



Federal Register

**Monday,
May 11, 2009**

Part XII

**Environmental
Protection Agency**

Semiannual Regulatory Agenda

ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-8770-9]

EPA-HQ-OA-2007-1172

EPA-HQ-OW-2009-0082

Spring 2009 Regulatory Agenda

AGENCY: Environmental Protection Agency.

ACTION: Semiannual regulatory flexibility agenda and semiannual regulatory agenda.

SUMMARY: The Environmental Protection Agency (EPA) publishes the semiannual regulatory agenda online (the e-agenda) at www.reginfo.gov to update the public about:

- Regulations and major policies currently under development,
- Reviews of existing regulations and major policies, and
- Rules and major policymakings completed or canceled since the last agenda.

Definitions:

“E-agenda,” “online regulatory agenda,” and “semiannual regulatory agenda” all refer to the same comprehensive collection of information that used to be published in the **Federal Register**, but which now are only available through an online database.

“Regulatory Flexibility Agenda” refers to a document that contains information about regulations that may have a significant impact on a substantial number of small entities.

This will continue to be published in the **Federal Register** because of a requirement of the Regulatory Flexibility Act.

“Monthly Action Initiation List” (AIL) refers to a list that EPA posts online each month of the regulations newly approved for development.

“Unified Regulatory Agenda” refers to the collection of all agencies’ agendas with an introduction prepared by the Regulatory Information Service Center.

“Regulatory agenda preamble” refers to the document you are reading now. It appears as part of EPA’s regulatory flexibility agenda and introduces both the regulatory flexibility agenda and EPA’s e-agenda.

FOR FURTHER INFORMATION CONTACT: If you have questions or comments about a particular action, please get in touch with the agency contact listed in each agenda entry. If you have general questions about the semiannual regulatory agenda please contact: Phil Schwartz (schwartz.philip@epa.gov; 202-564-6564) or Caryn Muellerleile (muellerleile.caryn@epa.gov; 202-564-2855).

TO BE PLACED ON AN AGENDA MAILING LIST: If you would like to receive an e-mail with a link to new semiannual regulatory agendas as soon as they are published, please send an e-mail message with your name and address to: nscep@bps-lmit.com and put “E-Regulatory Agenda: Electronic Copy” in the subject line.

If you would like to regularly receive information about the rules newly approved for development, sign up for our monthly Action Initiation List by going to

<http://www.epa.gov/lawsregs/search/ail.html#notification> and completing the five steps listed there.

If you would like to receive a hard copy of the semiannual agenda about 2 to 3 months after publication, call 800-490-9198 or send an e-mail with your name and complete address to: nscep@bps-lmit.com and put “Regulatory Agenda Hard Copy” in the subject line.

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A. Map of Regulatory Agenda Information

Type of Information	Online Locations	Federal Register Location
Semiannual Regulatory Agenda (The E-Agenda; the online Agenda); approx. 300 entries, which include the expanded Regulatory Flexibility Agenda (approx. 8 entries; 25 data fields/entry)	www.reginfo.gov/ , www.regulations.gov/ , and http://www.epa.gov/lawsregs/search/regagenda.html	Not in FR
Semiannual Regulatory Flexibility Agenda (approx. 8 entries; 9 data fields/entry)	www.reginfo.gov/ , www.regulations.gov/ , and http://www.epa.gov/lawsregs/search/regagenda.html	Part XII of today’s issue
Monthly Action Initiation List	http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=EPA-HQ-OA-2008-0265 and http://www.epa.gov/lawsregs/search/ail.html	Not in FR

EPA**B. What Are EPA's Regulatory Goals, and What Key Principles, Statutes, and Executive Orders Guide Our Rule and Policymaking Process?**

In outlining his agenda for the environment, President Obama has articulated three values that he expects EPA to uphold. These values will shape everything we do.

Science must be the backbone for EPA programs. The public health and environmental laws that Congress has enacted depend on rigorous adherence to the best available science. The President believes that when EPA addresses scientific issues, it should rely on the expert judgment of the Agency's career scientists and independent advisors. When scientific judgments are suppressed, misrepresented, or distorted by political agendas, Americans can lose faith in their government to provide strong public health and environmental protection.

EPA must follow the rule of law. The President recognizes that respect for congressional mandates and judicial decisions is the hallmark of a principled regulatory agency. Under our environmental laws, EPA has room to exercise discretion, and Congress has often looked to EPA to fill in the details of general policies. However, EPA needs to exercise policy discretion in good faith and in keeping with the directives of Congress and the courts. When Congress has been explicit, EPA cannot misinterpret or ignore the language Congress has used. When a court has determined EPA's responsibilities under our governing statutes, EPA cannot turn a blind eye to the court's decision or procrastinate in complying.

EPA's actions must be transparent. Public trust in the Agency demands that we reach out to all stakeholders fairly and impartially, that we consider the views and data presented carefully and objectively, and that we fully disclose the information that forms the bases for our decisions. We will carry out the work of the Agency in public view so that the door is open to all interested parties and that there is no doubt why we are acting and how we arrived at our decisions.

We must take special pains to connect with those who have been historically underrepresented in EPA decisionmaking, including the disenfranchised in our cities and rural areas, communities of color, native

Americans, people disproportionately impacted by pollution, and small businesses, cities, and towns working to meet their environmental responsibilities. Like all Americans, they deserve an EPA with an open mind, a big heart, and a willingness to listen. We must also be sensitive to the burdens pollution has placed on vulnerable subpopulations, including children, the elderly, the poor, and all others who are at particular risk to threats to health and the environment. We must seek their full partnership in the greater aim of identifying and eliminating the sources of pollution in their neighborhoods, schools, and homes.

EPA's strength has always been our ability to adapt to the constantly changing face of environmental protection as our economy and society evolve and science teaches us more about how humans interact with and affect the natural world. Now, more than ever, EPA must be innovative and forward-looking because the environmental challenges faced by Americans all across our country are unprecedented. These challenges are indeed immense in scale and urgency. But, we will meet them. Administrator Jackson has put a high priority on developing an environmental policy agenda that significantly improve the environment, while helping to create jobs and make the investment needed to emerge from the current recession. EPA is making significant strides in this area already as is reflected in this document. As EPA makes further decisions regarding the path forward for existing and new regulatory activities, we will continue to be transparent, letting the public know about these decisions through various sources such as our Web site and future editions of EPA's regulatory agenda and regulatory plan.

Besides the fundamental environmental laws authorizing EPA actions such as the Clean Air Act and Clean Water Act, there are legal requirements that apply to the issuance of regulations that are generally contained in the Administrative Procedure Act, the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Reform Act, the Unfunded Mandates Reform Act, the Paperwork Reduction Act, the National Technology Transfer and Advancement Act, and the Congressional Review Act. We also must meet a number of requirements

contained in Executive Orders: 12866 (Regulatory Planning and Review; 58 FR 51735; October 4, 1993), 12898 (Environmental Justice; 59 FR 7629; February 16, 1994), 13045 (Children's Health Protection; 62 FR 19885; April 23, 1997), 13132 (Federalism; 64 FR 43255; August 10, 1999), 13175 (Consultation and Coordination with Indian Tribal Governments; 65 FR 67249; November 9, 2000), 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use; 66 FR 28355; May 22, 2001).

C. How Can You Be Involved in EPA's Rule and Policymaking Process?

You can make your voice heard by getting in touch with the contact person provided in each agenda entry. We urge you to participate as early in the process as possible. You may also participate by commenting on proposed rules that we publish in the **Federal Register** (FR).

Information on submitting comments to the rulemaking docket is provided in each of our Notices of Proposed Rulemaking (NPRMs), and we always accept comments through the regulations.gov e-docket. To be most effective, comments should contain information and data that support your position, and you also should explain why we should incorporate your suggestion in the rule or nonregulatory action. You can be particularly helpful and persuasive if you provide examples to illustrate your concerns and offer specific alternatives.

We believe our actions will be more cost-effective and protective if our development process includes stakeholders working with us to identify the most practical and effective solutions to problems, and we stress this point most strongly in all of our training programs for rule and policy developers. Democracy gives real power to individual citizens, but with that power comes responsibility. We urge you to become involved in EPA's rule and policymaking process. For more information about public involvement in EPA activities, please visit www.epa.gov/publicinvolvement.

D. What Actions Are Included in the E-Agenda and the Regulatory Flexibility Agenda?

EPA includes regulations and certain major policy documents in the e-agenda. However, there is no legal significance to the omission of an item from the

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agenda, and we generally do not include minor amendments or the following categories of actions:

- Administrative actions such as delegations of authority, changes of address, or phone numbers;
- Under the Clean Air Act: Revisions to State Implementation Plans; Equivalent Methods for Ambient Air Quality Monitoring; Deletions from the New Source Performance Standards source categories list; Delegations of Authority to States; Area Designations for Air Quality Planning Purposes;
- Under the Federal Insecticide, Fungicide, and Rodenticide Act: Registration-related decisions, actions affecting the status of currently registered pesticides, and data call-ins;
- Under the Federal Food, Drug, and Cosmetic Act: Actions regarding pesticide tolerances and food additive regulations;
- Under the Resource Conservation and Recovery Act: Authorization of State solid waste management plans; hazardous waste delisting petitions;
- Under the Clean Water Act: State Water Quality Standards; deletions from the section 307(a) list of toxic pollutants; suspensions of toxic testing requirements under the National Pollutant Discharge Elimination System (NPDES); delegations of NPDES authority to States;
- Under the Safe Drinking Water Act: Actions on State underground injection control programs.

The regulatory flexibility agenda normally includes:

- Actions that are likely to have a significant economic impact on a substantial number of small entities, and
- Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act. We have one rule scheduled for 610 review in 2009.

E. How Is the E-Agenda Organized?

You can now choose how both the www.reginfo.gov and www.regulations.gov versions of the E-Agenda are organized. Current choices include: EPA subagency; stage of rulemaking, explained below; alphabetically by title; and by the Regulation Identifier Number (RIN), which is assigned sequentially when an action is added to the agenda.

Stages of rulemaking include:

1. Prerulemaking-Prerulemaking actions are generally intended to determine whether EPA should initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking (ANPRMs), significant studies or analyses of the possible need for regulatory action, announcement of reviews of existing regulations required under section 610 of the Regulatory Flexibility Act, requests for public comment on the need for regulatory action, or important preregulatory policy proposals.
2. Proposed Rule-This section includes EPA rulemaking actions that are within a year of proposal (publication of Notices of Proposed Rulemakings (NPRMs)).
3. Final Rule-This section includes rules that will be issued as a final rule within a year.
4. Long-Term Actions-This section includes rulemakings for which the next scheduled regulatory action is after April 2010.
5. Completed Actions-This section contains actions that have been promulgated and published in the **Federal Register** since publication of the fall 2008 agenda. It also includes actions that we are no longer considering. If an action appears in the completed section, it will not appear in future agendas unless we decide to initiate action again, in which case it will appear as a new entry. EPA also announces the results of our Regulatory Flexibility Act section 610 reviews in this section of the agenda.

F. What Information Is in the Regulatory Flexibility Agenda and the E-Agenda?

Regulatory Flexibility Agenda entries include:

Sequence Number, RIN, Title, Description, Statutory Authority, Section 610 Review, if applicable, Regulatory Flexibility Analysis Required, Schedule, Contact Person.

E-Agenda entries include:

Title: Titles for new entries (those that have not appeared in previous agendas) are preceded by a bullet (•). The notation "Section 610 Review" follows the title if we are reviewing the rule as part of our periodic review of existing rules under section 610 of the

Regulatory Flexibility Act (RFA) (5 U.S.C. 610).

Priority: Entries are placed into one of five categories described below. OMB reviews all significant rules including both of the first two categories, "economically significant" and "other significant."

Economically Significant: Under E.O. 12866, a rulemaking action that may have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Other Significant: A rulemaking that is not economically significant but is considered significant for other reasons. This category includes rules that may:

1. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
2. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients; or
3. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles in Executive Order 12866.

Substantive, Nonsignificant: A rulemaking that has substantive impacts but is not Significant, Routine and Frequent, or Informational/Administrative/Other.

Routine and Frequent: A rulemaking that is a specific case of a recurring application of a regulatory program in the Code of Federal Regulations (e.g., certain State Implementation Plans, National Priority List updates, Significant New Use Rules, State Hazardous Waste Management Program actions, and Tolerance Exemptions). If an action that would normally be classified Routine and Frequent is reviewed by the Office of Management and Budget under E.O. 12866, then we would classify the action as either "Economically Significant" or "Other Significant."

Informational/Administrative/Other: An action that is primarily informational or pertains to an action outside the scope of E.O. 12866.

Also, if we believe that a rule may be "Major" as defined in the Congressional Review Act (5 U.S.C. 801, *et seq.*) because it is likely to result in an annual

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effect on the economy of \$100 million or more or meets other criteria specified in this law, we indicate this under the "Priority" heading with the statement "Major under 5 U.S.C. 801."

Legal Authority: The sections of the United States Code (USC), Public Law (PL), Executive Order (EO), or common name of the law that authorizes the regulatory action.

CFR Citation: The sections of the Code of Federal Regulations that would be affected by the action.

Legal Deadline: An indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to a Notice of Proposed Rulemaking, a Final Action, or some other action.

Abstract: A brief description of the problem the action will address.

Timetable: The dates (and citations) that documents for this action were published in the **Federal Register** and, where possible, a projected date for the next step. Projected publication dates frequently change during the course of developing an action. The projections in the agenda are our best estimates as of the date we submit the agenda for publication. For some entries, the timetable indicates that the date of the next action is "to be determined."

Regulatory Flexibility Analysis Required: Indicates whether EPA has prepared or anticipates that it will be preparing a regulatory flexibility analysis under section 603 or 604 of the RFA. Generally, such an analysis is required for proposed or final rules subject to the RFA that EPA believes may have a significant economic impact on a substantial number of small entities.

Small Entities Affected: Indicates whether we expect the rule to have any effect on small businesses, small governments, or small nonprofit organizations.

Government Levels Affected: Indicates whether we expect the rule to have any effect on levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Federalism Implications: Indicates whether the action is expected to have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and

responsibilities among the various levels of government.

Unfunded Mandates: Section 202 of the Unfunded Mandates Reform Act generally requires an assessment of anticipated costs and benefits if a rule includes a mandate that may result in expenditures of more than \$100 million in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. If we expect to exceed this \$100 million threshold, we note it in this section.

Energy Impacts: Indicates whether the action is a significant energy action under E.O. 13211.

International Trade Impacts: Indicates whether the action is likely to have international trade or investment effects, or otherwise be of international interest.

Agency Contact: The name, address, phone number, and e-mail address, if available, of a person who is knowledgeable about the regulation.

SAN Number: An identification number that EPA uses to track rulemakings and other actions under development.

URLs: For some of our actions we include the Internet addresses for: Reading copies of rulemaking documents; submitting comments on proposals; and getting more information about the rulemaking and the program of which it is a part. (Note: To submit comments on proposals, you can go to our electronic docket, which is at: www.regulations.gov. Once there, follow the online instructions to access the docket and submit comments. A Docket identification (ID) number will assist in the search for materials. We include this number in the additional information section of many of the agenda entries that have already been proposed.)

RIN: The Regulation Identifier Number is used by OMB to identify and track rulemakings. The first four digits of the RIN stand for the EPA office with lead responsibility for developing the action.

G. How Can I Find Out About Rulemakings That Start Up After the Regulatory Agenda Is Signed?

EPA posts monthly updates of the rulemakings that the Agency's senior managers have decided that we should work on. We also distribute this list via e-mail. You can see the current list, which we call the Action Initiation List,

at <http://www.epa.gov/lawsregs/search/ail.html> where you will also find information about how to get an e-mail notification when a new list is posted.

H. What Tools for Mining Regulatory Agenda Data and for Finding More About EPA Rules and Policies Are Available at [Reginfo.gov](http://www.reginfo.gov), [EPA.gov](http://www.epa.gov), and [Regulations.gov](http://www.regulations.gov)?

1. The [Reginfo.gov](http://www.reginfo.gov) Searchable Database

GSA's Regulatory Information Service Center, which coordinates publication of the Agenda for the Office of Management and Budget, has developed and continues to improve a regulatory agenda database that includes powerful search, display, and data transmission options. You can:

- See the preamble. On the Main Agenda Page, select Current Agenda Agency Preambles.
- Get a complete list of EPA's entries. On the Main Agenda Page, under Agency, select Environmental Protection Agency.
- View the contents of all of EPA's entries. On the Agenda Search Page, select "Advanced Search"; select Continue; Select Environmental Protection Agency and then Continue; Select "Search."
- Get a listing of entries with specified characteristics. Follow the procedure described immediately above for viewing the contents of all entries, but on the screen headed "Advanced Search-Select Additional Fields" select the characteristics you are seeking before clicking on "Search." For example, if you wish to see a listing of all economically significant actions that may have a significant economic impact on a substantial number of small businesses, you would check Economically Significant under Priority and check Business under Regulatory Flexibility Analysis required.
- Download the results of your searches in XML format.

2. Subject Matter EPA Web sites

Some of the actions listed in the agenda include a URL that provides additional information.

3. Listservers

If you want to get automatic e-mails about areas of particular interest, including notifications, when an action is published in the **Federal Register**, we maintain 12 listservers including:

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- a. Air
- b. Water
- c. Wastes and emergency response
- d. Pesticides
- e. Toxic substances
- f. Right-To-Know and toxic release inventory
- g. Environmental impacts
- h. Endangered species
- i. Meetings
- j. The Science Advisory Board
- k. Daily full-text notices with page numbers, and
- l. General information.

For more information and to subscribe via our FR Web site, visit: www.epa.gov/fedrgstr/subscribe.htm. If you have e-mail without full Internet access, please send an e-mail to envsubset@epa.gov to request instructions for subscribing to the EPA **Federal Register** listservers.

4. Public Dockets

When EPA publishes either an Advanced Notice of Proposed Rulemaking (ANPRM) or a NPRM in the **Federal Register**, the Agency may establish a docket to accumulate materials throughout the development process for that rulemaking. The docket serves as the repository for the collection of documents or information related to a particular Agency action or activity. EPA most commonly uses dockets for rulemaking actions, but dockets may also be used for Regulatory Flexibility Act section 610 reviews of rules with significant economic impacts on a substantial number of small entities and for various nonrulemaking activities, such as **Federal Register** documents seeking public comments on draft guidance, policy statements, information collection requests under

the Paperwork Reduction Act, and other non-rule activities. If there is a docket on a particular action, information about the location will be in that action's agenda entry. URL's for many of EPA's dockets are included in the agenda entry. To enter the docket, copy the URL into a browser window. To locate a docket you can also use the docket search features at Regulations.gov.

I. Reviews of Rules With Significant Impacts on a Substantial Number of Small Entities

Section 610 of the RFA requires that an agency review, within 10 years of promulgation, each rule that has or will have a significant economic impact on a substantial number of small entities. EPA has one rule scheduled for 610 review in 2009.

Rule Being Reviewed	RIN	Docket ID
Revisions to the Underground Injection Control (UIC) Requirements for Class V Wells (Section 610 Review)	2040-AF04	EPA-HQ-OW-2009-0082

EPA has established an official public docket for this 610 review under a docket identification (ID) number as indicated above. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available; e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Water Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744. Unless otherwise indicated, please direct your comments to the identified Docket ID number for the specific 610 Review item. For these 610 Reviews, please DO NOT submit CBI or information that is otherwise protected by statute. You may submit comments using one of the following methods:

1. *Electronically*. Go directly to www.regulations.gov and find

“Advanced Docket Search.” Enter the appropriate Docket ID number. The system is an “anonymous access” system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. If you do submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket.

2. *By Mail*. Send your comments to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Docket # EPA-HQ-OW-2009-0082, 1200 Pennsylvania Avenue NW., Washington, DC 20460.
3. *By Hand Delivery or Courier*. Deliver your comments, identified by the Docket # EPA-HQ-OW-2009-0082, to: EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30

p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744. Such deliveries are only accepted during the Docket's normal hours of operation as identified above. For more information on EPA's docket center, please visit <http://www.epa.gov/epahome/dockets.htm>.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked “late.” EPA is not required to consider these late comments. For this action, please DO NOT submit CBI or information that is otherwise protected by statute.

J. What Other Special Attention Do We Give to the Impacts of Rules on Small Businesses, Small Governments, and Small Nonprofit Organizations?

For each of our rulemakings, we consider whether there will be any adverse impact on any small entity. We attempt to fit the regulatory requirements, to the extent feasible, to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulation.

Under RFA/SBREFEA (the Regulatory Flexibility Act as amended by the Small

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Business Regulatory Enforcement Fairness Act), the Agency must prepare a formal analysis of the potential negative impacts on small entities, convene a Small Business Advocacy Review Panel (proposed rule stage), and prepare a Small Entity Compliance Guide (final rule stage) unless the Agency certifies a rule will not have a significant economic impact on a substantial number of small entities. For more detailed information about the Agency's policy and practice with respect to implementing RFA/SBREFA, please visit the RFA/SBREFA Web site at <http://www.epa.gov/sbrefa/>.

For a list of the rules under development for which a Regulatory Flexibility Analysis will be required and for a list of rules under development that may affect small entities, but not significantly affect a substantial number of them, go to: <http://www.regulations.gov/fdmspublic/component/main?main=UnifiedAgenda> and select the appropriate index in the second box in the right hand column.

K. Thank You for Collaborating With Us

Finally, we would like to thank those of you who choose to join with us in

solving the complex issues involved in protecting human health and the environment. Collaborative efforts such as EPA's open rulemaking process are a valuable tool for addressing the problems we face and the regulatory agenda is an important part of that process.

Dated: March 30, 2009.

Louise Wise,

Acting Associate Administrator, Office of Policy, Economics, and Innovation.

CLEAN AIR ACT (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
265	SAN No. 4884 Combined Rulemaking for Industrial, Commercial, and Institutional Boilers and Process Heaters at Major Sources of HAP and Industrial, Commercial, and Institutional Boilers at Area Sources	2060-AM44
266	SAN No. 5250 Renewable Fuels Standard Program	2060-AO81

CLEAN AIR ACT (CAA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
267	SAN No. 5326 Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport (Completion of a Section 610 Review)	2060-AP42

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
268	SAN No. 5007 Pesticides; Competency Standards for Occupational Users	2070-AJ20
269	SAN No. 5006 Pesticides; Agricultural Worker Protection Standard Revisions	2070-AJ22

SAFE DRINKING WATER ACT (SDWA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
270	SAN No. 5332 Revisions to the Underground Injection Control (UIC) Requirements for Class V Wells (Section 610 Review)	2040-AF04

SAFE DRINKING WATER ACT (SDWA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
271	SAN No. 2281 National Primary Drinking Water Regulations: Radon	2040-AA94

**Environmental Protection Agency (EPA)
Clean Air Act (CAA)**
Proposed Rule Stage
265. COMBINED RULEMAKING FOR INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS AND PROCESS HEATERS AT MAJOR SOURCES OF HAP AND INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS AT AREA SOURCES

Legal Authority: CAA sec 112

Abstract: Section 112 of the Clean Air Act (CAA) outlines the statutory requirements for EPA's stationary source air toxics program. Section 112 mandates that EPA develop standards for hazardous air pollutants (HAP) for both major and area sources listed under section 112(c). Section 112(k) requires development of standards for area sources which account for 90% of the emissions in urban areas of the 30 urban (HAP) listed in the Integrated Urban Air Toxics Strategy. These area source standards can require control levels which are equivalent to either maximum achievable control technology (MACT) or generally available control technology (GACT). The Integrated Air Toxics Strategy lists industrial boilers and commercial/institutional boilers as area source categories for regulation pursuant to section 112(c). Industrial boilers and institutional/commercial boilers are on the list of section 112(c)(6) source categories.

Timetable:

Action	Date	FR Cite
NPRM	07/00/09	
Final Action	07/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jim Eddinger, Environmental Protection Agency, Air and Radiation, C439-01, Research Triangle Park, NC 27711
Phone: 919 541-5426
Email: eddinger.jim@epamail.epa.gov

Robert J. Wayland, Environmental Protection Agency, Air and Radiation, D243-01, RTP, NC 27711
Phone: 919 541-1045
Fax: 919 541-5450
Email: wayland.robertj@epamail.epa.gov

RIN: 2060-AM44

266. RENEWABLE FUELS STANDARD PROGRAM

Legal Authority: CAA 211(o)

Abstract: This action will implement certain provisions in Title II of the 2007 Energy Independence and Security Act that amend section 211(o) of the Clean Air Act. The new law sets a modified standard for renewable fuels increasing the national requirement to 9.0 billion

gallons in 2008 and rising to 36 billion gallons by 2022. Of the latter total, 21 billion gallons is required to be obtained from cellulosic biofuels and other advanced biofuels. Starting in 2016, all of the increase in the RFS target must be met with advanced biofuels, defined as cellulosic ethanol and other biofuels derived from feedstock other than corn starch—with explicit standards for cellulosic biofuels and biomass-based diesel.

Timetable:

Action	Date	FR Cite
NPRM	05/00/09	
Final Action	11/00/09	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Paul Argyropoulos, Environmental Protection Agency, Air and Radiation, 6520J ARN, Washington, DC 20460
Phone: 202 564-1123
Fax: 202 564-1686
Email: argyropoulos.paul@epa.gov

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RIN: 2060-AO81

**Environmental Protection Agency (EPA)
Clean Air Act (CAA)**
Completed Actions
267. • FINDINGS OF SIGNIFICANT CONTRIBUTION AND RULEMAKING ON SECTION 126 PETITIONS FOR PURPOSES OF REDUCING INTERSTATE OZONE TRANSPORT (COMPLETION OF A SECTION 610 REVIEW)

Legal Authority: 5 USC 610

Abstract: On May 25, 1999 (64 FR 28250), EPA issued a final rule entitled "Findings of Significant Contribution and Rulemaking on section 126 Petitions for Purposes of Reducing Interstate Ozone Transport," usually referred to as the "Section-126 rule." This rule was a response to petitions from several states asking EPA to take Federal action to address the problem of air pollution coming from upwind states. Since this rule did not include a no-significant-impact certification under the Regulatory Flexibility Act, it

normally would be a candidate for the RFA-required review 10 years after promulgation. However, this rule had no actual impact on any entities, since it specified that its prescribed upwind-pollution remedies could be fulfilled by State actions under a previous EPA rule entitled "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," usually referred to as the "NOx SIP Call," which was promulgated on October 27, 1998 (63 FR 57355). Subsequently, the States did in fact comply with the NOx SIP Call rule, thereby nullifying any effect of the Section-126 rule. Therefore the Section-126 rule has had, and will have, no impacts on any entities, including small entities, thereby obviating the

need for a 10-year review under the RFA. In light of this fact, EPA is, through this notice, documenting the Section-126 rule's lack of impact, and announcing that the 10-year review has been completed.

Timetable:

Action	Date	FR Cite
Final Action	05/25/99	64 FR 28250
610 Review Determination	03/26/09	

Regulatory Flexibility Analysis Required: No

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EPA—Clean Air Act (CAA)**Completed Actions**

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RIN: 2060-AP42

Environmental Protection Agency (EPA)**Long-Term Actions****Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)****268. PESTICIDES; COMPETENCY STANDARDS FOR OCCUPATIONAL USERS****Legal Authority:** 7 USC 136; 7 USC 136i; 7 USC 136w

Abstract: The EPA is proposing change to federal regulations guiding the certified pesticide applicator program (40 CFR 171). Change is sought to strengthen the regulations to better protect pesticide applicators and the public and the environment from harm due to pesticide exposure. The possible need for change arose from EPA discussions with key stakeholders. EPA has been in extensive discussions with stakeholders since 1997 when the Certification and Training Assessment Group (CTAG) was established. CTAG is a forum used by regulatory and academic stakeholders to discuss the current state of, and the need for improvements in, the national certified pesticide applicator program. Throughout these extensive interactions with stakeholders, EPA has learned of the potential need for changes to the regulation.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	

Regulatory Flexibility Analysis Required: Yes**Agency Contact:** Kathy Davis, Environmental Protection Agency,

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RIN: 2070-AJ20

269. PESTICIDES; AGRICULTURAL WORKER PROTECTION STANDARD REVISIONS**Legal Authority:** 7 USC 136; 7 USC 136w

Abstract: The EPA is developing a proposal to revise the federal regulations guiding agricultural worker protection (40 CFR 170). The changes under consideration are intended to improve agricultural workers' ability to protect themselves from potential exposure to pesticides and pesticide residues. In addition, EPA is proposing to make adjustments to improve and clarify current requirements and facilitate enforcement. Other changes sought are to establish a right-to-know Hazard Communication program and make improvements to pesticide safety

training, with improved worker safety the intended outcome. The potential need for change arose from EPA discussions with key stakeholders beginning in 1996 and continuing through 2004. EPA held nine public meetings throughout the country during which the public submitted written and verbal comments on issues of their concern. In 2000 through 2004, EPA held meetings where invited stakeholders identified their issues and concerns with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 2070-AJ22

Environmental Protection Agency (EPA)**Prerule Stage****Safe Drinking Water Act (SDWA)****270. • REVISIONS TO THE UNDERGROUND INJECTION CONTROL (UIC) REQUIREMENTS FOR CLASS V WELLS (SECTION 610 REVIEW)****Legal Authority:** 5 USC 610

Abstract: Class V wells are regulated under the authority of part C of the Safe Drinking Water Act (SDWA). The SDWA is designed to protect the quality of drinking water in the United States, and part C specifically mandates

the regulation of underground injection of fluids through wells. The Agency has promulgated a series of underground injection control (UIC) regulations under this authority. Most class V wells are authorized by rule as long as (1) they do not endanger underground sources of drinking water (USDWs), and (2) the well owners or operators submit basic inventory and assessment information. If a class V well may endanger USDWs, UIC Program Directors can require the

owner/operator to apply for a permit, order preventive actions (including closure of the well) to prevent the violation, require remediation to assure USDWs are protected, or take enforcement action.

On December 7, 1999, EPA finalized additional requirements for motor vehicle waste disposal wells and large capacity cesspools, to embrace priorities and help achieve goals defined under the 1996 Amendments

EPA—Safe Drinking Water Act (SDWA)**Prerule Stage**

to the SDWA, and to fulfill the first phase of the Agency's requirements under the 1997 consent decree with the Sierra Club. The 1999 Rule established requirements for two categories of class V injection wells determined by EPA to be a source of endangerment to drinking water. Specifically, the rule covers: (1) Existing motor vehicle waste disposal wells located in ground water protection areas or other sensitive ground water areas; and, (2) new and existing large-capacity cesspools and new motor vehicle waste disposal wells nationwide. The conclusion that these class V wells pose an endangerment to USDWs is based on substantial information and the combined professional judgment of EPA and State geologists and engineers that are responsible for implementing the class V UIC program.

This new entry in the regulatory agenda announces that while EPA has taken steps in the 1999 Rulemaking process to evaluate and mitigate impacts on small entities, pursuant to section 610 of the Regulatory Flexibility Act, EPA

will review the Class V Rule. As part of the review, EPA will consider and solicit comments on the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which the technology, economic conditions or other factors have changed in the area affected by the rule. Based on the evaluation of the Class V Rule during promulgation, EPA believes there is a continued need for the Class V Rule. EPA assumes that the regulatory impact of two endangering well types on small business is not significant because the Agency believes most of these well types have been either closed or permitted.

Comments must be received by August 11, 2009. In submitting comments, please reference Docket ID EPA-HQ-OW-2009-0082 and follow the instructions in section I of the preamble

to this issue of the Regulatory Agenda. The docket can be assessed at www.regulations.gov.

Timetable:

Action	Date	FR Cite
Final Action	12/07/99	64 FR 68546
Begin Review	05/00/09	
End Comment Period	08/00/09	
End Review	12/00/09	

Regulatory Flexibility Analysis Required: No

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RIN: 2040-AF04**Environmental Protection Agency (EPA)
Safe Drinking Water Act (SDWA)****Long-Term Actions****271. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADON****Legal Authority:** 42 USC 300f et seq

Abstract: In 1999, EPA proposed regulations for radon which provide flexibility in how to manage the health risks from radon in drinking water. The proposal was based on the unique framework in the 1996 SDWA. The proposed regulation would provide for either a maximum contaminant level (MCL), or an alternative maximum contaminant level (AMCL) with a multimedia mitigation (MMM) program to address radon in indoor air. Under the proposal, public water systems in

States that adopted qualifying MMM programs would be subject to the AMCL, while those in States that did not adopt such programs would be subject to the MCL.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM original	07/18/91	56 FR 33050
Notice99	02/26/99	64 FR 9560
NPRM	11/02/99	64 FR 59246
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 2040-AA94

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