

**January 2013  
Federal Mandate Report**

July 1, 2012

To

December 31, 2012



**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 RISC, the required information was not provided in time for submission of the January - July 2012 report previously submitted by the OIA. The RISC information was received in December 2012. Therefore, Part III of this report includes reviews of federal regulatory action completed from January 1, 2012 to December 31<sup>st</sup> 2012.

This edition of the Federal Mandate Report is intended to provide an overview of the legislative requirements imposed upon the Commonwealth for the period of July 1, 2012 to December 31, 2012. Of the bills reviewed by the CBO, four have become public law, while three have passed at least one chamber of Congress. As noted

above, this edition provides information on regulatory requirements for the period of January - December 2012.

*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 2012, which are adjusted annually for inflation, are \$73 million for intergovernmental mandates (state, local, or tribal governments) and \$146 million or more per year for the private sector.

<b>Bill Number</b>	<b>Bill Title</b>	<b>Unfunded Mandate on the State</b>	<b>Bill Status</b>
H.R. 4310	National Defense Authorization Act	<p>The bill would impose intergovernmental and private-sector mandates as defined in UMRA on mortgage lending institutions. The bill would require mortgage lenders to consider active duty servicemembers who have been relocated to be occupying the residence that secures a mortgage for the purpose of inquiries or applications for refinancing. Because of the small number of public lending institutions that would be affected, CBO estimates that the costs of complying with the mandate would be small and well below the annual threshold established in UMRA for intergovernmental mandates (\$73 million in 2012, adjusted annually for inflation). Based on information about current industry practices, CBO estimates that the costs to private lending institutions of complying with the mandate would probably fall below the annual threshold established in UMRA for private-sector mandates (\$146 million in 2012, adjusted annually for inflation).</p> <p>Section 564 would preempt state laws governing child custody if those laws 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. While the mandate would limit the application of state laws, it would impose no duty on states that would result in additional spending.</p>	<p>3/29/2012 Introduced in the House</p> <p>5/18/2012 Passed the House 299-120 (Roll no. 291)</p> <p>Yeas: Cantor, Connolly, Forbes, Goodlatte, Hurt, Rigell, Wittman, Wolf</p> <p>Nays: Griffith, Moran, Scott</p> <p>12/12/2012 Passed the Senate by Voice Vote</p> <p>12/18/2012 Conference Report Filed</p> <p>12/20/2012 Conference Report passed in the House 315-107 (Roll no. 645)</p> <p>Yeas: Cantor, Connolly, Forbes, Goodlatte, Hurt, Moran, Rigell, Scott,</p>

			<p>Wittman, Wolf</p> <p>Nays: Griffith</p> <p>12/21/2012 Conference Report passed in the Senate 81-14</p> <p>Yeas: Webb, Warner</p> <p>1/2/2013 Became Public Law 112-239</p>
H.R. 6131	A bill to extend the Undertaking Spam, Spyware, and Fraud Enforcement with Enforcers beyond Borders Act of 2006, and for other purposes	<p>H.R. 6131 would impose intergovernmental mandates, as defined in the Unfunded Mandates Reform Act (UMRA), by extending preemptions of state and local laws that prohibit individuals from disclosing information to the FTC and that require individuals to notify third parties if they disclose information to the FTC. Under current law, the preemptions would expire at the end of 2013; the bill would extend them until September 30, 2020. While the preemptions would limit the application of state and local law, CBO estimates that they would impose no duty on state, local, or tribal governments that would result in additional spending.</p> <p>H.R. 6131 also would extend an existing mandate that exempts from liability private entities that voluntarily provide certain information about third parties to the FTC. The extension of such protections constitutes a mandate on those third-party entities because it limits their ability to file a claim for the disclosure or failure to provide notice of disclosure. The cost of the mandate would be the forgone net value of settlements and damages that would have been awarded. Based on information from the FTC, few such lawsuits would probably be filed. Therefore, CBO expects that the cost of the mandate would fall below the annual threshold for private-sector mandates established in UMRA (\$146 million, adjusted annually for inflation).</p>	<p>7/17/2012 Introduced in the House</p> <p>9/11/2012 Passed in the House by Voice Vote</p> <p>11/14/2012 Passed in the Senate (without amendment) by Voice Vote</p> <p>12/4/2012 Became Public Law 112-203</p>

H.R. 5949	FISA Amendments Act Reauthorization Act of 2012	<p>The bill would impose both private-sector and intergovernmental mandates by extending an existing mandate that would limit civil actions and require providers of communication services to provide information. There is little information about the prevalence of electronic surveillance in those cases or the scope or size of potential awards from such cases. Consequently, CBO cannot determine whether the costs of those mandates would exceed the annual threshold established by the Unfunded Mandates Reform Act (UMRA) for private-sector mandates (\$146 million in 2012, adjusted annually for inflation). However, few public entities receive requests for such information, and the costs on them would be small. The bill also would extend an existing preemption on state and local governments regarding legal rights of action. CBO estimates that the costs to public entities of all the intergovernmental mandates in the bill would be small and well below the annual threshold established in UMRA (\$73 million in 2012, adjusted annually for inflation).</p>	<p>6/15/2012 Introduced in the House</p> <p>9/12/2012 Passed in the House 301-118</p> <p>Yeas: Cantor, Connolly, Forbes, Goodlatte, Griffith, Hurt, Rigell, Wittman, Wolf</p> <p>Nays: Moran, Scott</p> <p>12/28/2012 Passed in the Senate 73-23</p> <p>Yeas: Webb, Warner</p> <p>12/30/2012 Became Public Law 112-238</p>
S. 710	Hazardous Waste Electronic Manifest Establishment Act	<p>The Act 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 act also would authorize EPA to require those facilities and any hazardous waste management facilities that use a paper system to submit a copy of the manifest to the electronic system established under the Act. The affected 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.</p> <p>The act also would authorize EPA to establish fees for users of the electronic manifest system, which could include those facilities that are required to submit a copy of a paper manifest. CBO estimates that such fees would total \$6 million or less annually beginning in fiscal year 2016.</p>	<p>3/31/2011 Introduced the Senate</p> <p>8/2/2011 Passed in the Senate by Unanimous Consent</p> <p>9/11/2012 Passed in the House by Voice Vote</p> <p>10/5/2012 Became Public Law 112-195</p>

**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 2012, which are adjusted annually for inflation, are \$73 million for intergovernmental mandates (state, local, or tribal governments) and \$146 million or more per year for the private sector.

Note: For the sake of congruity amongst the Federal Mandate Reports, we have not changed the title of this section. However, bills listed in this section are no longer pending, as they expired at the close of the 112<sup>th</sup> Congress. To be considered in the 113<sup>th</sup> Congress, this legislation must be reintroduced for consideration.

<b>Bill Number</b>	<b>Bill Title</b>	<b>Unfunded Mandate on the State</b>	<b>Bill Status</b>
H.R. 5651	Food and Drug Administration Reform Act of 2012	<p>By continuing FDA’s fee program, the bill would extend a requirement to pay fees on state, local, or tribal governments that manufacture medical devices for commercial purposes. That requirement would be an intergovernmental mandate as defined in UMRA, but CBO is unaware of any case in which a state, local, or tribal entity manufactures such devices for commercial purposes. CBO is aware of public institutions of higher education that manufacture drugs and are subject to FDA’s registration and inspection standards. Thus, the provisions in the bill that increase the stringency of those standards would impose an intergovernmental mandate. Because few public institutions of higher education would be required to comply with the new standards, CBO estimates that the costs of complying with the mandates in H.R. 5651 would be minimal and well below the threshold established in UMRA (\$73 million in 2012, adjusted annually for inflation).</p> <p>Because the bill’s requirements would result in lower costs for prescription drugs provided under the Medicaid program, CBO estimates that state spending for Medicaid would decrease by</p>	<p>5/9/2012 Introduced in the House</p> <p>5/30/2012 Passed in the House 387-5 (Roll No. 294)</p> <p>Yeas: Cantor, Connolly, Forbes, Goodlatte, Griffith, Hurt, Moran, Rigell, Scott Wittman, Wolf</p> <p>6/4/2012 Received in the Senate</p>

		<p>about \$6 million over the 2013-2017 period.</p> <p>The legislation contains several mandates on the private sector as defined in UMRA. The most costly of those mandates would require that manufacturers of branded prescription drugs, generic drugs, biosimilar biological products, and medical devices pay fees to FDA. CBO estimates that the direct cost of all private-sector mandates in the bill would greatly exceed the annual threshold specified in UMRA (\$146 million in 2012, adjusted annually for inflation) in each of the first five years that the mandates would be effective.<sup>11</sup> In addition to imposing an increase in fees, H.R. 5651 also would impose a number of other mandates on the private sector. For example, several provisions in the bill would grant periods of market exclusivity for certain types of drugs. Those provisions impose a mandate by preventing manufacturers of generic or biosimilar versions of the drug from entering the market during that period. The bill also would expand requirements relating to the approval of pediatric drugs and would expand registration requirements on certain entities involved in the manufacture, preparation, propagation, compounding, or processing of drugs. Title VIII also would authorize the Secretary of Health and Human Services to destroy certain drugs intended for import that are refused admission to the United States. Title IX would require that manufacturers of certain drugs notify the FDA before discontinuing production of those drugs.</p>	
H.R. 4078	Red Tape Reduction and Small Business Job Creation Act	H.R. 4078 would increase the costs of existing mandates as defined in UMRA on public and private entities that are required to pay fees assessed by federal and independent regulatory agencies. The bill would expand the scope of analyses that some federal and private regulators are required to conduct as a part of their rulemaking processes. Many of those regulators are authorized to collect fees sufficient to offset the cost of their activities and any new or additional fees would increase the costs	<p>2/17/2012 Introduced in the House</p> <p>7/26/2012 Passed in the House 245-172 (Roll No. 536)</p> <p>Yeas: Cantor, Forbes, Griffith Goodlatte, Hurt, Rigell, Wittman, Wolf</p>

		<p>of existing mandates. Based on information from the affected regulators, CBO estimates that the cost of implementing the additional regulatory activities would not be significant, and consequently, neither would subsequent increases in fees be significant. Therefore, CBO estimates that any additional costs would be small and would fall well below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$73 million and \$146 million in 2012, respectively, adjusted annually for inflation).</p> <p><b>Other Impacts</b> By delaying significant regulatory actions, the bill also could slow reimbursements and eliminate or change regulatory requirements. Such effects would not be mandates as defined in UMRA. Depending on the types and number of regulations affected, the costs and savings of those changes could be significant. However, CBO has no basis for estimating either the overall direction or magnitude of those effects on public or private entities because of uncertainty about the nature and number of regulations affected</p>	<p>Nays: Connolly, Moran, Scott</p> <p>7/31/2012 Placed on Senate Calendar</p>
H.R. 3409	Stop the War on Coal Act of 2012	<p>H.R. 3409 actually incorporated five separate bills as part of a broader package. Each measure will be evaluated separately in this section, but understand they are now a part of this singular piece of legislation, H.R. 3409. Only those incorporated bills with an unfunded mandate will be listed below.</p> <p><b>H.R. 910 Energy Tax Prevention Act of 2011</b> H.R. 910 contains an intergovernmental mandate as defined in UMRA because it would expand an existing preemption of state laws that regulate GHGs from motor vehicles. Under current law, California may obtain a waiver from EPA to establish its own standard for GHGs from motor vehicles. Once EPA has approved the waiver, other states may adopt the California standard. The bill would prevent EPA from approving such waivers, thus expanding</p>	<p>11/14/2011 Introduced in the House</p> <p>9/21/2012 Passed in the House 233-175 (Roll No. 603)</p> <p>Yeas: Cantor, Forbes, Goodlatte, Griffith, Hurt</p> <p>Nays: Connolly, Moran, Rigell, Scott, Wittman, Wolf</p> <p>11/13/2012 Received in the Senate</p>

		<p>the preemption. Although the preemption would limit the application of state law, CBO estimates that it would impose no duty on state governments that would result in additional spending.</p> <p><b>H.R. 2273 Coal Residuals Reuse and Management Act of 2011</b> 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. 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.</p>	
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### Part III - Federal Regulatory Mandates

The Regulatory Information Service Center of the General Services Administration identified 33 completed federal regulatory actions published within the time period January 2012 to December 31, 2012 that may affect states, many which may impact the Commonwealth of Virginia.

**TITLE: Disaster Declaration and Designation**

**RIN:** 0560-AH17

**AGENCY:** Department of Agriculture (USDA)

**ABSTRACT:** This action is complete. This rule clarified and simplified procedures for identifying disaster areas, reorganized provisions in a more logical manner, and removed administrative provisions. The rule updated regulations to match the current USDA structure. The final rule addressed comments and changes in response to comments, including clarification of the delegation of the designation authority from the Secretary to the State level, removed the requirement for a request for designation of a disaster area from a State Governor or Indian Tribal Council to the Secretary, added a simplified disaster designation in severe drought situations, and changed the USDA Secretarial disaster designation process from 6 steps to 2 steps for natural disasters, including certain other drought situations. This rule moved regulations used by the Farm Service Agency (FSA) from chapter XVIII of the Code of Federal Regulations, formerly used by the predecessor to FSA, the Farmers Home Administration, to chapter VII, the chapter where most FSA rules are located.

**TITLE: National Organic Program, (Tetracycline & Formic Acid & Attapulgate)**

**RIN:** 0581-AD15

**AGENCY:** Department of Agriculture (USDA)

**ABSTRACT:** This action is necessary for the following reasons: (i) extending the timeframe for the use of tetracycline in organic apple and pear production will provide time for the continuing development of viable alternatives for fire blight control; (ii) adding formic acid will offer effective varroa mite control in organic honey bee operations; and (iii) adding attapulgate will provide an alternative with properties preferable to a current National List material that is currently used for purification of plant and animal oils.

**TITLE: National Organic Program: Amendments to the National List (Methionine)**

**RIN:** 0581-AD18

**AGENCY:** Department of Agriculture (USDA)

**ABSTRACT:** The National Organic Program is

amending regulations pertaining to the National List of Allowed and Prohibited Substances. This change would extend the allowance for synthetic Methionine in organic poultry production at reduced maximum levels.

**TITLE: Disqualified Recipient Reporting and Computer Matching Requirements That Affect the Food Stamp Program**

**RIN:** 0584-AB51

**AGENCY:** Department of Agriculture (USDA)

**ABSTRACT:** This final rule describes requirements for State agencies to report information on individuals disqualified from the program for intentional program violations to FNS and codifies prisoner verification and death master file matching mandated by legislation and previously implemented through Agency directive. (89-010)

**TITLE: Revisions to the Turtle Excluder Device Requirements**

**RIN:** 0648-AV04

**AGENCY:** Department of Commerce (DOC)

**ABSTRACT:** With this action, the National Marine Fisheries Service (NMFS) announces that it is considering technical changes to the requirements for turtle excluder devices (TEDs), and to solicit public comment. Specifically, NMFS would modify the size of the TED escape opening currently required in the summer flounder fishery; require the use of TEDs in the whelk, calico scallop, and Mid-Atlantic scallop trawl fisheries; require the use of TEDs in flynets; and move the current northern boundary of the Summer Flounder Fishery-Sea Turtle Protection Area off Cape Charles, Virginia, to a point farther north.

**TITLE: Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 32**

**RIN:** 0648-AY56

**AGENCY:** Department of Commerce (DOC)

**ABSTRACT:** The main purpose of this amendment is to provide potential alternatives to end overfishing of gag, create a rebuilding plan for the gag stock that will restore the stock to its maximum sustainable yield level, and to minimize to the extent practicable discards and discard mortality. The amendment also

examines adjustments to red grouper annual catch limits and annual catch targets and determines whether management changes in the red grouper fishery are needed. The accountability measures adopted in Amendment 30B will also be reviewed for potential revisions. In addition to the typical management tools used to rebuild an overfished stock, such as bag limits, size limits, and closed seasons, this amendment examines various ways to meet the Council's goals including time and area closures, consideration of gear types in the commercial fishery, and in the recreational fishery a keep the first fish regardless of size and a fish tag program. Other data collection and accountability measures that will be explored in this document include recreational sector separation of the for-hire and private fishery, vessel monitoring system, telephone or Web-based reporting system, electronic logbooks, as well as grouper endorsements pending separation in the for-hire recreational sector.

**TITLE: Amendment to Regulations Under the Bottlenose Dolphin Take Reduction Plan**

**RIN:** 0648-BA34

**AGENCY:** Department of Commerce (DOC)

**ABSTRACT:** Serious injury and mortality of the Western North Atlantic bottlenose dolphin stocks incidental to Category I and II fisheries continue at levels potentially exceeding Potential Biological Removal (PBR) levels, requiring additional management measures under the Bottlenose Dolphin Take Reduction Plan (BDTRP). Therefore, this action amends the BDTRP to reduce serious injury and mortality of bottlenose dolphins in the Virginia pound net fishery (Category II) and mid-Atlantic gillnet fishery (Category I) in North Carolina, specifically, the spiny dogfish fishery. The need for this action is to ensure the BDTRP meets its MMPA mandated short and long-term goals. NMFS will examine a number of management measures, including consensus recommendations from the Bottlenose Dolphin Take Reduction Team, designed to reduce the incidental mortality or serious injury of bottlenose dolphins taken in both the Virginia pound net fishery and spiny dogfish fishery in North Carolina to below PBR, as well as other updates supporting the objectives of the BDTRP.

**TITLE: National Saltwater Angler Registry and State Exemption Program**

**RIN:** 0648-BB49

**AGENCY:** Department of Commerce (DOC)

**ABSTRACT:** This rule implements the National Saltwater Angler Registry and State Exemption Program to: (1) eliminate duplicative permitting and

registration requirements for holders of Main Hawaiian Islands Non-commercial Bottomfish Permits; (2) provide that states that exempt minors under the age of 17 from the state license or registration requirements will be eligible for Exempted State designation; (3) allow for the designation of the U.S. Virgin Islands as an Exempted State under the qualifying regional survey option of the rule; and (4) clarify and update various provisions of the rule that are necessary to assure that the intent of the rule is accurately reflected in its language and that clarify provisions of the rule that have been misunderstood.

**TITLE: Effective Date of Requirement for Premarket Approval for Two Class III Preamendments Devices**

**RIN:** 0910-AG78

**AGENCY:** Department of Health and Human Services (HHS)

**ABSTRACT:** The Food and Drug Administration is proposing to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the following two class III preamendments devices: (1) hip joint metal/metal semi-constrained, with an uncemented acetabular component, prosthesis, and (2) hip joint metal/metal semi-constrained, with a cemented acetabular component, prosthesis.

**TITLE: Administrative Simplification: Standard Unique Identifier for Health Plans and ICD-10 Compliance Date Delay (CMS-0040-F)**

**RIN:** 0938-AQ13

**AGENCY:** Department of Health and Human Services (HHS)

**ABSTRACT:** This rule implements provisions of the Affordable Care Act of 2010 under Administrative Simplification that establish a unique health plan identifier. This health plan identifier will be used to identify health plans in HIPAA standard transactions. The rule also finalizes a delay to comply with ICD-10.

**TITLE: Medicaid and Children's Health Insurance Programs; Disallowance of Claims for FFP and Technical Corrections (CMS-2292-F)**

**RIN:** 0938-AQ32

**AGENCY:** Department of Health and Human Services (HHS)

**ABSTRACT:** This rule will: (1) implement a new reconsideration process for administrative determinations to disallow claims for Federal financial participation (FFP) under Medicaid; (2) lengthen the time States have to credit the Federal

Government for identified but uncollected Medicaid provider overpayments; (3) make conforming changes to the Medicaid and Children's Health Insurance Program (CHIP) disallowance process to allow States the option to retain disputed Federal funds through the new administrative reconsideration process; (4) revise installment repayment standards and schedules for States that owe significant amounts; (5) clarify that interest charges may accrue during the new administrative reconsideration process if a State chooses to retain the funds during that period.

**TITLE: Payments for Services Furnished by Certain Primary Care Physicians and Charges for Vaccine Administration Under the Vaccines for Children Program(CMS-2370-F)**

**RIN:** 0938-AQ63

**AGENCY:** Department of Health and Human Services (HHS)

**ABSTRACT:** This rule implements Medicaid payment for primary care services furnished by certain physicians in calendar years 2013 and 2014. The rule specifies which services and types of physicians qualify for the minimum payment level, the method for calculating the payment amount, and any increase for which increased Federal funding is due. In addition, this rule updates the interim regional maximum fees that providers may charge for the administration of pediatric vaccines to federally vaccine-eligible children under the Pediatric Immunization Distribution Program, more commonly known as the Vaccines for Children (VFC) program.

**TITLE: Medicare and Medicaid Electronic Health Record Incentive Program--Stage 2 (CMS-0044-F)**

**RIN:** 0938-AQ84

**AGENCY:** Department of Health and Human Services (HHS)

**ABSTRACT:** The final rule expands the criteria for meaningful use established for Stage 1 to advance the use of certified EHR technology by eligible professionals, eligible hospitals and critical access hospitals (CAHs). This rule is economically significant. The rule establishes the requirements for Stage 2, which encourages the use of continuous quality improvement at the point of care, and the exchange of information in the most structured format possible. For example, the electronic transmission of orders entered using computerized provider order entry, and the electronic transmission of diagnostic test results.

**TITLE: Debt Collection and Administrative Offset for Monies Due the Federal Government**

**RIN:** 1012-AA03

**AGENCY:** Department of the Interior (DOI)

**ABSTRACT:** Current Office of Natural Resources Revenue (ONRR) regulations do not contain a debt collection rule as required by the Federal Claims Collection Act of 1966 (Pub. L. 89-508, 80 Stat. 308), as amended by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996. This rulemaking will satisfy these statutory requirements and include provisions for administrative offset.

**TITLE: Update of Mailing Addresses and Mail Stops**

**RIN:** 1012-AA10

**AGENCY:** Department of the Interior (DOI)

**ABSTRACT:** The Secretary of the Interior created the Office of Natural Resources Revenue (ONRR) out of the former Minerals Management Service. This change required ONRR's reorganization of its regulations. This rule amends the mailing addresses and mail stops for ONRR to reflect the reorganization.

**TITLE: Migratory Bird Hunting; 2012-2013 Migratory Game Bird Hunting Regulations**

**RIN:** 1018-AX97

**AGENCY:** Department of the Interior (DOI)

**ABSTRACT:** We issue annual hunting regulations for certain migratory game birds for the 2012-13 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 2012-13 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, 2012-2013**

**RIN:** 1018-AY37

**AGENCY:** Department of the Interior (DOI)

**ABSTRACT:** We finalized revisions to our refuge-specific regulations for the 2012-2013 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: Delaying the Compliance Date for Certain Requirements of the Regulations Implementing Titles II and III of the Americans with Disabilities Act**

**RIN:** 1190-AA69

**AGENCY:** Department of Justice (DOJ)

**ABSTRACT:** This rule made January 31, 2013, the date for compliance with certain requirements in the 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design that relate to provision of accessible entry and exit for existing swimming pools and spas.

**TITLE: Section 42 Qualified Contract Provisions**

**RIN:** 1545-BD20

**AGENCY:** Department of the Treasury (TREAS)

**ABSTRACT:** This proposed regulation under sections 42(h)(6)(F) and 42(h)(6)(K) will provide guidance for provisions relating to qualified contracts.

**TITLE: Removal of Regulations Requiring 3 Percent Withholding by Government Entities**

**RIN:** 1545-BK83

**AGENCY:** Department of the Treasury (TREAS)

**ABSTRACT:** Final regulations are being removed because legislation entitled "The 3 Percent Withholding Repeal and Job Creation Act" repealed the provision of the Internal Revenue Code underlying the regulations before the provision became effective.

**TITLE: Race to the Top--Early Learning Challenge Phase 2**

**RIN:** 1810-AB15

**AGENCY:** Department of Education (ED)

**ABSTRACT:** The Secretary of Education and the Secretary of Health and Human Services issues final requirements for Phase 2 of the Race to the Top--Early Learning Challenge program. We take this action to establish the information and assurances that eligible applicants must provide in order to receive funding under the Race to the Top--Early Learning Challenge Phase 2 award process.

**TITLE: Test Procedures for Residential Dishwashers, Dehumidifiers, and Conventional Cooking Products--Standby and Off Mode**

**RIN:** 1904-AC01

**AGENCY:** Department of Energy (DOE)

**ABSTRACT:** Section 310 of the Energy Independence and Security Act of 2007 amends the Energy Policy and Conservation Act to require the test procedure for dishwashers, ranges and ovens, and dehumidifiers to be amended to include standby mode and off mode energy consumption. DOE is also considering amendments to active mode test procedures.

**TITLE: Hazardous Chemical Reporting; Community Right-to-Know; Revisions to the Emergency and Hazardous Chemical Inventory Forms (Tier I and Tier II)**

**RIN:** 2050-AG64

**AGENCY:** Environmental Protection Agency (EPA)

**ABSTRACT:** The Agency revised the Emergency and Hazardous Chemical Inventory Forms (Tier I and II) rule under Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA) to require additional data elements and revise some existing data elements. State and local implementing agencies requested that EPA add the new data elements since the additional information would be useful to develop or modify their community emergency response plans. EPA also revised some existing data elements in the chemical reporting section of the Tier II inventory form to make reporting easier for facilities and make the form more user-friendly for state and local officials.

**TITLE: Risk and Technology Review for National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry**

**RIN:** 2060-AQ41

**AGENCY:** Environmental Protection Agency (EPA)

**ABSTRACT:** Section 112(f)(2) of the Clean Air Act (CAA) directs EPA to conduct risk assessments on each source category subject to maximum achievable control technology (MACT) standards, and to determine if additional standards are needed to reduce residual risks, to be completed 8 years after promulgation. Section 112(d)(6) of the CAA requires EPA to review and revise the MACT standards as necessary, taking into account developments in practices, processes and control technologies, to be done at least every 8 years. The National Emission Standards for Hazardous Air Pollutant (NESHAP) for the Pulp and Paper Industry (subpart S) was promulgated in 1998 and also has not been reviewed; this action finalized those amendments.

**TITLE: Portland Cement Manufacturing National Emission Standard for Hazardous Air Pollutants (NESHAP) and New Source Performance Standard (NSPS)--Proposed Amendments as a Result of Reconsideration**

**RIN:** 2060-AQ93

**AGENCY:** Environmental Protection Agency (EPA)

**ABSTRACT:** On September 9, 2010, EPA promulgated final amendments to the Portland cement National Emission Standard for Hazardous Air Pollutants (NESHAP) and New Source Performance Standard (NSPS) rules regulating emissions of air toxics and criteria pollutants. These amendments applied to all cement kilns that do not burn waste materials. (Cement kilns that burn waste are regulated by separate rules covering hazardous waste combustors and commercial and industrial solid waste incinerators). Subsequent to promulgation of the September 9 rule, we received four petitions for reconsideration, two from environmental groups and two from the Portland cement industry. We issued a notice denying in part and granting in part the petitions for reconsideration on May 17, 2011. We also entered into a settlement agreement with the Portland Cement Association related to proposing a compliance extension for the rule. The proposed amendments were published on July 18, 2012 and would adjust the way cement kilns continuously monitor particulate matter (PM) emissions, would adjust certain emissions limits, would revise monitoring and recordkeeping requirements, and would extend the compliance deadline for existing kilns. The comment period ended August 17, 2012 and under the settlement agreement, the final rule amendments are scheduled for promulgation on December 20, 2012.

**TITLE: Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule Step 3 and GHG Plantwide Applicability Limits**

**RIN:** 2060-AR10

**AGENCY:** Environmental Protection Agency (EPA)

**ABSTRACT:** This final rule fulfilled our commitment made in the Final Tailoring Rule, which stated that we would finalize a third step of the phase-in approach. This phase-in approach is designed to relieve the resource burdens by phasing in the applicability of greenhouse gas sources to the Prevention of Deterioration (PSD) and Title V (TV) programs of the Clean Air Act (CAA).

**TITLE: National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters; Reconsideration**

**RIN:** 2060-AR13

**AGENCY:** Environmental Protection Agency (EPA)

**ABSTRACT:** On March 21, 2011, EPA issued a final rule establishing standards for emissions of hazardous air pollutants (HAP) from boilers and process heaters located at major sources of HAP. EPA also issued on March 21, 2011 a Notice of Reconsideration listing issues that additional opportunity for public review and comment should be provided. Subsequently, EPA received more than 25 petitions to reconsider, clarify, and amend certain provisions of the final rule. On December 23, 2011, EPA proposed amendments to the final standards after analyzing the information submitted in the petitions. This action will finalize the reconsideration of the Boiler MACT.

**TITLE: National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers; Reconsideration and Final Rule Amendments**

**RIN:** 2060-AR14

**AGENCY:** Environmental Protection Agency (EPA)

**ABSTRACT:** On March 21, 2011, EPA issued a final rule establishing standards for emissions of hazardous air pollutants from boilers located at area sources. EPA also issued on March 21, 2011 a Notice of Reconsideration listing four issues for which additional opportunity for public review and comment should be obtained. Subsequently, we received petitions to reconsider and clarify and amend certain applicability and implementation provisions of the final rule. We completed the proposed reconsideration amendments on December 23, 2011. This action will take final action on those amendments.

**TITLE: Synchronizing the Expiration Dates of the Pesticide Applicator Certificate With the Underlying State or Tribal Applicator Certificate**

**RIN:** 2070-AJ77

**AGENCY:** Environmental Protection Agency (EPA)

**ABSTRACT:** Applicators of restricted-use pesticides (RUP) can be certified by States, Tribes, or non-EPA Federal agencies that have an EPA-approved certification plan (authorized agencies). As part of a Federal Plan, pesticide applicators may be issued an EPA certificate which allows them to apply RUPs in areas not covered by an authorized agency (e.g., parts of Indian Country) by submitting an application form and providing documentation of an existing valid

certification issued by an authorized agency, without further demonstration of competency. The EPA certificate is valid for 2 years for commercial applicators and 3 years for private applicators, or until the expiration date of the original certificate issued by the authorized agencies, whichever occurs first. Some authorized agencies now issue certificates that are valid for up to 5 years. Under the current regulations, the EPA certificate may expire before the expiration of the underlying certificate that it was based on, thereby requiring the applicator to resubmit the same information to EPA, showing no new demonstration of competency, in order to renew the EPA certificate. Through this action, EPA will synchronize the expiration dates so that the EPA certificate expires at the same time as the underlying State, tribal, or non-EPA Federal certificate. This action did not involve any other substantive changes to the regulations.

**TITLE: Housing Trust Fund (FR-5405)**

**RIN:** 2506-AC23 (Merged with 2506-AC30)

**AGENCY:** Department of Housing and Urban Development (HUD)

**ABSTRACT:** The Housing and Economic Recovery Act of 2008 (HERA) establishes a Housing Trust Fund to be administered by HUD. The purpose of the Housing Trust Fund is to provide grants to States to increase and preserve the supply of rental housing for extremely low- and very low-income families, including homeless families, and to increase homeownership for extremely low- and very low-income families. On December 4, 2009, HUD published a separate proposed rule to establish the allocation formula for the distribution of Housing Trust Fund grants to states. On October 29, 2010, HUD published for public comment the regulations that will govern the Housing Trust Fund. Consistent with HUD's prior agenda descriptions regarding this rulemaking, HUD will issue a single final rule for both of these proposed rules.

**TITLE: Criminal History Checks: AmeriCorps State/National, Senior Companions, Foster Grandparents, and Retired Senior Volunteer Program**

**RIN:** 3045-AA56

**AGENCY:** Corporation for National and Community Service (CNCS)

**ABSTRACT:** This rule amends the current criminal history check procedures for grantees by requiring them to conduct a "heightened check" on individuals who are hired by, or enrolled in, a program on or after April 21, 2011, and who have recurring access to vulnerable populations. This heightened check

includes (1) a National Sex Offender Public Website (NSOPW) check; (2) a state repository check; and (3) an FBI fingerprint check.

**TITLE: Receipts-Based Small Business Size Standard [NRC-2012-0062]**

**RIN:** 3150-AJ14

**AGENCY:** Nuclear Regulatory Commission (NRC)

**ABSTRACT:** The direct final rule amends the Commission's regulations by increasing the receipts-based small business size standard from \$6.5 million to \$7 million to conform to the standard set by the Small Business Administration (SBA).

**TITLE: State Official Notification Rule**

**RIN:** 3170-AA02

**AGENCY:** Consumer Financial Protection Bureau (CFPB)

**ABSTRACT:** The CFPB adopted its State Official Notification Rule as a final rule effective on June 29, 2012. The rule was issued pursuant to section 1042(b) and (c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), and governs the process by which state officials notify the CFPB of actions undertaken pursuant to section 1042(a) of the Dodd-Frank Act.