

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[9467-6; EPA-HQ-OW-2010-0728]

Fall 2011 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 <http://www.reginfo.gov> and at www.regulations.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, until 2007, was published in the **Federal Register** but that now is 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. We continue to publish it in the **Federal Register** because that is what is required by the Regulatory Flexibility Act of 1980.

“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 the Regulatory Flexibility Agenda and introduces both the Regulatory Flexibility Agenda and the e-Agenda.

“Regulatory Development and Retrospective Review Tracker” refers to an online portal to EPA’s priority rules and retrospective reviews of existing regulations. More information about the Regulatory Development and Retrospective Review Tracker appears in section H of this preamble.

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: Caryn Muellerleile (muellerleile.caryn@epa.gov; 202 564-2855) or Phil Schwartz (schwartz.philip@epa.gov; 202 564-6564).

To Be Placed on or Removed From a Mailing List for Updated Information on Rules Under Development: If you would like to receive or discontinue receiving an email with a link to new semiannual regulatory agendas as soon as they are published, please send an email message with your name and address to: Regulatory_Agenda@epa.gov and state “EPA E-Agenda: Add” or “EPA E-Agenda: Remove” as appropriate 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/regulations/ail.html#notification> and completing the steps listed there.

You can track progress on various aspects of EPA’s priority rulemakings by signing up for RSS feeds from the Regulatory Development and Retrospective Review Tracker at <http://yosemite.epa.gov/opei/RuleGate.nsf/content/getalerts.html?opendocument>.

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A. Map of Regulatory Agenda Information

Type of Information	Online Locations	Federal Register Location
Semiannual Regulatory Agenda	www.reginfo.gov/ and www.regulations.gov	Not in FR.
Semiannual Regulatory Flexibility Agenda	www.reginfo.gov/ and http://www.regulations.gov	Part XVI of today’s issue.
Monthly Action Initiation List	http://www.regulations.gov/#!docketDetail;D=EPA-HQ-O-2008-0265 and http://www.epa.gov/lawsregs/regulations/ail.html .	Not in FR.
Regulatory Development and Retrospective Review Tracker.	www.epa.gov/regdart/	Not in FR.

B. What Key Statutes and Executive Orders Guide EPA’s Rule and Policymaking Process?

A number of environmental laws authorize EPA’s actions, including but not limited to:

- Clean Air Act (CAA),
- Clean Water Act (CWA),
- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, or Superfund),

- Emergency Planning and Community Right-to-Know Act (EPCRA),
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA),
- Resource Conservation and Recovery Act (RCRA),
- Safe Drinking Water Act (SDWA), and
- Toxic Substances Control Act (TSCA).

Not only must EPA comply with environmental laws, but also administrative legal requirements that apply to the issuance of regulations, such as: the Administrative Procedure Act (APA), the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), the Unfunded Mandates Reform Act (UMRA), the Paperwork Reduction Act (PRA), the

National Technology Transfer and Advancement Act (NTTAA), and the Congressional Review Act (CRA).

EPA also meets a number of requirements contained in numerous Executive Orders: 12866, "Regulatory Planning and Review" (58 FR 51735, Oct. 4, 1993), as supplemented by Executive Order 13563, "Improving Regulation and Regulatory Review" (76 FR 3821, Jan. 21, 2011); 12898, "Environmental Justice" (59 FR 7629, Feb. 16, 1994); 13045, "Children's Health Protection" (62 FR 19885, Apr. 23, 1997); 13132, "Federalism" (64 FR 43255, Aug. 10, 1999); 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, Nov. 9, 2000); 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

In addition to meeting its mission goals and priorities as described above, EPA has begun reviewing its existing regulations under Executive Order (EO) 13563, "Improving Regulation and Regulatory Review." This EO provides for periodic retrospective review of existing significant regulations and is intended to determine whether any such regulations should be modified, streamlined, expanded, or repealed, so as to make the Agency's regulatory program more effective or less burdensome in achieving the regulatory objectives. More information about this review is described in EPA's Statement of Priorities in the Regulatory Plan.

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. EPA encourages you to participate as early in the process as possible. You may also participate by commenting on proposed rules published in the **Federal Register** (FR).

Instructions on how to submit your comments are provided in each Notice of Proposed Rulemaking (NPRMs). To be most effective, comments should contain information and data that support your position, and you also should explain why EPA 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.

EPA believes its actions will be more cost effective and protective if the development process includes stakeholders working with us to help identify the most practical and effective solutions to problems. Democracy gives

real power to individual citizens, but with that power comes responsibility. EPA encourages you to become involved in its rule and policymaking process. For more information about public involvement in EPA activities, please visit www.epa.gov/open.

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 agenda, and EPA generally does not include the following categories of actions:

- Administrative actions such as delegations of authority, changes of address, or phone numbers;
- Under the CAA: 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 FIFRA: 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 RCRA: Authorization of State solid waste management plans; hazardous waste delisting petitions;
- Under the CWA: 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 SDWA: Actions on State underground injection control programs.

The Regulatory Flexibility Agenda includes:

- Actions likely to have a significant economic impact on a substantial number of small entities.
- Rules the Agency has identified for periodic review under section 610 of the RFA. EPA is closing the 610 review for one rule in fall 2011.

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, which is 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), 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 December 2012. We urge you to explore becoming involved even if an action is listed in the Long-Term category. By the time an action is listed in the Proposed Rules category you may have missed the opportunity to participate in certain public meetings or policy dialogues.

5. Completed Actions—This section contains actions that have been promulgated and published in the **Federal Register** since publication of the spring 2011 Agenda. It also includes actions that EPA is no longer considering. If an action appears in the completed section, it will not appear in future agendas unless the Agency decides to initiate the action again, in which case it will appear as a new entry. EPA also announces the results of the RFA section 610 reviews in this section of the agenda.

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

The Regulatory Flexibility Agenda entries include only the nine categories of information that are required by the Regulatory Flexibility Act of 1980 and by **Federal Register** Agenda printing requirements: Sequence Number, RIN, Title, Description, Statutory Authority, Section 610 Review, if applicable, Regulatory Flexibility Analysis Required, Schedule and Contact Person. The e-Agenda has much more extensive information on these actions, including such things as email addresses and

Internet URLs for additional information.

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 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 Executive Order 12866, a rulemaking 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 EO 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 EO 12866.

Also, if 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 effect on the economy of \$100 million or more or meets other criteria specified in this law, appears under the “Priority” heading with the statement “Major under 5 U.S.C. 801.”

Legal Authority: The sections of the United States Code (U.S.C.), 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 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 the rule is anticipated to have any effect on small businesses, small governments or small nonprofit organizations.

Government Levels Affected: Indicates whether the rule may 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 UMRA 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 it is anticipated to exceed this \$100 million threshold, we note it in this section.

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

Sectors Affected: Indicates the main economic sectors regulated by the action. The regulated parties are identified by their North American Industry Classification System (NAICS) codes. These codes were created by the Census Bureau for collecting, analyzing, and publishing statistical data on the U.S. economy. There are more than 1,000 NAICS codes for sectors in agriculture, mining, manufacturing, services, and public administration.

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 email address, if available, of a person who is knowledgeable about the regulation.

Additional Information: Other information about the action including docket information.

URLs: For some actions, the Internet addresses are included 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 the associated electronic docket, which is housed at www.regulations.gov. Once there, follow the online instructions to access the docket in question and submit comments. A docket identification [ID] number will assist in the search for materials. EPA includes the docket number in most of the agenda entries of rulemakings 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 You Find Out About Rulemakings That Start Up After the Regulatory Agenda Is Signed?

EPA posts monthly information of new rulemakings that the Agency’s senior managers have decided that we should develop. This list is also distributed via email. You can see the current list, known as the Action Initiation List, at <http://www.epa.gov/lawsregs/regulations/ail.html> where you will also find information about how to

get an email 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*, *EPA.gov*, and *Regulations.gov*?

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

The Regulatory Information Service Center and Office of Information and Regulatory Affairs have a Federal regulatory dashboard that allows users to view the Regulatory Agenda database (<http://www.reginfo.gov/public/do/eAgendaMain>), which includes powerful search, display, and data transmission options. At that site you can:

a. *See the preamble.* At the URL listed above for the Unified Agenda and Regulatory Plan, find “Current Agenda Agency Preambles.” Environmental Protection Agency is listed alphabetically under “Other Executive Agencies.”

b. *Get a complete list of EPA’s entries in the current edition of the Agenda.* Use the drop-down menu in the “Select Agency” box to find Environmental Protection Agency and “Submit.”

c. *View the contents of all of EPA’s entries in the current edition of the Agenda.* Choose “Search” from the “Unified Agenda” selection in the toolbar at the top of the page. Within the “Search of Agenda/Regulatory Plan” screen, open “Advanced Search,” then “Continue.” Select “Environmental Protection Agency” and “Continue.” Select “Search,” then “View All RIN Data (Max 350).”

d. *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 entitled “Advanced Search—Select Additional Fields,” choose the characteristics you are seeking before “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 “Business” under “Regulatory Flexibility Analysis Required.”

e. *Download the results of your searches in XML format.*

2. **Subject Matter EPA Web Sites**

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

3. **Public Dockets**

When EPA publishes either an Advance Notice of Proposed Rulemaking (ANPRM) or a NPRM in the **Federal Register**, the Agency typically establishes 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 RFA section 610 reviews of rules with significant economic impacts on a substantial number of small entities and for various non-rulemaking activities, such as **Federal Register** documents

seeking public comments on draft guidance, policy statements, information collection requests under the PRA, and other non-rule activities. Docket information should be in that action’s agenda entry. All of EPA’s public dockets can be located at www.regulations.gov.

4. **EPA’s Regulatory Development and Retrospective Review Tracker**

EPA’s Regulatory Development and Retrospective Review Tracker (www.epa.gov/regdarrt/) serves as a portal to EPA’s priority rules, providing you with earlier and more frequently updated information about Agency regulations than is provided by the Regulatory Agenda. It also provides information about retrospective reviews of existing regulations.

The Regulatory Development and Retrospective Review Tracker (Reg DaRRT) provides information as soon as work begins and provides updates on a monthly basis as new information becomes available. Time-sensitive information, such as notice of a public meeting, is updated on a daily basis. Not all of EPA’s Regulatory Agenda entries appear on Reg DaRRT; only priority rulemakings can be found on this Web site.

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 is closing the 610 review for one rule in fall 2011.

Rule Reviewed	RIN	Docket ID No.
National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring (Section 610 Review).	2040-AF24	EPA-HQ-OW-2010-0728

EPA established an official public dockets for the 610 Review under the docket identification (ID) number indicated above. All documents in the dockets are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available; e.g., confidential business information (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 20460. 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.

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

For each of EPA’s rulemakings, consideration is given whether there will be any adverse impact on any small

entity. EPA attempts 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 as amended by SBREFA, 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/SBREFEA, please visit the RFA/SBREFEA 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, go to <http://www.regulations.gov/public/component/main?main=UnifiedAgenda> and click on Regulatory Flexibility

Analysis—Required toward the bottom of the page.

K. Thank You for Collaborating With Us

Finally, we would like to thank those of you who choose to join with us in making progress on 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: September 9, 2011.

Shannon Kenny,
Acting Principal Deputy Associate Administrator, Office of Policy.

CLEAN AIR ACT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
433	Revision of New Source Performance Standards for New Residential Wood Heaters	2060–AP93
434	National Emission Standards for Hazardous Air Pollutants (NESHAP) Risk and Technology Review (RTR) for the Mineral Wool and Wool Fiberglass Industries.	2060–AQ90
435	National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters; Proposed Reconsideration (Reg Plan Seq No. 128).	2060–AR13

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

CLEAN AIR ACT—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
436	Implementation of the 1997 8-Hr Ozone NAAQS: Classification of Subpart 1 Areas and Revision to Anti-Backsliding Provisions; Deletion of Obsolete 1-Hr Ozone Standard Provisions.	2060–AO96
437	National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Electric Utility Steam Generating Units (Reg Plan Seq No. 143).	2060–AP52

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

CLEAN AIR ACT—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
438	SAN No. 5367 NESHAP: Brick and Structural Clay Products and Clay Products	2060–AP69

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
439	Pesticides; Reconsideration of Exemptions for Insect Repellents	2070–AJ45

TOXIC SUBSTANCES CONTROL ACT (TSCA)—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
440	Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings (Reg Plan Seq No. 136).	2070–AJ56
441	Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products (Reg Plan Seq No. 134).	2070–AJ44

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

TOXIC SUBSTANCES CONTROL ACT (TSCA)—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
442	Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program	2070–AJ57

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
443	Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hard Rock Mining Industry.	2050-AG61

CLEAN WATER ACT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
444	Stormwater Regulations Revision To Address Discharges From Developed Sites (Reg Plan Seq No. 138)	2040-AF13

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

SAFE DRINKING WATER ACT (SDWA)—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
445	National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring (Section 610 Review) (Completion of a Section 610 Review).	2040-AF24

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Air Act

Proposed Rule Stage

433. Revision of New Source Performance Standards for New Residential Wood Heaters

Legal Authority: CAA sec 111(b)(1)(B)
Abstract: EPA is revising the New Source Performance Standards (NSPS) for new residential wood heaters. This action is necessary because it updates the 1988 NSPS to reflect significant advancements in wood heater technologies and design, broaden the range of residential wood heating appliances covered by the regulation, and improve and streamline implementation procedures. This rule is expected to require manufacturers to redesign wood heaters to be cleaner and lower emitting. In general, the design changes would also make the heaters perform better and be more efficient. The revisions are also expected to retain the requirement for manufacturers to contract for testing of model lines by third-party independent laboratories, report the results to EPA, and label the models accordingly. New residential hydronic heaters and forced-air furnaces and new residential masonry heaters would also be regulated by this action. These standards would apply only to new residential wood heaters and not to existing residential wood heating appliances.

Timetable:

Action	Date	FR Cite
NPRM	07/00/12	

Action	Date	FR Cite
Final Action	07/00/13	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Gil Wood, Environmental Protection Agency, Air and Radiation, C404-05, Research Triangle Park, NC 27711, *Phone:* 919 541-5272, *Fax:* 919 541-0242, *Email:* wood.gil@epa.gov.
 David Cole, Environmental Protection Agency, Air and Radiation, C404-05, Research Triangle Park, NC 27711, *Phone:* 919 541-5565, *Fax:* 919 541-0242, *Email:* cole.david@epa.gov.
RIN: 2060-AP93

434. National Emission Standards for Hazardous Air Pollutants (NESHAP) Risk and Technology Review (RTR) for the Mineral Wool and Wool Fiberglass Industries

Legal Authority: 42 U.S.C. 7401
Abstract: The Maximum Achievable Control Technology (MACT) standard for Mineral Wool Production was promulgated on June 1, 1999, and the MACT for Wool Fiberglass Production was promulgated on June 14, 1999. The Clean Air Act requires EPA to evaluate the risk remaining to human health within eight years of promulgation of each MACT standard. Along with risk, the EPA is also required to review new technology in the industry that can reduce hazardous air pollutant (HAP) emissions from regulated sources in the industry, and may consider costs under this technology review. EPA is addressing these Clean Air Act requirements under a combined risk and technology review (RTR).

Timetable:

Action	Date	FR Cite
NPRM	11/25/11	76 FR 72770
NPRM Comment Period End.	01/24/12	
Final Action	07/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Susan Fairchild, Environmental Protection Agency, Air and Radiation, D-243-04, Research Triangle Park, NC 27711, *Phone:* 919 541-5167, *Fax:* 919 541-3207, *Email:* fairchild.susan@epamail.epa.gov.

Keith Barnett, Environmental Protection Agency, Air and Radiation, 1200 Pennsylvania Ave, Research Triangle Park, NC 20460, *Phone:* 919 541-5605, *Fax:* 919 541-3720, *Email:* barnett.keith@epa.gov.

RIN: 2060-AQ90

435. • National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters; Proposed Reconsideration

Regulatory Plan: This entry is Seq. No. 128 in part II of this issue of the **Federal Register**.

RIN: 2060-AR13

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Air Act

Final Rule Stage

436. Implementation of the 1997 8-Hr Ozone NAAQS: Classification of Subpart 1 Areas and Revision to Anti-Backsliding Provisions; Deletion of Obsolete 1-Hr Ozone Standard Provisions

Legal Authority: 42 U.S.C. 7410; 42 U.S.C. 7511 to 7511f; 42 U.S.C. 7601(a)(1)

Abstract: This final action would revise the rule for implementation of the 1997 8-hour ozone national ambient air quality standard (NAAQS) to address several issues vacated by the U.S. Circuit Court of Appeals for the District of Columbia Circuit. The rulemaking would remove the portions of the regulatory text vacated by the Court. The rule would also address: (1) The classification system for nonattainment areas that the implementation rule originally covered under Clean Air Act (CAA) title I, part D, subpart 1; and (2) contingency measures that apply as anti-backsliding measures under the now-revoked 1-hour standard. The rule would also remove an obsolete provision in the 1-hour ozone standard itself (40 CFR 50.9(c)).

Timetable:

Action	Date	FR Cite
NPRM	01/16/09	74 FR 2936
NPRM Comment Period End.	02/17/09	
Final Action	12/00/11	

Regulatory Flexibility Analysis Required: Yes.

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Rich Damberg, Environmental Protection Agency, Air and Radiation, C539-01, Research Triangle Park, NC 20460, *Phone:* 919 541-5592, *Fax:* 919 541-0824, *Email:* damberg.rich@epamail.epa.gov. *RIN:* 2060-AO96

437. National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Electric Utility Steam Generating Units

Regulatory Plan: This entry is Seq. No. 143 in part II of this issue of the **Federal Register**.

RIN: 2060-AP52

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Air Act

Long-Term Actions

438. NESHAP: Brick and Structural Clay Products and Clay Products

Legal Authority: Not Yet Determined

Abstract: This rulemaking will establish emission limits for hazardous air pollutants (HF, HCl and metals) emitted from brick and clay ceramics kilns and glazing operations at clay ceramics production facilities. The brick and structural clay products industry primarily includes facilities that manufacture brick, clay, pipe, roof tile, extruded floor and wall tile, and other extruded dimensional clay products from clay, shale, or a combination of the two. The manufacturing of brick and structural clay products involves mining, raw material processing (crushing, grinding, and screening), mixing, forming, cutting or shaping, drying, and firing. Ceramics are defined as a class of inorganic, nonmetallic solids that are subject to high temperature in manufacture and/or use. The clay ceramics manufacturing source category includes facilities that manufacture traditional ceramics, which include ceramic tile, dinnerware, sanitary ware, pottery, and porcelain. The primary raw material used in the manufacture of these traditional ceramics is clay. The manufacturing of clay ceramics involves raw material processing (crushing, grinding, and screening), mixing, forming, shaping, drying, glazing, and firing.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

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RIN: 2060-AP69

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Long-Term Actions

439. Pesticides; Reconsideration of Exemptions for Insect Repellents

Legal Authority: 7 U.S.C. 136(a); 7 U.S.C. 136(w)

Abstract: EPA is developing rulemaking to modify the minimum risk pesticides exemption under 40 CFR 152.25(f) to exclude personally applied insect repellents from the exemption and require an abbreviated data set for such products. EPA is taking this action because these pesticides claim to control pests of significant public health importance.

Timetable:

Action	Date	FR Cite
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Boyle, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7506P, Washington, DC 20460, *Phone:* 703 305-6304, *Fax:* 703 305-5884, *Email:* boyle.kathryn@epa.gov.

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RIN: 2070-AJ45

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Toxic Substances Control Act (TSCA)

Proposed Rule Stage

440. Lead; Renovation, Repair, And Painting Program for Public and Commercial Buildings

Regulatory Plan: This entry is Seq. No. 136 in part II of this issue of the **Federal Register**.

RIN: 2070-AJ56

441. Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products

Regulatory Plan: This entry is Seq. No. 134 in part II of this issue of the **Federal Register**.

RIN: 2070-AJ44

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Toxic Substances Control Act (TSCA)

Completed Actions

442. Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program

Legal Authority: 15 U.S.C. 2601(c); 15 U.S.C. 2682(c)(3); 15 U.S.C. 2684; 15 U.S.C. 2686; 15 U.S.C. 2687

Abstract: On May 6, 2010, EPA proposed a number of revisions to the 2008 Lead Renovation, Repair, and Painting Program (RRP) rule that established accreditation, training, certification, and recordkeeping requirements as well as work practice standards for persons performing renovations for compensation in most pre-1978 housing and child-occupied facilities. For the final rule that was promulgated on August 5, 2011, EPA decided not to promulgate dust wipe testing and clearance requirements as proposed. However, EPA promulgated several other revisions to the RRP rule, including a provision allowing a certified renovator to collect a paint chip sample and send it to a recognized laboratory for analysis in lieu of using a lead test kit, minor changes to the training program accreditation application process, standards for e-learning in accredited training programs, minimum enforcement provisions for authorized state and tribal renovation programs, and minor revisions to the training and certification requirements for renovators. EPA also promulgated clarifications to the requirements for vertical containment on exterior renovation projects, the prohibited or restricted work practice provisions, and the requirements for high-efficiency particulate air (HEPA) vacuums.

Timetable:

Action	Date	FR Cite
NPRM	05/06/10	75 FR 25038
NPRM Extension of Comment Period.	07/07/10	75 FR 38959
Final Action	08/05/11	76 FR 47918

Regulatory Flexibility Analysis Required: Yes.

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Washington, DC 20460, *Phone:* 202 566-0744.

RIN: 2070-AJ57

RIN: 2040-AF13

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Comprehensive Environmental Response, Compensation and Liability Act

Long-Term Actions

443. Financial Responsibility Requirements Under Cercla Section 108(B) for Classes of Facilities in the Hard Rock Mining Industry

Legal Authority: 42 U.S.C. 9601 et seq.; 42 U.S.C. 9608 (b)

Abstract: Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, establishes certain authorities concerning financial responsibility requirements. The Agency has identified classes of facilities within the Hard Rock mining industry as those for which financial responsibility requirements will be first developed. EPA intends to include requirements for financial responsibility, as well as notification and implementation.

Timetable:

Action	Date	FR Cite
Priority Notice	07/28/09	74 FR 37213
NPRM	04/00/13	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

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RIN: 2050-AG61

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Water Act

Proposed Rule Stage

444. Stormwater Regulations Revision to Address Discharges From Developed Sites

Regulatory Plan: This entry is Seq. No. 138 in part II of this issue of the **Federal Register**.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Safe Drinking Water Act (SDWA)

Completed Actions

445. National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring (Section 610 Review) (Completion of a Section 610 Review)

Legal Authority: 5 U.S.C. 610

Abstract: On January 22, 2001, EPA revised the Maximum Contaminant Level (MCL) for arsenic to 0.010 mg/L (10.0 µg/L). This regulation applies to non-transient non-community water systems and to community water systems (66 FR 6976). While EPA took steps to evaluate and mitigate impacts on small entities as part of the promulgation of the Arsenic Rule, EPA reviewed the National Primary Drinking Water Rule (NPDWR) for arsenic pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610). As part of this review, EPA considered and solicited 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. EPA has reviewed comments received in response to this review, which identified concerns related to the cost associated with treatment, disposal of waste streams, compliance determinations for the maximum contaminant level (MCL), risk communication and difficulty using alternative treatment technologies. EPA identified available resources to address these concerns and has made a determination not to revise the regulation at this time. See EPA's report summarizing the results of this review in the docket EPA-OW-2010-0728.

This docket can be accessed at www.regulations.gov.

Timetable:

Action	Date	FR Cite
Final Rule	01/22/01	66 FR 6976
Initiate 610 Review.	12/20/10	75 FR 79856
End Comment Period.	02/18/11	

Action	Date	FR Cite
Completion of 610 Review.	08/16/11	

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RIN: 2040-AF24

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*Regulatory Flexibility Analysis
Required:* No.

Agency Contact: Stephanie Flaharty,
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