

references “§§ 917.16 and 917.21,” and suspend the section indefinitely.

**§ 917.29 [Amended]**

20. In § 917.29, lift the suspension of April 4, 1994 (59 FR 10055), remove the words “and of the Peach Commodity Committee” and “each” from paragraph (b), remove the final sentence of paragraph (d), and suspend the section indefinitely.

**§§ 917.30 through 917.33 [Suspended]**

21. Sections 917.30 through 917.33 are suspended indefinitely.

**§ 917.36 [Suspended]**

22. Section 917.36 is suspended indefinitely.

**§ 917.34 [Amended]**

23. In § 917.34, lift the suspension of April 4, 1994 (59 FR 10055), remove the references “§§ 917.21 and 917.22” in paragraph (k) and add in their place the references “§ 917.21,” and suspend the section indefinitely.

**§ 917.35 [Amended]**

24. In § 917.35, lift the suspension of April 4, 1994 (59 FR 10055), remove the words “Peach and” and “each” wherever they appear in paragraph (a), remove the final sentence of paragraph (d), and suspend the section indefinitely.

**§ 917.37 [Amended]**

25. In § 917.37, remove the final three sentences of paragraph (b) and suspend the section indefinitely.

**§§ 917.38 through 917.43 [Suspended]**

26. Sections 917.38 through 917.43 are suspended indefinitely.

**§ 917.45 [Suspended]**

27. Section 917.45 is suspended indefinitely.

**§ 917.50 [Suspended]**

28. Section 917.50 is suspended indefinitely.

**§§ 917.60 through 917.69 [Suspended]**

29. Sections 917.60 through 917.69 are suspended indefinitely.

**§ 917.100 [Amended]**

30. In § 917.100, lift the suspension of April 4, 1994 (59 FR 10055), remove the words “and peaches,” and suspend the section indefinitely.

**§§ 917.101 through 917.115 [Suspended]**

31. Sections 917.101 through 917.115 are suspended indefinitely.

**§ 917.119 [Amended]**

32. In § 917.119, remove paragraph (a), redesignate paragraphs (b) through (e) as paragraphs (a) through (d), and suspend the section indefinitely.

**§ 917.122 [Suspended]**

33. Section 917.122 is suspended indefinitely.

**§ 917.143 [Amended]**

34. In § 917.143, lift the suspension of April 4, 1994 (59 FR 10055); remove the words “and peaches” from paragraph (b) introductory text and from paragraphs (b)(1), (b)(2), and (b)(4); remove the words “and 200 pounds of peaches” from paragraph (b)(3); and suspend the section indefinitely.

**§ 917.150 [Removed]**

35. Remove § 917.150.

**§ 917.258 [Removed]**

36. Remove § 917.258.

**§ 917.259 [Removed]**

37. Remove § 917.259.

**§ 917.442 [Removed]**

38. Remove § 917.442.

**§ 917.459 [Removed]**

39. Remove § 917.459.

Dated: May 24, 2011.

**Rayne Pegg,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2011–13498 Filed 6–1–11; 8:45 am]

**BILLING CODE 3410–02–P**

**SOCIAL SECURITY ADMINISTRATION**

**20 CFR Chapter III**

[Docket No. SSA–2011–0042]

**Retrospective Review Under E.O. 13563**

**AGENCY:** Social Security Administration.  
**ACTION:** Request for information.

**SUMMARY:** In accordance with Executive Order (E.O.) 13563, “Improving Regulation and Regulatory Review,” we are announcing that our preliminary plan for retrospective review is available for public comment. We are now requesting comments on the plan.

**DATES:** To be sure that we consider your comments, we must receive them by June 27, 2011.

**ADDRESSES:** Please send your comments to [RegsReview@ssa.gov](mailto:RegsReview@ssa.gov).

**FOR FURTHER INFORMATION CONTACT:** Martin Sussman, Senior Advisor for Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1767. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:** On January 18, 2011, the President issued E.O. 13563, “Improving Regulation and Regulatory Review,” which requires Federal agencies to develop a preliminary plan to “periodically review its existing significant regulations” (section 6(b)). On January 25, 2011, we issued a press release and posted information on our Open Government Web site requesting public comment about which of our regulations we should review to ensure they are not outmoded, ineffective, insufficient, or excessively burdensome.

We developed a preliminary plan for retrospective review and submitted it to the Office of Information and Regulatory Affairs in the Office of Management and Budget. The plan focuses on our process for updating the Listing of Impairments (Listings) that we use to evaluate disability claims under titles II and XVI of the Social Security Act (Act). The listings are examples of impairments that we consider severe enough to prevent an adult from doing any gainful activity or that we consider severe enough to result in marked and severe functional limitations for a child seeking SSI payments. The plan also includes two initiatives to reduce paperwork burdens on the public imposed by certain agency regulations.

We have posted the preliminary plan on our Open Government Web site, <http://www.socialsecurity.gov/open/regsreview>, and are now requesting public comments on the plan. Please note that in this notice, we are not requesting comments on the content of the Listings, but rather on the plan itself, which describes our process for updating the Listings. We will carefully review all comments, but we will not respond to them individually.

Dated: May 25, 2011.

**Dean Landis,**

*Deputy Chief of Staff, Social Security Administration.*

[FR Doc. 2011–13620 Filed 6–1–11; 8:45 am]

**BILLING CODE 4191–02–P**

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**29 CFR Part 1602**

**RIN 3046–AA89**

**Recordkeeping and Reporting Requirements Under Title VII, the ADA, and GINA**

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Equal Employment Opportunity Commission (“EEOC” or “Commission”) proposes to extend its existing recordkeeping requirements under title VII of the Civil Rights Act of 1964 (Title VII) and the Americans with Disabilities Act (ADA) to entities covered by title II of the Genetic Information Nondiscrimination Act of 2008 (“GINA”), which prohibits employment discrimination based on genetic information.

**DATES:** Written comments must be received on or before August 1, 2011. Pursuant to 42 U.S.C. 2000e–8(c), a public hearing concerning these proposed changes will be held at a place and time to be announced.

**ADDRESSES:** Send written comments by mail to Stephen Llewellyn, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street, NE., Suite 6NE03F, Washington, DC 20507. Written comments of six or fewer pages may be faxed to the Executive Secretariat at (202) 663–4114. (There is no toll free FAX number.) Receipt of facsimile transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TTY). (These are not toll free numbers.) In lieu of sending written comments, comments may be submitted to EEOC electronically on the Federal eRulemaking Portal: <http://www.regulations.gov>. After accessing this Web site, follow its instructions for submitting comments.

All comments received will be posted without change to <http://www.regulations.gov>, including any personal information you provide. Copies of the received comments also will be available for inspection in the EEOC Library by advance appointment only, from 9 a.m. to 5 p.m., Monday through Friday except legal holidays. Persons who schedule an appointment in the EEOC Library and need assistance to view the comments will be provided with appropriate aids upon request, such as readers or print magnifiers. To schedule an appointment to inspect the comments at the EEOC Library, contact the EEOC Library by calling (202) 663–4630 (voice) or (202) 663–4641 (TTY). (These are not toll free numbers.)

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Schlageter, Assistant Legal Counsel, (202) 663–4668, or Erin N. Norris, Senior Attorney, (202) 663–4876, Office of Legal Counsel, 131 M Street, NE., Washington, DC 20507. Copies of this notice are available in the following alternate formats: Large print, braille,

electronic computer disk, and audio tape. Requests for this notice in an alternative format should be made to the Publications Center at 1–800–699–3362 (voice), 1–800–800–3302 (TTY), or 703–821–2098 (FAX—this is not a toll free number).

**SUPPLEMENTARY INFORMATION:** On May 21, 2008, President George W. Bush signed the Genetic Information Nondiscrimination Act of 2008 (“GINA”) into law. Title II of GINA protects job applicants, current and former employees, labor union members, and apprentices and trainees from discrimination based on their genetic information. Title II of GINA’s coverage corresponds with that of title VII of the Civil Rights Act of 1964, as amended, covering employers with 15 or more employees, employment agencies, labor unions, and joint labor-management training programs, as well as Federal sector employers. Title II became effective on November 21, 2009. EEOC has issued interpretive regulations under GINA (See 75 FR 68912). Further, EEOC issued a final rule implementing changes to its administrative and procedural regulations in a separate notice found at 74 FR 63981. In the current rulemaking, EEOC is proposing to amend its recordkeeping regulations to add references to GINA. Neither EEOC’s existing recordkeeping regulations nor this proposal requires creation of any documents. The proposed change would impose the same record retention requirements under GINA that are imposed under Title VII and the ADA, *i.e.*, any records made or kept must be retained for the period of time specified in the Title VII and ADA regulations.

The EEOC proposal does not impose any reporting requirements under GINA, but reserves the right in the future to issue reporting regulations as may be necessary to accomplish the purposes of GINA.

Persons wishing to present their views orally should notify the Commission of their desire to do so in writing no later than July 5, 2011 with a request to Stephen Llewellyn, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street, NE., Suite 6NE03F, Washington, DC 20507. The request should include a written summary of the remarks to be offered.

### Regulatory Procedures

#### *Executive Orders 12866 and 13563*

The Commission has complied with the principles in section 1(b) of Executive Order 12866, Regulatory Planning and Review, as supplemented

by Executive Order 13563, Improving Regulation and Regulatory Review. This rule is not a “significant regulatory action” under section 3(f) of the Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of the Order.

#### *Paperwork Reduction Act*

These proposed changes to EEOC’s existing regulations contain information collection requirements subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act. It is estimated that the public recordkeeping burden will not increase significantly as a result of the amendments because all employers affected by them are already required to retain all personnel or employment records that they make or keep for one year, and the only new requirement is that they retain those records relevant to a charge of discrimination filed under GINA until the charge is resolved. As required by the Paperwork Reduction Act, the Equal Employment Opportunity Commission is submitting to the Office of Management and Budget a request for approval of these information collection requirements under section 3507(d) of the Act. Organizations or individuals desiring to submit comments for consideration by OMB on these information collection requirements should address them to Chad Lallemand in the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or by e-mail to

*Chad A. Lallemand@omb.eop.gov*.

**Collection title:** Recordkeeping under Title VII, the ADA, and GINA.

**OMB number:** 3046–0040.

**Description of affected public:**

Employers with 15 or more employees are subject to Title VII, the ADA, and GINA.

**Number of respondents:** 899,580.

**Reporting hours:** Not applicable.

**Number of forms:** None.

**Federal cost:** None.

**Abstract:** Section 207 of GINA, 42 U.S.C. 2000ff *et seq.*, incorporates the powers, procedures, and remedies found in section 709 of Title VII. Section 709(c) of Title VII, 42 U.S.C. 2000e–8(c), requires the Commission to establish regulations pursuant to which employers subject to the Act shall preserve certain records to assist the EEOC in assuring compliance with the Act’s nondiscrimination in employment requirements. Any of the records maintained which are subsequently

disclosed to the EEOC during an investigation are protected from public disclosure by the confidentiality provisions of sections 706(b) and 709(e) of Title VII. EEOC has issued recordkeeping regulations under Title VII and the ADA which require all covered entities to maintain all employment and personnel records they make or keep for a period of one year and all records relevant to a Title VII or ADA charge until the charge is resolved. The proposed revision will extend these same requirements to records relevant to a GINA charge.

*Burden statement:* This recordkeeping requirement does not require reports or the creation of new documents; it merely requires retention of documents that the employer has already made or kept, and the burden imposed by these regulations is therefore minimal. An employer subject to the existing requirement in 29 CFR part 1602 currently must retain all personnel or employment records made or kept by that employer for one year, and must retain any records relevant to charges filed under Title VII or the ADA until final disposition of those matters, which may be longer than one year. This proposed rulemaking would require employers to also retain documents relevant to charges filed under GINA until final disposition of those charges.

#### *Existing Burdens Prior to Change*

##### *—Establishing Recordkeeping System:*

There are 899,580 employers subject to the recordkeeping requirement in Part 1602. The currently approved Title VII and ADA recordkeeping requirement in Part 1602 imposes a total burden on covered employers in the aggregate of approximately 16,002 hours, which represents the aggregated time that must be spent by all new firms taken together to ensure that their record maintenance systems comply with EEOC's recordkeeping requirements. Based on the fact that these regulations do not require employers to create any records and do not impose any reporting requirements, but merely require employers to maintain the records that they do create, we estimate that it would take each new firm ten minutes or less to comply. Established firms bear no burden under this analysis, because their systems for retaining Title VII and ADA records are already in place.

##### *—Retention of Records When Charge Is Filed:*

For firms that have recordkeeping systems in place, the fact that a Title VII or ADA charge is filed should not impose any additional burden, because we

assume that employers set up their recordkeeping systems in such a way as to ensure that records related to a charge are retained in accordance with EEOC regulations.

#### *Effect of Proposed Change on Existing Burdens*

##### *—Establishing Recordkeeping System:*

There will be no increase in the existing burden as a result of this proposed change. As stated above, established firms bear no burden because their systems for retaining employment records under Title VII and ADA records are already in place. The burden imposed upon new firms created after the proposed regulatory change becomes effective would be the same as the burden shouldered by new firms prior to the change because it will take no longer to set up a recordkeeping system to retain records relevant to Title VII, ADA, and GINA charges than it did to set up a recordkeeping system to retain records relevant to Title VII and ADA charges. Consequently, the aggregate burden for new firms of establishing a compliant recordkeeping system remains at 16,002 hours.

##### *—Retention of Records When Charge Is Filed:*

The only employers who may be subject to an increased burden are those existing firms that become parties to charges filed under GINA and must therefore ensure that relevant records are retained until the final disposition of the charges. We estimate that an employer that is a party to a GINA charge will need less than ten minutes to ensure that its previously existing system of retaining records pertinent to charges filed under Title VII and the ADA is revised to retain records relating to charges filed under GINA (based upon our estimate that a new firm would need 10 minutes to set up its recordkeeping system to comply with EEOC regulations). Assuming that 200 GINA charges will be filed and using a burden estimate of 10 minutes per charge, the annual aggregate burden would increase by only about 33 hours. This estimated increase is most likely higher than the actual burden because approximately 75 percent of all charges filed under GINA in the last fiscal year were also filed under the ADA. In other words, employers would have been required to maintain the records relevant to 75 percent of the GINA charges under the existing recordkeeping requirements because those records were relevant to ADA charges.

Pursuant to the Paperwork Reduction Act of 1995, and OMB regulation 5 CFR 1320.8(d)(1), the Commission solicits public comment to enable it to:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the Commission's functions, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### *Regulatory Flexibility Act*

Title II of GINA applies to all employers with fifteen or more employees, approximately 822,000 of which are small firms (entities with 15–500 employees) according to data provided by the Small Business Administration Office of Advocacy. See *Firm Size Data* at <http://sba.gov/advo/research/data.html#us>. We estimate that there will be 200 new charges filed under GINA per year. We estimate that typical human resources professionals will need to dedicate no more than ten minutes per charge to satisfy the requirements of the amended regulation by altering the employer's record retention system to retain any personnel documents relevant to a charge of discrimination under GINA until the resolution of the matter. We further estimate that the median hourly pay rate of an HR professional is approximately \$46.40. See Bureau of Labor Statistics, *Occupational Employment and Wages, May 2009* at <http://www.bls.gov/oes/current/oes113049.htm>. Even assuming that every one of the estimated 200 GINA charges is filed against a small business, EEOC does not believe that a cost of approximately \$7.73 per charge will be significant for the impacted small entities. Further, if each of the 200 GINA charges was filed against a different small entity, 200 affected firms out of 822,000 is not a substantial number of small firms. Accordingly, the Commission certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because any burden it may impose on

business entities is minimal. For this reason, a regulatory flexibility analysis is not required.

#### *Unfunded Mandates Reform Act of 1995*

This final rule will not result in the expenditure by State, local, or Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### *Congressional Review Act*

This action does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

#### **List of Subjects in 29 CFR Part 1602**

Administrative practice and procedure, Equal Employment Opportunity.

For the Commission.

Dated: May 25, 2011.

**Jacqueline A. Berrien,**  
Chair.

Accordingly, part 1602 is proposed to be amended as follows:

#### **PART 1602—RECORDKEEPING AND REPORTING REQUIREMENTS UNDER TITLE VII, THE ADA, AND GINA**

1. The authority citation for part 1602 continues to read as follows:

**Authority:** 42 U.S.C. 2000e–8, 2000e–12; 44 U.S.C. 3501 *et seq.*; 42 U.S.C. 12117; 42 U.S.C. 2000ff–6.

2. Amend Part 1602 by removing the words “title VII or the ADA” and adding in their place the words “title VII, the ADA, or GINA” in the following places:

- § 1602.14;
- § 1602.21(b);
- § 1602.28(a);
- § 1602.31.

[FR Doc. 2011–13629 Filed 6–1–11; 8:45 am]

**BILLING CODE 6570–01–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

[Docket No. USCG–2011–0125]

RIN 1625–AA11

#### **Regulated Navigation Area; Magothy River, Sillery Bay, MD**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary regulated navigation area (RNA) in certain waters of the Magothy River, in Sillery Bay, Maryland, on July 23, 2011. This RNA is necessary to provide for the safety of life, property and the environment. This RNA restricts the movement of vessels throughout the regulated area during The Bumper Bash 2011 event.

**DATES:** Comments and related material must be received by the Coast Guard on or before July 5, 2011. Requests for public meetings must be received by the Coast Guard on or before the end of the comment period.

**ADDRESSES:** You may submit comments identified by docket number USCG–2011–0125 using any one of the following methods:

(1) *Federal eRulemaking Portal:*

*http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail Mr. Ronald Houck, Sector Baltimore Waterways Management Division, Coast Guard; telephone 410–576–2674, e-mail *Ronald.L.Houck@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

## **SUPPLEMENTARY INFORMATION:**

### **Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

### **Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–0125), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu select “Proposed Rule” and insert “USCG–2011–0125” in the “Keyword” box. Click “Search” then click on the balloon shape in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

### **Viewing Comments and Documents**

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, click on the