



Federal Register

**Monday,
October 31, 2005**

Part XXV

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) is publishing its semiannual regulatory agenda pursuant to Executive Order 12866, 58 FR 51735,

and the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The agenda lists all regulations that are scheduled for review or development during the next 12 months or that have been finalized since the publication of the last agenda.

FOR FURTHER INFORMATION CONTACT: Peggy R. Mastroianni, Associate Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-4637.

SUPPLEMENTARY INFORMATION: The Commission has identified six items in this regulatory agenda. For this edition

of EEOC's regulatory agenda, the most important significant regulatory action is included in the Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entry is listed in the table of contents below and is denoted by a bracketed bold reference, which directs the reader to appropriate sequence number in part II.

Signed in Washington, DC, this 15th day of August 2005.

For the Commission.

Cari M. Dominguez,
Chair.

Equal Employment Opportunity Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3412	Disparate Impact and Reasonable Factors Other Than Age	3046-AA76
3413	Coverage Under the Age Discrimination in Employment Act	3046-AA78

Equal Employment Opportunity Commission—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3414	Coordination of Retiree Health Benefits With Medicare and State Health Benefits (Reg Plan Seq No. 132)	3046-AA72
3415	Posting Requirements Under the Notification and Federal Employee Antidiscrimination and Retaliation Act	3046-AA74

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

Equal Employment Opportunity Commission—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3416	Federal Sector Equal Employment Opportunity Complaint Processing	3046-AA73

Equal Employment Opportunity Commission—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3417	Freedom of Information Act Fee Schedule	3046-AA75

Equal Employment Opportunity Commission (EEOC)

Proposed Rule Stage

3412. • DISPARATE IMPACT AND REASONABLE FACTORS OTHER THAN AGE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 628

CFR Citation: 29 CFR 1625.7(d)

Legal Deadline: None

Abstract: In *Smith v. City of Jackson*, 125 S. Ct. 1536 (2005), the U.S. Supreme Court affirmed that disparate impact is a cognizable theory of

discrimination under the ADEA but indicated that "reasonable factors other than age," not "business necessity," is the appropriate model for the employers' defense against an impact claim. Accordingly, the Commission

EEOC

Proposed Rule Stage

intends to revise its regulation on disparate impact, currently codified at 29 CFR section 1625.7(d).

Timetable:

Action	Date	FR Cite
NPRM	09/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, Local

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RIN: 3046-AA76

3413. • COVERAGE UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Priority: Other Significant

Legal Authority: 29 USC 621 et seq

CFR Citation: 29 CFR 1625.2; 29 CFR 1625.4 to 1625.5

Legal Deadline: None

Abstract: In General Dynamics Land Systems v. Cline, 540 U.S. 581 (2004), the U.S. Supreme Court held that the Age Discrimination in Employment Act of 1967 (ADEA) only prohibits age-based discrimination against relatively older individuals. It rejected the Commission's position that the ADEA also prohibits age-based discrimination against relatively younger individuals who are age 40 or over. The Commission is therefore revising

relevant portions of its regulations to conform to the holding in Cline.

Timetable:

Action	Date	FR Cite
NPRM	07/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, Local, State

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RIN: 3046-AA78

Equal Employment Opportunity Commission (EEOC)

Final Rule Stage

3414. COORDINATION OF RETIREE HEALTH BENEFITS WITH MEDICARE AND STATE HEALTH BENEFITS

Regulatory Plan: This entry is Seq. No. 132 in part II of this issue of the Federal Register.

RIN: 3046-AA72

3415. POSTING REQUIREMENTS UNDER THE NOTIFICATION AND FEDERAL EMPLOYEE ANTIDISCRIMINATION AND RETALIATION ACT

Priority: Other Significant

Legal Authority: PL 107-174, sec 303

CFR Citation: 29 CFR 1614.701 et seq

Legal Deadline: Final, Statutory, October 1, 2003.

Abstract: Title III of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 requires each Federal agency to post on its website certain statistical information about equal employment opportunity complaints that it receives and processes under 29 CFR part 1614. The Act authorizes EEOC to issue regulations defining certain terms and prescribing the time, form, and manner of the posting.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/26/04	69 FR 3483
Interim Final Rule Comment Period End	04/26/04	
Final Action	01/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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Equal Employment Opportunity Commission (EEOC)

Long-Term Actions

3416. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT PROCESSING

Priority: Other Significant

CFR Citation: 29 CFR 1614

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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EEOC

Long-Term Actions

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RIN: 3046-AA73

Equal Employment Opportunity Commission (EEOC)

Completed Actions

3417. FREEDOM OF INFORMATION ACT FEE SCHEDULE

Priority: Info./Admin./Other

CFR Citation: 29 CFR 1610

Completed:

Reason	Date	FR Cite
NPRM	07/01/05	70 FR 38060
Final Action	10/03/05	70 FR 57510

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, Local, State, Tribal

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RIN: 3046-AA75

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