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E-Mail: dianna.johnston@eeoc.gov**Equal Employment Opportunity Commission (EEOC)****RIN:** 3046-AA85[View Related Documents](#)**Title:** Regulations To Implement the Equal Employment Provisions of the Americans With Disabilities Act Amendments Act**Abstract:** The Americans With Disabilities Act Amendments Act of 2008 ("the Amendments Act") was signed into law on September 25, 2008, with a statutory effective date of January 1, 2009. EEOC proposes to revise its Americans With Disabilities Act (ADA) regulations and accompanying interpretative guidance (29 CFR part 1630 and accompanying appendix) in order to implement the ADA Amendments Act of 2008. Pursuant to the 2008 amendments, the definition of disability under the ADA shall be construed in favor of broad coverage to the maximum extent permitted by the terms of the ADA, and the determination of whether an individual has a disability should not demand extensive analysis. The Amendments Act rejects the holdings in several Supreme Court decisions and portions of EEOC's ADA regulations. The effect of these changes is to make it easier for an individual seeking protection under the ADA to establish that he or she has a disability within the meaning of the ADA.**Priority:** Other Significant**Agenda Stage of Rulemaking:** Final Rule**Major:** No**Unfunded Mandates:** No**CFR Citation:** 29 CFR 1630 (To search for a specific CFR, visit the [Code of Federal Regulations](#).)**Legal Authority:** 42 USC sec 12116 and sec 506 as redesignated under the ADA Amendments Act of 2008**Legal Deadline:** None**Regulatory Plan:****Statement of Need:** This regulation is necessary to bring the Commission's regulations into compliance with the ADA Amendments Act of 2008, which became effective January 1, 2009, and explicitly invalidated certain provisions of the existing regulations. The Amendments Act retains the terminology of the ADA's basic definition of "disability" as an impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment. However, it changes the way that these statutory terms should be interpreted in several ways, therefore necessitating revision of the existing regulations and interpretive guidance contained in the accompanying "Appendix to Part 1630--Interpretive Guidance on Title I of the Americans With Disabilities Act," which are published at 29 CFR part 1630. The proposed revisions to the title I regulations and appendix are intended to enhance predictability and consistency between judicial interpretations and executive enforcement of the ADA as now amended by Congress.**Legal Basis:** Section 506 of the Amendments Act, 42 U.S.C. section 12205a, gives the EEOC the authority to issue regulations implementing the definitions of disability in section 12102 of this title (including rules of construction) and the definitions in section 12103 of this title, consistent with the ADA Amendments Act of 2008.**Alternatives:** None: Congress mandated issuance of regulations.**Costs and Benefits:** The EEOC anticipates economic and other benefits from the rule in many areas. For example, applicants and employees will be entitled to reasonable accommodation absent undue hardship to perform jobs for which they are qualified, whereas they may have been deemed not to meet the ADA's definition of disability prior to the Amendments Act and denied accommodations as a result. Also, employers will incur benefits from their ability to retain, hire, and promote qualified personnel; increased employee attendance and productivity; avoidance of costs associated with under-performance, workplace injury, and turnover; and benefits from savings in workers' compensation and related insurance. Finally, definitional clarity brought by the amended regulation will have the economic benefit of reducing litigation and the need for costly experts to address "disability," and will streamline the issues requiring judicial attention. To the extent that employers may in some cases need to revise internal policies and procedures to reflect the broader definition of disability under the Amendments Act and train personnel to ensure appropriate compliance with the revised regulation, the Commission will continue to provide free technical assistance and outreach, including presentations and materials targeted specifically to small employers. Costs would be incurred by employers with 15 or more employees that are covered by the ADA. Applying the broader Amendments Act interpretation of when an impairment "substantially limits" a major life activity, more applicants and employees will meet the definition of disability and thus be potentially entitled to reasonable accommodations that do not pose an undue hardship. Available cost data is limited. However, using research indicating that the average cost of an accommodation is \$462, the NPRM estimated the additional cost of accommodations as a result of the Amendments Act and the EEOC regulations at \$74 million. Assuming these requests occur over 5 years, since it is reasonable to assume that not all new requests will occur in the same year, the annual estimated cost would be \$15 million. The NPRM noted that it is possible that these estimates are at least twice as great as the actual costs would be, given research indicating that prior to the Amendments Act, fewer than half of the accommodation requests were granted. It is also important to note that both government-sponsored and private studies have repeatedly found that more than 50 percent of accommodations have zero costs for employers, both large and small.

Risks: The proposed rule imposes no new or additional risk to employers. The proposal does not address risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/23/2009	74 FR 48431
NPRM Comment Period End	11/23/2009	
Final Action	12/00/2010	

Additional Information: The EEOC plans to issue a final rule by the end of December, 2010, subject to expedited E.O. 12866 review by OMB/OIRA.

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal; Local; State; Tribal

Small Entities Affected: Business; Governmental Jurisdictions; Organizations

Federalism: No

Energy Affected: No

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Equal Employment Opportunity Commission (EEOC)

RIN: 3046-AA87

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Title: Reasonable Factors Other Than Age Under the Age Discrimination in Employment Act

Abstract: On March 31, 2008, the EEOC published a Notice of Proposed Rulemaking (NPRM) concerning the disparate impact burden of proof under the Age Discrimination in Employment Act. 73 FR 16807 (March 31, 2008). In addition to requesting public comment on the proposed rule, the Commission asked whether regulations should provide more information on the meaning of "reasonable factors other than age" (RFOA) and, if so, what the regulations should say. After consideration of the public comments, and in light of the Supreme Court decisions in *Smith v. City of Jackson*, 544 U.S. 228 (2005), and *Meacham v. Knolls Atomic Power Lab.*, 554 U.S. ___, 128 S. Ct. 2395 (2008), the Commission issued this NPRM to address the scope of the RFOA defense. Accordingly, before finalizing its regulations concerning disparate impact burden of proof under the ADEA, the Commission will conduct this rulemaking to amend its regulations concerning RFOA.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 29 CFR 1625.7(b),(c) (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

Legal Authority: 29 USC 628

Legal Deadline: None

Timetable:

Action	Date	FR Cite
NPRM	02/18/2010	75 FR 7212
NPRM Comment Period End	04/19/2010	
Final Action	07/00/2011	