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FEDERAL REGULATORY ACTIONS

IMPACTING

ONSHORE DRILLING

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ABBREVIATIONS AND ACRONYMS

ACOE/ACE	Army Corps of Engineers	MSHA	Mine Safety and Health Administration
 AIS	Automatic Identification System	MTSA	Maritime Transportation Security Act of 2002
ALJ	Administrative Law Judge	MWQC	Marine Water Quality Criteria
APCD	Air Pollution Control District	NAAQS	National Ambient Air Quality Standards
ANPRM	Advance Notice of Proposed Rulemaking	NWA	National Wildlife Area
API	American Petroleum Institute	NEPA	National Environmental Policy Act of 1969
BACT	Best Available Control Technology	NESHAPs	National Emissions Standard for Hazardous Air Pollutants
BCT	Best Conventional Pollutant Control Technology	NIOSH	National Institute for Occupational Safety and Health
BMP	Best Management Practices	NMVOC	Non-Methane Volatile Organic Compound
BOEM	Bureau of Ocean Energy Management	NOAA	National Oceanic and Atmospheric Administration
BPT	Best Practicable Control Technology Currently Available	NOIA	National Ocean Industries Association
BSEE	Bureau of Safety and Environmental Enforcement	NOx	Nitrogen Oxides
CAA	Clean Air Act	NPRM	Notice of Proposed Rulemaking
CARB	California Air Resources Board	NSPS	New Source Performance Standards
CBP	U. S. Customs and Border Protection (DHS)	NSR	New Source Review
CDL	Commercial Driver's License	NTL	Notice to Lessees and Operators
CEQ	Council on Environmental Quality	NVIC	Navigation and Vessel Inspection Circular
CFCs	Chlorofluorocarbons	OCS	Outer Continental Shelf
CFR	Code of Federal Regulations	OCSLA	Outer Continental Shelf Lands Act
COA	Corresponding Onshore Area	ONRR	Office of Natural Resources Revenue
COR	Certificate of Registry	OOO	Offshore Operators Committee (U.S.)
CWA	Clean Water Act	OPA-90	Oil Pollution Act of 1990
CZMA	Coastal Zone Management Act	OTR	Office of the U.S. Trade Representative
DEIS	Draft Environmental Impact Statement	PATON	Private Aid to Navigation
DHS	Department of Homeland Security	PEL	Permissible Exposure Limit
DOE	Department of Energy	PHMSA	Pipeline and Hazardous Materials Safety Administration
DOL	Department of Labor	P.L.	Public Law
DOT	Department of Transportation	PM	Particulate Matter
EIS	Environmental Impact Statement	ppm	Parts per million
EO	Executive Order	PSD	Prevention of Significant Deterioration
EPA	Environmental Protection Agency	RCC	Rescue Coordination Center
EPCRA	Emergency Planning and Community Right-to-Know Act	RFA	Regulatory Flexibility Act
FAA	Federal Aviation Administration	RIA	Regulatory Impact Analysis
FCC	Federal Communications Commission	RIN	Regulation Identifier Number
FDA	Food and Drug Administration	RQ	Reportable Quantity
FEMA	Federal Emergency Management Agency	RSPA	Research and Special Programs Administration (DOT) – now PHMSA
FLSA	Fair Labor Standards Act	SAMHSA	Substance Abuse and Mental Health Services Administration
FR	<i>The Federal Register</i>	SBF	Synthetic-Based Drilling Fluid
FRA	Federal Railroad Administration	SBREFA	Small Business Regulatory Enforcement Fairness Act
FPSO	Floating Production Storage and Offloading Unit	SIP	State Implementation Plan
FMCSA	Federal Motor Carrier Safety Administration	SNPRM	Supplemental Notice of Proposed Rulemaking
FWPCA	Fresh Water Pollution Control Act	SOLAS	International Convention for the Safety of Life at Sea
HAPs	Hazardous Air Pollutants	SOx	Sulfur Oxides
HCFCs	Hydro chlorofluorocarbons	SSI	Sensitive Security Information
HHS	Department of Health and Human Services	STCW	International Convention on Standards of Training, Certification & Watch keeping
HME	Hazardous Materials Endorsement (to a CDL)	TLP	Tension Leg Platform
HMR	Hazardous Materials Regulations	TRI	Toxics Release Inventory
IADC	International Association of Drilling Contractors	TSA	Transportation Security Administration
ICAO	International Civil Aviation Organization	Twic	Transportation Worker Identification Credential
ILO	International Labor Office	U.S.C.	The United States Code
IMDG Code	International Maritime Dangerous Goods Code	USCG	U. S. Coast Guard
IMO	International Maritime Organization	USCIS	U.S. Citizenship and Immigration Services
INS	Immigration and Naturalization Service	VOC	Volatile Organic Compound
ISA	International Seabed Authority		
ISO	International Organization for Standardization		
HDE	Heavy Duty Engine		
LAER	Lowest Achievable Emission Rate		
LHWCA	Longshoremans and Harbor Workers' Compensation Act		
MACT	Maximum Achievable Control Technology		
MMC	Merchant Mariner Credential		
MMD	Merchant Mariner's Document		
MODU	Mobile Offshore Drilling Unit		
MRO	Medical Review Officer		

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U.S. Federal Regulatory Actions Impacting Onshore Drilling Contractors

This document reflects regulatory actions announced in the *Federal Register* or other sources through 30 June 2014. The dates given for anticipated regulatory actions are based on information in the most recent Semi-Annual Unified Agenda, or information obtained through contact with the agency.

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Access to copies of the *Federal Register* from 2 January 1994 onward is available from the Federal Register [Main Page](#). Hyperlinks to referenced regulatory and other documents are provided where they are known.

The public may identify rulemaking proposals that are open for public comment, and may submit comments on those rulemaking proposals via the "[Regulations.gov](#)" website.

To report errors in this document, provide comments, or for further information, please contact Paul Breaux at paul.breaux@iadc.org or Rhett Winter at Rhett.winter@iadc.org.

DOC / National Institute of Standards and Technology

National Fire Codes: Request for Public Input for Revision of Codes and Standards (RIN Not listed; CFR Not applicable) On 26 April 2013 ([78 FR 24725](#)) the DOC issued a Notice that contains the list of National Fire Protection Association (NFPA) documents opened for public input, as well as information on the NFPA Revision process. The agency wants to increase public participation in the system used by the NFPA to develop its codes and standards. Comment due dates for each of the NFPA Codes have their closing dates listed in the table within this Notice.

DOI / Bureau of Land Management (BLM)

Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands (WO-300-L13100000.FJ0000) (RIN 1004-AE26; 43 CFR 3160) On 24 May 2013 ([78 FR 31636](#)) the BLM issued an SNPRM to follow up on the previously issued proposed rule (11 May 2012 / [77 FR 27691](#)). With the comments received from the NPRM, BLM made some revisions and is now seeking additional comment on the revised rule. Key issues in this updated draft include: the use of an expanded set of cement evaluation tools to help ensure that usable water zones have been isolated and protected from contamination; and more detailed guidance on how trade secrets claims will be handled, modeled on the procedures promulgated by the State of Colorado. The revised proposed rule would also provide opportunities for the BLM to coordinate standards and processes with individual States and tribes to reduce administrative costs and to improve efficiency. On 10 June 2013 ([78 FR 34611](#)) BLM extended the comment period to 23 August 2013. The most recent Unified Agenda indicates that a final action is planned for September 2014.

DOJ / Drug Enforcement Administration (DEA)

Inclusion of Non-Serious Offense Identification Records (FBI-111P). (RIN 1110-AA25; 28 CFR 20) On 5 September 2006 ([71 FR 52302](#)) published a NPRM to amend the FBI regulations defining offenses that may serve as the basis for maintaining fingerprints and criminal history record information (CHRI) in its criminal history record information systems. The relevant FBI information systems include the Fingerprint Identification Record Systems (FIRS), which maintains fingerprint records, and the Interstate

Identification Index (III) System, which maintains fingerprint-supported CHRI. This amendment broadens the definition of includable offenses to permit the retention of information relating to currently excluded non-serious offenses (NSOs) as well as information relating to “serious and/or significant adult or juvenile offenses.” The revised regulation will permit the retention and exchange of fingerprints and CHRI relating to NSOs when provided by the submitting jurisdiction for retention by the FBI. Such NSO information is currently maintained only at the State and local levels. The change allows for the more uniform collection of CHRI at the Federal level. Comments were due by 6 November 2006. The most recent Unified Agenda indicates that a final action is TBD.

Department of Labor (DOL) / Wage and Hour Division

Wage and Hour Division (WHD) Proposed Rule Stage - Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees Legal Authority: Fair Labor Standards Act 29 U.S.C. 213(a)(1) The Fair Labor Standards Act (FLSA) section 13(a)(1) provides a minimum wage and overtime exemption for any employee employed in a bona fide executive, administrative, professional capacity, or in the capacity of an outside salesperson. President Barack Obama issued a memorandum to the Secretary of Labor on March 13, 2014, directing the Secretary to modernize and streamline the existing overtime regulations for executive, administrative, and professional employees. NPRM proposed for November 2014.

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

Combustible Dust: Legal Authority: 29 U.S.C. 655(b); 29 U.S.C. 657 Abstract: Occupational Safety and Health Administration (OSHA) has commenced rulemaking to develop a combustible dust standard for general industry. The U.S. Chemical Safety Board (CSB) completed a study of combustible dust hazards in late 2006, which identified 281 combustible dust incidents between 1980 and 2005 that killed 119 workers and injured another 718. Based on these findings, the CSB recommended the Agency pursue a rulemaking on this issue. OSHA has previously addressed aspects of this risk. For example, on July 31, 2005, OSHA published the Safety and Health Information Bulletin, "Combustible Dust in Industry: Preventing and Mitigating the Effects of Fire and Explosions." Additionally, OSHA implemented a Combustible Dust National Emphasis Program (NEP) on March 11, 2008, launched a new Web page, and issued several other guidance documents. However, the Agency does not have a comprehensive standard that addresses combustible dust hazards. OSHA will use the information gathered from the NEP to assist in the development of this rule. OSHA published an ANPRM October 21, 2009. OSHA plans to initiate SBREFA in December 2014.

Preventing Backover Injuries and Fatalities Legal Authority: 29 U.S.C. 655(b) Abstract: OSHA published an RFI (77 FR 18973; March 29, 2012) that sought information on two subjects: (1) Preventing backover injuries; and (2) the hazards and risks of reinforcing concrete operations in construction, including post-tensioning. Backing vehicles and equipment are common causes of struck-by injuries and can also cause caught-between injuries when backing vehicles and equipment pin a worker against an object. Struck-by injuries and caught-between injuries are two of the four leading causes of workplace fatalities. The Bureau of Labor Statistics reports that in 2011, 75 workers were fatally backed over while working. While many backing incidents can prove to be fatal, workers can suffer severe, non-fatal injuries as well. A review of OSHA's Integrated Management Information System (IMIS) database found that backing incidents can result in serious injury to the back and pelvis, fractured bones, concussions, amputations, and other injuries. Emerging technologies in the field of backing operations may prevent incidents. The technologies include cameras and proximity detection systems. The use of spotters and internal traffic control plans can also make backing operations safer. The Agency has held stakeholder meetings on backovers, and is conducting site visits to employers. Current rules regarding reinforcing steel and post-tensioning activities may not

adequately address worker hazards in work related to post-tensioning and reinforcing steel. Both are techniques for reinforcing concrete and are generally used in many types of construction. OSHA's IMIS data indicates that 31 workers died while performing work on or near post-tensioning operations or reinforcing steel between 2000 and 2009. Currently, workers performing steel reinforcing suffer injuries caused by unsafe material handling, structural collapse, and impalement by protruding reinforcing steel dowels, among other causes. Employees involved in post-tensioning activities are at risk for incidents caused by the misuse of post-tensioning equipment and improper training. The Agency is continuing to seek information about injuries and hazards of reinforcing steel operations. Timetable: OSHA to Initiate SBREFA (Backovers) August 2014

Agency Information collection Activities; Submission for IMB Review; Comment Request; Manlifts Standard. (RIN not listed; CFR not listed) On 20 May 2104 DOL issued a notice ([79 FR 28966](#)) that they are submitting the OSHA sponsored Information Collection Request (ICR) entitled "Manlifts Standard" to the Office of Management and Budget (OMB) for review and approval for continued use, without change. This request for extension of information collection covers standard (29 CFR 1910.68(e)) which requires OSHA covered employers to create and maintain a certification record of each manlift inspection. It also provides that each employer must inspect each manlift at least once every 30 days and to check limit switches weekly. Comment due date: 19 June 2014.

Underwriter's Laboratories, Inc.; Modification of Scope of Recognition.(OSHA-2009-0025) (RIN not listed; 29 CFR 1910.7) On 28 April 2014 ([79 FR 23379](#)) OSHA issued a final decision that expands the scope of recognition of Underwriter's Laboratories, Inc. as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7. Effective date: 28 April 2014

Process Safety Management and Prevention of Major Chemical Accidents.(OSHA-2013-0020) (RIN 1218-AC82; 29 CFR 1910) On 9 December 2013 ([78 FR 73756](#)) OSHA issued a request for information which requests comment on the potential revisions to the Process Safety Management (PSM) standard, its Explosives and Blasting Agents standard, potential updates to its Flammable Liquids standard, Spray Finishing standard, and potential changes to the PSM enforcement policies. The preamble to the PSM final rule explained that OSHA excluded these operations because it had begun a separate rulemaking for oil and gas well drilling and servicing operations (48 FR 57202). However, the Agency subsequently removed the oil and gas well drilling and servicing operations (Oil and Gas Drilling and Servicing Vertical Standard) rulemaking from its regulatory agenda and OSHA never promulgated a final rule for these operations. In light of this history, OSHA requested public comment on whether to retain or remove the exemption as stated in § 1910.119(a)(2)(ii).

On 7 March 2014 ([79 FR 13006](#)) OSHA issued an extension to the comment period. Revised Comment due date: 31 March 2014. The most recent unified agenda indicates OSHA to analyze comments through July 2014.

On 28 March 2014 IADC submitted comments regarding this proposed policy revision.

Record Requirements in the Mechanical Power Presses Standard.(OSHA-2013-0010) (RIN 1218-AC80; 29 CFR 1910) On 20 November 2013 ([78 FR 69543](#)) OSHA published a **Direct Final Rule** with an accompanying proposed rule ([78 FR 69606](#)), in order to revise a provision that requires employers to develop and maintain certification records of periodic inspections performed on the presses by adding a requirement that employers develop and maintain certification records of any maintenance and repairs that they perform on presses during the periodic inspections. Additionally, OSHA is removing the requirement that employers develop and maintain certification records of weekly inspections and tests performed on the presses. Effective date of final rule: 18 February 2014.

On 18 April 2014 ([79 FR 21876](#)) OSHA has **withdrawn** the proposed rulemaking thus making the **direct final** rule ([79 FR 21848](#)) current with an effective date of 18 February 2014.

Improve Tracking of Workplace Injuries and Illnesses. (OSHA-2013-0023) (RIN 1218-AC49; 29 CFR 1904 and 1952) On 8 November 2013 ([78 FR 67253](#)) OSHA issued a proposed rulemaking to improve workplace safety and health through the collection of useful, accessible, establishment-specific injury and illness data to which OSHA currently does not have direct, timely and systemic access. They plan to amend the recordkeeping regulations to add requirements for the electronic submission of injury and illness information employers are already required to keep under OSHA regulations. This rulemaking amends the annual OSHA injury and illness survey of ten or more employers to add three new electronic reporting requirements. It does not add or change the employer's obligation to complete and retain injury and illness records. It also does not add or change the reporting criteria or definitions for these records. It only modifies the employer's obligation to transmit information from those records to OSHA or their designee. Comment due date ended on 8 March 2014.

On 7 January 2014 ([79 FR 778](#)) OSHA extended the comment period for this proposed rulemaking. Revised Comment due date: 8 March 2014.

On 7 March 2014 IADC submitted comments regarding this proposed rulemaking.

The most recent Unified Agenda indicates a final rule is planned for March 2015.

Occupational Exposure to Respirable Crystalline Silica (OSHA-2010-0034) (RIN 1218-AB70; 29 CFR 1910, 1915 and 1926) On 12 September 2013 ([78 FR 56274](#)) OSHA issued a proposed rule to amend its existing standards for occupational exposure to respirable crystalline silica, which poses a significant risk to health at the current exposure limits. This rulemaking proposes new permissible exposure limit, calculated as an 8-hour time-weighted average, of 50 micrograms of respirable crystalline silica per cubic meter of air.

On 29 January 2014 ([79 FR 4641](#)) OSHA extended the comment period to 11 February 2014.

Occupational Exposure to Noise Standard; Extension of the OMB Approval of Information Collection Requirements. (OSHA-2010-0017) (RIN Not listed; CFR Not listed) On 30 July 2013 ([78 CFR 45981](#)) OSHA issued a request for comments concerning its proposal to extend the OMB approval of the information collection requirements specified in 29 CFR 1910.95. This regulation was written to protect workers from suffering material hearing impairment. Comment due date ended 30 September 2013. OSHA will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of the information collection requirements contained in the Occupational Exposure to Noise Standard.

Occupational Injury and Illness Recording and Reporting Requirements- NAICS Update and Reporting Revisions. (OSHA-2010-0019). (RIN 1218-AC50; 29 CFR 1904) On 22 June 2011 ([76 FR 36414](#)) OSHA issued a proposed rule, which proposes to update its Injury and Illness Recording and Reporting regulation. This rulemaking will replace the current Standard Industrial Classification (SIC) system list of industries with those based on the North American Industry Classification System (NAICS). Additionally, this proposed rule would change the employer reporting requirements, which currently require a report to OSHA within 8 hours of all work related fatalities and in-patient hospitalizations for three or more employees, to a revised reporting of ALL work-related fatalities and ALL work-related in-patient hospitalizations within 8 hours, plus ALL work-related amputations (defined as: traumatic loss of a limb or other external body part, including a fingertip, with bone loss) within 24 hours. Comment due date: 20 September 2011

On 28 September 2011 ([76 FR 59952](#)) OSHA reopened the comment period on this proposed rulemaking due to a request from the National Automobile Dealers Association. New Comment due date: 30 October 2011. The most recent Unified Agenda indicated that a final action is planned for June 2014.

[On 12 September 2011 IADC submitted [comments](#) regarding this proposed policy change]

Occupational Injury Illness Recording and Reporting Requirements. (OSHA-2009-0044) (RIN 1218-AC45; 29 CFR 1904) On 29 January 2010 ([75 FR 4728](#)) OSHA issued a proposed rule (with an announcement of public meeting) to revise its Occupational Injury and Illness Recording and Reporting (Recordkeeping) regulation to restore the column to the OSHA 300 Log that employers would use to record work-related musculoskeletal disorders (MSD). The 2001 final regulation included an MSD column, but the requirements were deleted before the regulation became effective. This proposed rule would require employers to place a check mark in the MSD column, instead of the column they currently mark, if a case is an MSD that meets the Recordkeeping regulation's general recording requirements. Comment due date: 15 March 2010. NOTE: ([75 FR 10738](#)) Extended Comment due date: 30 March 2010.

On 17 May 2011 ([76 FR 28383](#)) OSHA issued a Notice of limited reopening of rulemaking record. OSHA, after numerous small business teleconferences, decided to reopen the comments period to allow, in particular, small businesses on the information issues raised during the teleconferences, which included their experiences recording work-related MSDs and how they believe that they would be impacted by OSHA's revised recordkeeping with regards to restoring a column on the OSHA 300 log if the case is an MSD. Comment due date: 16 June 2011. The most recent Unified Agenda indicated that the next action is "to be determined."

Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips and Fall Protection) (OSHA-2007-0072; No. S-029). (RIN: 1218-AB80; 29 CFR 1910) On 10 April 1990 (55 FR 13360), OSHA proposed a rule addressing slip, trip, and fall hazards and establishing requirements for personal fall protection systems. On 2 May 2003 ([68 FR 23527](#)) OSHA announced that it was reopening the rulemaking record on the proposed revisions to gather data and information concerning advances in technology and industry practice and updated consensus standards issued since the proposals were published in 1990. OSHA indicated it will be publishing a revised economic analysis (containing a revised regulatory flexibility analysis if necessary) for public comment. OSHA will then analyze the record and determine what other steps, if any, are necessary to finalize the rulemakings on subparts D and I. In the notice, OSHA included the regulatory text and appendices from the 1990 proposed rule as an appendix to this limited reopening notice. The December 2004 Unified Agenda indicated that OSHA had determined that additional information is needed on proposed requirements to allow certain employees (qualified climbers) to climb fixed ladders without fall protection. The May 2005 Unified Agenda indicated that OSHA has determined that the proposed rule is out-of-date and does not reflect current industry practice or technology and that a new NPRM is being prepared.

On 24 May 2010 ([75 FR 28862](#)) OSHA issued a second NPRM, which proposes to revise the walking-working surfaces standards and the PPE standards in the regulations. OSHA believes that the proper use of fall protection systems can protect employees from injury and death due to falls at different elevations. The NRPM, which is written in plain language, is planned to increase consistency between the construction, maritime, and general industry standards, and eliminate duplication. Comment due date: 23 August 2010. The most recent Unified Agenda indicated that a final rule is planned for October 2014.

Note: IADC provided information on derrick ladders to OSHA on 29 November 20 and provided additional information on 17 January 2014.

Electric Power Transmission and Distribution, Electrical Protective Equipment (OSHA-S215-2006-0063). (RIN 1218-AB67; 29 CFR 1910 and 1926) On 15 June 2005 ([70 FR 34821](#)) issued a NPRM proposing to update the standard for the construction of electric power transmission and distribution installations and make it consistent with the more recently promulgated general industry standard addressing the maintenance and repair of electric power generation, transmission, and distribution lines and equipment. The proposal also makes some miscellaneous changes to both standards, including adding provisions related to host employers and contractors, flame resistant clothing, and training, and updates the

construction standard for electrical protective equipment, makes it consistent with the corresponding general industry standard, and makes it applicable to construction generally. The revised standard would include requirements relating to enclosed spaces, working near energized parts, grounding for employee protection, work on underground and overhead installations, work in substations, and other special conditions and equipment unique to the transmission and distribution of electric energy. On 12 October 2005 ([70 FR 59290](#)) OSHA published a notice announcing informal hearings on the proposed standards and extending the comment period.

On 22 October 2008 ([73 FR 62942](#)) OSHA issued a notice of limited reopening of the rulemaking record. After the final post hearing in July 2008, the proposed general industry and construction standards for electrical power generation, transmission and distribution included revised minimum approach distance tables (how close an employee may get to an energized circuit part). This was based on an error in their calculations for certain voltages. Therefore, OSHA is reopening the record on this proposal to obtain comments related to affected minimum approach distances. Comment due date: 21 November 2008.

On 14 September 2009 ([74 FR 46958](#)) OSHA had a second re-opening of the record. Comment due date: 15 October 2009. The most recent Unified Agenda indicated that OSHA was planning a final rule for November 2013.

On 11 April 2014 ([79 FR 20315](#)) OSHA issued a **Final Rule**, which includes new or revised provisions on host employers and contractors, training job briefings, fall protection, insulation and working position of employees working on or near live parts, minimum approach distances, protection from electric arcs, de-energizing transmission and distribution lines and equipment, protective grounding, operating mechanical equipment near overhead power lines, and working in manholes and vaults. The final rule also revises the general industry and construction standards for electrical protective equipment. This rule also includes new requirements for the safe use and care of electrical protective equipment to complement the equipment design provisions. Both the general industry and constructive standards will include new requirements for equipment made of materials other than rubber. Also included is a revision of the general industry standard for foot protection and it removes the requirement for employees to wear protective footwear as protection against electric shock. Effective date: 10 July 2014

Confined Spaces in Construction (OSHA-2007-0026). (RIN 1218-AB47; 29 CFR 1926) On 28 November 2007 ([72 FR 67352](#)) OSHA issued an NPRM to protect employees who enter confined spaces while engaged in general industry work (29 CFR 1910.146). This standard has not been extended to cover employees entering confined spaces while engaged in construction work because of unique characteristics of construction worksites. Pursuant to discussions with the US Steel Workers of America that led to a settlement agreement regarding the general industry standard, OSHA agreed to issue a proposed rule to protect construction workers in confined spaces. Comment due date: 28 January 2008. On 23 January 2008 ([73 FR 3893](#)) OSHA extended the comment period to 28 February 2008. The most recent Unified Agenda indicates that a final rule is planned for August 2014.

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

Hours of Service of Drivers; American Trucking Associations (ATA); Application for Exemption. (FMCSA-2013-0470) (RIN not listed; CFR not listed) On 23 May 2014 (79 FR 29837) FMCSA issued a Notice of application for exemption with a request for comments. They received an application from the ATA for an exemption from the 14-hour provision of the Agency's hours-of-service regulations to enable certain drivers to exclude the waiting time at a natural gas or oil well site from their calculations of on-duty time. Currently, only specially trained drivers of CMVs that are specially constructed to service oil and natural gas extraction sites may employ this provision. ATA proposes that FMCSA by a limited 2-year exemption that may be renewed, permit exclusion of such waiting time by drivers of CMVs who are exclusively engaged in servicing oil and natural gas extraction sites and have the opportunity to obtain rest

while waiting at such sites. Comment due date: 7 July 2014

Coercion of Commercial Motor Vehicle Drivers; Prohibition (FMCSA-2012-0377) (RIN 2126-AB57; 49 CFR 385, 386 and 390) On 13 May 2014 ([79 FR 27265](#)) FMCSA issued an NPRM, which proposes to adopt regulations that prohibit motor carriers, shippers, receivers, or transportation intermediaries from coercing drivers to operate CMVs in violation of the Federal Motor Carrier Safety Regulations- including hours-of-service limits and associated drug and alcohol testing rules, or the Hazardous Materials Regulations. Comment due date: 11 August 2014

Electronic Documents and Signatures. (FMCSA-2012-0376). (RIN 2126-AB47; 49 CFR 370, 371, 375, 376, 378, 379, 387, 389, 390, 391, 395, 396, and 398) On 28 April 2014 ([79 FR 23306](#)) FMCSA issued an NRPM that proposes amendments to its regulations to allow the use of electronic records and signatures to satisfy their regulatory requirements. These changes would permit the use of electronic methods to sign, certify, generate, exchange, or maintain records so long as the documents accurately reflect the info in the record and can be used for their intended purposes. This only applies to records that FMCSA obligate entities or individuals to retain. Comment due date: 27 June 2014

Medical Examiner's Certification Integration. (FMCSA-2012-0178). (RIN 2126-AB40; 49 CFR 383, 384, and 391) On 10 May 2013 ([78 FR 27343](#)) FMCSA issued an NPRM, which would require certified medical examiners (MEs) performing physical exams on CDL holders to use a newly developed Medical Exam Report (MER) form [MCSA-5875], in place of the current MEP form and to use Form MCSA 5876 for the medical examiner's certificate (MEC). Additionally, MEs would be required to report the results of all CDL exams (including those found not to be qualified) to FMCSA by close of business on the day of the exam. FMCSA also proposes to transmit electronically driver identification, exam results, and restriction information from the National Registry system to the State driver Licensing Agencies (SDLAs), which would allow enforcement officials the ability to view the most current and accurate info regarding the medical status of a CMV driver. Comment due date: 9 July 2013. The most recent Unified Agenda indicates that a Final Rule is planned for October 2014.

Hours of Service of Drivers of Commercial Motor Vehicles; Regulatory Guidance for Oilfield Exception. (FMCSA-2012-0183). (RIN not listed; 49 CFR 395) On 5 June 2012 ([77 FR 33098](#)) FMCSA issued a Notice of regulatory guidance with a request for comments. This notice announces revisions of the regulatory guidance to clarify the applicability of the "Oilfield Operations" exceptions in 49 CFR 395.1(d) to the "Hours of Service of Drivers" regulations, and requests comments on the revision. Effective date: 5 June 2012. Comment due date: 6 August 2012

On 6 August 2012 ([77 FR 46640](#)) FMCSA issue a notice of public listening sessions and an extension of the comment period. The listening sessions will be held on 17 August 2012 in Denver, Colorado, and on 21 August 2012 in Pittsburgh, Pennsylvania. Comment due date (extended): 5 October 2012

On 12 August 2013 ([78 FR 48817](#)) FMCSA issued a Notice of Regulatory Guidance with a response to public comments. On 5 June 2012 FMCSA updated its 1997 regulatory guidance to explain the applicability of "oilfield operations" exceptions in 49 CFR 395.1(d) to the Hours of Service of drivers' regulations. FMCSA has determined that no further elaboration is needed on the regulatory guidance. However, they will continue to monitor the use of the two HOS exceptions listed in 49 CFR 381. Effective date remains 5 June 2013. There have been no further actions taken on this docket as of June 2014.

Commercial Driver's License Drug and Alcohol Clearinghouse. (RIN 2126-AB18; 49 CFR 382) This rulemaking would create a central database for verified positive controlled substances and alcohol test results for commercial driver's license (CDL) holders and refusals by such drivers to submit to testing. This rulemaking would require employers of CDL holders and service agents to report positive test results and refusals to test into the database. Prospective employers, acting on an application for a CDL driver position with the applicant's written consent to access the database, would query the database to

determine if any specific information about the driver applicant is in the database before allowing the applicant to be hired and to drive CMVs. This rulemaking is intended to increase highway safety by ensuring CDL holders, who have tested positive or have refused to submit to testing, have completed the U.S. DOT's return-to-duty process before driving CMVs in interstate or intrastate commerce. It is also intended to ensure that employers are meeting their drug and alcohol testing responsibilities. The most recent Unified Agenda indicates that the period for analyzing comments ended in May 2014. The clearinghouse is required to be established by October 2014.

Electronic Logging Devices and Hours of Service Supporting Documents. (FMCSA-2010-0167) (RIN 2126-AB20; 49 CFR 385, 390, and 395) On 1 February 2011 ([76 FR 5537](#)) FMCSA issued a NPRM, which proposes to amend the regulations to require certain motor carriers operating commercial motor vehicles in interstate commerce to use electronic on-board recorders (EOBRs) to document their drivers' hours of service (HOS). All motor carriers that are required to maintain a Records of Duty Status for HOS recordkeeping would be required to use EOBRs to systematically and effectively monitor their drivers' compliance. Although some subject to the new EOBR requirements would still need to maintain some supporting documents, they would be relieved of the requirements to retain supporting documents to verify driving time. Motor carriers would be given three (3) years after the effective date of the final rule to comply. Comment due date: 4 April 2011.

On 28 March 2014 ([79 FR 17655](#)) FMCSA issued an SNPRM with a request for comments.

On 12 May 2014 ([79 FR 26868](#)) FMCSA issued a Notice of Regulatory guidance, which addresses two issues involving roadside inspections of CMVs that are equipped with automatic on-board recording devices (AOBRDs) to assist drivers with HOS recordkeeping and compliance. This guidance explains that AOBRDs were never required to be capable of providing printed records during a roadside inspection. Effective date: 12 May 2014

On 16 May 2014 ([79 FR 28471](#)) FMCSA has issued an SNPRM with an extension of the comment period concerning the electronic logging devices and the Hours of Service supporting documents rulemaking. Comment due date: 26 June 2014.

National Registry of Certified Medical Examiners (FMCSA-2008-0363). (RIN 2126-AA97; 49 CFR 390 and 391) On 1 December 2008 ([73 FR 73129](#)) FMCSA issued a NPRM, which proposes to establish and maintain a National Registry of Certified Medical Examiners (NRCME) and to require that all medical examiners, who conduct medical examinations for interstate commercial motor vehicle drivers, complete certain training concerning FMCSA physical qualification standards, pass a test to verify understanding of those standards, and maintain competence by periodic training and testing. Once the NRCME is established, FMCSA would then accept only medical examiner certificates issued by a NRCME certified medical examiner. Comment due date: 30 January 2009.

On 16 March 2011 ([76 FR 14366](#)) FMCSA issued a notice with a request for comments. This is a follow up question to the 2008 NPRM that FMCSA is asking regarding validation that the medical examiner is listed on the national approval list (NRCME) and that this proof is then placed in the CMV driver's record along with their physical results.

On 17 May 2011 ([76 FR 28403](#)) FMCSA issued a notice of availability of draft guidance with a request for comments. The draft guidance is for the core curriculum specifications that could be used by training providers in implementing the proposed rule. Comment due date: 16 June 2011.

On 20 April 2012 ([77 FR 24104](#)) FMSCA issued a **Final Rule**, which established the National Registry of Certified Medical Examiners with the requirements that all medical examiners, who conduct physical examinations for interstate commercial motor vehicle (CMV) drivers, meet designated criteria to be placed on the registry. After the transition period, wherein the medical providers are required to be

trained and tested, the National Registry will only accept, as valid, medical examiner certificates issued by a medical examiner that is listed on the National Registry. Effective date: 21 May 2012. Compliance date: 21 May 2014

Limitations on the Issuance of Commercial Driver's Licenses with a Hazardous Materials Endorsement (FMCSA-2001-1117). (RIN 2126-AA70; 49 CFR 383) On 7 November 2003 ([68 FR 63030](#)), FMCSA published an **Interim Final Rule**, effective 3 November 2003, that amended the FMCSA regulations prohibiting States from issuing, renewing, transferring or upgrading a CDL with a HME unless the TSA has first conducted a background records check of the applicant and determined the applicant does not pose a security risk warranting denial of the hazardous materials endorsement. The compliance date provisions being revised require States to collect fingerprints from individuals applying for, renewing, upgrading or transferring a hazmat endorsement for a CDL beginning 3 November 2003. On 19 August 2004 ([69 FR 51391](#)), FMCSA published an **Interim Final Rule**, effective 20 September 2004, further extending the date by which States must comply with the TSA regulations to coincide with the new compliance date established by TSA. The new compliance date is 31 January 2005.

On 29 April 2005 ([70 FR 22268](#)) FMCSA issued an **Interim Final Rule**, effective when issued, that amends the Federal Motor Carrier Safety Regulations to cross-reference the TSA's compliance date as the date when FMCSA companion requirements also become applicable. Consistent with TSA regulations, FMCSA also reduced the amount of advance notice that States must provide to drivers that a security threat assessment will be performed when they renew a hazardous materials endorsement. The most recent Unified Agenda indicated that the next action is "to be determined."

DOT / Pipeline and Hazardous Materials Safety Administration (PHMSA)

Hazardous Materials; Miscellaneous Amendments Pertaining to DOT Specification Cylinders (RRR) (PHMSA-2011-0140). (RIN 2137-AE80; 49 CFR 171, 172, 173, 178 and 180) On 29 May 2012 ([77 FR 31551](#)) PHMSA issued an ANPRM, which states that they are considering amendments to the Hazardous Materials Regulations to revise certain requirements applicable to the manufacture, use and requalification of DOT specification cylinders. Comment due date: 27 August 2012. The most recent Unified Agenda indicates that an NPRM is planned for October 2014

Environmental Protection Agency (EPA)

Note: EPA initiatives are, where appropriate, categorized and listed in association with the source of the legislative authority for the regulatory action, e.g., Clean Air Act. EPA rulemaking dockets can be accessed at the ["regulations.gov"](http://www.regulations.gov) website.

EPA – Toxic Substances Control Act

Hydraulic Fracturing Chemicals; Chemical Information Reporting under TSCA section 8(a) and Health and Safety data Reporting under TSCA section 8(d) (RIN 2070-AJ93; 40 CFR 712 and 716). The recent Unified Agenda indicated that the EPA is considering plans to initiate a proposed rulemaking under TSCA sections 8 (a) & (d) to obtain data on chemical substances and mixtures used in hydraulic fracturing. Although the EPA granted the petitioners' request to initiate a rulemaking, the agency is not committing to a specific outcome. EPA tends to first develop an ANPRM and initiate a stakeholder process to provide input on the design and scope of the TSCA reporting requirements that would be included in a proposed rule. The most recent Unified Agenda has indicated that an ANPRM was planned for June 2014.

Polychlorinated Biphenyls (PCBs) (EPA-HQ-OPPT-2009-0757). (RIN 2070-AJ38; 40 CFR 761) On 7 April 2010 ([75 FR 17645](#)) EPA issued an ANPRM for the use and distribution in commerce of certain classes of PCBs and PCB items and certain other areas of the PCB regulation. EPA is reassessing its TSCA PCB use and distribution in commerce regulations to address: the use, distribution in commerce, marking, and storage for reuse of the liquid PCBs in electric and non-electric equipment; the use of the 50 ppm level for excluded PCB products; the use of non-liquid PCBs in porous surfaces; and the marking of PCB articles in use. They are also reassessing the definitions of “excluded manufacturing process,” “quantifiable level/level of detection,” and “recycled PCBs.” Comment due date: 6 July 2010.

On 16 June 2010 ([75 FR 34076](#)) the EPA issued an extension of the ANPRM comment period and notification of additional public meetings. Revised Comment due date: 20 August 2010. The most recent unified agenda indicates that an NPRM is planned for February 2015.

EOA – Clean Water Act (CWA) and Oil and Pollution Act (OPA)

National Pollutant Discharge Elimination System (NPDES) Application and Program Updates Rule. (RIN 2040-AF25; CFR not determined) This planned rulemaking by the EPA is to update specific elements of the existing NPDES in order to better harmonize regulations and application forms, improve permit documentation and transparency and provide clarifications to the existing regulations. The focus will be on revising the permit application forms to specifically include all final agency data standards, improve the consistency between the forms, update the applications to better reflect current program practices, and incorporate new program areas into the forms (*i.e.*, cooling water intake structures). The most recent Unified Agenda indicated that an NPRM is planned for December 2014 and a Final Rule planned for December 2015.

NPDES Electronic Reporting Rule. (SAN No. 5251) (RIN 2020-AA47; 40 CFR 123, 403, and 501) The EPA has the responsibility to ensure that the CWA NPDES program is effectively and consistently implemented across the country. This planned regulation would identify the essential information that EPA needs to receive electronically, primarily from NPDES permittees, to manage the national NPDES permitting and enforcement program. In the past, EPA primarily obtained information from the Permit Compliance System (PCS). However, the evolution and expansion of the NPDES program, coupled with the significant advances in information technology, has outgrown the PCS and not needs to upgrade to manage the full scope of the NPDES program.

On 30 July 2013 ([78 FR 46005](#)) the EPA issued an NPRM that proposes to require electronic reporting for current paper-based NPDES reports. They state that this modification will allow better allocation and use of limited program resources and enhance transparency and public accountability by providing regulatory agencies and the public with more timely, complete, accurate, and nationally-consistent sets of data about the NPDES program and potential sources of water pollution. Comment due date: 28 October 2013.

On 29 October 2013 ([78 FR 64435](#)) the EPA issued an extension to the comment period. Revised Comment due date: 12 December 2013. The most recent Unified Agenda indicates that a final action is planned for December 2014.

EPA – Resource Conservation and Recovery Act (RCRA)

Modifications to RCRA Rules Associated with Solvent-Contaminated Shop Towels and Wipes (SAN 4091). (RIN 2050–AE51; 40 CFR 261) A proposed rule was originally scheduled for November 2002. On 20 November 2003 ([68 FR 65586](#)), EPA issued a NPRM proposing: to conditionally exclude from the definition of hazardous waste disposable industrial wipes that are contaminated with hazardous solvents and are going to disposal and to conditionally exclude from the definition of solid waste reusable industrial shop towels and rags that are contaminated with hazardous solvents and are sent for laundering or dry cleaning. This proposal affects contaminated industrial wipes being sent to both landfill and non-landfill (*e.g.*, laundries and combustion) facilities and is applicable to: industrial wipes exhibiting a hazardous characteristic (*i.e.*, ignitability, corrosivity, reactivity, or toxicity) due to use with solvents; or industrial wipes contaminated with certain commercial chemical products that are spilled and cleaned up with industrial wipes. The proposal would resolve, at the Federal level, long-standing issues associated with the management of solvent-contaminated industrial wipes by: facilitating pollution prevention and waste minimization opportunities, including the recycling of the spent solvents extracted from contaminated industrial wipes; fostering improved solvents management by generators and handling facilities; reducing compliance costs; increasing consistency in the regulations governing solvent-contaminated industrial wipes across the U.S.; clarifying existing Federal rules; and creating flexibility for generators to work with industrial laundries, as appropriate, to ensure compliance with local pretreatment standards established by POTWs. A final rule was scheduled for January 2006, but was postponed until June 2007.

On 31 July 2013 ([78 FR 46447](#)) the EPA issued a **Final Rule**, which modifies the hazardous waste management regulations for solvent-contaminated wipes. This rulemaking revises the definition of solid waste to conditionally exclude solvent-contaminated wipes that are cleaned and reused and revises the definition of hazardous waste to conditionally exclude solvent-contaminated wipes that are disposed. Effective date: 31 January 2014

Hazardous Waste Management System: Identification and Listing of Hazardous Waste: Carbon Dioxide (CO₂) Injected in Geological Sequestration Activities. (EPA-HQ-RCRA-2010-0695) (RIN 2050-AG60; 40 CFR 261) The planned rulemaking by the EPA is to explore a number of options, including a conditional exemption from the RCRA requirements for hazardous CO₂ streams in order to facilitate implementation of GS, while protecting human health and the environment.

On 8 August 2011 ([76 FR 48073](#)) the EPA published a proposed rule, which proposes to revise the regulations for hazardous waste management under the RCRA to conditionally exclude CO₂ streams that are hazardous from the definition of hazardous waste, provided these streams are captured from emission sources, are injected into Class VI Underground Injection Control (UIC) wells for purposes of geologic sequestration (GS), and meet certain other conditions. EPA expects that this amendment will substantially reduce the uncertainty associated with identifying these CO₂ streams under RCRA Subtitle C, and will also facilitate the deployment of GS by providing additional regulatory certainty. Comment due date: 7 October 2011.

On 9 September 2011 (76 FR 55846) the EPA issued a technical correction to the proposed rule, which rectified the incorrect burden estimates in the preamble of the proposed rule. The most recent Unified Agenda indicates a Final Rule on January 3, 2014 with the Final Rule Effective Date being March 4, 2014.

Hazardous Waste Management System: Modification of the Hazardous Waste Manifest System. (EPA-HQ-RCRA-2001-0032). (RIN 2050–AG20; 40 CFR 260 thru 265, and 271) On 26 February 2008 ([73 FR 10204](#)) the EPA published a notice of availability and request for comments regarding the electronic manifest (e-Manifest) project. This project is to develop a centralized web-based information technology system for electronic manifests. Comment due date: 11 April 2008. The most recent Unified Agenda indicates that a final rule was issued on February 7, 2014 with the Final Rule Effective on August

6, 2014.

EPA – Clean Air Act (CAA)

Nonroad Technical Amendments (EPA-HQ-OAR-2012-0102). (RIN 2060-AR48; 40 CFR 1039, 1042, and 1068) On 6 February 2014 ([79 FR 7077](#)) the EPA issued a **Final Rule**, which adopted amendments to the technical hardship provisions under the Transition Program for equipment manufacturers related to the Tier 4 standards for nonroad diesel engines, and to the replacement engine exemption generally applicable to new nonroad engines. Effective date: 10 March 2014

Production, Import and Export. (EPA-HQ-OAR-2013-0263)(RIN 2060-AR04; 40 CFR 82) On 24 December 2013 ([78 FR 78071](#)) the EPA issued an NPRM, seeking comments on options for adjusting the allowance system controlling US consumption and production of hydrochlorofluorocarbons (HCFC), which are required to be phased out completely by 2030. Beginning 1 January 2015 the US production and consumption of all HCFCs must be no more than ten percent of the established cap. The EPA is therefore seeking comment on how to best implement the 2015 step-down to no more than ten percent of the cap. This rulemaking also seeks comments on the potential changes to the regulations. Comment due date: 24 February 2014. The most recent Unified Agenda indicates that a final rule is planned for October 2014.

Protection of Stratospheric Ozone: Adjustments to the Allowance System for Controlling HCFC Production, Import and Export. (EPA-HQ-OAR-2013-0263)(RIN 2060-AR04; 40 CFR 82) On 24 December 2013 ([78 FR 78072](#)) the EPA issued an NPRM, seeking comments on options for adjusting the allowance system controlling US consumption and production of hydrochlorofluorocarbons (HCFC), which are required to be phased out completely by 2030. Beginning 1 January 2015 the US production and consumption of all HCFCs must be no more than ten percent of the established cap. The EPA is therefore seeking comment on how to best implement the 2015 step-down to no more than ten percent of the cap. This rulemaking also seeks comments on the potential changes to the regulations. Comment due date: 24 February 2014. The most recent unified agenda indicates a Final Rule is planned for October 2014.

Federal Plan Requirements for Other Solid Waste Incineration Units Constructed on or before December 9, 2004 (SAN 5011) (OAR-2006-0364). (RIN 2060-AN43; 40 CFR 62) The Clean Air Act Amendments of 1990 directed the EPA to set emission guidelines under sections 111 and 129 for existing incinerators categorized as other solid waste incinerators (OSWI), a catch-all grouping for those classes of incinerators not directly named in the Act, which would include shipboard incinerators. Under court order, EPA published proposed regulations for OSWI on 9 December 2004. Final regulations for OSWI were published on 16 December 2005 ([70 FR 74869](#)) and were notable in that they clearly excluded shipboard incinerators from classification as Commercial Industrial Solid Waste Incinerators (CISWI). In accordance with section 129, any State with affected sources must submit a State plan by one (1) year after publication of the final rule describing how the State will implement the emission guidelines for existing CISWI. Section 129 also requires the Administrator to develop and implement a Federal plan for existing CISWI units located in any State which has not submitted an approvable plan within two (2) years of promulgation of the emissions guidelines. In this OSWI Federal plan rulemaking, EPA becomes the implementing authority in those instances where the State or local agency has failed to submit a plan or a plan has not yet been approved. Consistent with section 129(b)(3) of the Act, this rulemaking would impose a Federal plan that applies to OSWI in any State, tribe or locale that has not submitted an approvable plan within the time allotted. This action makes no changes to the requirements in the December 2005 rule, and is intended to fulfill EPA's duty under section 129(b)(3) to promulgate a Federal plan as a gap-filling measure until the State fulfills its statutory obligations. When the State submits an approvable State Plan, the Federal plan will no longer apply to units in that State. A NPRM was published on 18 December 2006 ([71 FR 75816](#)). Comment due date: 16 February 2007. The most recent Unified Agenda indicated that a final action is "to be determined."

Protection of Stratospheric Ozone; Refrigerant Recycling; Modifications to the Technician Certification Requirements under Section 608 of the Clean Air Act (SAN 4901) (RIN: 2060-AM55; 40 CFR 82) This rule would amend the Standards for Becoming a Certifying Program for Technicians to clarify the scope of the technician certification requirements and to provide a limited exemption from certification requirements for apprentices. The amendment will provide specific requirements for programs applying to become certifying organizations, will specify reporting and recordkeeping requirements in order to enhance implementation of the program, and will define other administrative components of the program to improve accountability. The most recent Unified Agenda indicated that a NPRM is “to be determined.”

Protection of Stratospheric Ozone; Refrigerant Recycling; Certification of Recovery and Recovery/Recycling Equipment Intended for use with Substitute Refrigerants (SAN 4916). (RIN: 2060-AM49; 40 CFR 82) This rule would amend the rule on refrigerant recycling equipment intended for use with Substitute Refrigerants. It would clarify how the requirements of Clean Air Act Section 608 extend to refrigerant recovery and/or recycling equipment intended for use with substitutes for CFC and HCFC refrigerants.

On 12 April 2013 ([78 FR 21871](#)) the EPA issued a proposed rule, which is proposing to amend the regulations promulgated as part of the National Recycling and Emission Reduction Program, to exempt from the prohibition under section 608 on venting, release and disposal certain refrigerant substitutes listed as acceptable or acceptable subject to use conditions in regulations as part of that program. This is based on the current evidence that the venting, release or disposal of these substitutes does not pose a threat to the environment. Comment due date: 11 June 2013. The most recent Unified Agenda indicates that a final rule was issued in May 2014.

National Emission Standards for Hazardous Air Pollutants: General Provisions (OAR-2004-0094). (RIN 2060-AM75; 40 CFR 63) On 3 January 2007 ([72 FR 69](#)) EPA issued a proposed rule with amendments to the General Provisions to the NESHAP. These amendments would replace the policy described in the 16 May 1995 EPA memorandum entitled, “Potential to Emit for MACT Standards-Guidance on Timing Issues;” and provide that a major source may become an area source at any time by limiting its potential to emit hazardous air pollutants (HAP) to below the major source thresholds of 10 tons per year (tpy) of any single HAP or 25 tpy of any combination of HAP. Under the proposed amendments, a major source could become an area source at any time, including after the first substantive compliance date of an applicable MACT standard so long as it limits its potential to emit to below the major source thresholds. This proposed rule also revises tables in numerous MACT standards that specify the applicability of General Provisions requirements to account for the regulatory provisions proposed. Comment due date (5 March 2007) extended to 4 May 2007. The Unified Agenda indicated that a final action is “to be determined”.