January 2011

Federal Mandate Report

July 10th, 2010

To

December 31st, 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 July 10, 2010 to December 31, 2010. Of the bills reviewed by the CBO, 4 have become public law, while 4 have passed at least one chamber of Congress.

Likewise, the RISC identified a total of 73 completed federal regulations affecting States, 61 of which may impact the Commonwealth.

Additional information can be obtained by contacting:
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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 $140 million or more per year for the private sector.

Bill Number	Bill Title	Unfunded Mandate on the State	Bill Status
H.R. 2765	Securing the Protection of Our Enduring and Established Constitutional Heritage Act	According to a CBO cost estimate analysis dated July 19, 2010, H.R. 2765 would prohibit U.S. district and state courts from enforcing foreign defamation judgments that are inconsistent with Constitutional protections and certain telecommunications laws. In general, foreign courts do not have jurisdiction over the United States, and U.S. courts would not recognize a foreign judgment against the United States. (Under the Federal Tort Claims Act, the federal government waived its sovereign immunity and consented to being sued in federal courts only in particular cases.) H.R. 2765 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt state laws related to foreign judgments. CBO estimates that state courts would incur no significant costs to comply with the preemption; therefore, the costs of the mandate would not exceed the annual threshold established in UMRA for intergovernmental mandates ($70 million in 2010, adjusted for inflation).	*6/9/2009* Introduced in House *6/15/2009* Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. *7/19/2010* Passed/agreed to in Senate: Passed Senate with an amendment by Unanimous Consent. *8/10/2010* Became Public Law No: 111-223 [Text, PDF]
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	*9/22/2009* Introduced in House *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

		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. <u>Mandates That Apply to Both Public and Private Entities – a) Safety Equipment and Management Requirements.</u> 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, 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 Service members 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 service members' obligations when such obligations predate active-duty service and allows courts to temporarily stay certain	Not Voting: Forbes *5/7/2010* Passed/agreed to in Senate: Passed Senate with an amendment by Unanimous Consent. *9/29/2010* Resolving differences -- Senate actions: Senate concurred in House amendment with amendments (SA 4684) by Unanimous Consent. *9/30/2010* Resolving differences -- House actions: On motion that the House agree to the Senate amendments to the House amendments to the Senate amendment Agreed to without objection. *10/15/2010* Became Public Law No: 111-281 [Text, PDF]

		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. Service members' 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.	
S. 3307	The Healthy, Hunger-Free Kids Act of 2010	The legislation would reauthorize—through 2015—and amend child nutrition programs, primarily the National School Lunch Program (NSLP), the School Breakfast Program (SBP), and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). According to a CBO report prepared on March 24, 2010, the Healthy Hunger-Free Kids Act of 2010 would impose new requirements on states and schools that implement child nutrition programs. Those requirements would be intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). Beginning the first year that the mandates take effect, CBO estimates that the aggregate costs of the mandates to states and schools would exceed the threshold established in UMRA for intergovernmental mandates ($70 million in 2010, adjusted annually for inflation). Specifically, the bill would impose a mandate on schools by requiring schools to comply with nutrition standards for all foods sold in schools and on school campuses, at any time during the school day. Those standards also would apply to meals served outside the school meal program (for instance, foods sold through vending machines, school stores, snacks bars, and a la carte sales). Sales from those foods account for the majority of revenues—over $2 billion annually—that schools generate from foods sold outside the school meal program. To comply with the nutrition standards, CBO estimates that schools would lose revenues of more than $100 million, annually, beginning the first year the regulations took effect. The bill also would require schools to comply with new standards for operating	*May 5, 2010* Introduced in the Senate *Aug 5, 2010*: This bill passed in the Senate by Unanimous Consent. *Dec 2, 2010*: Agreed to by the Yeas/Nays: 264 Ayes, 157 Nays, 13 present/not voting. Ayes: Nye, Scott, Perriello, Moran, Boucher and Connolly Nays: Wittman, Forbes, Goodlatte, Cantor, Wolf *Dec 13, 2010*: Became Public Law No: 111-296. [Text, PDF]

		school meal programs as well as new standards for activities conducted outside the current regulatory authority of the child nutrition program. For example, the bill would require schools to: • Make potable water available, free of charge, to children at meal times, • Provide meals that comply with new menu planning and nutrition standards, • Extend food safety standards to any facilities that store, prepare, or serve food, and • Comply with new federal pricing standards for school meals that are provided to children who are not approved for federal benefits. Schools would incur costs to comply with these new requirements. The most significant costs would result from increases in food and labor costs associated with meeting the new nutrition standards. Based on data from schools that have adopted policies that improved the nutritional quality of meals, CBO estimates schools would incur costs between $200 million and $400 million annually in the first year the requirements took effect. Schools that comply with the new menu planning and nutrition standards would, however, receive an increase in federal reimbursement, approximately $300 million beginning in 2013. In addition, some schools would generate additional revenues from the increase in prices charged to children who are not approved for federal benefits. Finally, states that implement the school lunch and breakfast programs are responsible for carrying out administrative duties including overseeing schools that operate the programs. The bill would require states to increase the number of eligible children who are approved for free meals because of their participation in other federal programs. It also would require states to meet new standards for hiring and training staff, and certify schools that meet new federal requirements for meals. CBO estimates that the costs to states to comply with these mandates would be less than $50 million annually. The bill also would provide federal funds to states for implementing some of those responsibilities.	

H.R. 2751	FDA Food Safety Modernization Act of 2010	According to a CBO cost estimate analysis dated August 12, H.R. 2751 would require the Department of Health and Human Services (HHS) to strengthen federal efforts related to ensuring the safety of commercially distributed food. H.R. 2751 also would broaden the Food and Drug Administration's (FDA's) authority to regulate food products, and would require the agency to assess fees on the responsible party for each domestic and foreign food factory, warehouse, and establishment to cover the costs of reinspecting those facilities, as well as on importers and exporters of food products to cover the costs of administering import and export programs. Such fees could be collected and made available for obligation only to the extent and in the amounts provided in advance in appropriation acts. H.R. 2751 would impose a number of mandates, as defined in UMRA, on individuals and entities that manufacture, process, pack, transport, distribute, receive, hold, or import articles of food. CBO estimates that the total cost of those mandates would probably exceed the threshold established in UMRA for private-sector entities ($141 million in 2010, adjusted annually for inflation) in at least one of the first five years the mandates are in effect. Because of the small number of public-sector entities affected, CBO estimates that the costs of mandates in the bill would fall well below the intergovernmental threshold ($70 million in 2010, adjusted annually for inflation). The bill would require facilities that manufacture, process, pack, receive, or hold food for consumption in the United States to register every two years with the Secretary of HHS and pay any fees associated with reinspection or recall activities. Under current law, all of those facilities are required to register once with the Secretary. The biennial registration and the fees would be new requirements. CBO estimates that the fees alone would total nearly $15 million in 2011 and rise to approximately $100 million in 2015. Mandates in the bill would extend to some tribal entities that manufacture and package food items for resale.	*6/8/2009* Introduced in House *12/19/2010* Passed/agreed to in Senate: Passed Senate with an amendment and an amendment to the Title by Voice Vote. *12/21/2010* Resolving differences -- House actions: On motion that the House agree to the Senate amendments Agreed to by the Yeas and Nays: 215 - 144 (Roll no. 661). Ayes – Nye, Scott, Moran, Boucher, Wolf, Connolly Nays – Wittman, Forbes, Perriello, Goodlatte, Cantor *12/21/2010* Cleared for White House. *1/4/2011* Became Public Law 111-353

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. 5114	Flood Insurance Priorities Reform Act of 2010	According to a CBO cost estimate analysis dated May 17, 2010, H.R. 5114 would authorize the National Flood Insurance Program (NFIP) of the Federal Emergency Management Agency (FEMA) to enter into and renew flood insurance policies through fiscal year 2015. The legislation also would authorize the appropriation of $476 million over the 2011-2015 period, and $5 million in 2016, for mitigation and outreach programs and to establish the Office of Flood Insurance Advocate. The bill also would direct FEMA and the Government Accountability Office (GAO) to undertake several studies and issue reports on the NFIP. CBO estimates that implementing those provisions would increase spending by about $378 million over the next five years, assuming appropriation of the necessary funds. Intergovernmental and Private-Sector Impact H.R. 5114 would impose an intergovernmental and private-sector mandate, as defined in UMRA, on public and private mortgage lenders. Under current law, mortgage lenders who make federally related mortgages, as defined in 12 U.S.C. 2602, are required to provide a good-faith estimate of the amount or range of charges the borrower is likely to incur for specific settlement services. The bill would require such mortgage lenders to include specific information about the availability of flood insurance in each good-faith estimate. To the extent that state agencies issue loans or other credit instruments that would be subject to the requirements of the Real Estate Settlement Procedures Act, the bill would impose intergovernmental mandates.	*4/22/2010* Introduced in House *5/26/2010* Reported (Amended) by the Committee on Financial Services. H. Rept. 111-495. *7/15/2010* Passed/agreed to in House: On passage Passed by recorded vote: 329 - 90 (Roll no. 447). Ayes: Wittman, Nye, Scott, Forbes, Perriello, Moran, Boucher, Wolf, Connolly Nays: Goodlatte, Cantor

H.R. 5320	Assistance, Quality, and Affordability Act of 2010	According to a CBO cost estimate analysis dated July 27, 2010, H.R. 5320 would authorize the appropriation of nearly $5 billion for the Environmental Protection Agency (EPA) to provide grants to states and nonprofit organizations to support a wide range of water quality projects and programs over the 2011-2015 period. This legislation also would authorize the appropriation of $5 million annually over the next five years to support EPA's Endocrine Disruptor Screening program. <u>Intergovernmental and Private Sector Impact</u> H.R. 5320 would impose intergovernmental and private-sector mandates as defined in UMRA as follows: Lead-Free Plumbing: The bill would modify the definition of "lead free" under the Safe Drinking Water Act to reduce the amount of lead allowed in plumbing products. The new definition would apply to pipes, fittings, or fixtures used to provide drinking water that are sold after the bill's enactment. Plumbing products used and sold in the United States would have to meet the new standard within three years of enactment. The cost of the mandate would be the additional costs to manufacturers, importers, or users associated with producing or acquiring compliant products. Based on information from industry sources, CBO expects that some manufacturers would already be in compliance with the new standard because of existing standards in some states. However, information from those sources suggests that the incremental cost of manufacturing or importing such products would total hundreds of millions of dollars to the private sector in at least some of the first five years the mandate is in effect. Some of those costs could be passed through to end users, including public entities. While the additional costs to state, local, and tribal entities could be significant, CBO estimates that those costs would total less than the annual threshold established in UMRA for intergovernmental mandates. Reporting Requirements: The bill would require public water systems (including both public and private entities) to submit monitoring data electronically. CBO estimates that the cost to submit such information	*5/18/2010* Introduced in House *7/30/2010* Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. *8/5/2010* Referred to Senate committee: Read twice and referred to the Committee on Environment and Public Works.

		electronically would be minimal.	
H.R. 5138	International Megan's Law of 2010	According to a CBO analysis dated July 21, 2010, H.R. 5138 contains intergovernmental mandates as defined in UMRA by requiring state, local, and tribal governments to collect travel information and fees from registered sex offenders and provide information to federal officials. Because jurisdictions are currently collecting most of the required information and the number of sex offenders that would have to provide additional travel information is relatively small, CBO estimates that the cost of the intergovernmental mandates would fall well below the annual threshold established in UMRA ($70 million for fiscal year 2010, adjusted annually for inflation). In addition, those jurisdictions would benefit from some of the fees authorized in the bill to process the information.	*4/26/2010* Introduced in House *7/27/2010* Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. *8/5/2010* Referred to Senate committee: Read twice and referred to the Committee on Foreign Relations.
S. 2925	Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2010	According to a CBO cost estimate analysis dated October 25, 2010, S. 2925 would authorize the appropriation of $15 million annually over the 2012-2014 period for the Department of Justice to make grants to state and local governments for programs to combat sex trafficking and to assist victims of such crimes. The bill also would eliminate the 2011 funding for those programs that is authorized by current law. Assuming appropriation of the specified amounts, CBO estimates that implementing the bill would have a net cost of $12 million over the 2011-2015 period. S. 2925 would expand an existing intergovernmental mandate as defined in UMRA by requiring law enforcement officers to provide additional information about missing children to federal officials. Under current law, state and local law enforcement officials must report information about missing children to the National Criminal Information Center. This bill would require states to include photographs, if available, and to notify the Center for Missing and Exploited Children when children are reported missing from foster care or childcare institutions. CBO estimates that the cost for public entities to comply with this mandate would be small and well below the threshold established in UMRA ($70 million in 2010, annually adjusted for inflation).	*12/22/2009* Introduced in Senate *12/9/2010* Passed/agreed to in Senate: Passed Senate with an amendment by Unanimous Consent. *12/21/2010* Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote.

Part III - Federal Regulatory Mandates

The Regulatory Information Service Center of the General Services Administration identified seventy-thress 73 completed federal regulatory actions that may affect states, sixty-one (61) of which may mandate specific requirements on the Commonwealth.

TITLE: Quality Control Provisions
RIN: 0584-AD31
Agency: Department of Agriculture (USDA)
Abstract: This rule finalizes the interim rule "Non-Discretionary Quality Control Provisions of Title IV of Public Law 107-171" (published Oct. 16, 2003, at 68 FR 59519) and the proposed rule "Discretionary Quality Control Provisions of Title IV of Public Law 107-171" (published Sep. 23, 2005, at 70 FR 55776). The following quality control provisions required by sections 4118 and 4119 of the Farm Security and Rural Investment Act of 2002 (title IV of Pub. L. 107-171) and contained in the interim rule are implemented by this final rule:
1) Timeframes for completing quality control reviews;
2) Timeframes for completing the arbitration process;
3) Timeframes for determining final error rates;
4) The threshold for potential sanctions and time period for sanctions;
5) The calculation of State error rates;
6) The formula for determining States' liability amounts;
7) Sanction notification and method of payment; and
8) Corrective action plans.

The following provisions required by sections 4118 and 4119 and additional policy and technical changes, and contained in the proposed rule, are implemented by this final rule.
Legislative changes based on or required by sections 4118 and 4119:
1) Eliminate enhanced funding;
2) Establish timeframes for completing individual quality control reviews; and
3) Establish procedures for adjusting liability determinations following appeal decisions.

Policy and technical changes:
1) Require State agency quality control reviewers to attempt to complete review when a household refuses to cooperate;
2) Mandate FNS validation of negative sample for purposes of high performance bonuses;
3) Revise procedures for conducting negative case reviews;
4) Revise timeframes for household penalties for refusal to cooperate with State and Federal quality control reviews;
5) Revise procedures for quality control reviews of demonstration and SSA processed cases;
6) Eliminate the requirement to report any differences resulting from Federal information exchange systems (FIX) errors;
7) Eliminate references to integrated quality control; and
8) Update definitions section to remove out-dated definitions (02-014).

TITLE: Supplemental Nutrition Assistance Program Education (SNAP-Ed) Provisions
Agency: Department of Agriculture (USDA)
RIN: 0584-AD90
Abstract: Title IV--Nutrition, PART III--PROGRAM OPERATIONS, Section 4111-Nutrition Education provision clarifies the legal basis and requirements for nutrition education in the Supplemental Nutrition Assistance Program (SNAP). This proposed rule would implement the requirement that SNAP State agencies that elect to provide nutrition education (SNAP-Ed) for individuals eligible for program benefits submit a nutrition education State plan to the Secretary for approval and that the State plan identifies the uses of funding for local projects, and conforms to standards established by the Secretary through regulations and guidance. This proposed rule codifies the SNAP-Ed Plan Guidance as the regulatory reference for States

regarding the operation and implementation of nutrition education delivery as established in section 11 of the Food and Nutrition Act 2008 (7 U.S.C. 2020 (f)(3)(B)(ii)). The SNAP-Ed Plan Guidance sets forth what States must provide to apply for nutrition education funding, and also provides policy guidance on cost accounting, allowable cost(s), waivers, and data needs. The SNAP-Ed Plan Guidance assists States in developing a clear and comprehensive document for implementing a State Plan. Additionally, the Guidance is designed to provide:
* A clear statement of policy regarding SNAP-Ed requirements;
* Clear and concise information on existing nutrition education and promotion efforts, and on systems of program monitoring; and
* A consistent strategy for evaluating the effectiveness of State SNAP-Ed efforts, as well as comprehensive approaches for measuring the impact of SNAP-Ed.

Supplemental Nutrition Assistance Program Education (SNAP-Ed) promotes healthy eating and physical activity consistent with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) to individuals eligible for SNAP benefits. SNAP State agencies may give SNAP-Ed directly to eligible persons or through agreements with the National Institute of Food and Agriculture, including through the expanded food and nutrition education program under section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), and other State and community health and nutrition providers and organizations. As with any other SNAP administrative activity, SNAP-Ed expenditures may be reimbursed at 50 percent as established in section 16(a) of the Food and Nutrition Act 2008, which authorizes FNS to pay 50 percent of a State's allowable administrative expenditures to operate the Program of which nutrition education is an allowable component. States submit an FNS-366A Budget Projection to project Federal funding needs.

Currently 52 State agencies provide SNAP-Ed to program eligibles in all 50 States, the District of Columbia, and the U.S. Virgin Islands. In 2004, SNAP-Ed was provided to 82 percent of the counties across the country. In FY 2009 these 52 State agencies received approved Federal funding of approximately $343 million. This funding will provide nutrition education to eligible program recipients ensuring that SNAP eligibles have the knowledge, skills, and motivation needed to make healthy food and physical activity choices (09-009).

TITLE: Rulemaking To Establish Take Prohibitions for the Threatened Southern Distinct Population Segment of North American Green Sturgeon
RIN: 0648-AV94
Agency: Department of Commerce
Abstract: Under section 4(d) of the Federal Endangered Species Act (ESA), the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. This rule would apply the prohibitions under ESA section 9(a)(1)(A) through 9(a)(1)(G) for threatened Southern DPS green sturgeon, but would include certain exceptions and exemptions from the take prohibitions. Exceptions are included for certain scientific research, emergency fish rescue, law enforcement, and habitat restoration activities that meet the criteria specified in the protective regulations under Section 4(d) of the ESA for Southern DPS green sturgeon. Exemptions are included for state scientific research, fisheries activities, and tribal activities conducted under NMFS approved ESA 4(d) programs. Thus, take of Southern DPS fish may be authorized under ESA section 7 or 10, or under an exception or exemption to the take prohibitions if the activities are conducted in compliance with NMFS criteria or NMFS-approved plans.

TITLE: Regulatory Amendment to the Gulf of Mexico Reef Fish Fishery Management Plan To Set 2010 Management Measures for Red Snapper
RIN: 0648-AY57
Agency: Department of Commerce (DOC)
Abstract: The 2009 update stock assessment of

the Gulf of Mexico red snapper stock indicated that although the stock is still overfished, the stock is rebuilding and overfishing was projected to end in 2009. Based on their review of the assessment update, the Gulf Council's Scientific and Statistical Committee recommended total allowable catch (TAC) could be increased. The purpose of this regulatory amendment is to adjust TAC and the resulting recreational and commercial quotas consistent with the goals and objectives of the Council's red snapper rebuilding plan and achieve the mandates of the Magnuson-Stevens Fishery Conservation and Management Act.

TITLE: Fisheries Off West Coast States; West Coast Salmon Fisheries; 2010 Management Measures
RIN: 0648-AY60
Agency: Department of Commerce (DOC)
Abstract: This rule implements the 2010 ocean salmon management measures.

TITLE: Regulatory Amendment To Revise Angler Endorsements for Charter Halibut Permits
RIN: 0648-AY85
Agency: Department of Commerce (DOC)
Abstract: NMFS proposes regulations that would amend the limited access system for charter vessels in the guided sport fishery for Pacific halibut in waters of International Pacific Halibut Commission (IPHC) Regulatory Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). If approved, this regulatory amendment would revise the method for assigning angler endorsements to charter halibut permits. This action is necessary to achieve the halibut fishery management goals of the North Pacific Fishery Management Council. The intended effect is to more closely align angler endorsements with the actual greatest number of anglers for each vessel that gave rise to each charter halibut permit.

TITLE: Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents
RIN: 0910-AG33
Agency: Department of Health and Human Services
Abstract: This rule establishes regulations restricting the sale and distribution of cigarettes and smokeless tobacco to children and adolescents, implementing section 102 of the Family Smoking Prevention and Tobacco Control Act (FSPTCA). FSPTCA sections 102 and 6(c)(1) require the Secretary to publish, within 270 days of enactment, a final rule regarding cigarettes and smokeless tobacco. This final rule must be identical, except for several changes identified in section 102(a)(2) of FSPTCA, to part 897 of the regulations promulgated by the Secretary of HHS in the August 28, 1996, issue of the Federal Register (61 FR 44396).

This final rule prohibits the sale of cigarettes and smokeless tobacco to individuals under the age of 18 and requires manufacturers, distributors, and retailers to comply with certain conditions regarding access to, and promotion of, these products. Among other things, the final rule requires retailers to verify a purchaser's age by photographic identification. It also prohibits, with limited exception, free samples and prohibits the sale of these products through vending machines and self-service displays except in facilities where individuals under the age of 18 are not present or permitted at any time. The rule also limits the advertising and labeling to which children and adolescents are exposed. The rule accomplishes this by generally restricting advertising to which children and adolescents are exposed to a black-and-white, text-only format. The rule also prohibits the sale or distribution of brand-identified promotional, non-tobacco items such as hats and tee shirts. Furthermore, the rule prohibits sponsorship of sporting and other events, teams, and entries in a brand name of a tobacco product, but permits such sponsorship in a corporate name.

FDA also published in the same issue of the Federal Register an advance notice of proposed rulemaking requesting comments, data, research, or other information on the regulation of outdoor advertising of cigarettes and smokeless tobacco.

TITLE: Over-the-Counter Human Drugs; Labeling Requirements
RIN: 0910-AG34
Agency: Department of Health and Human Services
Abstract: Section 201.66 (21 CFR section 201.66) established a standardized format for the labeling of OTC drug products that included: (1) Specific headings and subheadings presented in a standardized order, (2) standardized graphical features such as headings in bold type and the use of 'bullet points' to introduce key information, and (3) minimum standards for type size and spacing. FDA issued the final rule to improve labeling after considering comments submitted to the agency following the publication of the proposed regulation in 1997. In 1999, FDA published the final rule and stated that a standardized labeling format would significantly improve readability by familiarizing consumers with the types of information in OTC drug product labeling and the location of that information. In addition, a standardized appearance and standardized content, including various 'user-friendly' visual cues, would help consumers locate and read important health and safety information and allow quick and effective product comparisons, thereby helping consumers to select the most appropriate product.

FDA undertook a review of section 201.66 under section 610 of the Regulatory Flexibility Act. The purpose of this review is to determine whether the regulation in section 201.66 should be continued without change, or whether it should be further amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize adverse impacts on a substantial number of small entities. FDA will consider, and is soliciting comments on the following: (1) The continued need for the regulation in section 201.66; (2) the nature of the complaints or comments received concerning the regulation in section 201.66; (3) the complexity of the regulations in section 201.66; (4) the extent to which the regulations in section 201.66 overlap, duplicate, or conflict with other Federal, State, or governmental rules; and (5) the degree to which technology, economic conditions, or other factors have changed for the products still subject to the labeling standard regulations in section 201.

No comments were received. FDA's review of these regulations concluded that they should be continued without change.

TITLE: Final and Preliminary Fiscal Year Disproportionate Share Hospital Payment Allotments and Institutions for Mental Disease Limits (CMS-2300-N)
RIN: 0938-AP66
Agency: Department of Health and Human Services.
Abstract: This notice sets forth the States' final and preliminary fiscal year disproportionate share hospital (DSH) payment allotments and States' institutions for mental disease (IMD) DSH limits in the Medicaid program. It also announces provisions of the American Recovery and Reinvestment Act that revise DSH allotments.

TITLE: Medicaid Program; Withdrawal of Determination of Average Manufacturer Price, Multiple Source Drug Definition, and Upper Limits for Multiple Source Drugs (CMS-2238-F2)
RIN: 0938-AP67
Agency: Department of Health and Human Services.
Abstract: In this rule, HHS withdrew two provisions that we published in a final rule, titled Medicaid Program; Prescription Drugs (referred to hereafter as AMP final rule) on July 17, 2007 in the Federal Register: the determination of Average Manufacturer Price (AMP), and the Federal upper limits (FULs) for multiple source drugs. HHS also withdrew the definition of multiple source drug as it was revised in the Medicaid Program; Multiple Source Drug Definition final rule published on October 7, 2008. The provisions of the AMP final rule and the definition of multiple source drug that we are proposing to withdraw were challenged in a lawsuit that was filed in November 2007. As a result of this action, the Court issued a preliminary injunction which prohibits the

Center for Medicare and Medicaid Services (CMS) from undertaking any and all action to implement the AMP final rule to the extent such action affects Medicaid reimbursement rates for retail pharmacies under the Medicaid program and, subject to certain exceptions, prohibits CMS from posting any AMP data on a public website or otherwise disclosing any AMP data to any individual or entities. With the issuance of the preliminary injunction, CMS has been unable to implement certain provisions of the Deficit Reduction Act of 2005 (as regulated in the July 17, 2007 AMP final rule.) In the meantime, the challenged regulations have been superseded in significant part by the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, and the Education, Jobs and Medicaid Assistance Act. This document withdraws the regulatory provisions challenged in the aforementioned litigation.

TITLE: Medicaid Program and Children's Health Insurance Program (CHIP); Revisions to the Medicaid Eligibility Quality Control and Payment Error Rate Measurement Programs (CMS-6150-F)
RIN: 0938-AP69
Agency: Department of Health and Human Services.
Abstract: This final rule implements provisions from the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) with regard to the Medicaid Eligibility Quality Control (MEQC) and Payment Error Rate Measurement (PERM) programs. This final rule also codifies several procedural aspects of the process for estimating improper payments in Medicaid and the Children's Health Insurance Program (CHIP). The final rule will provide structure to the improper payments measurement changes required by CHIPRA beginning with FY 2009 and subsequent fiscal years in order to reduce cost and burden or otherwise improve the Medicaid and CHIP programs.

TITLE: State Flexibility for Medicaid Benefit Packages (CMS-2232-F4)
RIN: 0938-AP72
Agency: Department of Health and Human Services.
Abstract: This final rule amends the final rule published on April 30, 2010, entitled "State Flexibility for Medicaid Benefit Packages," which implemented the provisions of section 1937 of the Social Security Act (the Act) related to the coverage of medical assistance under approved State plans. It also incorporates provisions of the Affordable Care Act (ACA), which further amended section 1937(b) of the Act and explicitly requires States that choose to provide medical assistance through benchmark or benchmark-equivalent coverage to provide certain specified services.

TITLE: Premiums and Cost Sharing (CMS-2244-FC)
RIN: 0938-AP73
Agency: Department of Health and Human Services.
Abstract: This final rule revises the November 25, 2008, final rule entitled, "Medicaid Programs; Premiums and Cost Sharing (73 FR 71828)," that implemented and interpreted provisions of the Deficit Reduction Act of 2005 (DRA) and the Tax Relief and Health Care Act of 2006 (TRHCA). In addition, this final rule responds to public comments on the November 25, 2008 final rule which were received after a notice was published on January 27, 2009 to reopen the comment period and temporarily delay for 60 days the effective date of the final rule and after a notice was published on March 27, 2009, to reopen the comment period and delay the final rule's effective date until December 31, 2009. This final rule also solicits public comments on revisions proposed to the final rule in response to the American Recovery and Reinvestment Act of 2009 (the Recovery Act), which was enacted during the temporary delay of the November 25, 2008, final rule.

TITLE: Revisions to the Medicare Advantage and Medicare Prescription Drug Benefit Programs for Contract Year 2011 (CMS-4085-F)
RIN: 0938-AP77
Agency: Department of Health and Human Services.
Abstract: This final rule makes revisions to the

regulations governing the Medicare Advantage (MA) program (Part C) and prescription drug benefit program (Part D) based on our continued experience in the administration of the Part C and D programs. The revisions strengthen various program participation and exit requirements; strengthen beneficiary protections; ensure that plan offerings to beneficiaries include meaningful differences; improve plan payment rules and processes; improve data collection for oversight and quality assessment; implement new policy such as a Part D formulary policy; and clarify program policy.

TITLE: Electronic Health Record (EHR) Incentive Program (CMS-0033-F)
RIN: 0938-AP78
Agency: Department of Health and Human Services (HHS)
Abstract: This rule would implement provisions of the American Recovery Act of 2009 (Recovery Act) that authorize incentive payments to eligible professionals (EPS) and eligible hospitals participating in the Medicare and Medicaid programs for adopting and becoming meaningful users of certified electronic health records (HER) technology. In accordance with the Recovery Act, the rule will establish maximum annual incentive amounts and include Medicare penalties for failing to meaningfully use EHRs beginning in 2015.

TITLE: Qualifying Individual (QI) Allotments (CMS-2309-N)
RIN: 0938-AP90
Agency: Department of Health and Human Services (HHS)
Abstract: This notice provides the States' final allotments available to pay the Medicare Part B premiums for Qualifying Individuals (QIs) for the Federal fiscal year (FY) 2009 and the preliminary QI allotments for FY 2010. The amounts of these QI allotments were determined in accordance with the methodology set forth in existing regulations and reflect funding for the QI program made available under recent legislation.

TITLE: Disability Determinations by State Agency Disability Examiners (3510F)
RIN: 0960-AG87
Agency: Social Security Administration (SSA)
Abstract: We are revising our rules on a temporary basis to permit State agency disability examiners to make fully favorable determinations in certain claims for disability benefits under titles II and XVI of the Social Security Act without the approval of a State agency medical or psychological consultant. These changes apply only to claims we consider under our rules for quick disability determinations or under our compassionate allowance initiative.

TITLE: Intergovernmental Child Support Enforcement
RIN: 0970-AC37
Agency: Department of Health and Human Services (HHS)
Abstract: This regulation would revise Federal requirements for establishing and enforcing intergovernmental support obligations in child support enforcement program cases receiving services under title IV-D of the Social Security Act (the Act). The changes would: revise current interstate requirements to apply to case processing in all intergovernmental cases; require the responding State IV-D agency to pay the cost of genetic testing; clarify responsibility for determining in which State tribunal a controlling order determination is made where multiple support orders exist; recognize and incorporate electronic communication advancements; and make conforming changes to the Federal substantial-compliance audit and State self-assessment requirements.

TITLE: Use of TANF Funds Carried Over From Prior Year
RIN: 0970-AC40
Agency: Department of Health and Human Services (HHS)
Abstract: This rule would implement section 2103 of the American Recovery and Reinvestment Act of 2009 to provide that a State or Tribe may use reserve Temporary Assistance for Needy Families (TANF) grant funds for any benefit or service activity under the TANF program.

TITLE: Internal Claims, Appeals and External Review Processes Under the Affordable Care Act
RIN: 0950-AA01
Agency: Department of Health and Human Services (HHS)
Abstract: The Affordable Care Act provides consumers with the right to appeal decisions made by their health carrier to an outside, independent decision-maker, regardless of the state of residence or type of health insurance. Under the interim final regulations issued earlier this year, non-grandfathered plans and issuers must comply with a state external review process or the Federal external review process. This rule would finalize the regulations and provide and opportunity to respond to public comments.

TITLE: 2009-2010 Refuge-Specific Hunting and Sport Fishing Regulations—Additions
RIN: 1018-AW49
Agency: Department of the Interior (DOI)
Abstract: We are making additions to refuge-specific regulations in 50 CFR part 32 for the 2009-2010 hunting season. This action is part of an annual update for the National Wildlife Refuge System that ensures adequate public notice of openings/changes. We operate hunting/fishing programs on refuges in furtherance of the implementation of the National Wildlife Refuge System Improvement Act of 1997 directives to facilitate compatible priority wildlife-dependent recreational opportunities.

TITLE: Migratory Bird Hunting; 2010-11 Migratory Game Bird Hunting Regulations
RIN: 1018-AX06
Agency: Department of the Interior (DOI)
Abstract: We issue annual hunting regulations for certain migratory game birds for the 2010-11 hunting season. We annually prescribe outside limits (frameworks), within which States may select hunting seasons. We also request proposals from Indian tribes that wish to establish special migratory bird hunting regulations on Federal Indian reservations and ceded lands and proposals for the 2010-11 spring/summer migratory bird subsistence season in Alaska. Migratory game bird hunting seasons provide hunting opportunities for recreation and sustenance; aid Federal, State, and tribal governments in the management of migratory game birds; and permit harvests at levels compatible with migratory bird population status and habitat conditions.

TITLE: Certification Process for State Capital Counsel Systems; Removal of Final Rule
RIN: 1121-AA76
Agency: Department of Justice (DOJ)
Abstract: Pursuant to the USA PATRIOT Improvement and Reauthorization Act of 2005, the Department of Justice promulgated a final rule to implement certification procedures for states seeking to qualify for the special Federal habeas corpus review procedures in capital cases afforded under chapter 154 of title 28 of the United States Code. See Certification Process for State Capital Counsel Systems, 73 FR 75327 (Dec. 11, 2008). A federal district court issued an injunction requiring the Department to provide an additional public comment period and publish a response to any comments received during that period. The Department then solicited further public comments. By this proposed rule, the Department is proposing to remove the December 11, 2008, regulations. The Department will issue new regulations on this subject by separate rulemaking after the December 2008 regulations are removed.

TITLE: Nondiscrimination on the Basis of Disability in State and Local Government Services
RIN: 1190-AA46
Agency: Department of Justice (DOJ)
Abstract: On July 26, 1991, the Department published its final rule implementing title II of the Americans With Disabilities Act (ADA). On November 16, 1999, the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) issued its first comprehensive review of the ADA Accessibility Guidelines (ADAAG), which form the basis of the Department's ADA Standards for Accessible Design. The Access Board published an Availability of Draft Final Guidelines on April

2, 2002, and published the ADA Accessibility Guidelines in final form on July 23, 2004. The ADA (section 204(c)) requires the Department's standards to be consistent with the Access Board's guidelines. In order to maintain consistency between ADAAG and the Standards, the Department is reviewing its title II regulations and expects to propose, in one or more stages, to adopt revised standards consistent with new ADAAG. The Department will also, in one or more stages, review its title II regulations for purposes of section 610 of the Regulatory Flexibility Act and make related changes to its title II regulations.

In addition to the statutory requirement for the rule, the social and economic realities faced by Americans with disabilities dictate the need for the rule. Individuals with disabilities cannot participate in the social and economic activities of the Nation without being able to access the programs and services of State and local governments. Further, amending the Department's ADA regulations will improve the format and usability of the ADA Standards for Accessible Design; harmonize the differences between the ADA Standards and national consensus standards and model codes; update the ADA Standards to reflect technological developments that meet the needs of persons with disabilities; and coordinate future ADA Standards revisions with national standards and model code organizations. As a result, the overarching goal of improving access for persons with disabilities so that they can benefit from the goods, services, and activities provided to the public by covered entities will be met.

The first part of the rulemaking process was an advance notice of proposed rulemaking, published in the Federal Register on September 30, 2004, at 69 FR 58768, issued under both title II and title III. The Department believes the advance notice simplified and clarified the preparation of the proposed rule to follow. In addition to giving notice of the proposed rule that will adopt revised ADA accessibility standards, the advance notice raised questions for public comment and proposed a framework for the regulatory analysis that accompanied the proposed rule.

The adoption of revised ADA Standards consistent with revised ADAAG will also serve to address changes to the ADA Standards previously proposed under RIN 1190-AA26, RIN 1190-AA38, RIN 1190-AA47, and RIN 1190-AA50, all of which have now been withdrawn from the Unified Agenda. These changes include technical specifications for facilities designed for use by children, accessibility standards for State and local government facilities, play areas, and recreation facilities, all of which had previously been published by the Access Board.
The timetable set forth below refers to the notice of proposed rulemaking that the Department issued as the second step of the above-described title III rulemaking. This notice also proposed to eliminate the Uniform Federal Accessibility Standards (UFAS) as an alternative to the ADA Standards for Accessible Design.

TITLE: Senior Community Service Employment Program; Performance Accountability
RIN: 1205-AB47
Agency: Department of Labor
Abstract: The Older Americans Act Amendments of 2006, Public Law 109-365, enacted on October 17, 2006, contains provisions amending title V of that Act, which authorizes the Senior Community Service Employment Program (SCSEP). The Amendments, effective July 1, 2007, make substantial changes to the current SCSEP provisions in the Older Americans Act relating to performance accountability.
Section 513(d)(4) of title V requires that the Agency establish and implement new measures of performance by July 1, 2007. Section 513(b)(3) required that the Secretary issue definitions of indicators of performance through regulations after consultation with stakeholders. Therefore, the Interim Final Rule (IFR) implemented changes to the SCSEP program performance accountability regulations found at 20 CFR 641 in subpart G. Changes to other subparts of part 641 were implemented through a separate Notice of Proposed Rulemaking,

published Aug. 14, 2008 (73 FR 47770).

TITLE: Senior Community Service Employment Program
RIN: 1205-AB48
Agency: Department of Labor (DOL)
Abstract: The Older Americans Act Amendments of 2006, Public Law 109-365, enacted on October 17, 2006, contain provisions amending title V of that Act, which authorizes the Senior Community Service Employment program (SCSEP). The Amendments, effective July 1, 2007, made substantial changes to the SCSEP provisions in the Older Americans Act, including new requirements relating to performance accountability, income eligibility for program participation, competition of national grants, and services to participants. This portion of the rulemaking consists of 8 subparts: subpart A--Purpose and Definitions; subpart B--Coordination with the Workforce Investment Act; subpart C--the State Plan; subpart D--Grant Application and Responsibility Review Requirements for State and National Grants; subpart E--Services to Participants; subpart F--Pilots, Demonstration, and Evaluation Projects, subpart H--Administrative Requirements; and subpart I--Grievance Procedures and Appeals Process. The performance accountability requirements (subpart G) were implemented through a separate Interim Final Rule (IFR).

TITLE: Federal-State Unemployment Compensation Program; Funding Goals for Interest-Free Advances
RIN: 1205-AB53
Agency: Department of Labor (DOL)
Abstract: Under title XII of the Social Security Act (42 U.S.C. 1321 et seq.), States may, when needed, obtain repayable advances from the Federal unemployment account in the Unemployment Trust Fund to pay State unemployment compensation benefits. States may be exempted from the requirement to pay interest on these advances under certain conditions, including the condition that the 'State meets funding goals' established by the Secretary of Labor in regulations. The regulation would establish these funding goals.

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 (HOs) (available at http://www.youthrules.dol.gov/resources.htm).

TITLE: Exchange Visitor Program--Trainees and Interns
RIN: 1400-AC15
Agency: Department of State
Abstract: This rule creates a new category of interns set forth at 22 CFR 62.22 under the Exchange Visitor (J-1) Program.

TITLE: Qualified Zone Academy Bonds; Obligations of States and Political Subdivisions
RIN: 1545-BC61
Agency: Department of Treasury (TREAS)
Abstract: The regulations provide the use of proceeds rules, coordinate permissible expenditure, and make consistent provisions regarding determination of credit rate and maturity date. These proposed regulations also provide for remedial actions in case of change in use of bond proceeds. The regulations also implement the arbitrage and reporting requirements.

TITLE: Hybrid Retirement Plans
RIN: 1545-BG36
Agency: Department of Treasury (TREAS)
Abstract: The final regulations provide

guidance with respect to sections 411(a)(13) and 411(b)(5) of the Code. Section 411(a)(13) provides rules relating to vesting and payment of benefits under tax-qualified hybrid defined benefit plans. Section 411(b)(5) provides age discrimination rules for tax-qualified defined benefit plans, including hybrid defined benefit plans.

TITLE: Qualified Nonpersonal Use Vehicle
RIN: 1545-BH65
Agency: Department of the Treasury (TREAS)
Abstract: Amendment of section 1.274-5 of the Income Tax Regulations is to add clearly marked public safety officer vehicles as a new category of qualified nonpersonal use vehicle.

TITLE: Electronic Signature and Storage of Form I-9, Employment Eligibility Verification
RIN: 1653-AA47
Agency: Department of Homeland Security (DHS)
Abstract: Department of Homeland Security (DHS) regulations provide that employers and recruiters or referrers for a fee required to complete and retain Forms I-9, Employment Eligibility Verification, may sign and retain these forms electronically, generally following existing tax records standards. This final rule amended the regulations to accommodate several concerns expressed in the comments regarding execution and retention of Form I-9.

TITLE: Procedural Changes to the Fire Management Assistance Declaration Process
RIN: 1660-AA72
Agency: Department of Homeland Security (DHS)
Abstract: By this final rule, the Federal Emergency Management Agency (FEMA) is updating its Fire Management Assistance Grant Program regulations to reflect a change in the internal delegation of authority for fire management assistance declarations, and resulting internal procedural changes that are impacted by the change in authority. FEMA is also making nomenclature changes to update names and titles to reflect recent changes to FEMA's organizational structure.

TITLE: Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment and Water Heaters
RIN: 1904-AA90
Agency: Department of Energy (DOE)
Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy efficiency standard levels for many types of major residential appliances and generally requires DOE to undertake two subsequent rulemakings, at specified times, to determine whether the existing standard for a covered product should be amended. This is the initial review of the statutory standards for pool heaters and direct heating equipment. This is the second review for water heaters.

TITLE: Determination for External Power Supplies (Non-Class A)
RIN: 1904-AB80
Agency: Department of Energy (DOE)
Abstract: The Energy Independence and Security Act of 2007 amends the Energy Policy and Conservation Act to require the Secretary to issue a final rule that determines whether energy conservation standards will be considered for external power supplies other than Class A.

TITLE: Energy Conservation Program for Consumer Products: Test Procedure for Residential Furnaces and Boilers
RIN: 1904-AB89
Agency: Department of Energy (DOE)
Abstract: Test procedures for residential furnaces and boilers will be amended to include standby mode and off mode energy consumption, taking into consideration the most current versions of standards of the International Electrotechnical Commission, unless the Secretary determines that current test procedures are fully adequate or to do so would be technically infeasible.

TITLE: Weatherization Assistance For Low-Income Persons: Maintaining the Privacy of Recipients of Services
RIN: 1904-AC16
Agency: Department of Energy (DOE)
Abstract: This final rule requires all States and

other service providers that participate in the Weatherization Assistance Program (WAP) to treat all information obtained under the WAP, regarding applicants and recipients of WAP funds, in a manner consistent with Freedom of Information Act, 5 U.S.C. 552, including the privacy protections contained in 5 U.S.C. 552(e)(6), and must extend this protection to all WAP records in their possession, custody, or control. However, information regarding recipients in the aggregate that does not identify specific individuals, may be released. For example, a State or other service provider may disclose information on the number of WAP recipients in a county, city, or a zip code.

TITLE: Toxics Release Inventory; Addition of National Toxicology Program Carcinogens
RIN: 2025-AA28
Agency: Environmental Protection Agency
Abstract: The National Toxicology Program (NTP) periodically publishes its Report on Carcinogens (RoC) which classifies chemicals as either "known to be a human carcinogen" or "reasonably anticipated to be a human carcinogen." The RoC is a congressionally mandated scientific and public health document that provides data on carcinogenicity, genotoxicity, and biologic mechanisms. The RoC evaluations are performed by scientists from the NTP, other Federal health research and regulatory agencies, and nongovernmental institutions. The RoC review process includes external peer review and public comment. EPA reviewed the 11th edition of the NTP RoC to identify those chemicals that are not currently on the Toxics Release Inventory (TRI) list and that have not previously been reviewed for listing. EPA proposed to add to the TRI list, those NTP carcinogens that had sufficient production or use levels such that the Agency expects that TRI reports will be filed. EPA is reviewing comments received on the proposed rule.

TITLE: Guidance for Implementing the Methylmercury Water Quality Criterion
RIN: 2040-AE87
Agency: Environmental Protection Agency
Abstract: In the 2001 Federal Register notice of the availability of EPA's recommended water quality criterion for methylmercury, EPA stated that it would develop associated procedures and guidance for implementing the criterion. For states and authorized tribes exercising responsibility under CWA section 303(c), this document provides technical guidance on how they might want to use the recommended 2001 fish tissue-based criterion to develop and implement their own water quality standards for methylmercury. The guidance addresses topics including adoption and revision of standards, monitoring, waterbody assessment, water quality standards issues, TMDL development, and NPDES permitting. Since atmospheric deposition is considered to be a major source of mercury for many waterbodies, implementing this criterion involves coordination across media and program areas.

TITLE: Revise: Cooperative Agreements and Superfund State Contracts for Superfund Response Actions
RIN: 2050-AG58
Agency: Environmental Protection Agency
Abstract: 40 CFR part 35 subpart O prescribes requirements for administering cooperative agreements awarded to states, Native American tribes, and political subdivisions to conduct remedial actions, non-time-critical removal actions, pre-remedial activities, and other response activities authorized by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) section 104(a)-(j). In addition, subpart O prescribes requirements for the Superfund State Contract that is necessary whenever EPA or a political subdivision is the lead agency for a CERCLA remedial action. Subpart O rules were originally promulgated on June 5, 1990 and revised May 2, 2007. The Agency revised the May 2, 2007 rule to further reduce the recipients' burden by allowing quarterly and semiannual progress reports to be due in 60 days, instead of 30 days. Also, under a Superfund State Contract, the recipient may request the EPA for any overpayment of cost share from one site be applied to meet the cost share requirement of another site. These revisions will improve the administration and effectiveness of Superfund

Cooperative Agreements and Superfund State Contracts.

TITLE: SPCC Compliance Date Extension
RIN: 2050-AG59
Agency: Environmental Protection Agency (EPA)
Abstract: On November 13, 2009, EPA amended the Spill Prevention Control, and Countermeasures (SPCC) rule. The amendments completed the SPCC action proposed on October 15, 2007 (72 FR 58378), finalized on December 5, 2008 (73 FR 74236), and for which the Agency considered public comments again in February 2009 (74 FR 5900, February 3, 2009). However, EPA recognizes that because of the changes in this action, and specifically provisions that have been removed from the December 2008 Amendments, facilities may need additional time to comply with the SPCC amendments. Because of the uncertainty surrounding the final amendments to the December 5, 2008 rule and the delay of the effective date.

TITLE: Revisions to the General Conformity Regulations
RIN: 2060-AH93
Agency: Environmental Protection Agency (EPA)
Abstract: This final action revised the original General Conformity regulations to reduce unnecessary paperwork burden, address transition issues to new NAAQS and to respond to concerns based on the experience of implementing federal agencies.

TITLE: NESHAP: Portland Cement Notice of Reconsideration and NSPS for Portland Cement
RIN: 2060-AO15
Agency: Environmental Protection Agency (EPA)
Abstract: The Portland Cement Manufacturing Industry National Emission Standards for Hazardous Air Pollutants (NESHAP) was promulgated June 14, 1999, and has been codified in 40 Code of Federal Regulations 63, Subpart LLL. This rule regulates emissions of air toxics from all facilities that produce Portland cement from raw materials such as limestone. (Note that cement kilns that burn hazardous waste are covered under a different air toxics rule). The Sierra Club and the National Lime Association petitioned the court to review Subpart LLL, while the American Portland Cement Alliance (APCA, now the Portland Cement Association - PCA) opted to negotiate a settlement agreement. (Note that a separate rulemaking amended Subpart LLL to implement the settlement agreement with the APCA -- SAN 4524, RIN 2060-AJ57, Tier 3.)
On December 15, 2000, a panel of the D.C. Circuit issued its opinion in National Lime Association v. EPA. The Court remanded the three standards for which EPA established floors of no control (hydrogen chloride [HCl], total hydrocarbon [THC], and mercury [Hg]). The Court found that we committed error in not considering other means of control, in particular, control of HAPs in raw materials and in fossil fuels. The Court also remanded that EPA consider setting beyond-the-floor standards for HAP metals, for which particulate matter (PM) is a surrogate.

On December 20, 2006, EPA published final amendments to the Portland cement air toxics rule to respond to the December 2000 remand (SAN 4585, RIN 2060-AJ78, Tier 3). At the same time as the final amendments were published, EPA also published a notice of reconsideration of the final new source limits for mercury and total hydrocarbons (a surrogate for non-dioxin organic toxic air pollutants), and a reconsideration of the ban on the use of certain mercury containing fly ash in both new and existing cement kilns. The Agency took this action because there were still substantive technical issues and there was not sufficient opportunity for public comment on parts of the final action. EPA also granted a petition to reconsider the existing source emissions limits for mercury and THC, and also our decision not to regulate hydrochloric acid emissions. As part of this reconsideration, EPA has conducted extensive data gathering and analysis, including requirements for emissions testing.

Based on evaluation of the gathered data, on

May 6, 2009, EPA proposed numerical emissions limits for mercury, total hydrocarbons, and hydrochloric acid for both new and existing cement kilns In addition, EPA significantly lowered the cement kiln new and existing source particulate matter standards In addition this action will address New Source Performance Standards (NSPS) criteria pollutants from new stationary sources. The Portland Cement NSPS were originally promulgated in 1971, and last reviewed in 1988. Section 111 of the Clean Air Act requires that NSPS be reviewed every 8 years, and revised as appropriate, so the review is overdue. Amendments to the NSPS were proposed on June 16 2008, under a different rulemaking (2060-A042). EPA has combined the NSPS amendments and the rulemaking on air toxics into one action.

TITLE: Prevention of Significant Deterioration for PM2.5?Increments, Significant Impact Levels, and Significant Monitoring Concentrations
RIN: 2060-AO24
Agency: Environmental Protection Agency (EPA)
Abstract: EPA is finalizing regulations under the Prevention of Significant Deterioration (PSD) program to establish new increments, significant impact levels (SILs) and a significant monitoring concentration (SMC) for fine particulate matter (particles with an aerometric diameter less than or equal to a nominal 2.5 micrometers, PM2.5). These regulations are consistent with section 166 of the Clean Air Act which authorizes the Environmental Protection Agency to establish regulations to prevent significant deterioration of air quality due to emissions of any pollutant for which National Ambient Air Quality Standards (NAAQS) have been promulgated. The NAAQS for PM2.5 were promulgated in 1997.

To help facilitate the states' implementation of the preconstruction review permit process, this action will also establish screening tools (SILs and SMC) to determine when sources must complete analyses to satisfy specific requirements associated with the evaluation of PM2.5 impacts.

TITLE: Review of the Primary National Ambient Air Quality Standard for Sulfur Dioxide
RIN: 2060-AO48
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 May 22, 1996, EPA published a final decision that revisions of the primary and secondary NAAQS for Sulfur Dioxide (SO2) were not appropriate at that time, aside from several minor technical changes. That action provided the Administrator's final determination, after careful evaluation of comments received on the November 1994 proposal, that significant revisions to the primary and secondary NAAQS for SO2 would not be made at that time.

In 2006, EPA's Office of Research and Development initiated the current periodic review of SO2 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 SO2 standards, and to combine the SO2 secondary-standard review with the secondary-standard review of Nitrogen Dioxide (NO2) 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 SO2 NAAQS. This review includes the preparation of an Integrated Science Assessment, Risk/Exposure Assessment, and a Policy Assessment. These documents were reviewed 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. A final rule was published

in the Federal Register (75 FR 35520) on June 22, 2010. The final rule is effective on August 23, 2010. EPA is revising the primary SO2 NAAQS to provide requisite protection of public health with an adequate margin of safety. Specifically, EPA is establishing a new 1-hour SO2 standard at a level of 75 parts per billion based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. EPA is also revoking both the existing 24-hour and annual primary SO2 standards.

TITLE: Prevention of Significant Deterioration/Title V Greenhouse Gas Tailoring Rule
RIN: 2060-AP86
Agency: Environmental Protection Agency (EPA)
Abstract: With this action, EPA applies a tailored approach to the applicability major source thresholds for greenhouse gases under the Prevention of Significant Deterioration (PSD) and title V programs of the Clean Air Act (CAA or Act) by raising those thresholds. EPA is has issued this rulemaking because greenhouse gas (GHG) emissions will become subject to regulation pursuant to the CAA as of January 2, 2011.

One consequence of our subjecting GHG emissions to regulatory controls is that the requirements of existing air permit programs, namely the prevention of significant deterioration (PSD) preconstruction permitting program for major stationary sources and the title V operating permits program, would be triggered for GHG emission sources. At the statutory applicability levels under the CAA, tens of thousands of projects every year would need permits under the PSD program, and millions of sources would become subject to the title V program. These numbers of permits are orders of magnitude greater than the current number of permits under these permitting programs and would vastly exceed the administrative capacity of the permitting authorities. By tailoring the applicability thresholds, this rule allows actions to be taken by EPA and states to build capacity and streamline permitting.

TITLE: Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)
RIN: 2060-AP91
Agency: Environmental Protection Agency (EPA)
Abstract: As required by Clean Air Act section 112(j), in cases where EPA fails to promulgate a Maximum Achievable Control Technology (MACT) standard for a major source category, the owner or operator of a source in that category must obtain an operating permit with case-by-case emission limitations determined to be equivalent to MACT. EPA's program for implementing this requirement is codified at 40 CFR part 63, subpart B. In this action, EPA is revising subpart B to address the process for obtaining case-by-case MACT determinations in the case of standards vacatur. EPA is also reformatting the rule to streamline it and make it easier to understand. There has been significant confusion from permitting authorities on how this program works in the case of vacaturs.

TITLE: National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines' Existing Stationary Spark Ignition (Gas-Fired)
RIN: 2060-AQ13
Agency: Environmental Protection Agency (EPA)
Abstract: The action establishes NESHAP for existing stationary spark ignition (gas-fired) RICE that are either located at area sources of HAP or are 500 HP or less and located at major sources of HAP. EPA has previously promulgated NESHAP for new stationary RICE located at major sources of HAP emissions, existing stationary spark ignition (gas-fired) engines that have a site rating of greater than 500 brake hp and are located at major sources of HAP emissions, and new stationary RICE located at area sources of HAP emissions.

TITLE: Reconsideration of the 2008 Ozone Primary and Secondary National Ambient

Air Quality Standards
RIN: 2060-AP98
Agency: Environmental Protection Agency (EPA)
Abstract: On March 12, 2008, EPA announced the final decision on the ozone national ambient air quality standards (NAAQS). Soon after that decision was signed on 3/27/08 (73 FR 16436), the Clean Air Scientific Advisory Committee (CASAC) held an unsolicited public meeting and criticized EPA for setting primary and secondary standards that were not consistent with advice provided by the CASAC during review of the NAAQS. On 7/25/08, several environmental and industry petitioners, as well as a number of States, sued EPA on the NAAQS decision, and the Court set a briefing schedule for the consolidated cases on 12/23/08. On 3/10/09, EPA requested that the Court vacate the briefing schedule and hold the consolidated cases in abeyance for 180 days. This request for extension was made to allow time for appropriate EPA officials appointed by the new Administration to determine whether the standards established in March 2008 should be maintained, modified or otherwise reconsidered. Announcement of reconsideration of the March 2008 NAAQS decision occurred on 9/16/09. The NAAQS proposal (including a proposal to stay implementation designations for the March 2008 NAAQS) was signed on 1/6/10, with the final rule to be signed on or around October 2010. Reconsideration of the NAAQS will be limited to information and supporting documentation available to EPA and in the docket at the time of the March 2008 decision.

TITLE: Lead; Amendment to the Opt-Out and Recordkeeping Provisions in the Renovation, Repair, and Painting Program
RIN: 2070-AJ55
Agency: Environmental Protection Agency (EPA)
Abstract: As part of a lawsuit settlement, EPA agreed to make several revisions to the 2008 Lead Renovation, Repair, and Painting Program (RRP) rule that established accreditation, training, certification, and recordkeeping requirements as well as work practice standards on persons performing renovations for compensation in most pre-1978 housing and child-occupied facilities. In October of 2009, EPA proposed amendments to the opt-out provision that currently exempts a renovator from the training and work practice requirements of the rule when he or she obtains a certification from the owner of a residence he or she occupies that no child under age 6 or pregnant women resides in the home and the home is not a child-occupied facility. EPA also proposed revisions that involve renovation firms providing the owner with a copy of the records they are currently required to maintain to demonstrate compliance with the training and work practice requirements of the RRP rule and, if different, providing the information to the occupant of the building being renovated or the operator of the child-occupied facility. In addition to the proposed amendments, EPA considered various minor amendments to the regulations concerning training provider accreditations, renovator certifications and State and Tribal program requirements. In May, 2010, EPA published a final rule eliminating the opt-out provision and finalizing the other provisions.

TITLE: Revisions to the Civil Penalty Inflation Adjustment Tables
RIN: 2120-AJ50
Agency: Department of Transportation (DOT)
Abstract: This rulemaking would adjust the Civil Penalty Inflation Adjustment Table. This rulemaking is required by the Debt Collection Improvement Act of 1996. It adjusts for inflation the civil monetary penalties to deter violations and promote compliance with the law.

TITLE: Real-Time System Management Information Program
RIN: 2125-AF19
Agency: Department of Transportation (DOT)
Abstract: This action would establish a real-time system management information program to provide, in all States, the capability to monitor, in real-time, the traffic and travel conditions of the major highways of the United States. Section 1201 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) provides that the purpose of this program would be to improve

the security of the surface transportation system, to address the congestion problems facing motorists, to support improved response to weather events and surface transportation incidents and to facilitate national and regional highway traveler information.

TITLE: Certification of Enforcement of the Heavy Vehicle Use Tax
RIN: 2125-AF32
Agency: Department of Transportation (DOT)
Abstract: This rulemaking would update FHWA procedures for enforcement of the State registration of vehicles subject to the Heavy Vehicle Use Tax. Updates to IRS regulations, Federal law, and technology necessitate the update of the FHWA regulations in this area.

TITLE: Section 108 Community Development Loan Guarantee Program: Participation of States as Borrowers Pursuant to Section 222 of the Omnibus Appropriations Act, 2009 (FR-5326)
RIN: 2506-AC28
Agency: Department of Housing (HUD)
Abstract: This rule implements section 222 in Division I of the Omnibus Appropriations Act, 2009, Public Law 111-8 (2009 Appropriations Act). Section 222 authorizes HUD, to the extent of Fiscal Year (FY) 2009 loan guarantee authority, to provide community development loan guarantees, under section 108 of the Housing and Community Development Act of 1974 (HCD Act), to States borrowing on behalf of local governments in nonentitlement areas (governments that do not receive annual Community Development Block Grants (CDBG) from HUD). Section 108 authorizes HUD to guarantee notes issued by such nonentitlement local governments or their designated public agencies supported by the respective State's pledge of its CDBG funds. Prior to the enactment of section 222, HUD lacked authority to guarantee notes issued by States on their behalf. State officials interested in applying for a loan guarantee commitment pursuant to this new authority should take note that HUD's authority to issue such commitments will expire on September 30, 2010 (and could be fully utilized by other borrowers before that date), unless the provision continues to be included in future appropriations acts. The rule, however, contains language that will make the provisions implementing this new authority continue to apply, in the event that provisions equivalent to section 222 are included in future appropriations acts. Because the provisions of section 222 expand, rather than replace, existing section 108 authority, HUD will also continue to accept nonentitlement local government issuers' State-supported applications for loan guarantee commitments.

TITLE: Genetic Information Nondiscrimination Act
RIN: 3046-AA84
Agency: Equal Employment Opportunity Commission
Abstract: Section 211 of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. section 2000ff-10, requires the Equal Employment Opportunity Commission to issue regulations implementing title II of the Act. Title II prohibits the use of genetic information in making employment decisions and limits employer access to genetic information. The Act also imposes confidentiality obligations on employers and other covered entities (employment agencies, labor unions, and training programs) that possess genetic information.

TITLE: Secondary Capital Accounts
RIN: 3133-AD67
Agency: National Credit Union Administration
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.

TITLE: Institute of Museum and Library Services Implementation of OMB Guidance on Government-wide Requirements for Drug-Free Workplace (Financial Assistance)
RIN: 3137-AA19
Agency: Institute of Museum and Library Services
Abstract: Pursuant to OMB guidance, the Institute of Museum and Library Services (IMLS) has issued a regulation to: (1) Remove from IMLS' own title in the CFR the part containing the full text of the drug-free workplace common rule that the agencies last updated in 2003; and (2) replace that common rule by issuing a brief part in the IMLS chapter of 2 CFR, subtitle B, (2 CFR part 3186) to adopt the new OMB guidance, address the matters specified in section 182.25 of 2 CFR part 182, and state any other agency-specific rules needed to supplement the OMB guidance.

TITLE: Revision of Fee Schedules; Fee Recovery for FY 2010 [NRC-2009-0333]
RIN: 3150-AI70
Agency: Nuclear Regulatory Commission
Abstract: The final rule amends the Commission's licensing, inspection, and annual fees charged to U.S. Nuclear Regulatory Commission (NRC) licensees and applicants for an NRC license. The rulemaking is necessary to recover, through the assessment of fees, approximately 90 percent of the NRC's budget authority for fiscal year (FY) 2010, less the amounts appropriated from the Nuclear Waste Fund, amounts appropriated for Waste Incidental to Reprocessing, and amounts appropriated for generic homeland security activities, as required by the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended.

Based on the Energy and Water Development and Related Agencies Appropriation Act, 2010, the NRC's required fee recovery amount for the FY 2010 budget is approximately $912.2 million. After accounting for billing adjustments (i.e., expected unpaid invoices, payments for prior year invoices), the total amount to be billed as fees is $911.1 million. The OBRA-90, as amended, requires that the fees for FY 2010 be collected by September 30, 2010.

TITLE: Amendment to Municipal Securities Disclosure
RIN: 3235-AJ66
Agency: Securities and Exchange Commission
Abstract: The Commission amended Rule 15c2-12 under section 15 of the Exchange Act to improve the system of provided interpretive guidance for the municipal securities markets that would reflect changes in that market.

TITLE: Political Contributions by Certain Investment Advisers
RIN: 3235-AK39
Agency: Securities and Exchange Commission
Abstract: The Commission adopted a new rule under the Investment Advisers Act that prohibits an investment adviser from providing advisory services for compensation to a government client for two years after the adviser or certain of its executives or employees make a contribution to certain elected officials or candidates.