Regulatory Reform of the U.S. Manufacturing Sector

2005

Office of Management and Budget
Office of Information and Regulatory Affairs
Regulatory Reform of the U.S. Manufacturing Sector

A Summary of Agency Responses to Public Reform Nominations

Streamlining regulation is a key plank in the President’s economic program. Because manufacturing bears a disproportionate share of overall regulatory costs in the economy, in February 2004 OMB initiated a government-wide effort to reform regulation of the U.S. manufacturing sector. Since U.S. manufacturers compete with firms from both developed and developing countries in an increasingly global economy, the Administration believes it is critical that any unnecessary regulatory burdens be removed.

In OMB's draft 2004 Report to Congress on the Costs and Benefits of Federal Regulation, OMB requested public nominations of specific regulations, guidance documents and paperwork requirements that, if reformed, could result in lower costs, greater effectiveness, enhanced competitiveness, more regulatory certainty and increased flexibility. OMB expressed particular interest in reforms that address burdens on small and medium-sized manufacturers. In developing reform nominations, commenters were asked to consider: (1) whether a benefit-cost case can be made for the reform, (2) whether the agencies have the statutory authority to implement the suggested reform, (3) whether the reform gives due consideration to fair and open trade policy objectives, and (4) whether the rule or program is important. Commenters were provided 90 days to prepare their nominations and submit them to OMB.

In response to the solicitation, OMB received 189 distinct reform nominations from 41 commenters. The materials submitted by the 41 commenters are available on OMB's web site, and the 189 reform nominations are summarized in OMB's Final 2004 Report to Congress on the Costs and Benefits of Federal Regulation. A majority of the reform nominations address programs administered by the Environmental Protection Agency and the Department of Labor, a pattern that reflects the large impact of environmental and labor regulation on this sector of the economy.

OMB instructed federal agencies to review the merits of each of the 189 reform nominations and prepare a response for OMB by January 24, 2005. The response was to include a determination as to whether reform action is appropriate. If the agency found that the reform was worth pursuing, they were to supply a proposed time line for action and, where appropriate, a plan for public participation. OMB evaluated the reform

1 A study by Crain and Hopkins (2001) for the SBA Office of Advocacy found that manufacturing firms face a total regulatory burden approximately 6 times greater than the average firm, and a regulatory burden per employee approximately 2 times greater than the average firm.


3 Both the reform nominations and the final Report to Congress are available at http://www.whitehouse.gov/omb/inforeg/regpol-reports_congress.html
nominations and collaborated with federal agencies in the development of response plans. OMB also sought evaluations of the recommendations by the Advocacy Office of the US Small Business Administration and the US Department of Commerce's Office of the Assistant Secretary for Manufacturing and Services.

Overall, federal agencies and OMB have determined that 76 of the 189 nominations have potential merit and justify further action. Future actions on these reform nominations range from performing a priority investigation and reporting to OMB in order to determine appropriate next steps, to issuing modernized regulations. In several cases described below, agencies have already taken action that addresses some of the issues raised by commenters. Often these actions were taken in the time since OMB received the public reform nominations and the publication of this report.

The remainder of the report republishes OMB's summary of each priority reform nomination, including the identity of the commenter and its numerical designation. For all future actions on these reforms, we also include milestones and deadlines. OMB will oversee the reform process to make sure that agencies make adequate progress in the months and years ahead. As readers assess the information presented below, it should be emphasized that OMB and federal agencies do not necessarily agree with either the problem statement or specific solutions suggested by commenters. Before any regulatory reforms are adopted, federal agencies will suggest specific reforms through a process that entails opportunity for public participation (e.g., a notice and comment rulemaking).

Regulatory reform of the U.S. manufacturing sector is one component of OMB’s multi-year effort to modernize or rescind outmoded rules. OMB’s 2004 Report to Congress on the Costs and Benefits of Federal Regulation provides a progress report on the Administration’s regulatory reform activities.
<table>
<thead>
<tr>
<th>Reference Number</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
<td>Department of Commerce’s (DOC) National Oceanographic and Atmospheric Administration (NOAA)</td>
</tr>
<tr>
<td><strong>Rule/Guidance</strong></td>
<td>Coastal Zone Management Act of 1972; 16 U.S.C. 1455 (CZMA) Federal Consistency Regulations</td>
</tr>
<tr>
<td><strong>Commenter</strong></td>
<td>National Association of Manufacturers (9)</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td>Under the CZMA, a State has an opportunity to review Federal permitting actions to ensure consistency with its Federally-approved management plan. These reviews however have become mired in controversy. DOC should go further than its recent proposed rule and significantly reduce the time required for Federal and State review and eliminate the open-ended information and analysis requirements that are used to delay approval indefinitely. Process modifications are needed to meet the goals of Executive Orders 13211 and 13212 regarding expediting energy project permitting and reducing burdens on energy supplies.</td>
</tr>
<tr>
<td><strong>Response</strong></td>
<td>Final rule: 2005</td>
</tr>
</tbody>
</table>
Reference Number 6

Agency Department of Homeland Security (DHS)


Commenter Motor & Equipment Manufacturers Association (41); Recreational Vehicle Industry Association (25)

Summary Importers must possess these certificates to prove that goods qualify as originating under NAFTA and thus qualify for preferential tariff treatment. The paperwork associated with these certificates is time consuming for automotive parts companies. Moreover, the detailed information required creates difficulties among suppliers and vehicle manufacturers, given its sensitivity. Commenter recommends simplification of the certificate.

Response DHS will provide OMB a plan and timeframe for next steps, which may include revisions to clarify the regulations or guidance on enforcement: May 2005
Reference Number 7

Agency Department of Homeland Security (DHS)

Rule/Guidance Maritime Security

Commenter American Shipbuilding Association (44)

Summary Shipyards that are subject to more stringent Department of Defense (DoD) security plan requirements should be exempted from redundant, conflicting, and burdensome US Coast Guard (USCG) maritime security rules on vessels and facilities.

Response DHS will provide OMB a plan and timeframe for next steps, which may include revisions to clarify the regulations or guidance on enforcement: May 2005
Reference Number 12

Agency Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA)

Rule/Guidance Motor Vehicle Brakes

Commenter National Association of Manufacturers (9); National Marine Manufacturers Association (38)

Summary Outdated "brake" rules need to be amended to permit the limited lawful use of "surge brakes" on small-to-medium sized trailer and tow-vehicle combinations since they meet the federal regulatory requirements for stopping distance and holding on a 20 percent grade and have a record of safety. Trailers with surge brakes can be used by consumers but not for commercial uses (such as where a marina owner would transport a boat for a boat owner for repair). The mandated electric brakes are not workable in conditions where the trailer would be submerged in water such as in a boat trailer.

Response Proposed rule: September 2005
Final action: September 2006
<table>
<thead>
<tr>
<th>Reference Number</th>
<th>14</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
<td>Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA)</td>
</tr>
<tr>
<td><strong>Rule/Guidance</strong></td>
<td>Hours of Service</td>
</tr>
<tr>
<td><strong>Commenter</strong></td>
<td>SBA Office of Advocacy (39)</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td>Current rules set maximum on-duty hours per 24-hour period and per work week for commercial truck drivers; also set minimum number of hours between days of work and between weeks. Drivers may only work 11 hours before taking a 10 hour break; the rule allows one day per week on which drivers may be working up to 16 hours. Drivers may work up to 70 hours within an eight-day period but must take a break of at least 34 hours before beginning a new eight-day period. For businesses that deliver products locally, redefining on-duty hours to allow deliveries to be made beyond the 11-hour maximum will save costs for businesses whose primary business is not trucking.</td>
</tr>
</tbody>
</table>
| **Response**     | Published proposed rule: February 4, 2005  
Final rule: August 2005 |
Agency  Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA)

Rule/Guidance  Lighting & Reflective Devices

Commenter  National Association of Manufacturers (9); Motor & Equipment Manufacturers Association (41)

Summary  This rule, which sets forth minimum safety standards for automotive lighting equipment, has been amended frequently during the past 30 years and is now difficult to understand and comply with. The standard should be revised to make it more clear and concise, which will decrease confusion about NHTSA's enforcement of the imported non-compliance product clause.

Response  Proposed rule: December 2005
          Final rule: October 2007
<table>
<thead>
<tr>
<th><strong>Reference Number</strong></th>
<th>18</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
<td>Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA)</td>
</tr>
<tr>
<td><strong>Rule/Guidance</strong></td>
<td>Occupant Ejection Safety Standard</td>
</tr>
<tr>
<td><strong>Commenter</strong></td>
<td>Public Citizen (2)</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td>Address window glazing, side curtain and side impact airbags and increase strength of door locks and latches.</td>
</tr>
</tbody>
</table>
| **Response**         | Published proposed rule on side impact protection: May 17, 2004.  
Proposed rule establishing occupant containment performance requirements: December 2006  
Final action: 2007 |
Reference Number 22

Agency Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA)

Rule/Guidance Vehicle Compatibility Standard

Commenter Public Citizen (2)

Summary Include standard metric rating to evaluate vehicle mismatch; establish compatible bumper heights; mitigate harm done by "aggressive" design.

Response NHTSA will submit to OMB a report on the status of research in this area: June 2005
Summary

Employers with greater than 100 employees are required to file an employer information report (EEO-1) annually regarding employees and their demographics. The commenter seeks to ensure that the form minimizes burden, and asks that reporting on occupational categories be aggregated to the extent possible.

Response

Proposed revisions to EEO-1: June 11, 2003
Final notice: Spring 2005
An improved process is needed for updating Section 12.2 of AP-42 (Coke Production) in collaboration with the industry. This guidance document contains critical emission factors, has been under revision for nearly 10 years, and is posted in draft form on an agency web site. However, the agency has no realistic plan for finalization. The updating process should include industry test data and greater stakeholder involvement to resolve issues.

1. Model test plan and report software: 3rd quarter fiscal year 2005
2. Revise emissions factors development process: 4th quarter fiscal year 2005
Reference Number 30

Agency Environmental Protection Agency

Rule/Guidance Document AP-42: Science and Site-Specific Conditions

Commenter National Association of Manufacturers (9)

Summary The agency's AP-42 document contains emission factor information that is not sufficient. AP-42 should be improved by stating more clearly that site-specific data are preferable to category-wide averages for use in applicability and permitting determinations, using updated test results, and assisting state and local regulatory agencies in interpreting AP-42 data consistently and accurately.

Response 1. Model test plan and report software: 3rd quarter fiscal year 2005
2. Revise emissions factors development process: 4th quarter fiscal year 05
3. Report on emissions factors uncertainty assessment: 4th quarter fiscal year 05
Reference Number 33

Agency Environmental Protection Agency

Rule/Guidance Clean Up Standards for Polychlorinated Biphenyls (PCBs)

Commenter Motor and Equipment Manufacturers Association (41)

Summary Clean up of PCBs at member companies have imposed substantial costs without consideration of the actual risk posed by the PCB. EPA should allow risk-based screening of sites to assure that clean up is necessary.

Response EPA will supply OMB a plan and timeframe for next steps, which may include revisions to clarify the regulations: September 2005
Different EPA programs, each of which deals with different environmental media (air, water, and so forth), may use a different identification number for the same manufacturing facility/company. Confusion about the identity of facilities would be reduced if a common identification number were used.

1. Identify all facilities currently regulated by EPA and work to uniquely number the facilities with a Facility Registration System identification number: end of 2005
2. Work with 30 states to share this unique facility identification number: end of 2005
3. Work with remaining States as the States are ready to accept the common unique identification number: begin in 2006 until completion
4. Ensure that all new facility level databases created for EPA programs utilize the Facility Registration System identification number. Two upcoming databases are for Underground Injection Controls: 3rd quarter 2005, and Institutional Controls: 4th quarter 2005.
<table>
<thead>
<tr>
<th>Reference Number</th>
<th>35</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td><strong>Rule/Guidance</strong></td>
<td>Enforcement and Compliance History Online (ECHO) Website</td>
</tr>
<tr>
<td><strong>Commenter</strong></td>
<td>American Iron and Steel Institute (34)</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td>The agency's ECHO web site provides inaccurate information to the public about the environmental performance of facilities. The agency should correct current errors and establish a process for updating the site on a timely basis.</td>
</tr>
<tr>
<td><strong>Response</strong></td>
<td>Improve ECHO text explanations in order to guard against misinterpretation: June 2005</td>
</tr>
</tbody>
</table>
**Reference Number** 36

**Agency** Environmental Protection Agency

**Rule/Guidance** Electronic Formats for Agency Forms

**Commenter** National Association of Manufacturers (9)

**Summary** Some forms used by manufacturers are being made available in only one format (e.g., Word Perfect) while many manufacturers use a different format (e.g., Microsoft Word). Making forms available in multiple electronic formats would reduce conversion burdens on manufacturers.

**Response**
1. Identify what existing regulatory form formats are currently available: July 2005
2. Determine if it is reasonable to assume most regulated entities for each form have access to software needed to view and respond in the identified format: October 2005
3. For each regulatory form, determine value and cost of offering the form in additional formats: December 2005
4. For those forms where conversion to other formats is warranted, make form available in new format: February 2006
Reference Number 38

Agency Environmental Protection Agency

Rule/Guidance Expand the Comparable Fuels Exclusion (CFE) under the Resource Conservation and Recovery Act (RCRA); 42 U.S.C. s/s 321 et seq.

Commenter National Association of Manufacturers (9); American Chemistry Council (31)

Summary The CFE excludes from hazardous waste regulation those wastes that can be and are burned as fuels, and that are not more hazardous than the fossil fuels that facilities would otherwise use. The agency should enhance this exclusion by reducing the analytical requirements, including enactment of a flexible demonstration for non-halogenated organic constituents that can be shown to be destroyed in a well-operated, efficient combustion system.

Response 1. Discuss and receive input from stakeholders on potential approaches: November 2005
2. Proposed rule: Summer 2006
3. Final rule: Summer 2007
<table>
<thead>
<tr>
<th>Reference Number</th>
<th>39</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td><strong>Rule/Guidance</strong></td>
<td>Export Notification Requirements</td>
</tr>
<tr>
<td><strong>Commenter</strong></td>
<td>National Association of Manufacturers (9); American Chemistry Council (31)</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td>Companies are required to notify EPA when exporting substances or products that contain chemicals listed on the Export Notification 12(b) list under the Toxic Substances Control Act (TSCA); 15 U.S.C. s/s 2601 et seq. Since current rules do not have a low-level cutoff, many minor substances or product ingredients trigger large amounts of paperwork. To reduce this burden, a low-level cutoff should be added to 12(b).</td>
</tr>
<tr>
<td><strong>Response</strong></td>
<td>Proposed rule: January 2006</td>
</tr>
</tbody>
</table>
Reference Number 42

Agency Environmental Protection Agency

Rule/Guidance Hazardous Waste Rules Should Be Amended to Encourage Recycling

Commenter National Association of Manufacturers (9); American Petroleum Institute (12); Synthetic Organic Chemical Manufacturers Association (17); National Paint and Coatings Association (18); U.S. Chamber of Commerce (19); Alliance of Automobile Manufacturers (23); Specialty Graphic Imaging Association (27); American Chemistry Council (31); IPC - The Association Connecting Electronics Industries (32); SBA Office of Advocacy (39)

Summary Under current rules under the Resource Conservation and Recovery Act (RCRA), certain waste streams are regulated as hazardous wastes, even when they are being recycled. The agency should clarify that a material that is being sent for recycling is not subject to regulation as a hazardous waste because it is not being "discarded". This reform would increase recycling rates while reducing the costs of managing hazardous wastes.

Response Final rule: November 2006

If re-proposed, final rule: Winter 2008
Summary
The 2001 rule adding lead and lead compounds to the list of persistent, bioaccumulative and toxic chemicals caused a lowering in the annual reporting threshold for lead from 10,000 to 100 pounds of use per year. The result has been that thousands of small businesses must file Form R to the federal government, even though their emissions of lead into the environment are minor or even zero. EPA should reexamine the justification for lowering the reporting threshold and the 2001 rule should be amended to reduce the substantial paperwork burden on small lead emitters.

Response
Provide OMB with a report on the status of applying the Metals Framework to Lead and Lead Compounds: September 2005
Reference Number 44

Agency Environmental Protection Agency

Rule/Guidance Maximum Achievable Control Technology (MACT) Standard for Chromium Emissions

Commenter The Policy Group (28)

Summary In 2002 the agency proposed revisions to the MACT standard governing chromium emissions from metal finishing operations. The proposal provides more flexibility for new sources, more flexibility in the legal treatment of technical violations, and more compliance flexibility (e.g., use of other technologies). The proposal should be finalized to allow facilities to take advantage of these provisions.

Response Published final rule: July 2004
Reference Number 45

Agency Environmental Protection Agency

Rule/Guidance Polychlorinated Biphenyl (PCB) Remediation Wastes

Commenter Utility Solid Waste Activities Group (7)

Summary The agency should clarify that all PCB remediation waste containing small amounts of PCBs can be disposed, on its as-found concentration, in a municipal solid waste landfill. This clarification will reduce the costs of disposal without causing environmental harm.

Response 1. Internal review and stakeholder consultations of the PCB regulations for cleanup and disposal of remediation wastes: May 2005
2. Submit plan on next steps to OMB: September 2005
<table>
<thead>
<tr>
<th><strong>Reference Number</strong></th>
<th>46</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td><strong>Rule/Guidance</strong></td>
<td>Permit Use of New Technology to Monitor Leaks of Volatile Air Pollutants</td>
</tr>
<tr>
<td><strong>Commenter</strong></td>
<td>National Association of Manufacturers (9); U.S. Chamber of Commerce (19)</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td>Current rules for monitoring leaks and fugitive emissions, specified in Method 21, require an operator to visit and screen each regulated component to determine if it is leaking. This process is labor intensive, expensive, and not particularly accurate. Method 21 should be replaced with a more technologically-advanced approach to emissions monitoring such as the use of optical imaging devices.</td>
</tr>
</tbody>
</table>
| **Response**         | Proposed rule or guidance: March 2006  
Final rule or guidance: March 2007 |
Reference Number 47

Agency Environmental Protection Agency

Rule/Guidance Pretreatment Streamlining Rule Under the Clean Water Act; 33 U.S.C. ss/1251 et seq

Commenter The Policy Group (28); SBA Office of Advocacy (39); Motor and Equipment Manufacturers Association (41)

Summary In 1999 the agency proposed a rule to streamline pretreatment requirements to remove unnecessary burdens on Publicly Owned Treatment Works (POTWs), industry and agencies. The proposal provides flexibility to POTWs to set either mass-based or concentration-based limits, exempts Categorical Industrial Users if their discharges are below thresholds, and revises noncompliance criteria for extenuating circumstances that cause delay in paperwork filings. This rule should be finalized because it reduces burdens on POTWs without negatively impacting the environment.

Response Final rule: June 2005
Reference Number 48

Agency Environmental Protection Agency

Rule/Guidance Provide More Flexibility in the Management of Wastewater Treatment Sludge to Encourage Recycling

Commenter The Policy Group (28); IPC - The Association Connecting Electronics Industries (32); SBA Office of Advocacy (39)

Summary Under the Resource Conservation and Recovery Act (RCRA), metal precipitate sludge is considered an F006 listed hazardous waste when a manufacturing facility ships it off site for metals recovery. This determination discourages reuse, recycling and reclamation by increasing the cost of recycling these valuable materials. The agency should exempt recycled electroplating sludge from hazardous waste management requirements to reduce management costs while protecting the environment.

Response Proposed rule: December 2005
Final rule: June 2006
<table>
<thead>
<tr>
<th>Reference Number</th>
<th>51</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td><strong>Rule/Guidance</strong></td>
<td>Remove Regulatory Disincentive to Recycle Spent Hydrotreating and Hydrorefining Catalysts</td>
</tr>
<tr>
<td><strong>Commenter</strong></td>
<td>American Petroleum Institute (12)</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td>A conditional exclusion from hazardous-waste rules should be provided for the recycling of spent hydrotreating and hydrorefining catalysts. By encouraging recycling, this exclusion would improve environmental quality while reducing the costs of managing wastes.</td>
</tr>
<tr>
<td><strong>Response</strong></td>
<td>Respond to petition: December 2005</td>
</tr>
</tbody>
</table>
Reference Number: 52

Agency: Environmental Protection Agency

Rule/Guidance: Reporting and Paperwork Burden in the Toxic Release Inventory (TRI) Program

Commenter: Deere & Company (1); National Association of Manufacturers (9); American Petroleum Institute (12); National Small Business Association (24); Specialty Graphic Imaging Association (27); Society of Glass and Ceramic Decorators (33); SBA Office of Advocacy (39)

Summary: The required TRI database contains thousands of reports that show little or no release of toxic chemicals, an indication that expensive and time-consuming reports are required with little environmental benefit. Burden-reduction reforms are needed such as raising the reporting thresholds on the amount of material that can be used without triggering a report.

Response: Phase I, forms modification rule:
Published proposed rule: January 10, 2005
Final rule: June 2005
Phase II, burden reduction rule:
Proposed rule: August 2005
Final rule: December 2006
<table>
<thead>
<tr>
<th><strong>Reference Number</strong></th>
<th>54, 55, 56, 57, 58</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td><strong>Rule/Guidance</strong></td>
<td>Spill Prevention Control and Countermeasures (SPCC) Rule</td>
</tr>
<tr>
<td><strong>Commenter</strong></td>
<td>Utility Solid Waste Activities Group (7); National Association of Manufacturers (9); Synthetic Organic Chemicals Manufacturing Association (17); National Paint and Coatings Association (18); General Electronic Company (26); American Furniture Manufacturers Association (35); SBA Office of Advocacy (39); American Public Power Association (42); Copper and Brass Fabricators Council (45)</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td>EPA finalized a Spill Prevention, Control, and Countermeasures (SPCC) rule in July 2002. This rule was designed to prevent discharges of oil into navigable waters of the United States, and to contain those spills after they occur. Facilities subject to the rule must prepare and implement plans to prevent such discharges and respond to spills. Several comments were received on this rule. Among the comments: that EPA should allow a professional engineer to certify that certain systems are &quot;environmentally equivalent&quot; to the mandatory integrity testing (18); that EPA should eliminate the applicability of the professional engineer requirements for small facilities, reduce the stringency of some requirements, especially for smaller tanks, and more narrowly define whether a spill would have the possibility of &quot;reaching a waterway&quot; (39, 45); and that the rule ought to have special provisions for oil-filled electrical equipment, because such equipment is widely used with low risk of environmental harm (7, 9, 26, 42).</td>
</tr>
</tbody>
</table>
| **Response**         | 1. Guidance to EPA inspectors for implementation of the 2002 rule: July 2005  
2. Proposed rule relating to the September 2004 Notice of Data Availability (NODA) for “certain” facilities and oil-filled and process equipment: August 2005  
3. Final rule relating to NODA: February 2006  
4. Proposed rule for SPCC regulatory modifications: June 2006  
5. Final rule to revise 2002 SPCC rule: June 2007 |
Reference Number 59

Agency Environmental Protection Agency

Rule/Guidance Water Permit Rules

Commenter National Association of Manufacturers (9); American Chemistry Council (31)

Summary The current rule sets mass-based effluent limits into water by multiplying average process wastewater flow by the regulated concentrations. If a company implements a water conservation project, it will be penalized when the permit is renewed. Permittees should be permitted to retain mass limits when permits are renewed if process wastewater flows have been reduced for purposes of water conservation. If process wastewater flows are decreased for other reasons, the mass-based emission limits can be adjusted per the current rule.

Response EPA will analyze options for promoting water conservation through the use of mass-based limits as part of its annual review of existing effluent guidelines pursuant to Section 304(m) of the Clean Water Act, and publish the results of this review in its next preliminary biennial plan, scheduled for signature in August 2005.
Current pesticide reporting forms impose extraneous administrative costs because they require reporting of how many pesticide devices and filters are produced and they define pesticide devices in an overly broad manner. The agency should reconsider the estimates of burden and whether such information is needed.

Already posted revised forms on website. Will post revised device policy on EPA website: February 2005
<table>
<thead>
<tr>
<th><strong>Reference Number</strong></th>
<th>68</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td><strong>Rule/Guidance</strong></td>
<td>Cooling Water Intake Structures, Phase III</td>
</tr>
<tr>
<td><strong>Commenter</strong></td>
<td>American Public Power Association (42)</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td>EPA is developing a rule to reduce impingement and entrainment of aquatic organisms at the cooling water intake structures for manufacturing facilities and smaller electric utility generating plants (&lt;50 mdg). These standards are unlikely to yield net benefits and no further Federal action is necessary with respect to these facilities.</td>
</tr>
<tr>
<td><strong>Response</strong></td>
<td>Published proposed rule: November 1, 2004</td>
</tr>
<tr>
<td></td>
<td>Final rule: May 2006</td>
</tr>
</tbody>
</table>
Reference Number  75

Agency  Environmental Protection Agency

Rule/Guidance  Electronic Filing by Manufacturing Firms

Commenter  American Furniture Manufacturers Association (35)

Summary  The agency, in collaboration with state regulators who administer federal air quality rules, should develop and implement user-friendly, multi-media electronic filing systems as a means of reducing paperwork burden on manufacturers. Encouraging commonality of forms and electronic filing procedures, coupled with use of compatible software between state and federal regulators, is essential to burden reduction.

Response  Review electronic reporting options supported by EPA’s central data exchange, and report to OMB: December 2005
<table>
<thead>
<tr>
<th>Reference Number</th>
<th>83</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency</td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td>Rule/Guidance</td>
<td>Leak-Detection and Repair Regulatory Programs</td>
</tr>
<tr>
<td>Commenter</td>
<td>National Association of Manufacturers (9)</td>
</tr>
<tr>
<td>Summary</td>
<td>The same manufacturing facility often faces multiple leak-detection and repair programs under different EPA rules. The paperwork associated with these programs is burdensome. EPA should amend existing rules so that only one leak-detection and repair program is required for any given plant.</td>
</tr>
</tbody>
</table>
| Response         | Proposed rule: March 2006  
                  Final rule: March 2007 |
<table>
<thead>
<tr>
<th>Reference Number</th>
<th>86</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency</td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td>Rule/Guidance</td>
<td>Method of Detection Limit/Minimum Level (MDL/ML) Procedure under the Clean Water Act</td>
</tr>
<tr>
<td>Commenter</td>
<td>National Association of Manufacturers (9); Inter-Industry Analytic Group (14); Alliance of Automobile Manufacturers (23)</td>
</tr>
<tr>
<td>Summary</td>
<td>The agency's MDL/ML procedure used for establishing low-level detection of chemical constituents results in a high rate of false positives. When used for compliance purposes, this data may inaccurately characterize a discharger's effluent as being non-compliant. Although the agency's Technical Support document confirms that the MDL/ML approach is unsuitable for compliance determinations, it appears this approach is being used for compliance and may continue to be used for compliance. This practice should halt.</td>
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</tbody>
</table>
| Response         | 1. EPA has initiated a stakeholder process of forming a Federal Advisory Committee (FAC). This process will be completed by Summer 2006.  
2. Conclude pilot project: November 2006  
4. Final rule: Spring 2008 |
Summary
All major and some minor stationary sources must file for operating permits under Title V of the Clean Air Act. The growing number of requirements under Title V, coupled with the growth of state permit programs, has created confusion and additional burden. The Title V permitting process should be reviewed and amended to clarify language, make permit language more concise, and reduce costs to firms seeking permits.

Response
1. Final public meeting: held on February 7, 2005
2. Public comment period closes: March 31, 2005
3. Final report prepared: December 2005
Reference Number 88

Agency Environmental Protection Agency

Rule/Guidance Potential to Emit (PTE) Test

Commenter Deere & Company (1); Motor and Equipment Manufacturers Association (41)

Summary Use of the PTE test in implementing the Clean Air Act treats sources with real-world emissions below the statutory threshold as "major sources" subject to the full extent of major source regulations. EPA should eliminate the “potential to emit” test because it does not reflect real world emissions.

Response Proposed rule: January 2006
Final rule: January 2007
Reference Number 90

Agency Environmental Protection Agency

Rule/Guidance Prohibit Use of Mercury in Automobile Manufacturing

Commenter American Iron and Steel Institute (34)

Summary The agency should move to prohibit the use of mercury in automobile manufacturing to minimize environmental impact of mercury to facilitate recycling.

Response 1. Conduct preliminary analysis of the use of mercury-containing switches in convenience lights and braking systems installed in new cars and identify viable non-mercury alternatives for use in TSCA rulemaking and voluntary activities: Spring 2005
2. Begin discussions with stakeholders on possible options for regulatory and voluntary action, e.g., TSCA Section 5 SNUR for discontinued uses of mercury switches in new cars, voluntary removal of mercury-containing switches in existing cars, and expansion of other current voluntary mercury-reduction initiatives: Summer 2005
3. Make determination on appropriate regulatory or voluntary approaches for addressing mercury switches and other parts in automobiles: November 2005
Reference Number: 92

Agency: Environmental Protection Agency

Rule/Guidance: Reduce the Inspection Frequency from Weekly to Monthly for Selected RCRA Facilities

Commenter: Deere & Company (1)

Summary: EPA should reduce the frequency of inspections of RCRA large quantity generator accumulation areas. The risk to the environment from a release from a well-engineered Large Quantity Generator Accumulation Area is less than previously thought. Thus, burden reduction could be achieved under the RCRA if the inspection frequency for these facilities was reduced from weekly to monthly.

Response: 1. Published proposed rule on burden reduction: January 17, 2002
2. Published Notice of Data Availability taking comments on less frequent inspections: October 29, 2003
3. Final rule: November 2005
Reference Number 97

Agency Environmental Protection Agency

Rule/Guidance Reportable Quantity (RQ) Threshold for Nitrogen Oxide and Dioxide at Combustion Sources

Commenter National Association of Manufacturers (9); American Chemistry Council (31)

Summary The current rule sets the RQ for nitrogen emissions too low for combustion sources (e.g., the flares used to control emissions of volatile organic compounds), triggering reporting burdens on owners/operators of combustion facilities and administrative burden on the NRC and state and local reporting entities. The RQ should be raised.

Response Proposed rule: September 2005
Final rule: September 2006
Summary

The current New Source Performance Standards (NSPS) require monitoring of sulfur and nitrogen content of fuel being fired in gas turbines. However, there is negligible sulfur and little nitrogen in natural gas. The requirements should be rescinded, which would reduce the need to submit paperwork showing no emissions. For facilities with Clean Air Act Title V permits, if there are excess emissions, they would be reported under the Title V deviation reports and thus there is no need for a separate NSPS report.

Response

Final rule published: April 14, 2004
EPA has initiated additional conversations with commenter to determine whether the promulgated rule addresses the commenter’s concerns. EPA will report to OMB on the status of these discussions: May 2005
Reference Number 103

Agency Environmental Protection Agency

Rule/Guidance Systematic Program for Developing and Validating Analytic Methods

Commenter Inter-Industry Analytic Group (14); American Public Power Association (42)

Summary The agency's process for deciding what analytic methods to develop and to approve is not transparent to the public. Costly and time-consuming disputes among regulated entities have been spawned over how to develop analytic methods and how to use them when making compliance decisions. The agency should, first, develop a systematic process for determining what analytic methods should be developed for regulatory use and, second, develop formal criteria for validating and adopting analytic methods.

Response 1. EPA has initiated a stakeholder process of forming a Federal Advisory Committee (FAC). This process will be completed by Summer 2006.
2. Conclude pilot project: November 2006
4. Final rule: Spring 2008
Currently, metal finishing facilities comply with federal air emission standards that are implemented through state and local permits. However, if action is not taken, in late 2004 duplicative federal permitting requirements would automatically be added, with no environmental benefit. The agency should develop a rule that permanently exempts metal finishing facilities from cumbersome federal permitting requirements, saving time and money for both the agency and the regulated industry.
<table>
<thead>
<tr>
<th>Reference Number</th>
<th>110</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency</td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td>Rule/Guidance</td>
<td>Superfund Amendments and Reauthorization Act (SARA); 42 U.S.C. 9601 et seq Title 312 and 313 Programs</td>
</tr>
<tr>
<td>Commenter</td>
<td>American Iron and Steel Institute (34)</td>
</tr>
<tr>
<td>Summary</td>
<td>The SARA 312 and 313 programs are misleading to the public and burdensome to manufacturers. The agency should initiate rulemaking to make reporting biennial (313 one year, 312 due the next), eliminate reports of chemicals managed at landfills and through deep well injection, and focus reporting on toxic (rather than criteria) air pollutants.</td>
</tr>
</tbody>
</table>
| Response         | EPA will consider this comment within the TRI burden reduction rulemakings:  
Phase I, forms modification rule:  
Published proposed rule: January 2005  
Final rule: June 2005  
Phase II, burden reduction rule:  
Proposed rule: August 2005  
Final rule: December 2006 |
Summary

Emissions may occur in the gap between the station's nozzle and the vehicle fill pipe during the re-fueling of vehicles of service stations. Two redundant systems have been required for controlling these emissions: one on the vehicle, the Onboard Vapor Recovery System, and one at the station, Stage II Vapor Recovery Systems. As more vehicles are produced with onboard vapor recovery systems, the regulations on the service stations should be phased out to reduce unnecessary burdens (e.g., the cost of maintaining, inspecting and managing the paperwork for the vapor recovery systems).

Response

EPA will submit analysis on the cost-effectiveness of Stage II controls to OMB: September 2005
Reference Number 116

Agency Environmental Protection Agency

Rule/Guidance Publicly Owned Treatment Work (POTW) removal credits

Commenter Copper and Brass Fabricators Council (45)

Summary Under the national pre-treatment program, industrial facilities that discharge to POTWs must meet pretreatment standards that generally include concentration limits on specific pollutants. The CWA provides that if a particular pollutant can be removed by the treatment processes at the POTW, the POTW may grant a “removal credit” to the facility that reduces the level of treatment required at the facility to account for the treatment that will occur anyway at the POTW. Before a POTW can grant removal credits to its industrial dischargers, however, it must obtain “removal credit authority” from EPA. The commenter states that the procedures established in 40 CFR 403.7 companies must follow to get authority for removal credits are unreasonable and extremely difficult to obtain. Recommends revisions to more accurately reflect the total removal by the POTW, and modifications to facilitate the granting of authority when justified.

Response Develop internal issue paper on options to facilitate use of removal credits: March 2005
Summary

40 CFR 403-471 requires dischargers to sample and test for certain categorical pollutants. Under EPA interpretations, some dischargers must test for elements they don't use. For example, some copper forming dischargers must test for chromium and lead, but do not use those chemicals. Categorical dischargers should not be required to test for all pollutant in the category when it can be independently shown that no possibility exists for certain pollutants to be in the discharge.
The definition of volatile organic compound (VOC) as found in 40 CFR 51.100(s) has no volatility element and therefore disregards whether a compound is even volatile at all. The rule defines VOCs very broadly as any carbon compound, but appropriately narrows the definition somewhat by limiting VOCs to those carbon compounds that "participate in atmospheric photochemical reactions." Of particular concern are ozone precursors; photochemical activity is one measure of an organic compound's ability to be an ozone precursor, but it is not the only measure. As applied by EPA, all organic compounds are assumed to be participants in atmospheric photochemical reactions. The comment suggests including a vapor pressure threshold (such as 0.1 mm Hg in the VOC Emissions Standards for Consumer Products Rule, 1996) below which a carbon compound would not be considered volatile and would not meet the definition of VOC.

Advanced notice of proposed rulemaking: May 2005
Summary
Under current guidance, hazardous waste generators are allowed to treat without permit if the treatment is conducted in compliance with standards applicable to "tanks and containers." EPA, however, no longer allows "thermal treatment" of hazardous waste in this instance. EPA included evaporation of water under this thermal treatment prohibition, primarily because direct-fired units were being used by some for incineration and combustion. The commenter stated that the prohibition of incineration and combustion is reasonable; however, the overbroad interpretation now prevents other reasonable methods, such as evaporation, that reduces the volume of hazardous waste. If allowed, evaporation could reduce the volume of hazardous waste generated and transported by as much as 95% and allow the remainder to be shipped offsite for conventional treatment. The reduced shipping volume would not only reduce cost, but also reduce risk to the environment.

Response
Provide OMB with a report on the risks and benefits of adopting this recommendation: February 2006
Reference Number 121

Agency Federal Communications Commission (FCC)

Rule/Guidance "Do Not Fax" Rule

Commenter National Federal of Independent Business (8); National Association of Manufacturers (9); U.S. Chamber of Commerce (19); National Small Business Association (24); SBA Office of Advocacy (39)

Summary The "Do Not Fax" rule prevents businesses from using one of their most effective means of advertisement by requiring prior written consent, a stronger standard than that for telemarketers. The rule should be withdrawn or the standard should be changed from requiring "written consent" to allowing faxes in cases of "previous existing business relationships."

Response Final rule is not effective until July 1, 2005. FCC action on petitions for reconsideration of the rule is pending.
Summary
FCC has pending proceedings concerning the regulatory treatment of broadband - one to determine whether broadband is classified as a "telecommunications service" or "information service," another on whether telephone companies providing broadband should be regulated as "dominant" providers. These should be decided expeditiously in a way that reduces or eliminates regulation.

Response
Supreme Court action on classification issue addressed by commenter expected by July 2005; FCC resolution of rulemakings after that time.
<table>
<thead>
<tr>
<th>Reference Number</th>
<th>125</th>
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</thead>
<tbody>
<tr>
<td>Agency</td>
<td>Department of Health and Human Services (HHS)</td>
</tr>
<tr>
<td>Rule/Guidance</td>
<td>Health Insurance Portability and Accountability Act of 1996 (HIPAA); 42 U.S.C. 201 note</td>
</tr>
<tr>
<td>Commenter</td>
<td>Motor &amp; Equipment Manufacturers Association (41)</td>
</tr>
<tr>
<td>Summary</td>
<td>HIPAA amended the Internal Revenue Code to improve portability and continuity of health insurance coverage in the group and individual markets, and to simplify the administration of health insurance. Implementation of HIPAA has been problematic because companies have had to deal with multiple effective dates and the need to reengineer existing processes to eliminate or reduce exposure. Considerable time and money have been spent trying to comply with these complex requirements. The compliance burden should be reduced.</td>
</tr>
<tr>
<td>Response</td>
<td>Proposed rule on transactions modification standard: Fall 2005 Final rule on transactions modification standard: Fall 2006</td>
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<tr>
<td>Reference Number</td>
<td>134-137,139,141-144</td>
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<tr>
<td>Agency</td>
<td>Department of Labor (DOL), Employment Standards Administration (ESA)</td>
</tr>
<tr>
<td>Rule/Guidance</td>
<td>Reform of Family and Medical Leave Act (FMLA); 29 U.S.C. 2611-2615</td>
</tr>
<tr>
<td>Commenter</td>
<td>FMLA Technical Corrections Coalition (4); Heritage Foundation (5); National Federation of Independent Business (8); National Association of Manufacturers (9); U.S. Chamber of Commerce (19); American Furniture Manufacturers Association (35); Motor &amp; Equipment Manufacturers Association (41); Society for Human Resource Management (46);</td>
</tr>
</tbody>
</table>

### Summary

Commenters recommended reform of almost every aspect of FMLA. Recommendations included: requiring employees to take intermittent leave in one-hour increments; allowing employers to disqualify employees for perfect attendance awards because of FMLA leave; allowing employers 5 days to designate a request as FMLA leave; modifying the definition of “serious health condition”; harmonizing HIPAA, FMLA, and the Americans with Disabilities Act of 1990 (ADA), P.L. 101-336 privacy requirements; allowing employers to directly contact health care providers for FMLA determinations; clarifying that employers may substitute paid leave for FMLA leave; modifying penalty provisions specified in the FMLA regulations; and allowing employers to substitute “light duty” for FMLA leave.

### Response

In its December 2004 Regulatory Plan and Regulatory Agenda, ESA announced its intention to publish a proposed rule in 2005 that will revise FMLA regulations to address issues raised by the Supreme Court’s decision in *Ragsdale v. Wolverine Worldwide, Inc.*, 122 S. Ct. 1155 (2002), and the decisions of other courts.
<table>
<thead>
<tr>
<th>Reference Number</th>
<th>145</th>
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<tbody>
<tr>
<td>Agency</td>
<td>Department of Labor (DOL)</td>
</tr>
<tr>
<td>Rule/Guidance</td>
<td>Permanent Labor Certification</td>
</tr>
<tr>
<td>Commenter</td>
<td>U.S. Chamber of Commerce (19)</td>
</tr>
</tbody>
</table>

**Summary**
The commenter recommends that the new labor certification application process to bring permanent alien workers into the US be finalized and streamlined to reduce burden on employers. Specifically, the commenter would like DOL to implement a pilot program tested in the 1990s that allows for particular types of labor market tests, to minimize administrative burden on employers.

**Response**
This goal was integrated into the Permanent Labor Certification final rule: published on December 27, 2004 and effective on March 28, 2005.
<table>
<thead>
<tr>
<th>Reference Number</th>
<th>151</th>
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</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
<td>Department of Labor (DOL), Occupational Safety and Health Administration (OSHA)</td>
</tr>
<tr>
<td><strong>Rule/Guidance</strong></td>
<td>Annual Training Requirements for Separate Standards</td>
</tr>
<tr>
<td><strong>Commenter</strong></td>
<td>American Furniture Manufacturers Association (35)</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td>Both EPA and OSHA require annual employee training for specific standards related to a variety of requirements. The cost of training is a major annual expense and not always productive. A single, integrated program should be developed.</td>
</tr>
<tr>
<td><strong>Response</strong></td>
<td>The Department will provide OMB with a report on training requirements: May 2005</td>
</tr>
</tbody>
</table>
Reference Number 152

Agency Department of Labor (DOL), Occupational Safety and Health Administration (OSHA)

Rule/Guidance Coke Oven Emissions

Commenter American Coke and Coal Chemicals Institute (3); American Iron and Steel Institute (34)

Summary The OSHA standard that applies to the control of employee exposure to coke oven emissions is in need of major revision to account for the development of new technology, the obsolescence of antiquated technology and the results of 25 years of exposure monitoring data. Additionally, the personnel monitoring of lead/cadmium should be reduced. Updating the standard would allow the industry to more effectively utilize its resources.

Response Standards Improvement Project Phase II final rule, published on January 6, 2005, streamlined the Coke Oven Emissions standard. OSHA is considering a phase III rulemaking to further update many of their standards.
Reference Number 153

Agency Department of Labor (DOL), Occupational Safety and Health Administration (OSHA)

Rule/Guidance Flammable Liquids

Commenter National Association of Manufacturers (9); National Marine Manufacturers Association (38)

Summary The current rule cites the National Fire Protection Association standards set in 1969 for spray application of flammable and combustible liquids and should be updated to reflect current technology.

Response OSHA has undertaken a major project to review and update as necessary all of its standards that are based on national consensus standards. The flammable liquids standard will be considered during this update process.
<table>
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<tr>
<th>Reference Number</th>
<th>155</th>
</tr>
</thead>
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<tr>
<td><strong>Agency</strong></td>
<td>Department of Labor (DOL), Occupational Safety and Health Administration (OSHA)</td>
</tr>
<tr>
<td><strong>Rule/Guidance</strong></td>
<td>Hazard Communication Training</td>
</tr>
<tr>
<td><strong>Commenter</strong></td>
<td>National Association of Manufacturers (9)</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td>The current format and detail of the information in this program is overwhelming for small business. Some of the recommended procedures in this guidance document are too complicated for small businesses with limited resources. OSHA should develop a simplified approach with more information on how to obtain referenced source material.</td>
</tr>
<tr>
<td><strong>Response</strong></td>
<td>OSHA posted new proposed guidance documents on their website in 2004, which were in part meant to simplify training procedures. Guidance document will be completed in 2005.</td>
</tr>
</tbody>
</table>
Reference Number 156

Agency Department of Labor (DOL), Occupational Safety and Health Administration (OSHA)

Rule/Guidance Hazard Communication/Material Safety Data Sheets (MSDS)

Commenter Deere & Company (1); National Association of Manufacturers (9); American Furniture Manufacturers Association (35)

Summary Material Safety Data Sheets should be prepared in a consistent format by chemical suppliers throughout the U.S. A consistent format would allow the regulated community to find information on MSDS's more quickly and therefore save time and money. Additionally, quality of the information provided should be improved to reduce the risk of unintended employee exposure.

Response Proposed guidance for preparation of MSDSs and an enforcement initiative will be posted on OSHA’s website: 2005 Final guidance: February 2006
Reference Number 157
Agency Department of Labor (DOL), Occupational Safety and Health Administration (OSHA)
Rule/Guidance Hexavalent Chromium
Commenter The Policy Group (28); SBA Office of Advocacy (39)
Summary OSHA is required by court order to propose a new standard with regard to worker exposure to hexavalent chromium. Consistent with its obligations under Small Business Regulatory Enforcement Fairness Act, P.L. 104-121 (SBREFA), OSHA should make efforts to minimize the impact of the new standard on small business. It should consider scientific data, costs, and economic impact.
Response Final rule: January 18, 2006
<table>
<thead>
<tr>
<th><strong>Reference Number</strong></th>
<th>159</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
<td>Department of Labor (DOL), Occupational Safety and Health Administration (OSHA)</td>
</tr>
<tr>
<td><strong>Rule/Guidance</strong></td>
<td>Sling Standard</td>
</tr>
<tr>
<td><strong>Commenter</strong></td>
<td>U.S. Chamber of Commerce (19); Associated Wire Rope Fabricators (42)</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td>Companies in the lifting, rigging and loading industry typically use slings made of wire rope to lift objects by crane. The current OSHA standard is 30 years old and is outmoded when compared to the consensus standard promulgated by the American Society of Mechanical Engineers (ASME). The standard should be updated to reflect the ASME consensus.</td>
</tr>
<tr>
<td><strong>Response</strong></td>
<td>OSHA has undertaken a major project to review and update as necessary all of its standards that are based on national consensus standards. Guidance on the sling standard: February 2006 Rulemaking on the sling standard will be considered during this project at a later date.</td>
</tr>
</tbody>
</table>
Reference Number 160

Agency Department of Labor (DOL), Occupational Safety and Health Administration (OSHA)

Rule/Guidance Guardrails Around Stacks of Steel

Commenter American Iron and Steel Institute (34)

Summary Employers are required to provide either guardrails or tie-off protection to workers who must perform their duties 48 inches or greater above the ground. These requirements are infeasible for operations that exist in steel and steel products companies where individuals need to stand on "stacks" of product to rig bundles for crane lifts. The rules should provide employers with some flexibility by adding the term "where practical" to the standard.

Response OSHA currently has a rulemaking open on Walking and Working Surfaces, and will provide OMB with a report on this issue: May 2005
Reference Number 169

Agency Department of Labor (DOL), Occupational Safety and Health Administration (OSHA)

Rule/Guidance Walking and Working Surfaces

Commenter Copper and Brass Fabricators Council (45)

Summary Under some circumstances, 29 CFR 1910.24 requires the use of fixed ladders when spiral stairways or ship stairs would be safer. The regulations define requirements for stairs in certain circumstances, while permitting an exception for fixed ladders where they are commonly used. No allowance, however, is made for the use of ship stairs (shallow stairs with handles separated from the tread) or spiral stairs, unless they are wrapped around a structure with at least a five foot diameter. OSHA previously proposed to allow ship stairs; however, it was never promulgated.

Response OSHA currently has a rulemaking open on Walking and Working Surfaces, and will provide OMB with a report on this issue: May 2005
<table>
<thead>
<tr>
<th>Reference Number</th>
<th>175</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
<td>Department of the Treasury/Department of Homeland Security (DHS)</td>
</tr>
<tr>
<td><strong>Rule/Guidance</strong></td>
<td>Duty Drawback</td>
</tr>
<tr>
<td><strong>Commenter</strong></td>
<td>National Association of Manufacturers (9)</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td>Drawback is the refund of Customs duties and other taxes and fees paid to U.S. Customs at the time of importation. The refund is administered after the exportation or destruction of either the imported product or the article that has been manufactured from the imported product. The Duty Drawback paperwork is so time consuming that some member companies forego the refund because the process costs are higher than the amount they can claim. Commenter recommends that the recordkeeping requirements be standardized, saving manufacturers significant amounts of money and time.</td>
</tr>
<tr>
<td><strong>Response</strong></td>
<td>Customs is working with members of the trade to streamline and simplify drawback as part of the Automated Commercial Environment (ACE) project. Amendment of the current statute will be necessary.</td>
</tr>
</tbody>
</table>
Summary
Businesses can currently "expense" up to $100,000 in equipment in any given year under section 179 of the Internal Revenue Code. This allows a reduction in recordkeeping and significant capital cost recovery benefits as well as cash flow assistance. Under current law the limit is scheduled to revert to $25,000 for 2005 and thereafter. The commenter requests OMB support for legislation to have the "expensing" limits (enacted in 2003) made permanent.

Response
A recommendation to make the $100,000 limit permanent is included in the Administration’s FY 06 budget
Reference Number 188

Agency United States Department of Agriculture (USDA), Food Safety and Inspection Service (FSIS)

Rule/Guidance Ready to Eat Meat Establishments to Control for Listeria Monocytogenes

Commenter National Association of Manufacturers (9); SBA Office of Advocacy (39); William Russell & Associates, Inc. (30)

Summary The interim final rule requiring ready to eat meat manufacturers to control for Listeria monocytogenes within their establishments is proving to be more costly than USDA estimated, causing substantial harm to small manufacturers. In addition, the benefits were overestimated. The rule should be rescinded and a new rulemaking should be undertaken to consider less burdensome alternatives to both the rule and the Hazard Analysis and Critical Control Point (HACCP) system with a return to the pre-HACCP regulatory regime. As a less preferred alternatively, the Listeria rule should be amended to replace the current regulatory requirements for small and very small processor with a pre-HACCP regulatory environment.

Response The rule in question is an interim final rule. The comment period for this rule closed on January 31, 2005
Final rule: Spring or Summer 2005