



Federal Register

**Monday,
April 24, 2006**

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:

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Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-4637.

SUPPLEMENTARY INFORMATION: The Commission has identified seven items in this regulatory agenda.

Signed in Washington, DC, this 16th day of February 2006.

For the Commission.

Cari M. Dominguez,
Chair.

Equal Employment Opportunity Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3302	Disparate Impact and Reasonable Factors Other Than Age	3046-AA76
3303	Coverage Under the Age Discrimination in Employment Act	3046-AA78

Equal Employment Opportunity Commission—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3304	Posting Requirements Under the Notification and Federal Employee Antidiscrimination and Retaliation Act	3046-AA74
3305	Repositioning of Commission Field Offices	3046-AA80

Equal Employment Opportunity Commission—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3306	Coordination of Retiree Health Benefits With Medicare and State Health Benefits	3046-AA72
3307	Federal Sector Equal Employment Opportunity Complaint Processing	3046-AA73

Equal Employment Opportunity Commission—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3308	Privacy Act Regulations	3046-AA79

Equal Employment Opportunity Commission (EEOC)

Proposed Rule Stage

3302. 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*, 544 U.S. 228 (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 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

EEOC

Proposed Rule Stage

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, Local

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RIN: 3046-AA76

3303. 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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Equal Employment Opportunity Commission (EEOC)

Final Rule Stage

3304. 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: None

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	09/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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3305. • REPOSITIONING OF COMMISSION FIELD OFFICES

Priority: Substantive, Nonsignificant

Legal Authority: 4 USC 2000e; 42 USC 12111 to 12117; 2 USC 1220; 29 USC 294; 29 USC 201; 29 USC 628

CFR Citation: 29 CFR 1601; 29 CFR 1603; 29 CFR 1610; 29 CFR 1615; 29 CFR 1621; 29 CFR 1626

Legal Deadline: None

Abstract: This rule revises the Commission's regulations to reflect new

position and organizational titles consistent with the field repositioning approved in 2005. The rule does not change the procedures in the regulations.

Timetable:

Action	Date	FR Cite
Final Action	05/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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Equal Employment Opportunity Commission (EEOC)

Long-Term Actions

3306. COORDINATION OF RETIREE HEALTH BENEFITS WITH MEDICARE AND STATE HEALTH BENEFITS**Priority:** Other Significant**CFR Citation:** 29 CFR 1625**Timetable:**

Action	Date	FR Cite
NPRM	07/14/03	68 FR 41542
NPRM Comment Period End	09/12/03	
Next Action Undetermined		

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal, Local, State**Agency Contact:** Dianna B. Johnston

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RIN: 3046-AA72**3307. 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**Agency Contact:** Thomas J. Schlageter

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RIN: 3046-AA73

Equal Employment Opportunity Commission (EEOC)

Completed Actions

3308. • PRIVACY ACT REGULATIONS**Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 552a(f)**CFR Citation:** 29 CFR 1611.11**Legal Deadline:** None

Abstract: EEOC is revising the fees it charges for photocopying, attestation, and certification of documents under the Privacy Act to reflect its increased costs and to be consistent with the fees it charges for such services under the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM	12/12/05	70 FR 73413
NPRM Comment Period End	01/11/06	
Final Action	03/07/06	71 FR 11309
Final Action Effective	03/07/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

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