January 2012

Federal Mandate Report

July 1, 2011

To

December 31, 2011

Commonwealth of Virginia

Office of the Governor

Office of Intergovernmental Affairs

The Federal Mandate Report is published semiannually by the Office of Intergovernmental Affairs (OIA). 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 OIA 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.

The semiannual report also provides reviews of federal regulatory action completed that may impact the Commonwealth (Part III). The OIA relies on recommendations of the Regulatory Information Service Center (RISC) of the General Services Administration (GSA) to determine which federal regulatory actions may affect the states. Due to delays at the GSA, the required information cannot be provided in time for the completion of Part III of this report for January 2012. A subsequent amended report will be submitted once the information is received from GSA and Part III is completed.

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 1, 2011 to December 31, 2011. Of the bills reviewed by the CBO, 2 have become public law, while 12 have passed at least one chamber of Congress.

Additional information can be obtained by contacting:
The Office of Intergovernmental Affairs
444 N. Capitol St. NW, Suite 214, Washington, DC 20001
202-783-1769

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 2011, which are adjusted annually for inflation, are $71 million for intergovernmental mandates (state, local, or tribal governments) and $142 million or more per year for the private sector.

Bill Number	Bill Title	Unfunded Mandate on the State	Bill Status
H.R.2845	Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011	H.R. 2845 would impose mandates on public and private entities that operate natural gas pipelines and additional private-sector mandates on operators of hazardous liquid pipelines. Because of the relatively small number of public entities affected, CBO estimates that the aggregate cost of intergovernmental mandates in the bill would fall below the annual threshold established in UMRA ($71 million in 2011, adjusted annually for inflation). Because many of the mandates on private entities would depend on future regulations, CBO cannot determine whether the aggregate cost of the private-sector mandates would exceed the annual threshold established in UMRA ($142 million in 2011, adjusted annually for inflation). CBO has broken down the mandates in the bill as follows: **Mandates that Apply to Both Public and Private Entities** **Integrity Management.** The bill would authorize PHMSA to extend existing planning, testing, and safety requirements to additional pipelines. CBO cannot determine the costs of the mandates for private-sector entities because they would depend on future regulations. However, based on information from PHMSA and industry sources about the cost to comply with existing standards, the cost of imposing such standards on additional pipelines could be significant. Because of the relatively small number of public entities affected, CBO estimates that the cost to state and local governments would be small. **Shut-Off Valves.** The bill would authorize PHMSA to require operators of transmission pipelines to install shut-off valves in new transmission pipelines and in ones that are entirely replaced. According to industry sources, such valves currently cost $100,000 to $500,000 per valve depending on the size of the pipeline. The	9/7/2011 Introduced in the House Of Representatives. Referred to the House Committee on Transportation and Infrastructure and the Committee on Energy and Commerce. 9/8/2011 Referred to the Subcommittee on Railroads, Pipelines, and Hazardous Materials; Reported as amended by Voice Vote. 12/1/2011 Reported (Amended) by the Committee on Transportation and Infrastructure. 12/12/2011 The House of Representatives passed the bill, as amended. Agreed to by voice vote.

		number of valves to be installed would depend on the spacing required between valves and areas where operators would have to install them. Because such requirements would be developed as part of future regulations, CBO has no basis for determining the cost of the mandate to private-sector entities. Because of the relatively small number of public entities affected, CBO estimates the cost to state and local governments would be small. **Notification and Reporting Requirements.** The bill would require pipeline operators to notify emergency responders of accidents or incidents within specified time limits. The bill also would require operators of cast iron gas pipelines to provide information on the management and replacement of pipelines to PHMSA. CBO estimates that the cost of those mandates to public and private entities would be minimal. **Mandates that Apply to Private Entities Only** **Leak Detection.** The bill would require operators of hazardous liquid pipelines, such as oil pipelines, to use leak detection technologies where feasible. Under the bill, PHMSA would be authorized to designate pipelines from a total of 176,000 miles of pipeline. Because the cost of the mandate would depend on such future PHMSA regulations, CBO has no basis for determining the cost of this mandate. **Oil Flow Lines.** The bill could impose a mandate on pipeline operators that transport oil by allowing PHMSA to collect additional data on oil flow lines. Because CBO does not know what information PHMSA would require operators to report, we have no basis for determining the cost of the mandate. **Fees.** The bill would authorize PHMSA to collect new fees on construction projects that are large or use new technology. Based on information from PHMSA on the expenses it would incur because of the bill, CBO estimates that PHMSA would charge an average of $107 million in additional fees per year to pipeline operators over the 2012-2015 period as a result of enactment of the bill. **Other Requirements.** The bill would impose two other new requirements on pipeline operators. Specifically, the bill would impose additional safety requirements on pipelines transporting biofuels and impose minimum safety standards for pipelines transporting carbon dioxide in a gaseous state. Based on	12/13/2011 Passed in U. S. Senate without amendment by Unanimous Consent. 1/3/2012 Signed by President; Became **Public Law: 112-90.**

		information from industry sources and PHMSA, CBO estimates that the cost of each of those mandates would fall well below the annual threshold established in UMRA.	
H.R.1249	Leahy-Smith America Invents Act	H.R. 1249 would amend the law that governs how the Patent and Trademark Office (PTO) awards patents. Among other things, the bill would alter the rule that prioritizes the award of a patent from the "first to invent" to the "first inventor to file." As a result, PTO would change certain procedures it follows in awarding patents. The bill also would establish new review procedures that would allow individuals to challenge the validity of a patent and would modify PTO's authority to collect and spend fees. According to a May 26, 2011 CBO report, H.R.1249 would impose both intergovernmental and private-sector mandates, as defined in UMRA, on certain patent applicants and other entities. The bill also would preempt the authority of state courts to hear certain patent cases. Based on information from PTO, CBO estimates that the costs of complying with those mandates would exceed the annual threshold for private-sector mandates established in UMRA ($142 million in 2011, adjusted annually for inflation) in each of the first five years the mandate is in effect. CBO estimates that the costs to state, local, and tribal governments would fall below the annual threshold established in UMRA ($71 million in 2011, adjusted annually for inflation). CBO has broken down the mandates in the bill as follows: **Mandates That Apply to Both Public and Private Entities** **PTO fees.** H.R. 1249 would impose a mandate on both public and private entities by allowing PTO to set or adjust certain fees and by permanently extending other fee increases that are set to expire at the end of fiscal year 2011. The requirement to pay those fees is a mandate because the federal government controls the patent and trademark systems, and no reasonable alternatives to the systems exist. Based on information from PTO, CBO estimates that the total cost to comply with the mandate would range from about $220 million in 2013 to about $350 million in 2017, with less than $1 million of those costs accruing to public entities and the rest accruing to private entities.	3/30/2011 Introduced in House of Representatives. Referred to the Committee on the Judiciary; the Committee on the Budget; and the House Judiciary Committee. 4/14/2011 House Judiciary reports bill (Amended) by the Yeas and Nays: 32 - 3. 6/23/2011 House of Representatives passes bill. Recorded vote: 304 - 117 (Roll no. 491). AYES: Cantor, Connelly, Forbes, Goodlatte, Griffith, Hurt, Moran, Rigell, B. Scott, Wittman NAYS: Wolf 9/8/2011 Passed Senate without amendment by Yea-Nay Vote. 89 - 9. Record Vote Number: 129. YEAS: Warner, Webb

		Restricting Prior-Use Defense. H.R. 1249 would prohibit public and private entities from using the prior-use defense to patent infringement claims for business processes brought by a university or technology-transfer organization. Consequently, public and private entities that have been using business processes which are later patented by a university or technology-transfer organization would no longer be eligible to use those processes without permission from the patent holder. That restriction would be an intergovernmental and private-sector mandate. The cost of the mandate would be the cost to purchase a license from the patent holder, or the amount of net income the entity would lose as a result of no longer being able to use that patent commercially. Based on the small number of public entities that use business methods, CBO estimates that the cost to comply with the mandate would be small for public entities. According to information from industry experts, the prior-use defense has never been asserted in a recorded case and therefore it is likely that the use of such a defense would be uncommon. Consequently, CBO estimates that the cost to comply with the mandate for private entities would probably be small. **Mandate That Applies to Public Entities Only** H.R. 1249 would preempt the authority of state courts to hear certain patent cases. That provision would be an intergovernmental mandate as defined in UMRA. While it would limit the authority of state courts, CBO estimates that it would impose no duty on states that would result in additional spending. **Mandate That Applies to Private Entities Only** The bill also would impose a mandate on patent applicants by prohibiting certain tax strategies from being patented. The prohibition would apply to any application pending on the date of enactment and any application submitted for such a patent after that date. CBO has no basis for estimating the net income that would be forgone by a patent applicant for not receiving such a patent. Therefore, the cost to private entities to comply with this mandate is uncertain.	NAYS: N/A 9/16/2011 Signed by President. Became **Public Law: 112-29.**

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 2011, which are adjusted annually for inflation, are $71 million for intergovernmental mandates (state, local, or tribal governments) and $142 million or more per year for the private sector.

Bill Number	Bill Title	Unfunded Mandate on the State	Bill Status
S. 1867	National Defense Authorization Act for Fiscal Year 2012	S. 1867 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by preempting state licensing laws governing health care professionals in some circumstances. CBO estimates that the costs of that intergovernmental mandate would be small and would not exceed the threshold established in UMRA ($71 million in 2011, adjusted annually for inflation). This bill contains no new private-sector mandates as defined in UMRA. CBO has not reviewed section 585 of the bill for intergovernmental or private-sector mandates. Section 4 of UMRA excludes from the application of that act any legislative provisions that enforce the constitutional rights of individuals. CBO has determined that section 585 of the bill would fall within that exclusion because it addresses the rights of overseas voters to submit early ballots S. 1867 was incorporated into H.R. 1540 during bicameral negotiations. H.R. 1540 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. That preemption would be an intergovernmental mandate as defined in UMRA. Because the preemption would simply limit the application of state laws, CBO estimates that it would not impose significant costs on intergovernmental entities. The bill contains no new private-sector mandates as defined in UMRA.	11/15/2011 Introduced in U.S. Senate. Referred to the Committee on Armed Services. Placed on Senate Legislative Calendar under General Orders. Calendar No. 230. 12/1/2011 Passed Senate with amendments by Yea-Nay. 93 - 7. Record Vote Number: 218. YEAs: Warner, Webb NAYs: N/A Senate incorporated this measure in H.R. 1540 as an amendment during the conference process ***H.R. 1540 Information*** 12/14/2011 Conference report agreed to

			in House: On agreeing to the conference report Agreed to by recorded vote: 283 - 136 (Roll no. 932). 12/15/2011 Conference report agreed to in Senate: Senate agreed to conference report by Yea-Nay Vote. 86 - 13. Record Vote Number: 230. 12/31/2011 Signed by President. Became Public Law No: 112-081
H.R. 1254	Synthetic Drug Control Act of 2011	H.R. 1254 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. H.R. 1254 would impose private-sector mandates, as defined in UMRA, on manufacturers, sellers, and consumers of certain synthetic chemicals. CBO estimates that the cost of complying with those mandates would probably exceed the annual threshold established in UMRA for private-sector mandates in the first year after enactment ($142 million in 2011, adjusted annually for inflation).	3/30/2011 Introduced in House of Representatives. Referred to House Energy and Commerce Committee; and the House Judiciary Committee. 12/8/2011 Considered by House of Representatives. Agreed to by recorded vote: 317 - 98 (Roll no. 904). AYES: Cantor, Connolly, Forbes, Goodlatte, Griffith, Hurt, Rigell, Wittman, Wolf NAYS: Moran, Scott
H.R. 822	National Right-to-Carry Reciprocity Act of 2011	H.R. 822 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by preempting some state laws that limit the ability of nonresidents to carry concealed weapons. Laws allowing individuals to carry concealed weapons vary from state to state and range from allowing anyone to carry such weapons without a permit to	2/18/2011 Introduced in the House of Representatives. Referred to the House Committee on the Judiciary.

		prohibiting nonresidents from carrying concealed weapons and requiring residents to complete training and meet other conditions before obtaining a permit. Some states recognize permits issued by other states and some do not. If enacted, the bill would require states that currently do not recognize permits to carry concealed weapons issued by other states to recognize those permits for nonresidents. The costs for states to comply with that mandate would include the cost to change protocols and train law enforcement officers. The bill also could result in the loss of revenue for some states. Currently, some states issue permits to nonresidents and charge fees ranging from $20 to $140 for those permits. If this bill is enacted and individuals have a permit to carry concealed weapons from their resident state, they would no longer need to purchase nonresident permits in other states they visit. There is no data on how many individuals this may affect, but the loss to states that issue nonresident permits could total a few million dollars annually. CBO estimates that the total costs for states to comply with the preemption, including the training costs for law enforcement and the lost revenue from the nonresident permit fees, 2 would be small and would not exceed the threshold established in UMRA ($71 million in 2011, adjusted annually for inflation). H.R. 822 contains no private-sector mandates as defined in UMRA	11/16/2011 Considered in the House of Representatives. Passed by recorded vote: 272 - 154 (Roll no. 852). AYES: Cantor, Forbes, Goodlatte, Griffith, Hurt, Rigell, Wittman, Wolf NAYS: Connolly, Moran, Scott 11/17/2011 Received in the Senate and referred to the Committee on the Judiciary.
H.R.2930	Entrepreneur Access to Capital Act	H.R. 2930 would establish an exemption from requirements that certain securities be registered with the Securities and Exchange Commission (SEC). Specifically, the bill would exempt securities from registration requirements if: • The aggregate amount raised through the issuance is $1 million or less each year ($2 million or less if the issuer provides investors with certain financial information); and • Each individual who invests in the securities does not invest, in any year, more than the lessor of $10,000 or 10 percent of the investor's annual income. Issuers of such securities or intermediaries acting between the issuer and investors would be required to take certain steps, which include providing	9/14/2011 Introduced in the House of Representatives. Referred to the House Committee on Financial Services. 11/3/2011 Considered by the House of Representatives. Passed by recorded vote: 407 - 17 (Roll no. 825). AYES: Cantor, Connolly, Forbes, Goodlatte, Griffith, Hurt, Moran, Rigell, Scott,

		certain information to investors and the SEC, in order to be eligible to take advantage of the exemption. The bill would require the SEC to develop regulations to implement this new authority and to set out actions that would disqualify certain individuals from issuing securities under the exemption. According to an October 28, 2011 CBO report, H.R. 2930 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by prohibiting states from requiring issuers of some securities to register the securities with the state, or to pay registration fees, prior to issuance. As defined in UMRA, the direct costs of a mandate include any amounts that state governments would be prohibited from raising in revenues as a result of the mandate. The cost of the mandate would be the amount of fee revenue that states would be precluded from collecting. Based on information from the SEC and industry sources, CBO estimates that forgone revenues would be small and would not exceed the threshold established in UMRA for intergovernmental mandates ($71 million in 2011, adjusted annually for inflation). H.R. 2930 contains no new private-sector mandates as defined in UMRA.	Wittman, Wolf NAYS: N/A
H.R. 1070	Small Company Capital Formation Act of 2011	Under current law, companies issuing securities with an aggregate offering amount that is less than $5 million are not required to register the offering with the Securities and Exchange Commission (SEC). H.R. 1070 would increase that threshold from $5 million to $50 million for issuances that meet certain conditions, including filing an audited financial statement with the SEC each year. The bill would require the SEC to review this threshold every two years and increase the amount as it determines appropriate. According to a September 13, 2011 report, H.R. 1070 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by prohibiting states from requiring issuers of some securities to register the securities with the state, or to pay registration fees, prior to issuance. The cost of the mandate would be the amount of fee revenue that states would be precluded from collecting. Based on information from the SEC, states, and industry sources, CBO estimates that forgone revenues would be small and would not exceed the threshold established in UMRA	3/14/2011 Introduced in House of Representatives. Referred to the House Committee on Financial Services. 11/2/2011 Considered by the House of Representatives on Suspension calendar. Agreed to by the Yeas and Nays: (2/3 required): 421 – 1. YAES: Cantor, Connolly, Forbes, Goodlatte, Griffith, Hurt, Moran, Rigell, Scott, Wittman, Wolf

		for intergovernmental mandates ($71 million in 2011, adjusted annually for inflation).	NAYS: N/A 11/3/2011 Received in the Senate. Placed on Senate Legislative Calendar.
H.R.2273	Coal Residuals Reuse and Management Act	H.R. 2273 would impose an intergovernmental mandate as defined in UMRA. The bill would require states to notify EPA whether they will adopt and implement a CCR permit program. CBO estimates that the cost of that notification requirement would be small and well below the threshold established for intergovernmental mandates ($71 million in 2011, adjusted annually for inflation). If states chose to adopt and implement a CCR permit program, any costs they incurred would result from participation in a voluntary federal program and not from the requirements of an intergovernmental mandate. H.R. 2273 contains no private-sector mandates as defined in UMRA	6/22/2011 Introduced in House of Representatives. Referred to the House Committee on Energy and Commerce. 10/14/2011 Passed/Agreed to in the House: 267 - 144 (Roll no. 800). AYES: Cantor, Forbes, Goodlatte, Griffith, Hurt, Rigell, Wittman NOES: Connolly, Moran, Scott, Wolf 10/17/2011 Received in the Senate. Placed on Senate Legislative Calendar.
H.R.1002	Wireless Tax Fairness Act of 2011	H.R. 1002 would prohibit state and local governments from imposing certain new taxes on providers of wireless communications service for five years after enactment of the legislation. The bill would also require the Government Accountability Office (GAO) to conduct a study examining the impact of the moratorium on consumers. CBO estimates that enacting H.R. 1002 would have no significant impact on the federal budget. Pay-as-you-go procedures do not apply to this	3/10/2011 Introduced in House of Representatives. Referred to the House Committee on the Judiciary. 11/1/2011 Passed/Agreed to in the House by voice vote.

		legislation because it would not affect direct spending or revenues. According to a July 28, 2011 CBO report, H.R. 1002 would impose an intergovernmental mandate as defined in UMRA because it would preempt the authority of state and local governments to impose new taxes, or change existing taxes, on wireless services, providers, or property. The authority of state and local governments to impose or change taxes that they broadly impose on services, businesses, or property would be preserved under the bill. The bill also would not preempt the authority of governments to collect revenue from taxes on wireless services that have already been enacted and enforced. CBO did not identify any state or local governments that planned to change or impose new wireless taxes in the next five years; therefore, CBO estimates that the preemption would impose no cost on state, local, or tribal governments.	11/2/2011 Received in the Senate and Read twice and referred to the Senate Committee on Finance.
H.R.2883	Child and Family Services Improvement and Innovation Act	H.R. 2883 would make numerous modifications to various federal child welfare programs. The bill would modify two programs (the Stephanie Tubbs Jones Child Welfare Services Program and the Safe and Stable Families program) and reauthorize the programs for five years. The bill also would authorize the appropriation of $345 million a year in mandatory funds from 2012 through 2016 for the Safe and Stable Families program, but that funding is already assumed in CBO's baseline. Finally, H.R. 2883 would reauthorize the child welfare waivers in section 1130 of the Social Security Act from 2012 through 2014. According to a September 19, 2011 CBO report, H.R. 2883 would impose intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would increase the stringency of conditions of assistance under the Foster Care and Adoption Assistance Programs. CBO estimates, however, that the costs to state and local governments to comply with the mandates would be small and not exceed the threshold established in UMRA ($71 million in 2011, as adjusted by inflation). The bill contains no new private-sector mandates as defined in UMRA.	9/12/2011 Introduced in the House of Representatives; Referred to the Committee on Ways and Means, and the Committee on the Budget. 9/21/2011 Passed/Agreed to in the House 395 - 25 (Roll no. 720). YEAS: Cantor, Connolly, Forbes, Goodlatte, Griffith, Hurt, Moran, Rigell, Scott, Wittman, Wolf NAYS: N/A

S.275	Pipeline Transportation Safety Improvement Act of 2011	S. 275 would impose mandates on public and private entities that operate natural gas pipelines and additional private-sector mandates on operators of hazardous liquid pipelines. Because of the relatively small number of public entities affected, CBO estimates that the aggregate cost of intergovernmental mandates in the bill would fall below the annual threshold established in UMRA ($71 million in 2011, adjusted annually for inflation); we estimate that the aggregate cost of the private-sector mandates in the bill would exceed the annual threshold established in UMRA ($142 million in 2011, adjusted annually for inflation). **Mandates that Apply to Both Public and Private Entities** **Operating Pressure.** The bill would require operators of transmission pipelines for natural gas in areas at risk of significant damage from spills to confirm safe operating pressures for pipelines. The mandate would require such operators to ensure they have accurate records, test pipelines for which records are not sufficient, and report when pressure exceeds acceptable limits. According to PHMSA, about 24,000 to 30,000 miles of transmission pipelines are in affected areas. Published estimates indicate that the cost of testing pipelines could range from $150,000 to $500,000 per mile; according to industry sources, approximately 20 percent of pipelines in areas at risk of significant damage from spills might require testing. Based on that information, CBO expects that compliance cost to pipeline operators in the private sector could total several hundred million dollars or more annually in the first two years the mandate is in effect. Because public entities operate a relatively small fraction of transmission pipelines for natural gas, CBO estimates the cost to state and local governments would total less than $20 million annually in the first two years after the mandate takes effect. **Integrity Management.** S. 275 would extend existing planning, testing, and safety requirements to additional pipelines. CBO cannot determine the costs of the mandates for private-sector entities because they would depend on future regulations. However, based on information from PHMSA and industry sources about the cost to comply with existing standards, the cost of imposing such standards on additional pipelines could be significant. Because of the relatively small number of public entities affected, CBO estimates the cost to state and local governments would be small.	2/3/2011 Introduced in Senate. Referred to the Committee on Commerce, Science, and Transportation. 10/17/2011 Passed Senate (amended) by Unanimous Consent. 10/21/2011 Received in the House; Held at the desk.

		Shut-Off Valves. The bill would impose a mandate on operators of transmission pipelines by requiring them to install shut-off valves in new or entirely replaced transmission pipelines. According to industry sources, such valves currently cost $100,000 to $500,000 per valve depending on the size of the pipeline. The number of valves to be installed would depend on the spacing required between valves and areas where operators would have to install them. Because such requirements would be developed as part of future regulations, CBO has no basis for determining the cost of the mandate to private-sector entities. Because of the relatively small number of public entities affected, CBO estimates the cost to state and local governments would be small. **Reporting Requirements.** The bill would require pipeline operators to report additional information to PHMSA. Industry sources indicate the cost of the mandate to private entities would be in the tens of millions of dollars. Based on information from industry sources, CBO estimates the cost of the mandate to publicly owned pipeline operators could be significant because many such operators are small and lack resources to comply with the new reporting requirements. However, CBO estimates the costs to state and local governments would total less than $15 million annually. **Excess Flow Valves.** S. 275 would require operators of distribution pipelines for natural gas to install valves designed to prevent natural gas leakage in areas to be determined by PHMSA. According to industry sources, each valve would add about $30 to the cost of installation and approximately 200,000 installations per year could require such valves. While the total cost of the mandate would depend on the number of units PHMSA would require to have such valves, CBO estimates that those costs would be relatively small. **Notification Requirements.** The bill would require pipeline operators to notify state and local governments and emergency responders of accidents or incidents within specified time limits. CBO estimates that the cost of the mandate to public and private entities would be minimal.	

		Mandates that Apply to Private Entities Only **Leak Detection.** The bill would impose a mandate by requiring the operators of hazardous liquid pipelines, such as oil pipelines, to use leak detection technologies where feasible. Under the bill, PHMSA would designate pipelines from a total of 176,000 miles of pipeline. Because the cost of the mandate would depend on such future PHMSA regulations, CBO has no basis for determining the cost of this mandate. **Oil Flow Lines.** S. 275 could impose a mandate on pipeline operators that transport oil by allowing PHMSA to collect additional data. Because CBO does not know what information PHMSA would require operators to report, we have no basis for determining the cost of the mandate. **Offshore Gathering Pipelines.** S. 275 would impose a mandate by requiring the operators of pipelines used to gather hazardous liquids to follow additional safety requirements. According to industry sources, the mandate would apply to about 5,000 miles of pipeline. Because the cost of the mandate would depend on future PHMSA regulations, CBO has no basis for determining the cost of the mandate. **Fees.** The bill would authorize PHMSA to collect new fees on construction projects that are large or use new technology. Based on information from PHMSA on the expenses it would incur because of the bill, CBO estimates that PHMSA would charge an average of $120 million in additional fees per year to pipeline operators over the 2012-2014 period as a result of enactment of the bill. **Other Requirements.** The bill would impose several other new requirements on pipeline operators. Specifically, the bill would impose additional safety requirements on pipelines transporting biofuels; require PHMSA to regularly review waivers on safety requirements it provides to pipeline operators; and impose minimum safety standards for pipelines transporting carbon dioxide in a gaseous state. Based on information from industry sources and PHMSA, CBO estimates that the cost of each of those mandates would fall well below the annual threshold established in UMRA.	
H.R.1309	Flood Insurance	H.R. 1309 would impose intergovernmental and private-sector mandates, as	4/1/2011 Introduced in the House of

	Reform Act of 2011	defined in UMRA, on public and private mortgage lenders. Because the mandates would require only small changes in existing industry practice, CBO expects that the cost to comply with the mandates would be small relative to the annual thresholds established in UMRA for intergovernmental and private-sector mandates ($71 million and $142 million in 2011, respectively, adjusted annually for inflation). **Flood Insurance** Current law prohibits lenders from making loans for real estate in areas at high risk for flood damage unless the property is covered by flood insurance. This bill would require lenders to accept flood insurance from a private company if the policy fulfills all federal requirements for flood insurance. Under current law, lenders also are required to purchase flood insurance on behalf of the homeowner if, at any time during the life of a loan, they determine that a homeowner does not have a current policy in place. The bill would require lenders to terminate those policies within 30 days of being notified that the homeowner has purchased another policy. Lenders also would have to refund any premium payments and fees made by the homeowner for the time when both policies were in effect. Based on information from industry sources on current practice, CBO estimates that the cost of complying with those mandates would be small. **Disclosure Requirements** Current law requires mortgage lenders that make federally related mortgages (as defined in title 12, U.S.C. 2602) to provide a good-faith estimate of the amount or range of charges the borrower is likely to incur for specific settlement services. (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 also would impose intergovernmental mandates.) The bill would require such mortgage lenders to include specific information about the availability of flood insurance in each good-faith estimate. The mandate would require small changes in existing disclosure requirements. Consequently, CBO estimates that the cost of the mandate to public and private mortgage lenders would be small. **Other Impacts**	Representatives. Referred to the House Committee on Financial Services. 7/12/2011 Passed in House by recorded vote: 406 - 22 (Roll no. 562). AYES: Cantor, Connolly, Forbes, Goodlatte, Griffith, Hurt, Moran, Rigell, Scott, Wittman, Wolf NAYS: N/A 7/13/2011 Received in the Senate and referred to the Committee on Banking, Housing, and Urban Affairs.

		State, local, and tribal governments would benefit if funds authorized to be appropriated for mitigation and outreach activities related to flood hazards were made available in the future. Any costs to those governments, including matching funds, would be incurred voluntarily.	
S.710	Hazardous Waste Electronic Manifest Establishment Act	S. 710 would impose intergovernmental and private-sector mandates, as defined in UMRA, on facilities that handle hazardous waste. CBO estimates that the cost of the mandates would fall below the annual thresholds established in UMRA ($71 million for 4 intergovernmental mandates and $142 million for private-sector mandates in 2011, adjusted annually for inflation). The bill would require waste management facilities that receive hazardous waste generated in or shipped through other states to submit copies of shipment manifests to EPA. The bill also would authorize EPA to require those facilities and any hazardous waste management facility that uses a paper system to submit a copy of the manifest to the electronic system established under the bill. The mandated facilities would primarily be private entities but could include municipal and county landfills. Because the cost to complete a manifest and to submit a paper copy to the electronic system would be minimal, CBO estimates that the cost to comply with the mandates would be small. The bill also would authorize EPA to establish fees for users of the electronic manifest system. CBO estimates that such fees would total $6 million or less annually beginning in fiscal year 2015. **Other Impacts** CBO expects that participants in the electronic manifest system created by the bill could save money in comparison to the paper manifest system. Participants include generators, transporters, and recipients of hazardous waste, as well as state agencies that collect copies of manifests.	3/31/2011 Introduced in the Senate. Referred to the Committee on Environment and Public Works. 8/2/2011 Passed Senate without amendment by Unanimous Consent. 8/5/2011 Received in the House. Held at the desk.
H.R. 658	FAA Air Transportation Modernization and	**Requirements for Next Generation Air Transportation System (NextGen) Equipment** The equipment currently costs at least $10,000 per aircraft; for jets and other	2/11/2011 Introduced in the House of Representatives. Referred to the House Committee on

	Safety Improvement Act	large aircraft, the cost would amount to at least $100,000 per aircraft. Depending on FAA regulations, up to 240,000 aircraft could be affected, and most of the compliance costs would be incurred in the year that the equipment is required to be installed. Because of the relatively small number of public aircraft affected, CBO estimates the cost to state and local governments would be minimal. **Contingency Plans** The bill would require operators of large and medium airports, and airports that accept diversion flights from those airports, to submit contingency plans to the Department of Transportation for emergency circumstances that ground aircraft. The bill also would require airports to update their plans every three or five years, respectively. All large and medium airports, and most of any other airports likely to be affected, are publicly owned and operated. CBO estimates that the costs to public entities would total between $5 million and $10 million in the first year of implementation, with smaller recurring costs for updates to the plans in later years. **Access to Criminal History Records** The bill would give the FAA the right to access criminal justice data maintained by the states. Although CBO cannot predict the extent to which the FAA would access state or local data systems, or make inquiries of state or local police officers, CBO estimates that the additional costs to state, local, and tribal governments of complying with the requests would be small **Noise Complaints** The bill would require large airports to publish a telephone number on the Internet where the public can make complaints about noise. Airports that receive 25 such complaints in the preceding year would be required to submit a report to the FAA regarding the nature of such complaints. The bill also would require operators of air ambulance services to submit annual reports to the FAA. CBO estimates the cost of those mandates to public and private entities would be small.	Transportation and Infrastructure. 4/1/2011 Passed/Agreed to by the House 223 - 196 (Roll no. 220). AYES: Cantor, Forbes, Goodlatte, Griffith, Hurt, Rigell, Wittman, Wolf NOES: Connolly, Moran, B. Scott 4/4/2011 Received in the Senate 4/7/2011 Passed/Agreed to in the Senate by unanimous consent.

Part III - Federal Regulatory Mandates

The Regulatory Information Service Center of the General Services Administration identified more than 80 completed federal regulatory actions published in the fall of 2011 that may affect states, many which may impact the Commonwealth of Virginia.

Title: Importation of Swine Hides and Skins, Bird Trophies, and Ruminant Hides and Skins
RIN: 0579-AC11
Agency: Department of Agriculture (USDA)
Abstract: This rulemaking amends the regulations governing the importation of animal byproducts to require that untanned swine hides and skins from regions with African swine fever and bird trophies from regions with exotic Newcastle disease meet certain requirements or go directly to an approved establishment upon importation into the United States. It also sets out certain requirements for the importation of untanned bovine, deer, and other ruminant hides and skins into the United States from Mexico to prevent the spread of bovine babesiosis. These requirements provide for the importation of these articles under conditions intended to prevent the introduction of African swine fever, bovine babesiosis, and exotic Newcastle disease.

Title: Citrus Seed Imports; Citrus Greening and Citrus Variegated Chlorosis
RIN: 0579-AD07
Agency: Department of Agriculture(USDA)
Abstract: This action amends the regulations governing the importation of nursery stock to prohibit the importation of propagative seed of several Rutaceae (citrus family) genera from certain countries where citrus greening or citrus variegated chlorosis (CVC) is present. It also requires propagative seed of these genera imported from all other countries to be accompanied by a phytosanitary certificate with an additional declaration that neither citrus greening nor CVC are known to occur in the country where the seed was produced. Scientific evidence indicates that seed of certain genera of the family Rutaceae may be a pathway for the introduction of those diseases. This action is necessary in order to prevent the introduction of citrus greening and CVC into unaffected areas of the United States.

Title: National Organic Program, Sunset (2011) (Crops and Processing) (TM-07-0136)
RIN: 0581-AC77
Agency: Department of Agriculture(USDA)
Abstract: The Agricultural Marketing Service (AMS) is amending regulations pertaining to the National List of Allowed and Prohibited Substances. As required by the National Organic Foods Production Act of 1990, the allowed use of the 12 synthetic and non-synthetic substances in organic production and handling will expire on September 12, 2011. The AMS published an advance notice of proposed rulemaking to make the public aware of this requirement. AMS believes that public comment is essential in the review process to determine whether these substances should continue to be allowed or prohibited in the production and handling of organic agricultural products.

Title: Federal-State Interstate Shipment Cooperative Inspection Program
RIN: 0583-AD37
Agency: Department of Agriculture(USDA)
Abstract: FSIS has published regulations to implement a new voluntary Federal-State cooperative inspection program under which State-inspected establishments with 25 or fewer employees would be eligible to ship meat and poultry products in interstate commerce. State-inspected establishments selected to participate in this program will be required to comply with all Federal standards under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA). These establishments will receive inspection services from State inspection personnel that have been trained and certified to assist with enforcement of the FMIA and PPIA. Meat and poultry products produced under the program that have been inspected and passed by selected State-inspection personnel will bear a Federal mark of inspection. FSIS is promulgated these regulations in response to the Food, Conservation, and Energy Act, enacted on June 18, 2008 (the 2008 Farm Bill). Section 11015 of 2008 Farm Bill provides for the interstate shipment of State-inspected meat and poultry product from selected establishments and requires that FSIS promulgate implementing regulations no later than 18 months from the date of its enactment.

Title: Child and Adult Care Food Program: Improving Management and Program Integrity
RIN: 0584-AC24
Agency: Department of Agriculture(USDA)
Abstract: This rule amends the Child and Adult Care Food Program (CACFP) regulations. The changes in this rule result from the findings of State and Federal program reviews and from audits and investigations conducted by the Office of Inspector General. This rule revises: State agency criteria for approving and renewing institution applications; program training and other operating requirements for child care institutions and facilities; and State and institution-level monitoring requirements. This rule also includes changes that are required by the Healthy Meals for Healthy Americans Act of 1994 (Pub. L. 103-448), the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (Pub. L. 104-193), and the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Pub. L. 105-336). The changes are designed to improve program operations and monitoring at the State and institution levels and, where possible, to streamline and simplify program requirements for State agencies and institutions (95-024).

Title: Applying for Free and Reduced Price Meals in the National School Lunch Program and School Breakfast Program, and for Benefits in the Special Milk Program
RIN: 0584-AD54
Agency: Department of Agriculture(USDA)
Abstract: The regulations for determining eligibility for free and reduced price meals and free milk in schools will be revised to require that:
(1) Descriptive materials distributed to parents and guardians contain a notification that:

- Participants in the special supplemental nutrition program for women, infants, and children (the WIC program), the Food Stamp Program, the Food Distribution Program on Indian reservations, and State Temporary Assistance for Needy Families (TANF) programs may be eligible for free or reduced-price school meals; and
- Documentation may be requested for verification of eligibility for free or reduced-price meals;

(2) Eligibility determinations for free or reduced-price school meals (other than cases where "direct certification" is used) are to be made on the basis of a complete application executed by an adult member of the household or in accordance with guidance issued by the Secretary. It will also stipulate that the household application must identify the names of each child in the household for whom free or reduced-price meal benefits are being requested and bars State agencies and local educational authorities from requesting separate applications for each child in cases where the children attend schools in the same local educational authority;
(3) Explicitly permits applications with electronic signatures if the application is submitted electronically and the application filing system meets confidentiality standards set by the Secretary; and
(4) Eligibility for free or reduced-price school meals remains valid for one year for most students. Eligibility would remain in effect beginning with approval for the current school year and ending on a date during the subsequent school year determined by the Secretary. An exception is included for cases where verification activities indicate ineligibility (04-012).

Title: WIC: Exclusion of Combat Pay From WIC Income Eligibility Determination
RIN: 0584-AE04
Agency: Department of Agriculture(USDA)
Abstract: This final rule will implement the WIC provision set forth in section 734(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Pub. L. 111-80). This provision mandates the exclusion of combat pay from income eligibility determinations for WIC (09-017).

Title: Cooperation in USDA Studies and Full Use of Federal Funds in Nutrition Assistance Programs as Required by the Healthy, Hunger-Free Kids Act of 2010
RIN: 0584-AE20
Agency: Department of Agriculture(USDA)
Abstract: This final rule will codify two nondiscretionary provisions of the Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111-296; the Act) that affect administration of the Child Nutrition Programs , the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), and the WIC Farmers' Market Nutrition Program (FMNP). Section 305 of the Act amends section 28 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769i) by requiring that States, State educational agencies, local educational agencies, schools, institutions, facilities, and contractors participating in programs authorized under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) cooperate with officials and contractors acting on behalf of the Secretary, in the conduct of evaluations and studies under those Acts. Section 361 of the Act amends section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) (NSLA) by providing expectations for the use of Federal funds supporting

the administration of the Child Nutrition Programs, WIC Program, and FMNP. This provision supports full use of Federal funds provided to the State agencies for the administration of programs authorized under the NSLA or the Child Nutrition Act of 1966. The Act specifically excludes Federal funds from State budget restrictions or limitations, including, at a minimum, hiring freezes, work furloughs, and travel restrictions. This rule will amend Child Nutrition. FMNP and WIC Program regulations to state that these provisions must be incorporated into program agreements. (11-017)

Title: Protective Regulations for Killer Whales in the Northwest Region Under the Endangered Species Act and Marine Mammal Protection Act
RIN: 0648-AV15
Agency: Department of Commerce(DOC)
Abstract: The National Marine Fisheries Service (NMFS) is considering whether to propose regulations to protect killer whales (Orcinus orca) in the Pacific Northwest. The Southern Resident killer whale distinct population segment (DPS) was listed as endangered under the Endangered Species Act (ESA) on November 18, 2005 (70 FR 69903). In the final rule announcing the listing, NMFS identified vessel effects, including direct interference and sound, as a potential contributing factor in the recent decline of this population. Both the Marine Mammal Protection Act (MMPA) and the ESA prohibit take, including harassment, of killer whales, but these statutes do not prohibit specified acts. NMFS is now considering whether to propose regulations that would prohibit certain acts, under our general authorities under the ESA and MMPA and their implementing regulations. The Proposed Recovery Plan for Southern Resident killer whales (71 FR 69101; Nov. 29, 2006) includes as a management action the evaluation of current guidelines and the need for regulations and/or protected areas. The scope of this ANPRM encompasses the activities of any person or conveyance that may result in the unauthorized taking of killer whales and/or that may cause detrimental individual-level and population-level impacts. NMFS requests comments on whether--and if so, what type of--conservation measures, regulations, and, if necessary, other measures would be appropriate to protect killer whales from the effects of these activities.

Title: Critical Habitat Designation for Cook Inlet Beluga Whale Under the Endangered Species Act
RIN: 0648-AX50
Agency: Department of Commerce(DOC)
Abstract: The National Marine Fisheries Service (NMFS) listed the Cook Inlet beluga whale Distinct Population Segment as endangered under the Endangered Species Act on October 22, 2008. NMFS is required to designate critical habitat no later than one year after the publication of a listing. NMFS published a proposed rule on December 2, 2009, and now needs to finalize the rule within one year from publication of the proposed rule (by December 2, 2010).

Title: Interim Rule To Set the 2010 Commercial Gag Quota, Set the Recreational Harvest, and Reduce or Rescind the Use of Multi-Use Individual Fishing Quota Allocation
RIN: 0648-BA02
Agency: Department of Commerce(DOC)
Abstract: On August 11, 2009, the Regional Administrator for the Southeast Regional Office notified the Gulf of Mexico Fishery Management Council (Council) of his determination that the Gulf of Mexico gag stock was both overfished and undergoing overfishing, based on the results of the 2009 update stock assessment. Therefore, the stock needs to be rebuilt and overfishing ended. The Council is currently developing Amendment 32 to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico to address stock rebuilding and ending overfishing; however, management measures proposed in this amendment will not be ready for implementation prior to January 1, 2011. Therefore, temporary measures to reduce or end overfishing of gag are needed. The Council requested the rule reduce the gag quota to a level consistent with the goals and objectives of the Council's reef fish management strategy, temporarily rescind the use of multi-use individual fishing quota allocation so it cannot be used to harvest gag, and temporarily halt the recreational harvest of gag until recreational fishing management measures being developed in Amendment 32 can be implemented to allow harvest at the appropriate levels.

Title: Medical Devices; Exception from General Requirements for Informed Consent
RIN: 0910-AC25
Agency: Department of Health and Human Services(HHS)
Abstract: This rule affirmed the interim final rule's exception from the general requirement for informed consent in certain circumstances involving the use of investigational in vitro diagnostic devices to identify chemical, biological, radiological, or nuclear agents in a potential terrorist event or other public health emergency. Informed consent will be required unless the clinical investigator determines in writing that: 1) There exists a life-threatening situation involving the human subject of such testing which necessitates the

use of the investigational device; 2) it is not feasible to obtain informed consent from the subject; and 3) there is not sufficient time to obtain such consent from his or her representative. Further, a licensed physician uninvolved in the testing must agree in writing with this three-part determination before the product is used unless immediate use of the device is required to save the life of the human subject of such testing and there is not sufficient time to get such concurrence. This final rule adds a requirement that the investigator submit this required documentation to FDA, in addition to submitting the documentation to the Institutional Review Board (IRB).

Title: Over-the-Counter (OTC) Drug Review--Cough/Cold (Bronchodilator) Products
RIN: 0910-AF32
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 addresses labeling for single ingredient bronchodilator products.

Title: Implementing Regulations for Reauthorization of the Children's Health Insurance Program (CHIP) (CMS-2301-P). Title changed to **Medicaid Eligibility Changes Under the Affordable Care Act—Part II (CMS-2334-P)**
RIN: 0938-AP68 - Merged With 0938-AR04
Agency: Department of Health and Human Services(HHS)
Abstract: This proposed rule would implement provisions of the Affordable Care Act of 2010. The Affordable Care Act expands access to health insurance through improvements in Medicaid, the establishment of Affordable Insurance Exchanges (Exchanges), and coordination between Medicaid, the Children's Health Insurance Program (CHIP), and Exchanges. This proposed rule would set forth sections of the Affordable Care Act related to appeals, notices, and other Medicaid eligibility changes under the Affordable Care Act and options established by other Federal statutes.

Title: Charges for Vaccine Administration Under the Vaccines for Children (VFC) Program (CMS-2310-NC) Title changed to **Payments for Primary Care Services Under the Medicaid Program (CMS-2370-P)**
RIN: 0938-AP98 - Merged With 0938-AQ63
Agency: Department of Health and Human Services(HHS)
Abstract: This proposed rule would implement section 1202 of the Affordable Care Act that requires payment by State Medicaid agencies of at least the Medicare rates in effect in calendar years (CYs) 2013 and 2014 for primary care services delivered by a physician with a specialty designation of family medicine, general internal medicine, or pediatric medicine. This rule would implement the statutory payment provisions uniformly across all States. Specifically, this proposed rule would define, for purposes of enhanced Federal match, eligible primary care providers and identify eligible primary care services, as well as specify how the enhanced payment should be calculated. This proposed rule would also provide general guidelines for implementing the enhanced payment for managed care services.

Title: Medicaid Recovery Audit Contractors (CMS-6034-F)
RIN: 0938-AQ19
Agency: Department of Health and Human Services(HHS)
Abstract: This final rule would provide guidance to States related to Federal/State funding of State start-up, operation and maintenance costs of Medicaid Recovery Audit Contractors (Medicaid RACs), and the payment methodology for State payments to Medicaid RACs in accordance with section 6411 of the Affordable Care Act. In addition, this rule includes requirements for States to assure that adequate appeals processes are in place for providers to dispute adverse determinations made by Medicaid RACs. Finally, the rule requires States and Medicaid RACs coordinate efforts with existing contractors and entities auditing Medicaid providers and with State and Federal law enforcement agencies.

Title: Payment Adjustment for Provider--Preventable Conditions Including Health Care-Acquired Conditions (CMS-2400-F)
RIN: 0938-AQ34
Agency: Department of Health and Human Services(HHS)
Abstract: This rule, under the Affordable Care Act of 2010, would prohibit Medicaid payment for services related to health care acquired conditions.

Title: Enhanced Federal Funding for Medicaid Eligibility Determination and Enrollment Activities (CMS-2346-F)
RIN: 0938-AQ53
Agency: Department of Health and Human Services(HHS)
Abstract: The Affordable Care Act requires States' residents to apply, enroll, receive determinations, and participate in the State health subsidy programs known as "the Exchange". The Affordable Care Act requires many changes to State eligibility and enrollment systems and each State is responsible for developing a secure, electronic interface allowing the exchange of data. Existing legacy eligibility systems are not able to implement the numerous requirements. This rule is key to informing States about the higher rates that CMS will provide to help them update or build legacy eligibility systems that meet the ACA requirements.

Title: Medicaid Program; Federal Medical Assistance Percentages (FMAP) for Newly Eligible Mandatory Individuals and Expansion States (CMS-2327-P)
RIN: 0938-AQ59 - Merged With 0938-AQ62
Agency: Department of Health and Human Services(HHS)
Abstract: This proposed rule sets forth methodologies for FMAP calculations. And the related conditions and requirements that will be available for State medical assistance expenditures relating to "newly eligible" individuals and certain medical assistance expenditures in "Expansion States" beginning January 1, 2014, under the Affordable Care Act of 2010 . This proposed rule also sets out allowable methodologies for States to use for purposes of applying the appropriate FMAP for expenditures for "newly eligible" individuals in accordance with section 2001 of the Affordable Care Act.

Title: Medical Loss Ratios (CMS-9998-FC)
RIN: 0938-AQ71
Agency: Department of Health and Human Services(HHS)
Abstract: The Affordable Care Act requires health insurance issuers offering individual or group coverage to submit annual reports to the Secretary on the percentages of premiums that the coverage spends on reimbursement for clinical services and activities that improve health care quality, and to provide rebates to enrollees if this spending does not meet minimum standards for a given plan year. This final rule implements the definition and methodology associated with the calculation of the Medical Loss Ratio (MLR) provisions of the Affordable Care Act and the calculation of the rebate to consumers for plans that do not satisfy the MLR.

Title: Rate Increase Disclosure and Review: Definitions of "Individual Market" and "Small Group Market" (CMS-9999-F)
RIN: 0938-AR26
Agency: Department of Health and Human Services(HHS)
Abstract: This final rule addresses public comments that we received on a May 23, 2011, final rule with comment period entitled "Rate Increase Disclosure and Review." This final rule addresses the public comments we received and amends the definitions of "individual market" and "small group market" to include coverage sold to individuals and small groups through associations even if the State excludes the coverage from its definitions of individual and small group market coverage. This final rule updates requirements for health insurance issuers regarding disclosure and review of unreasonable premium increases under section 2794 of the Public Health Service Act.

Title: Revision to Prohibition on FFP for "Data Mining" by Medicaid Fraud Control Units
RIN: 0991-AB61 Transferred to RIN 0936-AA01
Agency: Department of Health and Human Services(HHS)
Abstract: This notice proposes modifications to current regulations that prohibit State Medicaid Fraud Control Units (MFCUs) from using Federal matching funds to conduct efforts to identify situations in which a question of fraud may exist, including the screening of claims, analysis of patterns of practice, or routine verification with recipients of whether services billed by providers were actually received. The modifications would allow data mining to be conducted by MFCUs under limited circumstances.

Title: Migratory Bird Permits; Changes in Regulations Governing Raptor Propagation
RIN: 1018-AT60
Agency: Department of the Interior(DOI)
Abstract: We are reorganizing current regulations and adding or changing some provisions therein. The changes will make it easier to understand the requirements for raptor propagation and the procedures for obtaining a propagation permit.

Title: Wildlife and Fisheries; Wildlife Restoration, Sport Fish Restoration, Hunter Education and Safety Regulations; Financial Assistance
RIN: 1018-AW65
Agency: Department of the Interior(DOI)
Abstract: We revised our regulations governing three grant programs we administer under the Pittman-Robertson Wildlife Restoration and Dingell-Johnson Sport Fish Restoration Acts (Acts): Wildlife Restoration, Sport Fish Restoration, and Hunter Education and Safety. We clarified specific issues relative to the Acts, made the regulations easier to understand, and addressed new issues raised during and after development of our July 24, 2008, final rule (73 FR 43120; 1018-AV99). These grant programs provide financial assistance to State fish and wildlife agencies and other eligible jurisdictions to restore and manage sport fish and wildlife and provide hunter education and safety programs.

Title: Migratory Bird Hunting; 2011-2012 Migratory Game Bird Hunting Regulations
RIN: 1018-AX34
Agency: Department of the Interior(DOI)
Abstract: We issue annual hunting regulations for certain migratory game birds for the 2011-2012 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 2011-2012 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: Refuge-Specific Hunting and Sport Fishing Regulations, 2011-2012
RIN: 1018-AX54
Agency: Department of the Interior(DOI)
Abstract: We made additions to refuge-specific regulations for the 2011-2012 hunting season. This action is part of an annual update for the National Wildlife Refuge System that ensures adequate public notice of openings and changes. We operate hunting and fishing programs on refuges to implement the National Wildlife Refuge System Improvement Act of 1996 directives to facilitate compatible priority wildlife-dependent recreational opportunities.

Title: Amendments to the Procedures for the Administration of Section 5 of the Voting Rights Act of 1965
RIN: 1190-AA51
Agency: Department of Justice(DOJ)
Abstract: Section 5 of the Voting Rights Act of 1965 requires certain States and their political subdivisions (covered jurisdictions) to obtain "preclearance" from the Federal Government of proposed changes in voting practices and procedures prior to their implementation. Preclearance may be obtained either through litigation in the United States District Court for the District of Columbia or administratively from the Attorney General. In 1971, the Department first issued procedures for the administration of section 5 to inform covered jurisdictions concerning the manner in which they could comply with section 5 in the administrative proceeding before the Attorney General. In subsequent years, the Department has amended these procedures to reflect changes in section 5 law and in the Attorney General's internal practices, and to make the procedures clearer and easier to follow. In the many years since the last major amendment to the procedures, there have been significant changes in section 5 law and in the practices employed by the Department in processing submissions, which are not reflected in the existing procedures.

Title: Definition of Solid Waste Disposal Facilities for Tax-Exempt Bond Purposes
RIN: 1545-BD04
Agency: Department of the Treasury(TREAS)
Abstract: These regulations modify the definition of "solid waste disposal facility" for purposes of section 142(a)(6) of the Internal Revenue Code.

Title: Extension of Withholding to Certain Payments Made by Government Entities
RIN: 1545-BG45
Agency: Department of the Treasury(TREAS)
Abstract: Section 3402(t) was enacted by the Tax Increase Prevention and Reconciliation Act of 2005 to require governmental entities to withhold on certain payments for property or services.

Title: Commonwealth of the Northern Mariana Islands Transitional Worker Classification
RIN: 1615-AB76
Agency: Department of Homeland Security(DHS)
Abstract: On October 27, 2009, the Department of Homeland Security published an interim rule creating a new, temporary, Commonwealth of the Northern Mariana Islands (CNMI)-only transitional worker classification (CW classification) in accordance with Title VII of the Consolidated Natural Resources Act

of 2008 (CNRA). The CW classification is intended to provide for an orderly transition from the CNMI permit system to the U.S. Federal immigration system under the immigration laws of the United States, including the Immigration and Nationality Act (INA). This final rule implements the CW classification and establishes that a CW transitional worker is an alien worker who is ineligible for another classification under the INA and who performs services or labor for an employer in the CNMI during the five-year transition period. CNMI employers may now petition for such workers. The rule also establishes employment authorization incident to CW status.

Title: Energy Efficiency Standards for Clothes Dryers and Room Air Conditioners
RIN: 1904-AA89
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 second review of the standards for clothes dryers and room air conditioners.

Title: Energy Efficiency Standards for Residential Refrigerators, Refrigerator-Freezers, and Freezers
RIN: 1904-AB79
Agency: Department of Energy(DOE)
Abstract: The Energy Independence and Security Act of 2007 amended the Energy Policy and Conservation Act and directed the Secretary to issue a final rule to determine whether to amend the standards for refrigerators, refrigerator-freezers, and freezers. The final rule will contain any amended standards.

Title: Test Procedures for Battery Chargers
RIN: 1904-AC03
Agency: Department of Energy(DOE)
Abstract: Section 302 of the Energy Independence and Security Act of 2007 amends the Energy Policy and Conservation Act to require that test procedures for all covered products (including battery chargers) be reviewed at least once every seven years. A separate test procedure rulemaking for battery chargers for standby mode and off mode was completed in March 2009 (74 FR 13318). An energy conservation standards rulemaking for battery chargers is scheduled for completion by July 2011.

Title: Energy Efficiency Standards for Residential Furnace, Central Air Conditioners and Heat Pumps
RIN: 1904-AC06
Agency: Department of Energy(DOE)
Abstract: DOE published an energy conservation standard final rule for residential furnaces and boilers in the Federal Register on November 19, 2007 (72 FR 65136). Petitioners challenged this final rule on several grounds. DOE filed a motion for voluntary remand to allow the agency to consider: 1) The application of regional standards in additional to national standards for furnaces, authorized by Energy Independence and Security Act of 2007 (enacted Dec. 19, 2007) and 2) the effect of alternative standards on natural gas prices. This motion for voluntary remand was granted on April 21, 2009. DOE initiated this rulemaking to consider amended energy conservation standards for residential furnaces. In this rulemaking DOE is also reviewing and updating energy efficiency standards, as required by the Energy Policy and Conservation Act, to reflect technological advances. All amended standards must be technologically feasible and economically justified. This is the second review of the statutory standards for residential central air conditioners and air conditioning heat pumps.

Title: International Energy Conservation Code Determination
RIN: 1904-AC17
Agency: Department of Energy(DOE)
Abstract: DOE determined that the 2009 version of the International Code Council International Energy Conservation Code (IECC) would achieve greater energy efficiency in low-rise residential buildings that the 2006 IECC. DOE also determined that the 2006 version of the IECC would achieve greater energy efficiency than the 2003 IECC. Finally, DOE determined that 2003 version of the IECC would not achieve greater energy efficiency than the 2000 IECC.

Title: Determination Regarding Energy Efficiency Standard for Buildings, ANSI/ASHRAE/IESNA Standard 90.1-2004
RIN: 1904-AC18
Agency: Department of Energy(DOE)
Abstract: DOE determined that the 2007 edition of the Energy Standard for Buildings, Except Low-Rise Residential Buildings, American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Illuminating Engineering Society of North America (IESNA) Standard 90.1-2007, would achieve greater energy efficiency in buildings subject

to the code, than Standard 90.1-2004 of the 2004 edition.

Title: Certification, Compliance, and Enforcement for Consumer Products and Commercial and Industrial Equipment
RIN: 1904-AC23
Agency: Department of Energy(DOE)
Abstract: DOE conducted a rulemaking to review, revise, and expand its existing certification, compliance, and enforcement regulations for certain consumer products and commercial and industrial equipment covered under the Energy Policy and Conservation Act of 1975, as amended. These regulations provide for sampling plans used in determining compliance with existing standards, manufacturer submission of compliance statements and certification reports to DOE, maintenance of compliance records by manufacturers, and the availability of enforcement actions for improper certification or noncompliance with an applicable standard. Ultimately, DOE believes the provisions developed in this rulemaking improve DOE's ability to systematically enforce applicable energy and water conservation standards for covered products and covered equipment and provide for more accurate, comprehensive information about the energy and water use characteristics of products sold in the United States.

Title: Federal Building Standards Update Rulemaking
RIN: 1904-AC41
Agency: Department of Energy(DOE)
ABSTRACT: This rulemaking updates the Federal Building Energy Efficiency Standard found in 10 CFR 433, "Energy Efficiency Standards for the Design and Construction of New Federal Commercial and Multi-Family High-Rise Residential Buildings," to require that new Federal commercial buildings and Multifamily High-Rise Buildings are designed to achieve 30% savings over ANSI/ASHRAE/IESNA Standard 90.1-2007, if life-cycle cost-effective. The rule also updates 10 CFR 435, "Energy Efficiency Standards for New Federal Low-Rise Residential Buildings," to require that new Federal low-rise residential buildings achieve 30% savings over the 2009 IECC, if life-cycle cost-effective.

Title: Determination Regarding Energy Efficiency Improvements in ANSI/ASHRAE/IESNA Standard 90.1-2010
RIN: 1904-AC42
Agency: Department of Energy(DOE)
Abstract: This action is a statutory requirement that DOE make a determination as to whether the energy efficiency improvements in ANSI/ASHRAE/IESNA Standard 90.1-2010 are positive or negative. ASHRAE Standard 90.1 is an Energy Standard for Buildings, except Low-Rise Residential Buildings. A positive determination for the 2010 version of the standard as compared to the 2007 version, means that 90.1-2010 is a more energy efficient standard than the 90.1-2007 version.

Title: Land Disposal Restrictions: Revision of the Treatment Standard for Carbamates
RIN: 2050-AG65
Agency: Environmental Protection Agency(EPA)
Abstract: The Environmental Protection Agency is considering revising the Land Disposal Restrictions (LDR) treatment standards for hazardous wastes from the production of carbamates and carbamate commercial chemical products that become hazardous wastes when they are discarded or intended to be discarded. There may be no analytical standards available with which to measure compliance with the LDR requirements. An analytical standard is a reference material with a known concentration of a target chemical that is used to calibrate analytical instruments in order to confirm detection and quantification of that chemical. Currently under the LDR program, most carbamate wastes must be treated to meet numeric concentration limits before the wastes can be land disposed. The lack of analytical standards makes it impossible to measure whether the numeric concentration limits have been met. Therefore, we are considering providing as an alternative standard the use of the best demonstrated available technologies for treating these wastes. This will provide significant treatment to minimize threats to human health and the environment while avoiding the problems that result from the lack of analytical standards to determine if the numeric concentration limits have been met. In addition, we are considering removing hazardous carbamate wastes from the table of Universal Treatment Standards at 40 CFR 268.48. By doing so, these wastes would not be classified as underlying hazardous constituents that require treatment to meet numeric concentration limits in wastes that display the characteristic of ignitability, reactivity, corrosivity or toxicity at the point of generation. This overall action would allow hazardous waste management facilities to certify that wastes have been treated in compliance with applicable LDR requirements. These facilities face potential curtailment of operations when they are unable to demonstrate waste and treatment residual content through analytical testing.

Title: Review of the National Ambient Air Quality Standards for Carbon Monoxide
RIN: 2060-AI43
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. The last carbon monoxide (CO) NAAQS review occurred in 1994 with a decision by the Administrator not to revise the existing standards. The current review which initiated in September 2007 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 decision as to whether to retain or revise the standards.

Title: Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals
RIN: 2060-AP50
Agency: Environmental Protection Agency(EPA)
Abstract: This action, also known as the Transport Rule or the Cross State Air Pollution uses a cap and trade approach to reduce sulfur dioxide (SO2) and nitrogen oxides (NOx) emissions. This rule replaces the Clean Air Interstate Rule which was promulgated in 2005 and remanded to EPA in 2008 by the US Court of Appeals for the DC Circuit.

Title: Compression Ignition Engine NSPS—Amendments
RIN: 2060-AP67
Agency: Environmental Protection Agency(EPA)
Abstract: This action amended the New Source Performance Standards (NSPS) for stationary compression ignition internal combustion engines. These amendments were the result of a settlement agreement with the American Petroleum Institute. The amendments to the rule included limiting the operation and maintenance (O&M) requirements to emission-related O&M and allowing certified engine owners/operators to operate/maintain their engines according to their own O&M practices if they conduct performance testing to demonstrate compliance. The amendments also clarified the requirements for temporary replacement engines. In addition, this action amended the NSPS to implement more stringent emission standards for engines with a displacement above 10 liters/cylinder, consistent with recent revisions to standards for similar mobile source engines. This action revised the requirements for engines in rural portions of Alaska. The amendments also corrected minor errors in the NSPS.

Title: Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM2.5); Final Rule to Repeal Grandfather Provision
RIN: 2060-AP75
Agency: Environmental Protection Agency(EPA)
Abstract: This final rule repealed the grandfathering provision for particulate matter less than 2.5 micrometers (PM2.5) contained in the federal Prevention of Significant Deterioration (PSD) regulations at 40 CFR 52.21. The final rule did not take a final action concerning the proposed early ending of the use of EPA?s PM10 Surrogate Policy as an interim means of satisfying the PM2.5 requirements in state PSD programs. Because no final action was taken, the Policy ended on May 16, 2011, in accordance with the original schedule for ending its use in state PSD SIPs.

Title: Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators; Amendments
RIN: 2060-AQ24
Agency: Environmental Protection Agency(EPA)
Abstract: On October 6, 2009, EPA promulgated its response to the remand of the new source performance standards and emissions guidelines for hospital/medical/infectious waste incinerators by the U.S. Court of Appeals for the District of Columbia Circuit and satisfied the Clean Air Act section 129(a)(5) requirement to conduct a review of the standards every 5 years. This action proposes to amend the new source performance standards emissions limits for nitrogen oxides (NOx) and sulfur dioxide (SO2) promulgated for large hospital/medical/infectious waste incinerators in order to correct inadvertent drafting errors we made setting forth those limits, which did not correspond to our description of our standard-setting process.

Title: Determinations Concerning Need for Error Correction, Partial Approval and Partial Disapproval, and Federal Implementation Plan Regarding Texas Prevention of Significant Deterioration Program
RIN: 2060-AQ66
Agency: Environmental Protection Agency(EPA)
Abstract: This final rule addresses prevention of significant deterioration (PSD) permitting for greenhouse gas (GHG) emitting sources in Texas. EPA has identified that it made an error in granting full approval of Texas' PSD program in 1992, and is

using the error correction provisions under the Clean Air Act to convert that full approval to a partial approval and partial disapproval. In the same notice, EPA also implements a federal implementation plan (FIP) to apply the PSD program to newly regulated pollutants, specifically GHG.

Title: Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Stay and Revisions
RIN: 2060-AQ73
Agency: Environmental Protection Agency(EPA)
Abstract: This rulemaking effectuates a stay of the final rule Titled, ?Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions? (Fugitive Emissions Rule), published on December 19, 2008. That rule required that fugitive emissions be included in determining whether a physical or operational change results in a major modification only for sources in industries that have been designated by the Clean Air Act. This rule supersedes the stay of the Fugitive Emissions Rule provisions issued on March 31, 2010, and thereby corrects inadvertent errors contained in that stay. This action also extended the stay until EPA completes its reconsideration of the Fugitive Emissions Rule.

Title: Updating Cross-References for the Oklahoma State Implementation Plan
RIN: 2060-AQ77
Agency: Environmental Protection Agency(EPA)
Abstract: This action made a technical change to the regulatory text as amended in the final rule ?Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans? to amend regulatory text cross-referencing portions of Oklahoma's State Implementation Plan (SIP). Region 6 approved revisions to the Oklahoma SIP that recodified the regulations. This approved recodification took effect on December 27, 2010. This rule updated cross-references in the regulatory text in light of this recodification.

Title: National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines; Amendments
RIN: 2060-AQ78
Agency: Environmental Protection Agency(EPA)
Abstract: EPA took direct final action to promulgate amendments to the final national emission standards for hazardous air pollutants for existing stationary reciprocating internal combustion engines. The final rule was published on August 20, 2010. This direct final action amended certain regulatory text to clarify compliance requirements related to continuous parametric monitoring systems. EPA granted a 90-day stay of these requirements on January 19, 2011 and through this action clarified the requirements. EPA also corrected minor typographical errors in the regulatory text to the August 20, 2010 action.

Title: Deferral of Application of the Prevention of Significant Deterioration (PSD) and Title V Programs to CO2 Emissions From Bioenergy and Other Biogenic Sources
RIN: 2060-AQ79
Agency: Environmental Protection Agency(EPA)
Abstract: This action deferred for a period of three (3) years the application of the Prevention of Significant Deterioration (PSD) and Title V permitting requirements to CO2 emissions from bioenergy and other biogenic sources. The Agency intends to use this time to seek independent scientific analysis of the complex issues pertinent to the climate impacts of these emissions and to develop a rulemaking on how these emissions should be treated and accounted for in Clean Air Act PSD and Title V permitting.

Title: Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program
RIN: 2070-AJ57
Agency: Environmental Protection Agency(EPA)
Abstract: On May 6, 2010, EPA proposed a number of 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 for persons performing renovations for compensation in most pre-1978 housing and child-occupied facilities. For the final rule that was promulgated on August 5, 2011, EPA decided not to promulgate dust wipe testing and clearance requirements as proposed. However, EPA promulgated several other revisions to the RRP rule, including a provision allowing a certified renovator to collect a paint chip sample and send it to a recognized laboratory for analysis in lieu of using a lead test kit, minor changes to the training program accreditation application process, standards for e-learning in accredited training programs, minimum enforcement provisions for authorized state and tribal renovation programs, and minor revisions to the training and certification requirements for renovators. EPA also promulgated clarifications to the requirements for vertical containment on exterior renovation projects, the prohibited or restricted work

practice provisions, and the requirements for high-efficiency particulate air (HEPA) vacuums.

Title: Per Diem Payments for Veterans Evacuated During an Emergency From a State Home to a Non-Recognized Facility
RIN: 2900-AN63
Agency: Department of Veterans Affairs(VA)
Abstract: The Department of Veterans Affairs amends its regulations concerning per diem payments for State homes by providing certain standards to apply to temporary facilities used during emergencies that require evacuating and relocating veterans residents.

Title: Volunteers in Service to America
Agency: Corporation for National and Community Service(CNCS)
RIN: 3045-AA36 - Duplicate of RIN 3045-AA58
Abstract: The Corporation for National and Community Service (CNCS) is revising regulations governing its AmeriCorps VISTA (VISTA) program authorized under the Domestic Volunteer Service Act of 1973, as amended, 42 USC section 4950 et seq. This proposed rule will provide additional information regarding policies and practices related to the operations, terms, conditions, and benefits of the VISTA program. The proposed rule contains updates as a result of changes in law and agency administration. For example, CNCS will remove all references to its predecessor agency – ACTION – and redesignate the regulations currently in 45 CFR chapter 12 to 45 chapter 25, where CNCS' AmeriCorps and other program regulations are published. Also, CNCS will update the regulations regarding prohibitions on electoral and lobbying activities, including Hatch Act restrictions on VISTA members and sponsors.

Title: Regulations To Implement the Equal Employment Provisions of the Americans With Disabilities Act Amendments Act
RIN: 3046-AA85
Agency: Equal Employment Opportunity Commission(EEOC)
Abstract: The Americans With Disabilities Act Amendments Act of 2008 (the Amendments Act) was signed into law on September 25, 2008, with a statutory effective date of January 1, 2009. EEOC proposes to revise its Americans With Disabilities Act (ADA) regulations and accompanying interpretative guidance (29 CFR part 1630 and accompanying appendix) in order to implement the ADA Amendments Act of 2008. Pursuant to the 2008 amendments, the definition of disability under the ADA shall be construed in favor of broad coverage to the maximum extent permitted by the terms of the ADA, and the determination of whether an individual has a disability should not demand extensive analysis. The Amendments Act rejects the holdings in several Supreme Court decisions and portions of EEOC's ADA regulations. The effect of these changes is to make it easier for an individual seeking protection under the ADA to establish that he or she has a disability within the meaning of the ADA.

Title: Disparate Impact and Reasonable Factors Other Than Age Under the Age Discrimination in Employment Act
RIN: 3046-AA87 - Merged With 3046-AA76
Agency: Equal Employment Opportunity Commission(EEOC)
Abstract: Prior to the Supreme Court's decision in Smith v. City of Jackson, 544 U.S. 228 (2005), Commission regulations interpreted the ADEA to require employers to prove that actions that had an age-based disparate impact were justified as a business necessity. Although the Court, in Smith, agreed with the EEOC that disparate impact claims were cognizable under the ADEA, it held that the defense was not business necessity but reasonable factors other than age (RFOA). The Smith Court did not specify whether the employer or employee bore the burden of proof on the RFOA defense. On March 31, 2008, the Commission issued a Notice of Proposed Rulemaking (NPRM) to conform Commission ADEA regulations to Smith, also taking the position that the employer bore the burden of proving the defense. Because current EEOC regulations do not define the meaning of "RFOA," the NPRM also asked whether regulations should provide more information on the meaning of "reasonable factors other than age" and, if so, what the regulations should say. 73 FR 16807 (March 31, 2008). Subsequently, the Supreme Court held in Meacham v. Knolls Atomic Laboratory, 554 U.S. 84, 128 S. Ct. 2395 (2008), that employers have the RFOA burdens of production and persuasion. After consideration of the public comments, and in light of the Supreme Court decisions, the Commission issued a second NPRM on February 18, 2010 to address the scope of the RFOA defense. A final rule will be issued addressing the issues covered in both NPRMs and conforming to both Smith and Meacham. The RIN associated with the NPRM titled "Reasonable Factors Other Than Age Under the Age Discrimination in Employment Act" (RIN 3046-AA87) has been merged with this item (RIN 3046-AA76), which will be the RIN used to identify the final rule.

Title: Revision of Fee Schedules: Fee Recovery for FY 2011 [NRC-2011-0016]
RIN: 3150-AI93
Agency: Nuclear Regulatory Commission(NRC)
Abstract: The final rule amends the Commission's licensing, inspection, and annual fees charged to its applicants and licensees. The amendments implement the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended, which requires that the NRC recover approximately 90 percent of its budget authority in Fiscal Year (FY) 2011, less the amounts appropriated from the Nuclear Waste Fund, and for Waste Incidental to Reprocessing, generic homeland security activities, and scholarships and fellowships. Based on the FY 2011 NRC Budget sent to Congress, the NRC's required fee recovery amount for the FY 2011 budget is approximately $915.8 million. After accounting for carryover and billing adjustments, the total amount to be recovered through fees is approximately $916.2 million. The OBRA-90, as amended, requires that the fees for FY 2011 be collected by September 30, 2011.

Title: Regulation Z--Truth in Lending (Docket No. R-1394)
RIN: 7100-AD56
Agency: Federal Reserve System(FRS)
Abstract: On October 28, 2010, the Federal Reserve Board (the Board) approved for public comment an interim final rule amending Regulation Z (Truth in Lending) (75 FR 66554). The interim rule implements section 129E of the Truth in Lending Act (TILA), which was enacted on July 21, 2010, as section 1472 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. TILA section 129E establishes new requirements for appraisal independence for consumer credit transactions secured by the consumer's principal dwelling. The amendments are designed to ensure that real estate appraisals used to support creditors' underwriting decisions are based on the appraiser's independent professional judgment, free of any influence or pressure that may be exerted by parties that have an interest in the transaction. The amendments also seek to ensure that creditors and their agents pay customary and reasonable fees to appraisers. The Board sought comment on all aspects of the interim final rule, which were due by December 27, 2010. Compliance is mandatory for residential mortgage applications received by creditors on or after April 1, 2011. The Board expects no further action on this rule.

Title: Energy Efficiency Standards for Clothes Dryers and Room Air Conditioners
RIN: 1904-AA89
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 second review of the standards for clothes dryers and room air conditioners.

Title: Energy Efficiency Standards for Residential Refrigerators, Refrigerator-Freezers, and Freezers
RIN: 1904-AB79
Agency: Department of Energy (DOE)
Abstract: The Energy Independence and Security Act of 2007 amended the Energy Policy and Conservation Act and directed the Secretary to issue a final rule to determine whether to amend the standards for refrigerators, refrigerator-freezers, and freezers. The final rule will contain any amended standards.

Title: Test Procedures for Battery Chargers
RIN: 1904-AC03
Agency: Department of Energy (DOE)
Abstract: Section 302 of the Energy Independence and Security Act of 2007 amends the Energy Policy and Conservation Act to require that test procedures for all covered products (including battery chargers) be reviewed at least once every seven years. A separate test procedure rulemaking for battery chargers for standby mode and off mode was completed in March 2009 (74 FR 13318). An energy conservation standards rulemaking for battery chargers is scheduled for completion by July 2011.

Title: Energy Efficiency Standards for Residential Furnace, Central Air Conditioners and Heat Pumps
RIN: 1904-AC06
Agency: Department of Energy (DOE)
Abstract: DOE published an energy conservation standard final rule for residential furnaces and boilers in the Federal Register on November 19, 2007 (72 FR 65136). Petitioners challenged this final rule on several grounds. DOE filed a motion for voluntary remand to allow the agency to consider: 1) The application of regional standards in additional to national standards for furnaces, authorized by Energy Independence and Security Act of 2007 (enacted Dec. 19, 2007) and 2) the effect of alternative standards on natural gas prices. This motion for voluntary remand was granted on April 21, 2009.

DOE initiated this rulemaking to consider amended energy conservation standards for residential furnaces. In this rulemaking DOE is also reviewing and updating energy efficiency standards, as required by the Energy Policy and Conservation Act, to reflect technological advances. All amended standards must be technologically feasible and economically justified. This is the second review of the statutory standards for residential central air conditioners and air conditioning heat pumps.

Title: International Energy Conservation Code Determination
RIN: 1904-AC17
Agency: Department of Energy (DOE)
Abstract: DOE determined that the 2009 version of the International Code Council International Energy Conservation Code (IECC) would achieve greater energy efficiency in low-rise residential buildings that the 2006 IECC. DOE also determined that the 2006 version of the IECC would achieve greater energy efficiency than the 2003 IECC. Finally, DOE determined that 2003 version of the IECC would not achieve greater energy efficiency than the 2000 IECC.

Title: Determination Regarding Energy Efficiency Standard for Buildings, ANSI/ASHRAE/IESNA Standard 90.1-2004
RIN: 1904-AC18
Agency: Department of Energy (DOE)
Abstract: DOE determined that the 2007 edition of the Energy Standard for Buildings, Except Low-Rise Residential Buildings, American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Illuminating Engineering Society of North America (IESNA) Standard 90.1-2007, would achieve greater energy efficiency in buildings subject to the code, than Standard 90.1-2004 of the 2004 edition.

Title: Certification, Compliance, and Enforcement for Consumer Products and Commercial and Industrial Equipment
RIN: 1904-AC23
Agency: Department of Energy (DOE)
Abstract: DOE conducted a rulemaking to review, revise, and expand its existing certification, compliance, and enforcement regulations for certain consumer products and commercial and industrial equipment covered under the Energy Policy and Conservation Act of 1975, as amended. These regulations provide for sampling plans used in determining compliance with existing standards, manufacturer submission of compliance statements and certification reports to DOE, maintenance of compliance records by manufacturers, and the availability of enforcement actions for improper certification or noncompliance with an applicable standard. Ultimately, DOE believes the provisions developed in this rulemaking improve DOE's ability to systematically enforce applicable energy and water conservation standards for covered products and covered equipment and provide for more accurate, comprehensive information about the energy and water use characteristics of products sold in the United States.

Title: Federal Building Standards Update Rulemaking
RIN: 1904-AC41
Agency: Department of Energy (DOE)
Abstract: This rulemaking updates the Federal Building Energy Efficiency Standard found in 10 CFR 433, "Energy Efficiency Standards for the Design and Construction of New Federal Commercial and Multi-Family High-Rise Residential Buildings," to require that new Federal commercial buildings and Multifamily High-Rise Buildings are designed to achieve 30% savings over ANSI/ASHRAE/IESNA Standard 90.1-2007, if life-cycle cost-effective. The rule also updates 10 CFR 435, "Energy Efficiency Standards for New Federal Low-Rise Residential Buildings," to require that new Federal low-rise residential buildings achieve 30% savings over the 2009 IECC, if life-cycle cost-effective.

Title: Determination Regarding Energy Efficiency Improvements in ANSI/ASHRAE/IESNA Standard 90.1-2010
RIN: 1904-AC42
Agency: Department of Energy (DOE)
Abstract: This action is a statutory requirement that DOE make a determination as to whether the energy efficiency improvements in ANSI/ASHRAE/IESNA Standard 90.1-2010 are positive or negative. ASHRAE Standard 90.1 is an Energy Standard for Buildings, except Low-Rise Residential Buildings. A positive determination for the 2010 version of the standard as compared to the 2007 version, means that 90.1-2010 is a more energy efficient standard than the 90.1-2007 version.

Title: Land Disposal Restrictions: Revision of the Treatment Standard for Carbamates
RIN: 2050-AG65
Agency: Environmental Protection Agency (EPA)
Abstract: The Environmental Protection Agency is considering revising the Land Disposal Restrictions (LDR) treatment standards for hazardous wastes from

the production of carbamates and carbamate commercial chemical products that become hazardous wastes when they are discarded or intended to be discarded. There may be no analytical standards available with which to measure compliance with the LDR requirements. An analytical standard is a reference material with a known concentration of a target chemical that is used to calibrate analytical instruments in order to confirm detection and quantification of that chemical. Currently under the LDR program, most carbamate wastes must be treated to meet numeric concentration limits before the wastes can be land disposed. The lack of analytical standards makes it impossible to measure whether the numeric concentration limits have been met. Therefore, we are considering providing as an alternative standard the use of the best demonstrated available technologies for treating these wastes. This will provide significant treatment to minimize threats to human health and the environment while avoiding the problems that result from the lack of analytical standards to determine if the numeric concentration limits have been met. In addition, we are considering removing hazardous carbamate wastes from the table of Universal Treatment Standards at 40 CFR 268.48. By doing so, these wastes would not be classified as underlying hazardous constituents that require treatment to meet numeric concentration limits in wastes that display the characteristic of ignitability, reactivity, corrosivity or toxicity at the point of generation. This overall action would allow hazardous waste management facilities to certify that wastes have been treated in compliance with applicable LDR requirements. These facilities face potential curtailment of operations when they are unable to demonstrate waste and treatment residual content through analytical testing.

Title: Review of the National Ambient Air Quality Standards for Carbon Monoxide
RIN: 2060-AI43
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. The last carbon monoxide (CO) NAAQS review occurred in 1994 with a decision by the Administrator not to revise the existing standards. The current review which initiated in September 2007 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 decision as to whether to retain or revise the standards.

Title: Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and
Correction of SIP Approvals
RIN: 2060-AP50
Agency: Environmental Protection Agency (EPA)
Abstract: This action, also known as the Transport Rule or the Cross State Air Pollution uses a cap and trade approach to reduce sulfur dioxide (SO2) and nitrogen oxides (NOx) emissions. This rule replaces the Clean Air Interstate Rule which was promulgated in 2005 and remanded to EPA in 2008 by the US Court of Appeals for the DC Circuit.

Title: Compression Ignition Engine NSPS--Amendments
RIN: 2060-AP67
Agency: Environmental Protection Agency (EPA)
Abstract: This action amended the New Source Performance Standards (NSPS) for stationary compression ignition internal combustion engines. These amendments were the result of a settlement agreement with the American Petroleum Institute. The amendments to the rule included limiting the operation and maintenance (O&M) requirements to emission-related O&M and allowing certified engine owners/operators to operate/maintain their engines according to their own O&M practices if they conduct performance testing to demonstrate compliance. The amendments also clarified the requirements for temporary replacement engines. In addition, this action amended the NSPS to implement more stringent emission standards for engines with a displacement above 10 liters/cylinder, consistent with recent revisions to standards for similar mobile source engines. This action revised the requirements for engines in rural portions of Alaska. The amendments also corrected minor errors in the NSPS.

Title: Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM2.5); Final Rule to Repeal Grandfather Provision
RIN: 2060-AP75
Agency: Environmental Protection Agency (EPA)
Abstract: This final rule repealed the grandfathering provision for particulate matter less than 2.5 micrometers (PM2.5) contained in the federal Prevention of Significant Deterioration (PSD) regulations at 40 CFR 52.21. The final rule did not take a final action concerning the proposed early ending of the use of EPA’s PM10 Surrogate Policy as an interim means of satisfying the PM2.5

requirements in state PSD programs. Because no final action was taken, the Policy ended on May 16, 2011, in accordance with the original schedule for ending its use in state PSD SIPs.

Title: Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators; Amendments
RIN: 2060-AQ24
Agency: Environmental Protection Agency (EPA)
Abstract: On October 6, 2009, EPA promulgated its response to the remand of the new source performance standards and emissions guidelines for hospital/medical/infectious waste incinerators by the U.S. Court of Appeals for the District of Columbia Circuit and satisfied the Clean Air Act section 129(a)(5) requirement to conduct a review of the standards every 5 years. This action proposes to amend the new source performance standards emissions limits for nitrogen oxides (NOx) and sulfur dioxide (SO2) promulgated for large hospital/medical/infectious waste incinerators in order to correct inadvertent drafting errors we made setting forth those limits, which did not correspond to our description of our standard-setting process.

Title: Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Stay and Revisions
RIN: 2060-AQ73
Agency: Environmental Protection Agency (EPA)
Abstract: This rulemaking effectuates a stay of the final rule titled, "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions" (Fugitive Emissions Rule), published on December 19, 2008. That rule required that fugitive emissions be included in determining whether a physical or operational change results in a major modification only for sources in industries that have been designated by the Clean Air Act. This rule supersedes the stay of the Fugitive Emissions Rule provisions issued on March 31, 2010, and thereby corrects inadvertent errors contained in that stay. This action also extended the stay until EPA completes its reconsideration of the Fugitive Emissions Rule.

Title: National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines; Amendments
RIN: 2060-AQ78
Agency: Environmental Protection Agency (EPA)
Abstract: EPA took direct final action to promulgate amendments to the final national emission standards for hazardous air pollutants for existing stationary reciprocating internal combustion engines. The final rule was published on August 20, 2010. This direct final action amended certain regulatory text to clarify compliance requirements related to continuous parametric monitoring systems. EPA granted a 90-day stay of these requirements on January 19, 2011 and through this action clarified the requirements. EPA also corrected minor typographical errors in the regulatory text to the August 20, 2010 action.

Title: Deferral of Application of the Prevention of Significant Deterioration (PSD) and Title V Programs to CO2 Emissions From Bioenergy and Other Biogenic Sources
RIN: 2060-AQ79
Agency: Environmental Protection Agency (EPA)
Abstract: This action deferred for a period of three (3) years the application of the Prevention of Significant Deterioration (PSD) and Title V permitting requirements to CO2 emissions from bioenergy and other biogenic sources. The Agency intends to use this time to seek independent scientific analysis of the complex issues pertinent to the climate impacts of these emissions and to develop a rulemaking on how these emissions should be treated and accounted for in Clean Air Act PSD and Title V permitting.

Title: Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program
RIN: 2070-AJ57
Agency: Environmental Protection Agency (EPA)
Abstract: On May 6, 2010, EPA proposed a number of 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 for persons performing renovations for compensation in most pre-1978 housing and child-occupied facilities. For the final rule that was promulgated on August 5, 2011, EPA decided not to promulgate dust wipe testing and clearance requirements as proposed. However, EPA promulgated several other revisions to the RRP rule, including a provision allowing a certified renovator to collect a paint chip sample and send it to a recognized laboratory for analysis in lieu of using a lead test kit, minor changes to the training program accreditation application process, standards for e-learning in accredited training programs, minimum enforcement provisions for authorized state and tribal renovation programs, and minor revisions to the

training and certification requirements for renovators. EPA also promulgated clarifications to the requirements for vertical containment on exterior renovation projects, the prohibited or restricted work practice provisions, and the requirements for high-efficiency particulate air (HEPA) vacuums.

Title: Per Diem Payments for Veterans Evacuated During an Emergency From a State Home to a Non-Recognized Facility
RIN: 2900-AN63
Agency: Department of Veterans Affairs (VA)
Abstract: The Department of Veterans Affairs amends its regulations concerning per diem payments for State homes by providing certain standards to apply to temporary facilities used during emergencies that require evacuating and relocating veterans residents.

Title: Volunteers in Service to America
RIN: 3045-AA58
Agency: Corporation for National and Community Service (CNCS)
Abstract: The Corporation for National and Community Service (CNCS) is revising regulations governing its AmeriCorps VISTA (VISTA) program authorized under the Domestic Volunteer Service Act of 1973, as amended, 42 USC section 4950 et seq. This proposed rule will provide additional information regarding policies and practices related to the operations, terms, conditions, and benefits of the VISTA program. The proposed rule contains updates as a result of changes in law and agency administration. For example, CNCS will remove all references to its predecessor agency – ACTION – and redesignate the regulations currently in 45 CFR chapter 12 to 45 chapter 25, where CNCS' AmeriCorps and other program regulations are published. Also, CNCS will update the regulations regarding prohibitions on electoral and lobbying activities, including Hatch Act restrictions on VISTA members and sponsors.

Title: Regulations To Implement the Equal Employment Provisions of the Americans With Disabilities Act Amendments Act
RIN: 3046-AA85
Agency: Equal Employment Opportunity Commission (EEOC)
Abstract: The Americans With Disabilities Act Amendments Act of 2008 (the Amendments Act) was signed into law on September 25, 2008, with a statutory effective date of January 1, 2009. EEOC proposes to revise its Americans With Disabilities Act (ADA) regulations and accompanying interpretative guidance (29 CFR part 1630 and accompanying appendix) in order to implement the ADA Amendments Act of 2008. Pursuant to the 2008 amendments, the definition of disability under the ADA shall be construed in favor of broad coverage to the maximum extent permitted by the terms of the ADA, and the determination of whether an individual has a disability should not demand extensive analysis. The Amendments Act rejects the holdings in several Supreme Court decisions and portions of EEOC's ADA regulations. The effect of these changes is to make it easier for an individual seeking protection under the ADA to establish that he or she has a disability within the meaning of the ADA.

Title: Disparate Impact and Reasonable Factors Other Than Age Under the Age Discrimination in Employment Act
RIN: 3046-AA76
Agency: Equal Employment Opportunity Commission (EEOC)
Abstract: Prior to the Supreme Court's decision in Smith v. City of Jackson, 544 U.S. 228 (2005), Commission regulations interpreted the ADEA to require employers to prove that actions that had an age-based disparate impact were justified as a business necessity. Although the Court, in Smith, agreed with the EEOC that disparate impact claims were cognizable under the ADEA, it held that the defense was not business necessity but reasonable factors other than age (RFOA). The Smith Court did not specify whether the employer or employee bore the burden of proof on the RFOA defense. On March 31, 2008, the Commission issued a Notice of Proposed Rulemaking (NPRM) to conform Commission ADEA regulations to Smith, also taking the position that the employer bore the burden of proving the defense. Because current EEOC regulations do not define the meaning of "RFOA," the NPRM also asked whether regulations should provide more information on the meaning of "reasonable factors other than age" and, if so, what the regulations should say. 73 FR 16807 (March 31, 2008). Subsequently, the Supreme Court held in Meacham v. Knolls Atomic Laboratory, 554 U.S. 84, 128 S. Ct. 2395 (2008), that employers have the RFOA burdens of production and persuasion. After consideration of the public comments, and in light of the Supreme Court decisions, the Commission issued a second NPRM on February 18, 2010 to address the scope of the RFOA defense. A final rule will be issued addressing the issues covered in both NPRMs and conforming to both Smith and Meacham. The RIN associated with the NPRM titled "Reasonable Factors Other Than Age Under the Age Discrimination in Employment Act" (RIN 3046-AA87) has been merged with this item (RIN 3046-

AA76), which will be the RIN used to identify the final rule.

Title: Revision of Fee Schedules: Fee Recovery for FY 2011 [NRC-2011-0016]
RIN: 3150-AI93
Agency: Nuclear Regulatory Commission (NRC)
Abstract: The final rule amends the Commission's licensing, inspection, and annual fees charged to its applicants and licensees. The amendments implement the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended, which requires that the NRC recover approximately 90 percent of its budget authority in Fiscal Year (FY) 2011, less the amounts appropriated from the Nuclear Waste Fund, and for Waste Incidental to Reprocessing, generic homeland security activities, and scholarships and fellowships. Based on the FY 2011 NRC Budget sent to Congress, the NRC's required fee recovery amount for the FY 2011 budget is approximately $915.8 million. After accounting for carryover and billing adjustments, the total amount to be recovered through fees is approximately $916.2 million. The OBRA-90, as amended, requires that the fees for FY 2011 be collected by September 30, 2011.

Title: Regulation Z--Truth in Lending (Docket No. R-1394)
RIN: 7100-AD56
Agency: Federal Reserve System (FRS)
Abstract: On October 28, 2010, the Federal Reserve Board (the Board) approved for public comment an interim final rule amending Regulation Z (Truth in Lending) (75 FR 66554). The interim rule implements section 129E of the Truth in Lending Act (TILA), which was enacted on July 21, 2010, as section 1472 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. TILA section 129E establishes new requirements for appraisal independence for consumer credit transactions secured by the consumer's principal dwelling. The amendments are designed to ensure that real estate appraisals used to support creditors' underwriting decisions are based on the appraiser's independent professional judgment, free of any influence or pressure that may be exerted by parties that have an interest in the transaction. The amendments also seek to ensure that creditors and their agents pay customary and reasonable fees to appraisers. The Board sought comment on all aspects of the interim final rule, which were due by December 27, 2010. Compliance is mandatory for residential mortgage applications received by creditors on or after April 1, 2011.