITLE: Temporary Agricultural Employment of H-2A Aliens in the United States

RIN: 1205-AB55
Agency: Department of Labor (DOL)
Abstract: The Department of Labor (the Department of DOL) is amending its regulations governing the certification of temporary employment of nonimmigrant workers in temporary or seasonal agricultural employment and the enforcement of the contractual obligations applicable to employers of such nonimmigrant workers. This rulemaking reexamines the process by which employers obtain a temporary labor certification from the Department for use in petitioning the Department of Homeland Security (DHS) to employ a nonimmigrant worker in H-2A status.

TITLE: Trade Adjustment Assistance Program; Merit Staffing of State Administration and Allocation of Training Funds to the States

RIN: 1205-AB56
Agency: Department of Labor (DOL)
Abstract: The Trade and Globalization Assistance Act of 2009 (Act), division B, title I, subtitle I of the American Recovery and Reinvestment Act of 2009, reforms and reauthorizes the Trade Adjustment Assistance (TAA) for Workers program. The Act amended section 236(a)(2) of the Trade Act of 1974 (19 U.S.C. 2296) setting new guidelines and criteria for distributing funds to the States for the purpose of training TAA-certified workers, and added section 236(g) requiring that the Secretary issue regulations to implement the new funding procedures within 1 year of enactment. This rulemaking meets the statutory requirement and also requires that personnel engaged in TAA-funded functions be State employees covered by the merit system of personnel administration.

TITLE: Child Labor Regulations, Orders, and Statements of Interpretation

RIN: 1235-AA01
Agency: Department of Labor (DOL)
Abstract: The Department of Labor continues to review the Fair Labor Standards Act child labor provisions to ensure that the implementing regulations provide job opportunities for working youth that are healthy and safe and not detrimental to their education, as required by the statute (29 U.S.C. sections 203(l), 212(c), 213(c), and 216(e)). This final rule will update the regulations to reflect statutory amendments enacted in 2004, and will propose, among other updates, revisions to address several recommendations of the National Institute for Occupational Safety and Health (NIOSH) in its 2002 report to the Department of Labor on the child labor Hazardous Occupations Orders.

TITLE: Occupational Exposure to Hexavalent Chromium; Final Rule Remand

RIN: 1218-AC43
Agency: Department of Treasury (TREAS)
Abstract: On February 28, 2006, OSHA published a final rule for Occupational Exposure to Hexavalent Chromium (Cr(VI)) (29 CFR 1910.1026, 29 CFR 1915.1026, 29 CFR 1926.1126). Public Citizen Health Research Group (Public Citizen) and other parties petitioned for review of the standard in the United States Court of Appeals for the Third Circuit. The court denied the petitions for review on all but one issue. The Third Circuit remanded the employee notification requirements in the standard's exposure determination provisions for further consideration. More specifically, the court directed the Agency to provide an explanation for its decision to limit employee notice requirements to circumstances in which Cr(VI) exposures exceed the permissible exposure limit (PEL) or to take other appropriate action with respect to that paragraph of the standard. After carefully reviewing the rulemaking record on this issue, OSHA has decided to revise the notification requirements, by means of a direct final rule (DFR), to require employers to notify employees of the results of all exposure determinations, regardless of exposure level. OSHA has published a companion NPRM, which will be used if OSHA receives any substantive adverse comments on the DFR.

TITLE: Terrorism Risk Insurance Program; Cap on Annual Liability and Pro Rata Share of Insured Losses

RIN: 1505-AB92
Agency: Department of Treasury (TREAS)
Abstract: As the statutorily authorized administrator of the Terrorism Risk Insurance Program, Treasury is issuing proposed and final regulations to implement the Program. Under the Terrorism Risk Insurance Act of 2002, Public Law 107-297, the Terrorism Risk Insurance Extension Act of 2005, Public Law 109-144, and the Terrorism Risk Insurance Program Reauthorization Act of 2007, Public Law 110-160, the Federal Government shares the risk of insured losses from certified acts of terrorism with commercial property and casualty insurers. This rule incorporates and clarifies statutory requirements for the $100,000,000,000 cap on annual liability for insured losses. The rule establishes how Treasury will determine whether the cap on annual liability for insured losses has

been reached and, if so, how Treasury will determine the pro rata share of insured losses to be paid by each insurer that incurs insured losses under the Program.

TITLE: Consumer Price Index Adjustments of Oil Pollution Act of 1990 Limits of Liability--Vessels and Deepwater Ports

RIN: 1625-AB25

Agency: Department of Homeland Security (DHS)

Abstract: Pursuant to 33 U.S.C. 2704(d), this regulatory project adjusts limits of liability provided under the Oil Pollution Act of 1990, at 33 U.S.C. 2704, to reflect significant increases in the Consumer Price Index (CPI). This rulemaking supports the Coast Guard's broad roles and responsibilities of Maritime Stewardship and Maritime Safety.

TITLE: Energy Conservation Standards for Small Electric Motors

RIN: 1904-AB70

Agency: Department of Energy (DOE)

Abstract: The Energy Policy Act of 1992 amended the Energy Policy and Conservation Act to provide that the Secretary of Energy prescribe testing requirements and energy conservation standards for those small electric motors for which the Secretary determines that standards would be technologically feasible and economically justified, and would result in significant energy savings. As a result of DOE's analysis, on July 10, 2006 (71 FR 38799), the Secretary made such a determination for small electric motors. This rulemaking determined that it was appropriate to establish energy conservation standards for small electric motors.

TITLE: Test Procedures for Metal Halide Ballasts

RIN: 1904-AB87

Agency: Department of Energy (DOE)

Abstract: The Energy Independence and Security Act of 2007 established standards for metal halide lamp ballasts that were effective January 1, 2009, and also requires test procedures based on ANSI C82.6-2005. In this rulemaking, the Department of Energy is establishing these test procedures for the metal halide lamp ballasts.

TITLE: Energy Efficiency Standards for Commercial Clothes Washers

RIN: 1904-AB93

Agency: Department of Energy (DOE)

Abstract: The Energy Policy and Conservation Act (EPCA) requires DOE to determine whether the existing standards for commercial clothes washers should be amended. Commercial clothes washers were previously included in a rulemaking with residential electric and gas ranges and ovens and Microwave ovens. On October 17, 2008, DOE published a NPRM for these products (73 FR 62034). Commenter's subsequently alleged certain data problems affecting DOE's rulemaking analyses. DOE's preliminary assessment suggested that these concerns might be valid, thereby necessitating additional, supplemental rulemaking analyses. DOE is separating the commercial clothes washers energy conservation standard from the cooking products rulemaking and plans to issue standards for commercial clothes washers by the statutory deadline.

TITLE: Weatherization Assistance Program for Low-Income Persons--Multi-Unit Buildings

RIN: 1904-AB97

Agency: Department of Energy (DOE)

Abstract: The U.S. Department of Energy (DOE) is amending the eligibility provisions applicable to multi-unit buildings under the Weatherization Assistance Program for Low-Income Persons. This rule establishes that, if a multi-unit building is under an assisted or public housing program and is identified by the U.S. Department of Housing and Urban Development and included on a list published by DOE, the building will have met certain income and benefit eligibility requirements under the Weatherization Assistance Program without the need for further evaluation or verification.

TITLE: Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category

RIN: 2040-AE91

Agency: Environmental Protection Agency (EPA)

Abstract: On December 1, 2009, EPA promulgated a regulation which establishes effluent limitations guidelines (ELGs) and new source performance standards (NSPS) for the Construction and Development point source category. The ELGs and NSPS control the discharge of pollutants including sediments, turbidity, nutrients and metals in discharges from construction activities and are implemented through the issuance of NPDES permits. The requirements vary by size of the construction site and are to be implemented in phases over time, with larger construction sites implementing more stringent requirements sooner. The rule is intended to work in concert with existing State and local programs, adding a technology-based "floor" that establishes minimum requirements that would apply nationally. These requirements are expected to significantly reduce the amount of sediment, turbidity and other pollutants discharged from construction sites.

TITLE: Revisions to the Spill Prevention, Control, and Countermeasure (SPCC) Rule

RIN: 2050-AG16

Agency: Environmental Protection Agency (EPA)

Abstract: On December 5, 2008, EPA amended the Spill Prevention, Control, and Countermeasure (SPCC) rule to provide increased clarity with respect to specific regulatory requirements, to tailor requirements to particular industry sectors, and to streamline certain rule requirements. The Agency subsequently delayed the effective date of these amendments to January 14, 2010, to allow the Agency time to review the amendments to ensure that they properly reflect consideration of all relevant facts. EPA also requested public comment on the delay of the effective date and its duration, and on the December 2008 amendments. Having reviewed the record for the amendments and the additional comments, EPA decided to make only limited changes to the amendments. With respect to the majority of the December amendments, EPA either took no action or provided minor technical corrections. EPA, however, removed the following provisions in the December 2008 amendments: the exclusion of farms and oil production facilities from the loading/unloading rack requirements; the exemption for produced water containers at an oil production facility; and the alternative qualified facility eligibility criteria for an oil production facility. A final rule was published on November 13, 2009.

TITLE: Flexible Air Permit Rule

RIN: 2060-AM45

Agency: Environmental Protection Agency (EPA)

Abstract: This rule promulgated changes to the State and Federal operating permit regulations required by title V of the Clean Air Act, and clarify existing requirements governing minor and major new source review (NSR) in order to facilitate greater consideration of flexible air permits (FAPs). A FAP is an operating permit that through its design facilitates flexible operations at a source, allowing the source to be market-responsive while ensuring equal or greater environmental protection than that achieved by conventional permits. A FAP cannot circumvent, modify, or contravene any applicable requirement and must assure compliance with each requirement that is applicable, or becomes applicable. FAPs could potentially be used by a wide spectrum of sources types, encompassing over 30 SICs.

TITLE: Review of the Primary National Ambient Air Quality Standard for Nitrogen Dioxide

RIN: 2060-AO19

Agency: Environmental Protection Agency (EPA)

Abstract: Under the Clean Air Act, EPA is required to review and, if appropriate, revise the air quality criteria for the primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) every 5 years. On October 8, 1996, EPA published a final rule not to revise either the primary or secondary

NAAQS for nitrogen dioxide (NO2). That action provided the Administrator's final determination, after careful evaluation of comments received on the October 1995 proposal, that revisions to neither the primary nor the secondary NAAQS for NO2 were appropriate at that time. On December 9, 2005, EPA's Office of Research and Development initiated the current periodic review of NO2 air quality criteria, the scientific basis for the NAAQS, with a call for information in the Federal Register. Subsequently, the decision was made to separate the reviews of the primary and secondary NO2 standards, and to combine the NO2 secondary-standard review with the secondary-standard review of sulfur dioxide (SO2) due to their linkage in terms of effects and atmospheric chemistry. That joint review of the SO2 and NO2 secondary standards is part of a separate regulatory action described elsewhere in this Regulatory Plan under the identifying number RIN-2060-AO72. The regulatory action described here is for the Agency's review of the primary NO2 NAAQS. This includes the preparation of an Integrated Science Assessment, Risk/Exposure Assessment, and a Policy Assessment Document by EPA, with opportunities for review by EPA's Clean Air Scientific Advisory Committee and the public. These documents inform the Administrator's proposed decision as to whether to retain or revise the standards. On July 15, 2009, a proposed rule was published that would establish a new, short-term (1-hour) standard in the range of 80 to 100 parts per billion. This action included a proposal to revise the NO2 monitoring network to include monitors near major roadways. On January 22, 2010, a final rule was signed by the Administrator. This final rule establishes a new, short-term (1-hour) standard with a level of 100 parts per billion and revises the NO2 monitoring network to include monitors near major roadways.

TITLE: Reconsideration of Stationary Combustion Turbine NSPS

RIN: 2060-AO23
Agency: Environmental Protection Agency (EPA)
Abstract: On March 20, 2009 (74 FR 11858), EPA promulgated, by direct final rule, an amendment to 40 CFR part 60, Subpart KKKK, addressing issues regarding the SO2 limit for turbines burning biogas (landfill gas, etc). EPA also plans to issue a proposal to reconsider several issues raised by the utility air regulatory group (UARG) on the original final rulemaking published on July 6, 2006 (71 FR 38482). The primary issues raised in the petition include the NOx standard and the monitoring and reporting requirements for owners/operators that elect to install NOx CEMS.

TITLE: Reconsideration of 2008 Final Implementation Rule for PM2.5 NSR: Stay of Effective Date for Grandfathering Provisions

RIN: 2060-AP65
Agency: Environmental Protection Agency (EPA)
Abstract: EPA is extending the existing 3-month administrative stay of the grandfathering provision for PM2.5 contained in the Federal Prevention of Significant Deterioration (PSD) program. The Federal PSD program at 40 CFR 52.21 was amended to add the grandfathering provision as part of the May 16, 2008 final rule entitled, "Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM2.5)." The existing administrative stay was made in response to a February 10, 2009, petition for reconsideration and request for administrative stay by the Natural Resources Defense Council (NRDC) and Sierra Club. In a letter dated April 24, 2009, EPA responded to the petitioners agreeing to reconsider four specific provisions of the May 2009 final rule and to propose repealing the grandfathering provision for PM2.5 that is currently under a 3-month administrative stay. The extension of the administrative stay that we are finalizing will provide EPA with sufficient time to subsequently propose, take public comment on, and take final action on a repeal of the grandfathering provision for PM2.5 in the Federal PSD program as agreed to in the April 24 letter.

TITLE: Reconsideration of Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions

RIN: 2060-AP73

Agency: Environmental Protection Agency (EPA)

Abstract: This action is putting in place an additional 18 month stay. Through a letter signed on April 24, 2009, EPA granted reconsideration on a petition submitted by National Resources Defense Council (NRDC), with respect to the final rule titled, "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions," published on December 19, 2008 (73 FR 77881). In addition to granting reconsideration, EPA granted an administrative stay of the rule. Having found that the petition raised objections to the December 2008 final rule provision that arose after the comment period and that are of central relevance to the rule, EPA granted the petition for reconsideration and administrative stay in the April 24, 2009, letter responding to the February 17, 2009 petition submitted by the NRDC. In addition to the notice about the stay (75 FR 6823), EPA will publish a notice in the Federal Register establishing a comment period and opportunity for a public hearing for the reconsideration proceeding. The petition for reconsideration and request for administrative stay can be found in the docket for the December 2008 rule. The EPA considered the petition for reconsideration and request for stay, along with information contained in the rulemaking docket, in reaching a decision on both the reconsideration and the stay.

TITLE: Interpretation of Regulations That Determine Pollutants Covered by the Clean Air Act Permitting Programs

RIN: 2060-AP87

Agency: Environmental Protection Agency (EPA)

Abstract: This action concerns the EPA's interpretation of the regulatory phrase "subject to regulation" as it applies to the federal Prevention of Significant Deterioration (PSD) program (more specifically, in 40 CFR 52.21(b)(50)). At issue is a December 18, 2008, memorandum, titled "EPA's Interpretation of Regulations that Determine Pollutants Covered By Federal Prevention of Significant Deterioration (PSD) Permit Program," which specified that a pollutant is only "subject to regulation" when its emissions are actually controlled or limited under a provision of the Clean Air Act (CAA) or a final EPA rule issued under the authority of the CAA. Following issuance of the memo, EPA received a petition for reconsideration from the Sierra Club and several other organizations. The petitioners argued that EPA's issuance of the Memo violated the procedural requirements of the Administrative Procedures Act and the CAA, and the Memo's interpretation conflicted with prior agency actions. On February 17, 2009, the Administrator granted reconsideration on the December 18, 2008, memorandum in order to allow for public comment on the issues raised in the Memo and in a related decision of the Environmental Appeals Board (EAB). Thus, EPA is conducting a reconsideration proceeding to review and take public comment on the proper interpretation of this regulatory phrase.

TITLE: Implementation of the Communications Act of 1934 as Amended

RIN: 3060-AH33

Agency: Federal Communications Commission (FCC)

Abstract: In the Fourth Memorandum Opinion and Order in WT Docket No. 99-87 (Fourth Memorandum Opinion and Order), the Federal Communications Commission (Commission or FCC) clarifies the Commission's Third Report and Order in this docket, and takes the opportunity to correct the inadvertent deletion of language in the rules regarding the schedule for Private Land Mobile Radio systems in the 150-174 MHz and 421-512 MHz bands to transition to narrowband kHz technology.

TITLE: Air-Ground Telecommunications Services

RIN: 3060-AI27

Agency: Federal Communications Commission (FCC)

Abstract: Re-examination of rules governing air-ground telecommunications services on commercial airplanes. Revision/elimination of 47 CFR 22 non-cellular provisions.

TITLE: Unlicensed Operation of the 3650-3700 Band (ET Docket No. 04-151)

RIN: 3060-AI50

Agency: Federal Communications Commission (FCC)

Abstract: The notice of proposed rulemaking proposed to maximize the efficient use of the 3650-3700 MHz band. The proposal would allow unlicensed devices to operate in either all, or portions of, this radiofrequency (RF) band under flexible technical limitations with smart/cognitive features that should prevent interference to licensed satellite services. The proposal fostered the introduction of new and advanced services to the American public, especially in rural areas. The Report and Order adopted rules that provide for nationwide, non-exclusive, licensing of terrestrial operations, utilizing technology with a contention-base protocol, in the 3650-3700 MHz band. The Commission also adopted a streamlined licensing mechanism with minimal regulatory entry requirements that will encourage multiple entrants and stimulate the rapid expansion of wireless broadband services—especially in rural American and will also serve as a safeguard to protect incumbent satellite earth stations from harmful interference. In the Memorandum Opinion and Order, the Commission addressed several petitions for reconsideration and an emergency motion for stay that were filed in response 3650 MHz Allocation Order in ET Docket No. 98-237. In light of its full review of the refreshed record in this proceeding, and in light of the decisions made in the companion Report and Order, the Commission denied the aspects of the petitions that challenge and seek to reverse the allocation decisions made in the 3650 MHz Allocation Order. The Commission denied the motion for stay. When the Commission established the November 30, 2000, filing deadline, it did so because it found that additional new FSS facilities permitted by the Freeze Memorandum Opinion and Order could affect the use of the 3650-3700 MHz band by the terrestrial services. By deciding in this Order to maintain the FSS allocation changes made in the 3650 MHz Allocation Order, the Commission, reaffirmed its conclusion that allowing additional primary FSS earth stations in the 3650 MHz band could negatively affect the prospects for viable FS/MS terrestrial operations. The Memorandum Opinion and Order addressed petitions for reconsideration filed in response to the Commission's Report and Order relating to the 3650-3700 MHz band (3650 MHz band) proceeding. The Commission affirmed its previous decisions to create a spectrum environment that will encourage multiple entrants and stimulate the expansion of broadband service to rural and underserved areas. To facilitate rapid deployment in the band, the Commission maintains the previously adopted, non-exclusive licensing scheme. The clarification and modification will facilitate operation of the widest variety of broadband technologies with minimal risk of interference in both the near and long terms. They should further reduce the potential for co-channel interference, provide additional protections to the multiple users in the band under the current licensing regime, and create incentives for the rapid development of broadly compatible contention technologies.

TITLE: Organization and Operation of Federal Credit Unions

RIN: 3133-AD67

Agency: National Credit Union Administration (NCUA)

Abstract: NCUA amended section 701.34 governing secondary capital accounts to permit low-income designated credit unions to redeem all or part of secondary capital accepted from the United States Government or any of its subdivisions at any time after it has been on deposit for two years with the approval of the appropriate regional director.