Monday,
December 20, 2010

Part XI

Department of Justice

Semiannual Regulatory Agenda
DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE  
8 CFR Ch. V  
21 CFR Ch. I  
27 CFR Ch. II  
28 CFR Ch. I, V  

Regulatory Agenda  
AGENCY: Department of Justice.  
ACTION: Semiannual regulatory agenda.  

SUMMARY: The Department of Justice is publishing its fall 2010 regulatory agenda pursuant to Executive Order 12866 “Regulatory Planning and Review,” 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. 12866 “Regulatory Planning and Review.” Because publication in the Federal Register, as in past years, including the Department of Justice’s regulatory plan.

Dated: September 15, 2010
Christopher H. Schroeder,  
Assistant Attorney General, Office of Legal Policy.

Civil Rights Division—Completed Actions

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
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<tbody>
<tr>
<td>393</td>
<td>Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities (Rulemaking Resulting From a Section 610 Review)</td>
<td>1190–AA44</td>
</tr>
<tr>
<td>394</td>
<td>Nondiscrimination on the Basis of Disability in State and Local Government Services (Rulemaking Resulting From a Section 610 Review)</td>
<td>1190–AA46</td>
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Department of Justice (DOJ)  
Civil Rights Division (CRT)

393. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)  
Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 12186(b)  
Abstract: In 1991, the Department of Justice published regulations to implement title III of the Americans With Disabilities Act of 1990 (ADA). Those regulations include the ADA Standards for Accessible Design, which establish requirements for the design and construction of accessible facilities that are consistent with the ADA Accessibility Guidelines (ADAAG) published by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). In the time since the regulations became effective, the Department of Justice and the Access Board have each gathered a great deal of information regarding the implementation of the Standards. The Access Board began the process of revising ADAAG a number of years ago. It published new ADAAG in final form on July 23, 2004, after having published guidelines in proposed form in November 1999 and in draft final form in April 2002. In order to maintain consistency between ADAAG and the ADA Standards, the Department is reviewing its title III regulations and expects to propose, in one or more stages, to adopt revised ADA Standards consistent with the final revised ADAAG and to make related revisions to the Department’s title III regulations. In addition to maintaining consistency between ADAAG and the Standards, the purpose of this review and these revisions is to more closely coordinate with voluntary standards; to clarify areas which, through inquiries and comments to the Department’s technical assistance phone lines, have been shown to cause confusion; to reflect evolving technologies in areas affected by the Standards; and to comply with section 610 of the Regulatory Flexibility Act, which requires agencies once every 10 years to review rules that have a significant economic effect.  

For further information, see the Department’s proposed rules at 79 FR 46191, 46192 (August 8, 2014).
economic impact upon a substantial number of small entities.

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

The adoption of revised ADAAG will also serve to address changes to the ADA Standards previously proposed in RIN 1190-AA26, RIN 1190-AA38, RIN 1190-AA47, and RIN 1190-AA50, all of which have now been withdrawn from the Unified Agenda. These changes include technical specifications for facilities designed for use by children, accessibility standards for State and local government facilities, play areas, and recreation facilities, all of which had previously been published by the Access Board.

The timetable set forth below refers to the notice of proposed rulemaking that the Department issued as the second step of the above described title III rulemaking. This notice proposed to adopt revised ADA Standards for Accessible Design consistent with the minimum guidelines of the revised ADAAG, and initiated the review of the regulation in accordance with the requirements of section 610 of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

394. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Legal Authority: 5 USC 301; 28 USC 509 to 510; 42 USC 12134; PL 101–336

Abstract: On July 26, 1991, the Department published its final rule implementing title II of the Americans With Disabilities Act (ADA). On November 16, 1999, the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) issued its first comprehensive review of the ADA Accessibility Guidelines (ADAAG), which form the basis of the Department’s ADA Standards for Accessible Design. The Access Board published an Availability of Draft Final Guidelines on April 2, 2002, and published the ADA Accessibility Guidelines in final form on July 23, 2004. The ADA (section 204(c)) requires the Department’s standards to be consistent with the Access Board’s guidelines. In order to maintain consistency between ADAAG and the Standards, the Department is reviewing its title II regulations and expects to propose, in one or more stages, to adopt revised standards consistent with new ADAAG. The Department will also, in one or more stages, review its title II regulations for purposes of section 610 of the Regulatory Flexibility Act and make related changes to its title II regulations.

In addition to the statutory requirement for the rule, the social and economic realities faced by Americans with disabilities dictate the need for the rule. Individuals with disabilities cannot participate in the social and economic activities of the Nation without being able to access the programs and services of State and local governments. Further, amending the Department’s ADA regulations will improve the format and usability of the ADA Standards for Accessible Design; harmonize the differences between the ADA Standards and national consensus standards and model codes; update the ADA Standards to reflect technological developments that meet the needs of persons with disabilities; and coordinate future ADA Standards revisions with national standards and model code organizations. As a result, the overarching goal of improving access for persons with disabilities so that they can benefit from the goods, services, and activities provided to the public by covered entities will be met. The first part of the rulemaking process was an advance notice of proposed rulemaking, published in the Federal Register on September 30, 2004, at 69 FR 58768, issued under both title II and title III. The Department believes the advance notice simplified and clarified the preparation of the proposed rule to follow. In addition to giving notice of the proposed rule that will adopt revised ADA accessibility standards, the advance notice raised questions for public comment and proposed a framework for the regulatory analysis that accompanied the proposed rule.

The adoption of revised ADA Standards consistent with revised ADAAG will also serve to address changes to the ADA Standards previously proposed under RIN 1190-AA26, RIN 1190-AA38, RIN 1190-AA47, and RIN 1190-AA50, all of which have now been withdrawn from the Unified Agenda. These changes include technical specifications for facilities designed for use by children, accessibility standards for State and local government facilities, play areas, and recreation facilities, all of which had previously been published by the Access Board.

The timetable set forth below refers to the notice of proposed rulemaking that the Department issued as the second step of the above-described title III rulemaking. This notice also proposed to eliminate the Uniform Federal Accessibility Standards (UFAS) as an alternative to the ADA Standards for Accessible Design.

**Completed:**

**Completed Actions**

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<th>Reason</th>
<th>Date</th>
<th>FR Cite</th>
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<tbody>
<tr>
<td>Final Action 09/15/10</td>
<td>75 FR 56164</td>
<td></td>
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<tr>
<td>Final Action Effective 03/15/11</td>
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**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** John L. Wodatch
Phone: 800 514–0301
TDD Phone: 800 514–0383
Fax: 202 307–1198
RIN: 1190–AA46

[FR Doc. 2010–30440 Filed 12–17–10; 8:45 am]

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