Monday,
October 31, 2005

Part XXV

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Equal Employment Opportunity Commission—Proposed Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>3412</td>
<td>Disparate Impact and Reasonable Factors Other Than Age</td>
<td>3046–AA76</td>
</tr>
<tr>
<td>3413</td>
<td>Coverage Under the Age Discrimination in Employment Act</td>
<td>3046–AA78</td>
</tr>
</tbody>
</table>

Equal Employment Opportunity Commission—Final Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>3414</td>
<td>Coordination of Retiree Health Benefits With Medicare and State Health Benefits (Reg Plan Seq No. 132)</td>
<td>3046–AA72</td>
</tr>
<tr>
<td>3415</td>
<td>Posting Requirements Under the Notification and Federal Employee Antidiscrimination and Retaliation Act</td>
<td>3046–AA74</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>3416</td>
<td>Federal Sector Equal Employment Opportunity Complaint Processing</td>
<td>3046–AA73</td>
</tr>
</tbody>
</table>

Equal Employment Opportunity Commission—Completed Actions

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>3417</td>
<td>Freedom of Information Act Fee Schedule</td>
<td>3046–AA75</td>
</tr>
</tbody>
</table>

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

**Timetable:**

<table>
<thead>
<tr>
<th>Action</th>
<th>Date</th>
<th>FR Cite</th>
</tr>
</thead>
<tbody>
<tr>
<td>NPRM</td>
<td>09/00/06</td>
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</tbody>
</table>

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, Local

Agency Contact: Dianna B. Johnston, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW, Washington, DC 20507

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RIN: 3046–AA76

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**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:**

<table>
<thead>
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<th>Action</th>
<th>Date</th>
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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

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**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

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**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:**

<table>
<thead>
<tr>
<th>Action</th>
<th>Date</th>
<th>FR Cite</th>
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<tbody>
<tr>
<td>Interim Final Rule Comment Period</td>
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<td>69 FR 3483</td>
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<td>Interim Final Rule Action</td>
<td>04/26/04</td>
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<tr>
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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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RIN: 3046–AA74

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**3416. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT PROCESSING**

**Priority:** Other Significant

**CFR Citation:** 29 CFR 1614

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Email: thomas.schlageter@eeoc.gov
RIN: 3046–AA73

Table: Completed Actions

<table>
<thead>
<tr>
<th>Reason</th>
<th>Date</th>
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<tr>
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Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, Local, State, Tribal

Agency Contact: Thomas J. Schlageter
Phone: 202 663–4668
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Email: thomas.schlageter@eeoc.gov
RIN: 3046–AA75
[FR Doc. 05–17869 Filed 10–28–05; 8:45 am]
BILLING CODE 6570–01–S