

1 (2) *REQUIREMENTS.*—*Any covered interim reg-*
 2 *istration review decision shall include, where applica-*
 3 *ble, measures to reduce the effects of the applicable*
 4 *pesticide on—*

5 (A) *species listed under the Endangered*
 6 *Species Act of 1973 (16 U.S.C. 1531 et seq.); or*

7 (B) *any designated critical habitat.*

8 (3) *CONSULTATION.*—*In developing measures de-*
 9 *scribed in paragraph (2), the Administrator shall*
 10 *take into account the input received from the Sec-*
 11 *retary of Agriculture and other members of the inter-*
 12 *agency working group established under section*
 13 *3(c)(11) of the Federal Insecticide, Fungicide, and*
 14 *Rodenticide Act (7 U.S.C. 136a(c)(11)).*

15 ***DIVISION II—PREGNANT*** 16 ***WORKERS***

17 ***SEC. 101. SHORT TITLE.***

18 *This division may be cited as the “Pregnant Workers*
 19 *Fairness Act”.*

20 ***SEC. 102. DEFINITIONS.***

21 *As used in this division—*

22 (1) *the term “Commission” means the Equal*
 23 *Employment Opportunity Commission;*

24 (2) *the term “covered entity”—*

1 (A) has the meaning given the term “re-
2 spondent” in section 701(n) of the Civil Rights
3 Act of 1964 (42 U.S.C. 2000e(n)); and

4 (B) includes—

5 (i) an employer, which means a person
6 engaged in industry affecting commerce who
7 has 15 or more employees as defined in sec-
8 tion 701(b) of title VII of the Civil Rights
9 Act of 1964 (42 U.S.C. 2000e(b));

10 (ii) an employing office, as defined in
11 section 101 of the Congressional Account-
12 ability Act of 1995 (2 U.S.C. 1301) and sec-
13 tion 411(c) of title 3, United States Code;

14 (iii) an entity employing a State em-
15 ployee described in section 304(a) of the
16 Government Employee Rights Act of 1991
17 (42 U.S.C. 2000e–16c(a)); and

18 (iv) an entity to which section 717(a)
19 of the Civil Rights Act of 1964 (42 U.S.C.
20 2000e–16(a)) applies;

21 (3) the term “employee” means—

22 (A) an employee (including an applicant),
23 as defined in section 701(f) of the Civil Rights
24 Act of 1964 (42 U.S.C. 2000e(f));

1 (B) a covered employee (including an appli-
2 cant), as defined in section 101 of the Congres-
3 sional Accountability Act of 1995 (2 U.S.C.
4 1301), and an individual described in section
5 201(d) of that Act (2 U.S.C. 1311(d));

6 (C) a covered employee (including an appli-
7 cant), as defined in section 411(c) of title 3,
8 United States Code;

9 (D) a State employee (including an appli-
10 cant) described in section 304(a) of the Govern-
11 ment Employee Rights Act of 1991 (42 U.S.C.
12 2000e-16c(a)); or

13 (E) an employee (including an applicant)
14 to which section 717(a) of the Civil Rights Act
15 of 1964 (42 U.S.C. 2000e-16(a)) applies;

16 (4) the term “known limitation” means physical
17 or mental condition related to, affected by, or arising
18 out of pregnancy, childbirth, or related medical condi-
19 tions that the employee or employee’s representative
20 has communicated to the employer whether or not
21 such condition meets the definition of disability speci-
22 fied in section 3 of the Americans with Disabilities
23 Act of 1990 (42 U.S.C. 12102);

1 (5) the term “person” has the meaning given
2 such term in section 701(a) of the Civil Rights Act of
3 1964 (42 U.S.C. 2000e(a));

4 (6) the term “qualified employee” means an em-
5 ployee or applicant who, with or without reasonable
6 accommodation, can perform the essential functions of
7 the employment position, except that an employee or
8 applicant shall be considered qualified if—

9 (A) any inability to perform an essential
10 function is for a temporary period;

11 (B) the essential function could be per-
12 formed in the near future; and

13 (C) the inability to perform the essential
14 function can be reasonably accommodated; and

15 (7) the terms “reasonable accommodation” and
16 “undue hardship” have the meanings given such
17 terms in section 101 of the Americans with Disabil-
18 ities Act of 1990 (42 U.S.C. 12111) and shall be con-
19 strued as such terms are construed under such Act
20 and as set forth in the regulations required by this di-
21 vision, including with regard to the interactive proc-
22 ess that will typically be used to determine an appro-
23 priate reasonable accommodation.

1 **SEC. 103. NONDISCRIMINATION WITH REGARD TO REASON-**
2 **ABLE ACCOMMODATIONS RELATED TO PREG-**
3 **NANCY.**

4 *It shall be an unlawful employment practice for a cov-*
5 *ered entity to—*

6 *(1) not make reasonable accommodations to the*
7 *known limitations related to the pregnancy, child-*
8 *birth, or related medical conditions of a qualified em-*
9 *ployee, unless such covered entity can demonstrate*
10 *that the accommodation would impose an undue*
11 *hardship on the operation of the business of such cov-*
12 *ered entity;*

13 *(2) require a qualified employee affected by preg-*
14 *nancy, childbirth, or related medical conditions to ac-*
15 *cept an accommodation other than any reasonable ac-*
16 *commodation arrived at through the interactive proc-*
17 *ess referred to in section 102(7);*

18 *(3) deny employment opportunities to a quali-*
19 *fied employee if such denial is based on the need of*
20 *the covered entity to make reasonable accommodations*
21 *to the known limitations related to the pregnancy,*
22 *childbirth, or related medical conditions of the quali-*
23 *fied employee;*

24 *(4) require a qualified employee to take leave,*
25 *whether paid or unpaid, if another reasonable accom-*
26 *modation can be provided to the known limitations*

1 *related to the pregnancy, childbirth, or related med-*
2 *ical conditions of the qualified employee; or*

3 (5) *take adverse action in terms, conditions, or*
4 *privileges of employment against a qualified employee*
5 *on account of the employee requesting or using a rea-*
6 *sonable accommodation to the known limitations re-*
7 *lated to the pregnancy, childbirth, or related medical*
8 *conditions of the employee.*

9 **SEC. 104. REMEDIES AND ENFORCEMENT.**

10 (a) *EMPLOYEES COVERED BY TITLE VII OF THE CIVIL*
11 *RIGHTS ACT OF 1964.—*

12 (1) *IN GENERAL.—The powers, remedies, and*
13 *procedures provided in sections 705, 706, 707, 709,*
14 *710, and 711 of the Civil Rights Act of 1964 (42*
15 *U.S.C. 2000e–4 et seq.) to the Commission, the Attor-*
16 *ney General, or any person alleging a violation of*
17 *title VII of such Act (42 U.S.C. 2000e et seq.) shall*
18 *be the powers, remedies, and procedures this division*
19 *provides to the Commission, the Attorney General, or*
20 *any person, respectively, alleging an unlawful em-*
21 *ployment practice in violation of this division against*
22 *an employee described in section 102(3)(A) except as*
23 *provided in paragraphs (2) and (3) of this subsection.*

24 (2) *COSTS AND FEES.—The powers, remedies,*
25 *and procedures provided in subsections (b) and (c) of*

1 *section 722 of the Revised Statutes (42 U.S.C. 1988)*
2 *shall be the powers, remedies, and procedures this di-*
3 *vision provides to the Commission, the Attorney Gen-*
4 *eral, or any person alleging such practice.*

5 (3) *DAMAGES.—The powers, remedies, and pro-*
6 *cedures provided in section 1977A of the Revised*
7 *Statutes (42 U.S.C. 1981a), including the limitations*
8 *contained in subsection (b)(3) of such section 1977A,*
9 *shall be the powers, remedies, and procedures this di-*
10 *vision provides to the Commission, the Attorney Gen-*
11 *eral, or any person alleging such practice (not an em-*
12 *ployment practice specifically excluded from coverage*
13 *under section 1977A(a)(1) of the Revised Statutes (42*
14 *U.S.C. 1981a(a)(1)).*

15 (b) *EMPLOYEES COVERED BY CONGRESSIONAL AC-*
16 *COUNTABILITY ACT OF 1995.—*

17 (1) *IN GENERAL.—The powers, remedies, and*
18 *procedures provided in the Congressional Account-*
19 *ability Act of 1995 (2 U.S.C. 1301 et seq.) for the*
20 *purposes of addressing allegations of violations of sec-*
21 *tion 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)) shall*
22 *be the powers, remedies, and procedures this division*
23 *provides to address an allegation of an unlawful em-*
24 *ployment practice in violation of this division against*

1 *an employee described in section 102(3)(B), except as*
2 *provided in paragraphs (2) and (3) of this subsection.*

3 (2) *COSTS AND FEES.—The powers, remedies,*
4 *and procedures provided in subsections (b) and (c) of*
5 *section 722 of the Revised Statutes (42 U.S.C. 1988)*
6 *for the purposes of addressing allegations of such a*
7 *violation shall be the powers, remedies, and proce-*
8 *dures this division provides to address allegations of*
9 *such practice.*

10 (3) *DAMAGES.—The powers, remedies, and pro-*
11 *cedures provided in section 1977A of the Revised*
12 *Statutes (42 U.S.C. 1981a), including the limitations*
13 *contained in subsection (b)(3) of such section 1977A,*
14 *for purposes of addressing allegations of such a viola-*
15 *tion, shall be the powers, remedies, and procedures*
16 *this division provides to address any allegation of*
17 *such practice (not an employment practice specifi-*
18 *cally excluded from coverage under section*
19 *1977A(a)(1) of the Revised Statutes (42 U.S.C.*
20 *1981a(a)(1))).*

21 (c) *EMPLOYEES COVERED BY CHAPTER 5 OF TITLE*
22 *3, UNITED STATES CODE.—*

23 (1) *IN GENERAL.—The powers, remedies, and*
24 *procedures provided in chapter 5 of title 3, United*
25 *States Code, to the President, the Commission, the*

1 *Merit Systems Protection Board, or any person alleg-*
2 *ing a violation of section 411(a)(1) of such title shall*
3 *be the powers, remedies, and procedures this division*
4 *provides to the President, the Commission, the Board,*
5 *or any person, respectively, alleging an unlawful em-*
6 *ployment practice in violation of this division against*
7 *an employee described in section 102(3)(C), except as*
8 *provided in paragraphs (2) and (3) of this subsection.*

9 (2) *COSTS AND FEES.—The powers, remedies,*
10 *and procedures provided in subsections (b) and (c) of*
11 *section 722 of the Revised Statutes (42 U.S.C. 1988)*
12 *shall be the powers, remedies, and procedures this di-*
13 *vision provides to the President, the Commission, the*
14 *Board, or any person alleging such practice.*

15 (3) *DAMAGES.—The powers, remedies, and pro-*
16 *cedures provided in section 1977A of the Revised*
17 *Statutes (42 U.S.C. 1981a), including the limitations*
18 *contained in subsection (b)(3) of such section 1977A,*
19 *shall be the powers, remedies, and procedures this di-*
20 *vision provides to the President, the Commission, the*
21 *Board, or any person alleging such practice (not an*
22 *employment practice specifically excluded from cov-*
23 *erage under section 1977A(a)(1) of the Revised Stat-*
24 *utes (42 U.S.C. 1981a(a)(1))).*

1 (d) *EMPLOYEES COVERED BY GOVERNMENT EM-*
2 *PLOYEE RIGHTS ACT OF 1991.*—

3 (1) *IN GENERAL.*—*The powers, remedies, and*
4 *procedures provided in sections 302 and 304 of the*
5 *Government Employee Rights Act of 1991 (42 U.S.C.*
6 *2000e–16b; 2000e–16c) to the Commission or any per-*
7 *son alleging a violation of section 302(a)(1) of such*
8 *Act (42 U.S.C. 2000e–16b(a)(1)) shall be the powers,*
9 *remedies, and procedures this division provides to the*
10 *Commission or any person, respectively, alleging an*
11 *unlawful employment practice in violation of this di-*
12 *vision against an employee described in section*
13 *102(3)(D), except as provided in paragraphs (2) and*
14 *(3) of this subsection.*

15 (2) *COSTS AND FEES.*—*The powers, remedies,*
16 *and procedures provided in subsections (b) and (c) of*
17 *section 722 of the Revised Statutes (42 U.S.C. 1988)*
18 *shall be the powers, remedies, and procedures this di-*
19 *vision provides to the Commission or any person al-*
20 *leging such practice.*

21 (3) *DAMAGES.*—*The powers, remedies, and pro-*
22 *cedures provided in section 1977A of the Revised*
23 *Statutes (42 U.S.C. 1981a), including the limitations*
24 *contained in subsection (b)(3) of such section 1977A,*
25 *shall be the powers, remedies, and procedures this di-*

1 *vision provides to the Commission or any person al-*
2 *leging such practice (not an employment practice spe-*
3 *cifically excluded from coverage under section*
4 *1977A(a)(1) of the Revised Statutes (42 U.S.C.*
5 *1981a(a)(1)).*

6 *(e) EMPLOYEES COVERED BY SECTION 717 OF THE*
7 *CIVIL RIGHTS ACT OF 1964.—*

8 *(1) IN GENERAL.—The powers, remedies, and*
9 *procedures provided in section 717 of the Civil Rights*
10 *Act of 1964 (42 U.S.C. 2000e–16) to the Commission,*
11 *the Attorney General, the Librarian of Congress, or*
12 *any person alleging a violation of that section shall*
13 *be the powers, remedies, and procedures this division*
14 *provides to the Commission, the Attorney General, the*
15 *Librarian of Congress, or any person, respectively, al-*
16 *leging an unlawful employment practice in violation*
17 *of this division against an employee described in sec-*
18 *tion 102(3)(E), except as provided in paragraphs (2)*
19 *and (3) of this subsection.*

20 *(2) COSTS AND FEES.—The powers, remedies,*
21 *and procedures provided in subsections (b) and (c) of*
22 *section 722 of the Revised Statutes (42 U.S.C. 1988)*
23 *shall be the powers, remedies, and procedures this di-*
24 *vision provides to the Commission, the Attorney Gen-*

1 *eral, the Librarian of Congress, or any person alleg-*
2 *ing such practice.*

3 (3) *DAMAGES.*—*The powers, remedies, and pro-*
4 *cedures provided in section 1977A of the Revised*
5 *Statutes (42 U.S.C. 1981a), including the limitations*
6 *contained in subsection (b)(3) of such section 1977A,*
7 *shall be the powers, remedies, and procedures this di-*
8 *vision provides to the Commission, the Attorney Gen-*
9 *eral, the Librarian of Congress, or any person alleg-*
10 *ing such practice (not an employment practice spe-*
11 *cifically excluded from coverage under section*
12 *1977A(a)(1) of the Revised Statutes (42 U.S.C.*
13 *1981a(a)(1)).*

14 (f) *PROHIBITION AGAINST RETALIATION.*—

15 (1) *IN GENERAL.*—*No person shall discriminate*
16 *against any employee because such employee has op-*
17 *posed any act or practice made unlawful by this divi-*
18 *sion or because such employee made a charge, testi-*
19 *fied, assisted, or participated in any manner in an*
20 *investigation, proceeding, or hearing under this divi-*
21 *sion.*

22 (2) *PROHIBITION AGAINST COERCION.*—*It shall*
23 *be unlawful to coerce, intimidate, threaten, or inter-*
24 *fere with any individual in the exercise or enjoyment*
25 *of, or on account of such individual having exercised*

1 or enjoyed, or on account of such individual having
2 aided or encouraged any other individual in the exer-
3 cise or enjoyment of, any right granted or protected
4 by this division.

5 (3) *REMEDY.*—The remedies and procedures oth-
6 erwise provided for under this section shall be avail-
7 able to aggrieved individuals with respect to viola-
8 tions of this subsection.

9 (g) *LIMITATION.*—Notwithstanding subsections (a)(3),
10 (b)(3), (c)(3), (d)(3), and (e)(3), if an unlawful employment
11 practice involves the provision of a reasonable accommoda-
12 tion pursuant to this division or regulations implementing
13 this division, damages may not be awarded under section
14 1977A of the Revised Statutes (42 U.S.C. 1981a) if the cov-
15 ered entity demonstrates good faith efforts, in consultation
16 with the employee with known limitations related to preg-
17 nancy, childbirth, or related medical conditions who has in-
18 formed the covered entity that accommodation is needed, to
19 identify and make a reasonable accommodation that would
20 provide such employee with an equally effective opportunity
21 and would not cause an undue hardship on the operation
22 of the covered entity.

23 **SEC. 105. RULEMAKING.**

24 (a) *EEOC RULEMAKING.*—Not later than 1 year after
25 the date of enactment of this Act, the Commission shall issue

1 *regulations in an accessible format in accordance with sub-*
2 *chapter II of chapter 5 of title 5, United States Code, to*
3 *carry out this division. Such regulations shall provide ex-*
4 *amples of reasonable accommodations addressing known*
5 *limitations related to pregnancy, childbirth, or related med-*
6 *ical conditions.*

7 *(b) OCWR RULEMAKING.—*

8 *(1) IN GENERAL.—Not later than 6 months after*
9 *the Commission issues regulations under subsection*
10 *(a), the Board (as defined in section 101 of the Con-*
11 *gressional Accountability Act of 1995 (2 U.S.C.*
12 *1301)) shall (in accordance with section 304 of the*
13 *Congressional Accountability Act of 1995 (2 U.S.C.*
14 *1384)), issue regulations to implement the provisions*
15 *of this division made applicable to employees de-*
16 *scribed in section 102(3)(B), under section 104(b).*

17 *(2) PARALLEL WITH AGENCY REGULATIONS.—*
18 *The regulations issued under paragraph (1) shall be*
19 *the same as substantive regulations issued by the*
20 *Commission under subsection (a) except to the extent*
21 *that the Board may determine, for good cause shown*
22 *and stated together with the regulations issued under*
23 *paragraph (1) that a modification of such substantive*
24 *regulations would be more effective for the implemen-*

1 *tation of the rights and protection under this divi-*
2 *sion.*

3 **SEC. 106. WAIVER OF STATE IMMUNITY.**

4 *A State shall not be immune under the 11th Amend-*
5 *ment to the Constitution from an action in a Federal or*
6 *State court of competent jurisdiction for a violation of this*
7 *division. In any action against a State for a violation of*
8 *this division, remedies (including remedies both at law and*
9 *in equity) are available for such a violation to the same*
10 *extent as such remedies are available for such a violation*
11 *in an action against any public or private entity other than*
12 *a State.*

13 **SEC. 107. RELATIONSHIP TO OTHER LAWS.**

14 *(a) IN GENERAL.—Nothing in this division shall be*
15 *construed—*

16 *(1) to invalidate or limit the powers, remedies,*
17 *and procedures under any Federal law or law of any*
18 *State or political subdivision of any State or jurisdic-*
19 *tion that provides greater or equal protection for indi-*
20 *viduals affected by pregnancy, childbirth, or related*
21 *medical conditions; or*

22 *(2) by regulation or otherwise, to require an em-*
23 *ployer-sponsored health plan to pay for or cover any*
24 *particular item, procedure, or treatment or to affect*
25 *any right or remedy available under any other Fed-*

