



Federal Register

**Monday,
April 24, 2006**

Part XIII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The Department's agencies have carefully assessed their available resources and what they can accomplish in the next 12 months and have adjusted their agendas accordingly.

The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between April 2006 and April 2007, as well as those completed during the past 6 months.

FOR FURTHER INFORMATION CONTACT: Kathleen Franks, Director, Office of Regulatory Policy, Office of the

Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210; (202) 693-5959.

NOTE: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. As permitted by law, the Department of Labor is combining the publication of its agendas under the Regulatory Flexibility Act and Executive Order 12866.

Executive Order 12866 became effective September 30, 1993, and, in substance, requires the Department of Labor to publish an agenda listing all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming 1-year period. The focus of all departmental regulatory activity will be on the development of effective rules that advance the Department's goals and that are understandable and usable to the employers and employees in all affected workplaces.

The Regulatory Flexibility Act, which became effective on January 1, 1981, requires the Department of Labor to publish an agenda, listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602).

The Regulatory Flexibility Act (under section 610) also requires agencies to periodically review rules "which have or will have a significant economic impact upon a substantial number of small entities" and to annually publish a list of the rules that will be reviewed during the succeeding 12 months. The purpose of the review is to determine whether the rule should be continued without change, amended, or rescinded.

The next 12-month review list for the Department of Labor is provided below and public comment is invited on the listing. A brief description of each rule, the legal basis for the rule, and the agency contact are provided with each agenda item.

Occupational Safety and Health Administration

Excavations (RIN 1218-AC02)

Lead in Construction (RIN 1218-AC18)

Employee Benefits Security Administration

Plan Assets-Participant Contributions Regulations (RIN 1210-AB11)

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved, and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

Elaine L. Chao,
Secretary of Labor.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1910	Production or Disclosure of Information or Materials	1290-AA17

Employment Standards Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1911	Child Labor Regulations, Orders, and Statements of Interpretation	1215-AB44

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1912	Amendments to the Fair Labor Standards Act	1215-AB13

DOL

Employment Standards Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1913	Family and Medical Leave Act of 1993; Conform to the Supreme Court's Ragsdale Decision	1215-AB35
1914	Child Labor Regulations, Orders, and Statements of Interpretation	1215-AB57

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1915	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AB46
1916	Standards of Conduct for Federal Sector Labor Organizations	1215-AB48
1917	Labor Organization Officer and Employee Reports	1215-AB49
1918	Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act of 2000, as Amended	1215-AB51
1919	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Equal Opportunity Survey	1215-AB53
1920	Labor Organization Annual Financial Trust Reports: Form T-1	1215-AB54
1921	Airline Employee Protection Program	1215-AB55

Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1922	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models	1215-AB09
1923	Union Organization and Voting Rights: Criteria for Characterizing a Labor Organization as a Local, Intermediate, or National or International Labor Organization	1215-AB50
1924	Union Officials: Guidelines for Fiduciary Responsibilities Under Section 501(a) of the Labor-Management Reporting and Disclosure Act	1215-AB52

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1925	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AB24

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1926	Revision to the Department of Labor Benefit Regulations for Trade Adjustment Assistance for Workers Under the Trade Act of 1974, as Amended	1205-AB32
1927	Revision to the Department of Labor Regulations for Petitions and Determinations of Eligibility To Apply for Trade Adjustment Assistance for Workers and Issuance of Regulations for the Alternative TAA	1205-AB40
1928	Labor Certification for the Permanent Employment of Aliens in the United States; Reducing the Incentives and Opportunities for Fraud and Abuse and Enhancing Program Integrity	1205-AB42

DOL

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1929	Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of Information in State UC Records	1205-AB18
1930	Post-Adjudication Audits of H-2B Petitions Other Than Logging in the United States	1205-AB36
1931	Labor Certification for the Permanent Employment of Aliens in the United States; Backlog Reduction	1205-AB37
1932	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models; Labor Attestations Re H-1B1 Visas for Chile and Singapore (Section 610 Review)	1205-AB38
1933	Federal-State Unemployment Compensation Program; Eligibility	1205-AB41
1934	Labor Conditions Applications for E-3 Visas in Specialty Occupations for Australian Non-immigrants	1205-AB43

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1935	Attestations by Facilities Temporarily Employing H-1C Nonimmigrant Aliens as Registered Nurses	1205-AB27
1936	Labor Condition Applications for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models; Filing Procedures	1205-AB39

Employee Benefits Security Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1937	Independence of Accountant	1210-AB09
1938	Plan Assets-Participant Contributions Regulation (610 Review) (Section 610 Review)	1210-AB11

Employee Benefits Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1939	Amendment of Regulation Relating to Definition of Plan Assets—Participant Contributions	1210-AB02
1940	Revision of the Form 5500 Series and Implementing Regulations	1210-AB06
1941	Amendment of Section 404(c) Regulation—Disclosure	1210-AB07
1942	Amendment of Standards Applicable to General Statutory Exemption for Services	1210-AB08
1943	Section 404 Regulation—Safe Harbor for Default Investments	1210-AB10

Employee Benefits Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1944	Health Care Standards for Mothers and Newborns	1210-AA63
1945	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status	1210-AA77
1946	Rulemaking Relating to Termination of Abandoned Individual Account Plans	1210-AA97
1947	Voluntary Fiduciary Correction Program	1210-AB03
1948	Electronic Filing of Annual Reports	1210-AB04

DOL**Employee Benefits Security Administration—Long-Term Actions**

Sequence Number	Title	Regulation Identifier Number
1949	Adequate Consideration	1210-AA15
1950	Regulations Implementing the Health Care Access, Portability, and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996	1210-AA54

Employee Benefits Security Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1951	Prohibited Transaction Exemption Procedures	1210-AA98
1952	Annual Funding Notice for Multiemployer Plans	1210-AB00
1953	Civil Penalty for Failure To Provide Section 302 Notice	1210-AB01

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1954	Equivalency Evaluation of the U.S. Environmental Protection Agency's Nonroad Diesel Engine Standards	1219-AB43
1955	Underground Mine Rescue Equipment and Technology	1219-AB44
1956	Proximity Detection System for Continuous Mining Machines	1219-AB49

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1957	High-Voltage Continuous Mining Machine Standard for Underground Coal Mines	1219-AB34
1958	Revising Electrical Product Approval Regulations	1219-AB37
1959	Field Modifications of Permissible Mobile Diesel-Powered Equipment	1219-AB39
1960	Use of or Impairment From Alcohol and Other Drugs on Mine Property	1219-AB41
1961	Criteria and Procedures for Proposed Assessment of Civil Penalties	1219-AB51

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1962	Asbestos Exposure Limit	1219-AB24
1963	Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners	1219-AB29
1964	Fire Extinguishers in Underground Coal Mines	1219-AB40
1965	Evaluation of International Electrotechnical Commission's Standards for Explosion-Proof Enclosures	1219-AB42
1966	Emergency Mine Evacuation	1219-AB46

Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1967	Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust	1219-AB14
1968	Determination of Concentration of Respirable Coal Mine Dust	1219-AB18
1969	Respirable Crystalline Silica Standard	1219-AB36

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Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1970	Improving and Eliminating Regulations	1219-AA98
1971	Training Standards for Shaft and Slope Construction Workers at Underground Mines	1219-AB35
1972	Part 5—Fees for Testing, Evaluation, and Approval of Mining Products	1219-AB38

Office of the Assistant Secretary for Administration and Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1973	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998	1291-AA29
1974	Grants and Agreements	1291-AA30

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1975	Occupational Exposure to Crystalline Silica	1218-AB70
1976	Occupational Exposure to Beryllium	1218-AB76
1977	Cranes and Derricks	1218-AC01
1978	Excavations (Section 610 Review)	1218-AC02
1979	Emergency Response and Preparedness	1218-AC17
1980	Lead in Construction (Section 610 Review)	1218-AC18
1981	Standards Improvement	1218-AC19
1982	Hazard Communication	1218-AC20
1983	Notice on Supplier's Declaration of Conformity (SDoC)	1218-AC21
1984	Revision and Update of Standards for Power Presses	1218-AC22

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1985	Confined Spaces in Construction (Part 1926): Preventing Suffocation/ Explosions in Confined Spaces	1218-AB47
1986	General Working Conditions for Shipyard Employment	1218-AB50
1987	Electric Power Transmission and Distribution; Electrical Protective Equipment	1218-AB67
1988	Updating OSHA Standards Based on National Consensus Standards	1218-AC08
1989	Explosives	1218-AC09

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1990	Assigned Protection Factors: Amendments to the Final Rule on Respiratory Protection	1218-AA05
1991	Longshoring and Marine Terminals (Parts 1917 and 1918)—Reopening of the Record (Vertical Tandem Lifts (VTLs))	1218-AA56
1992	Employer Payment for Personal Protective Equipment	1218-AB77
1993	Revision and Update of Subpart S—Electrical Standards	1218-AB95
1994	NFPA Standards in Shipyard Fire Protection	1218-AC16
1995	New York State Plan—Certification	1218-AC24
1996	Procedures for Handling Discrimination Complaints Under Federal Employee Protection Statutes	1218-AC25

DOL

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1997	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips, and Fall Prevention)	1218-AB80
1998	Hearing Conservation Program for Construction Workers	1218-AB89
1999	Ionizing Radiation	1218-AC11

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2000	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium)	1218-AB45
2001	Slip Resistance of Skeletal Structural Steel	1218-AC14
2002	Rollover Protective Structures; Overhead Protection	1218-AC15

Office of the Assistant Secretary for Veterans' Employment and Training—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2003	Jobs for Veterans Act of 2002: Contract Threshold and Eligibility Groups for Federal Contractor Program	1293-AA12

Office of the Assistant Secretary for Veterans' Employment and Training—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2004	Uniformed Services Employment and Reemployment Rights Act Regulations	1293-AA09
2005	Notice of Rights, Benefits, and Obligations Under the USERRA	1293-AA14

Department of Labor (DOL)**Final Rule Stage****Office of the Secretary (OS)****1910. PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS****Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 301; 5 USC 552 as amended; 5 USC Reorganization Plan No. 6 of 1950; EO 12600, 52 FR 23781 (June 25, 1987)**CFR Citation:** 29 CFR 70**Legal Deadline:** None**Abstract:** The regulation will incorporate the provisions of the 1996 FOIA amendments. These include

extending DOL processing time from 10 to 20 days for most FOIA requests and requiring that all reading room materials created since November 1, 1996, be made available by electronic means such as the Internet.

Timetable:

Action	Date	FR Cite
NPRM	03/30/04	69 FR 16740
NPRM Comment Period End	05/14/04	
Final Action	04/00/06	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None

Agency Contact: Joseph Plick, FOIA Counsel, Department of Labor, 200 Constitution Avenue NW., Room N2428 – FP Building, Washington, DC 20210
Phone: 202 693-5527
Email: plick.joseph@dol.gov

RIN: 1290-AA17

Department of Labor (DOL)
Employment Standards Administration (ESA)

Prerule Stage

1911. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 203(1)

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: The Department of Labor is considering possible revisions to the hazardous occupations orders that may be undertaken to address recommendations of the National Institute for Occupational Safety and Health (NIOSH) in its May 2002 report to the Department on the Fair Labor Standards Act child labor regulations

(available at <http://www.youthrules.dol.gov/resources.htm>). This Advance Notice of Proposed Rulemaking seeks additional data and public input to supplement the conclusions and recommendations on certain of the Hazardous Orders contained in the NIOSH report for consideration in subsequent rulemaking actions that may be undertaken. This Advance Notice of Proposed Rulemaking is related to a separate Notice of Proposed Rulemaking (see Related RIN: 1215-AB57).

Timetable:

Action	Date	FR Cite
ANPRM	07/00/06	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Federalism: Undetermined

URL For Public Comments: www.regulations.gov

Agency Contact: Alfred B. Robinson, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, S3502, Washington, DC 20210
 Phone: 202 693-0051
 Fax: 202 693-1302

Related RIN: Related to 1215-AB57

RIN: 1215-AB44

Department of Labor (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

1912. AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

Legal Authority: 29 USC 201 et seq; PL 104-188, sec 2101 to 2105

CFR Citation: 29 CFR 4; 29 CFR 531; 29 CFR 541; 29 CFR 778; 29 CFR 785; 29 CFR 790; 29 CFR 870; 41 CFR 50-202

Legal Deadline: None

Abstract: Small Business Job Protection Act of 1996 (H.R. 3448) enacted on August 20, 1996 (Pub. L. 104-188, title II) amended the Portal-to-Portal Act (PA) and the Fair Labor Standards Act (FLSA). The PA amendment excludes (under certain circumstances) from compensable "hours worked" the time spent by an employee in home-to-work travel in an employer-provided vehicle. The FLSA amendments: (1) increased the \$4.25 Federal minimum hourly wage in two steps to \$5.15 on September 1, 1997; (2) provided a \$4.25 subminimum wage for youth under age 20 in their first 90 calendar days of employment with an employer; (3) set the employer's direct wage payment obligation for tipped employees at \$2.13 per hour (provided such employees receive the balance of the full minimum wage in tips); and (4) set the hourly compensation requirements at no less than \$27.63 per hour for certain exempt professional employees in computer-related

occupations. Changes will be required in the regulations to reflect these amendments. Other updates will address needed clarifications to additional sections of the regulations, including sections affected by Public Law 106-151, section 1 (Dec. 9, 1999), 113 Stat. 1731, and Public Law 106-202 (May 18, 2002), 114 Stat. 308.

Timetable:

Action	Date	FR Cite
NPRM	11/00/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, Local, State

URL For Public Comments: <http://www.regulations.gov>

Agency Contact: Alfred B. Robinson, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, S3502, Washington, DC 20210
 Phone: 202 693-0051
 Fax: 202 693-1302

RIN: 1215-AB13

1913. FAMILY AND MEDICAL LEAVE ACT OF 1993; CONFORM TO THE SUPREME COURT'S RAGSDALE DECISION

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 2654

CFR Citation: 29 CFR 825

Legal Deadline: None

Abstract: The U.S. Supreme Court, in *Ragsdale v. Wolverine World Wide, Inc.*, 122 S. Ct. 1155 (2002), invalidated regulatory provisions issued under the Family and Medical Leave Act (FMLA) pertaining to the effects of an employer's failure to timely designate leave that is taken by an employee as being covered by the FMLA. The Department intends to propose revisions to the FMLA regulations to address issues raised by this and other judicial decisions.

Statement of Need: The FMLA requires covered employers to grant eligible employees up to 12 workweeks of unpaid, job-protected leave a year for specified family and medical reasons, and to maintain group health benefits during the leave as if the employees continued to work instead of taking leave. When an eligible employee returns from FMLA leave, the employer must restore the employee to the same or an equivalent job with equivalent pay, benefits, and other conditions of employment. FMLA makes it unlawful for an employer to interfere with, restrain, or deny the exercise of any right provided by the FMLA.

The FMLA regulations require employers to designate if an employee's use of leave is counting against the

DOL—ESA

Proposed Rule Stage

employee's FMLA leave entitlement, and to notify the employee of that designation (29 CFR section 825.208). Section 825.700(a) of the regulations provides that if an employee takes paid or unpaid leave and the employer does not designate the leave as FMLA leave, the leave taken does not count against the employee's 12 weeks of FMLA leave entitlement.

On March 19, 2002, the U.S. Supreme Court issued its decision in *Ragsdale v. Wolverine World Wide, Inc.*, 122 S. Ct. 1155 (2002). In that decision, the Court invalidated regulatory provisions pertaining to the effects of an employer's failure to timely designate leave that is taken by an employee as being covered by the FMLA. The Court ruled that 29 CFR section 825.700(a) was invalid absent evidence that the employer's failure to designate the leave as FMLA leave interfered with the employee's exercise of FMLA rights. This proposed rule is being prepared to address issues raised by this and other judicial decisions.

Summary of Legal Basis: This rule is issued pursuant to section 404 of the Family and Medical Leave Act, 29 U.S.C. section 2654.

Alternatives: After completing a review and analysis of the Supreme Court's decision in *Ragsdale* and other judicial decisions, regulatory alternatives will be developed for notice-and-comment rulemaking.

Anticipated Cost and Benefits: The costs and benefits of this rulemaking action are not expected to exceed \$100 million per year or otherwise trigger economic significance under Executive Order 12866.

Risks: This rulemaking action does not directly affect risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/06	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Alfred B. Robinson, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1302

RIN: 1215-AB35

1914. • CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 203(l); 29 USC 212; 29 USC 213(c)

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: The Department of Labor continues to review the Fair Labor Standards Act child labor provisions to ensure that the implementing regulations provide job opportunities for working youth that are healthy and safe and not detrimental to their education, as required by the statute (29 U.S.C. Sections 203(l), 212(c), 213(c), and 216(e)). This proposed rule will update the regulations to reflect

statutory amendments enacted in 2004, and will propose, among other updates, revisions to address several recommendations of the National Institute for Occupational Safety and Health (NIOSH) in its 2002 report to the Department of Labor on the child labor Hazardous Occupations Orders (HOs) (available at <http://www.youthrules.dol.gov/resources.htm>). This Notice of Proposed Rulemaking is related to a separate Advance Notice of Proposed Rulemaking (see Related RIN: 1215-AB44) that requests additional data and public input to supplement the conclusions and recommendations on certain of the HOs contained in the NIOSH report for consideration in additional possible revisions that may be undertaken in subsequent rulemaking actions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/06	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Federalism: Undetermined

Agency Contact: Alfred B. Robinson, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1302

RIN: 1215-AB57

Department of Labor (DOL)

Employment Standards Administration (ESA)

Final Rule Stage

1915. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Other Significant

Legal Authority: 38 USC 4211; 38 USC 4212; 29 USC 793; EO 11758

CFR Citation: 41 CFR 60-300

Legal Deadline: None

Abstract: The Office of Federal Contract Compliance Programs (OFCCP) proposes to create a new regulation implementing the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) 38 USC 4212, to conform to the Jobs for Veterans Act (JVA). JVA amended VEVRAA in four ways. First, JVA raised contract coverage from \$25,000 to \$100,000. Second, JVA

granted VEVRAA protection to a new group of veterans: those who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces Service Medal was awarded pursuant to Executive Order 12985. Third, JVA changed the definition of "recently separated veteran" to include "any veteran during the three-year period beginning on the date of such

DOL—ESA

Final Rule Stage

veteran's discharge or release from active duty." Fourth, JVA changed "Special Disabled Veterans" to "Disabled Veterans," expanding the coverage to conform to 38 USC section 4211(3). This proposal will also increase the AAP threshold from \$50,000 to \$100,000 and will make other changes to the regulations. The VEVRAA Final Rule implementing the Veterans Employment Opportunities Act of 1998 and Veterans Benefits Health Care Improvement Act of 2000 at 41 CFR 60-250 is RIN 1215-AB24.

Timetable:

Action	Date	FR Cite
NPRM	01/20/06	71 FR 3351
NPRM Comment Period End	03/28/06	
Final Action	11/00/06	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** None

Agency Contact: James C. Pierce, Acting Deputy Director, Div. of Policy, Planning & Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3422, FP Building, Washington, DC 20210

Phone: 202 693-0102

TDD Phone: 202 693-1337

Fax: 202 693-1304

Email: ofccp-public@dol.gov

Related RIN: Related to 1215-AB24**RIN:** 1215-AB46**1916. STANDARDS OF CONDUCT FOR FEDERAL SECTOR LABOR ORGANIZATIONS****Priority:** Other Significant**Legal Authority:** 5 USC 7120**CFR Citation:** 29 CFR 458.4 (New)**Legal Deadline:** None

Abstract: This rulemaking action will revise the regulations implementing the standards of conduct for Federal sector unions under the Civil Service Reform Act of 1978 (CSRA). Under the CSRA standards of conduct provisions, the implementing regulations are to conform to the principles applied to private sector unions. Accordingly, the implementing regulations generally follow the provisions of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). However, the standards of conduct

regulations do not include one important provision of the LMRDA which requires unions to inform their members of the provisions of the statute. The proposed rule would amend the standards of conduct regulations to include this important provision.

Timetable:

Action	Date	FR Cite
NPRM	11/03/04	69 FR 64221
NPRM Comment Period End	01/03/05	
Final Action	05/00/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Organizations**Government Levels Affected:** None

Agency Contact: Kay H. Oshel, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room N-5605, Washington, DC 20210

Phone: 202 693-1233

TDD Phone: 800 877-8399

Fax: 202 693-1340

Email: olms-public@dol.gov

RIN: 1215-AB48**1917. LABOR ORGANIZATION OFFICER AND EMPLOYEE REPORTS****Priority:** Other Significant**Legal Authority:** 29 USC 432, 438**CFR Citation:** 29 CFR 404.3**Legal Deadline:** None

Abstract: This rulemaking action will revise Form LM-30, the report filed by labor organization officers and employees who have engaged in certain transactions or received certain payments from employers and businesses. The proposed revision would clarify a number of ambiguities in the current instructions.

Timetable:

Action	Date	FR Cite
NPRM	08/29/05	70 FR 51166
NPRM Comment Period End	10/28/05	
NPRM Comment Period Extended to	10/24/05	70 FR 61400
	01/26/2006	
Final Action	06/00/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For More Information:**

www.olms.dol.gov

Agency Contact: Kay H. Oshel, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room N-5605, Washington, DC 20210
Phone: 202 693-1233
TDD Phone: 800 877-8399
Fax: 202 693-1340
Email: olms-public@dol.gov

RIN: 1215-AB49**1918. CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000, AS AMENDED****Priority:** Economically Significant. Major under 5 USC 801.**Legal Authority:** 42 USC 7384d(a); 42 USC 7385s-10(e); EO 13179**CFR Citation:** 20 CFR 1; 20 CFR 30**Legal Deadline:** None

Abstract: The regulations govern how the Office of Workers' Compensation Programs (OWCP) administers the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA), 42 U.S.C. 7384 et seq. Since July 31, 2001, OWCP has administered the provisions of Part B of the EEOICPA that were not assigned to the Secretary of Health and Human Services, to the Secretary of Energy, or to the Attorney General by EO 13179. Part B of the EEOICPA provides for the payment of lump-sum compensation and medical benefits to Department of Energy employees and certain of its contractors and subcontractors (or their survivors) who sustained an occupational illness due to exposure to radiation, beryllium or silica. Part B also provides for medical benefits and a supplemental lump-sum payment to awardees under section 5 of the Radiation Exposure Compensation Act (RECA), 42 U.S.C. 2210 (note).

On October 28, 2004, the President signed legislation repealing former Part D of the EEOICPA that had been administered by the Secretary of Energy

DOL—ESA

Final Rule Stage

and creating a new Part E, which provides for the payment of additional monetary compensation (based on permanent impairment and/or wage loss) and medical benefits for DOE contractor employees (or their survivors) and uranium miners, millers and ore transporters covered by section 5 of the RECA (or their survivors) who sustained a covered illness due to exposure to a toxic substance while working at a DOE facility, or a uranium mine or mill covered under section 5 of RECA. Responsibility for administration of Part E of the EEOICPA was assigned to the Secretary of Labor.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/08/05	70 FR 33590
Interim Final Rule Comment Period End	08/08/05	
Interim Final Rule Effective	06/08/05	
Final Action	12/00/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: Peter Turcic, Director, Division of Energy Employees Occupational Illness Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room C-3321, Washington, DC 20210

Phone: 202 693-0081

Fax: 202 693-1465

Email: turcic.peter@dol.gov

RIN: 1215-AB51

1919. • AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS; EQUAL OPPORTUNITY SURVEY

Priority: Other Significant**Legal Authority:** EO 11246, as amended**CFR Citation:** 41 CFR 60-2.18**Legal Deadline:** None

Abstract: On November 13, 2000, the Office of Federal Contract Compliance Programs (OFCCP) published a Final Rule which established an Equal Opportunity (EO) Survey. The EO Survey requires that nonconstruction contractor establishments designated by

OFCCP prepare and file an Equal Opportunity (EO) Survey. The EO Survey contains information about personnel activities, compensation and tenure data and specific information about the contractor's affirmative action programs. This Notice of Proposed Rulemaking (NPRM) will address concerns regarding the effectiveness of the EO Survey.

Timetable:

Action	Date	FR Cite
NPRM	01/20/06	71 FR 3373
NPRM Comment Period End	03/28/06	
Final Action	08/00/06	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:**

Undetermined

Agency Contact: James C. Pierce, Acting Deputy Director, Div. of Policy, Planning & Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3422, FP Building, Washington, DC 20210

Phone: 202 693-0102

TDD Phone: 202 693-1337

Fax: 202 693-1304

Email: ofccp-public@dol.gov

RIN: 1215-AB53

1920. • LABOR ORGANIZATION ANNUAL FINANCIAL TRUST REPORTS: FORM T-1

Priority: Other Significant**Legal Authority:** 29 USC 431; 29 USC 438**CFR Citation:** 29 CFR 403.2; 29 CFR 403.5; 29 CFR 403.8; 29 CFR 408.5**Legal Deadline:** None

Abstract: This rule will implement revisions to reporting requirements under the Labor-Management Reporting and Disclosure Act of 1959, as Amended (LMRDA), for trusts in which labor organizations are interested. Such trusts include a "trust of other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body or which is selected or appointed by a labor organization and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries." 29

U.S.C. 402 (i). This rule will revise existing reporting requirements for such trusts imposed by final rule in 2003 (RIN 1215-AB34). These requirements were found invalid by the U.S. Court of Appeals of the District of Columbia circuit. In a 2005 decision, the appeals court upheld the Department of Labor's authority to require labor organizations to report on the activities of trusts in which they hold an interest, but found that the Department had exceeded its authority by imposing a rule that failed to differentiate between trusts over which a union or unions exercised dominant control and those in which the apparent authority was significantly diluted.

Timetable:

Action	Date	FR Cite
Final Action	06/00/06	

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Organizations**Government Levels Affected:** None

Agency Contact: Kay H. Oshel, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room N-5605, Washington, DC 20210

Phone: 202 693-1233

TDD Phone: 800 877-8399

Fax: 202 693-1340

Email: olms-public@dol.gov

RIN: 1215-AB54

1921. • AIRLINE EMPLOYEE PROTECTION PROGRAM

Priority: Info./Admin./Other**Legal Authority:** PL 105-220-199(a)(6); 112 Stat 936, 1058 to 1059 (1998)**CFR Citation:** 29 CFR 220**Legal Deadline:** None

Abstract: This final rule will rescind the Airline Employee Protection Program regulations at 29 CFR 220 that were issued to implement the Rehire Program established by section 43 of the Airline Deregulation Act of 1978. The program was intended to assist airline workers who were laid off as a result of airline deregulation by providing a first right of hire for designated employees covered by air carriers. Because of administrative and judicial delays, the Department's final

DOL—ESA

Final Rule Stage

rule implementing the program was not issued until 1985, 7 years after enactment of the Act. The regulation became effective January 27, 1986. In 1998, Congress repealed section 43 of the Airline Deregulation Act in section 199(a)(6) of the Workforce Investment Act (Pub. L. 105-220). Consequently, the regulations implementing the Airline Employee Protection Program are now without force or effect.

Timetable:

Action	Date	FR Cite
Final Action	06/00/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Patrick Alan Hyde, Division Chief, Division of Statutory

Programs, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm N5112, FP Building, Washington, DC 20210

Phone: 202 693-1226

Fax: 202 693-1342

Email: hyde.patrick@dol.gov

RIN: 1215-AB55

Department of Labor (DOL)

Long-Term Actions

Employment Standards Administration (ESA)

1922. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Priority: Other Significant**Legal Authority:** 29 USC 49 et seq; 8 USC 1101(a)(15)(H)(i)(b); 8 USC 1182(n); 8 USC 1184; PL 102-232; PL 105-277**CFR Citation:** 20 CFR 655, subparts H and I**Legal Deadline:** None

Abstract: The H-1B visa program of the Immigration and Nationality Act allows employers to temporarily employ nonimmigrants admitted into the United States under the H-1B visa category in specialty occupations and as fashion models, under specified labor conditions. An employer must file a labor condition application with the Department of Labor before the U. S. Citizenship and Immigration Services may approve a petition to employ a foreign worker on an H-1B visa. The Department's Employment and Training Administration administers the labor condition application process; the Wage and Hour Division of the Department's Employment Standards Administration handles complaints and investigations regarding labor condition applications. The Department published a proposed rule on January 5, 1999, in response to statutory changes in the H-1B program made by the American Competitiveness and Workforce Improvement Act of 1998 (title IV, Pub. L. 105-277; Oct. 21, 1998). Those changes placed additional obligations on "H-1B-dependent" employers (generally, those with work forces comprised of more than 15 percent H-1B workers) and on willful violators.

These employers must recruit for U.S. workers, hire U.S. workers who are at least as qualified as H-1B workers, and not displace U.S. workers by hiring H-1B workers or placing them at another employer's job site. The 1998 amendments also imposed additional obligations on all H-1B employers, such as offering benefits to H-1B workers on the same basis and according to the same criteria as offered to U.S. workers, and payment to H-1B workers during periods they are not working for an employment-related reason. The 1999 proposed rule also requested further public comment on earlier proposed provisions published in October 1995, and on particular interpretations of the statute and of the existing regulations which the Department proposed to incorporate into the regulations. Since publishing the proposed rule, Congress enacted further amendments to the H-1B provisions under the American Competitiveness in the Twenty-First Century Act of 2000 (Pub. L. 106-313; Oct. 17, 2000), the Immigration and Nationality Act—Amendments (Pub. L. 106-311; Oct. 17, 2000), and section 401 of the Visa Waiver Permanent Program Act (Pub. L. 106-396; Oct. 30, 2000).

Timetable:

Action	Date	FR Cite
NPRM	10/31/95	60 FR 55339
NPRM Comment Period End	11/30/95	
NPRM	01/05/99	64 FR 628
NPRM Comment Period End	02/04/99	
Interim Final Rule	12/20/00	65 FR 80110
Interim Final Rule Effective	01/19/01	
Interim Final Rule Comment Period End	04/23/01	66 FR 10865
Final Action	To Be	Determined

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** Federal**Additional Information:** On December 20, 2000, the Department published an interim final rule to implement the recent amendments and clarify the existing rules, and requested further public comment on those provisions.

On December 8, 2004, Congress enacted the H-1B Visa Reform Act of 2004 as part of the Consolidated Appropriations Act of 2005 (Pub. L. 108-447, 188 Stat. 2809, Division J, Title IV, Subtitle B (Dec. 8, 2004)), which reinstated (effective March 8, 2005) certain attestation requirements for H-1B dependent employers and employers found to have committed willful violations or misrepresentations of material facts during the five-year period prior to filing the H-1B Labor Condition Application.

Agency Contact: Alfred B. Robinson, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1302

RIN: 1215-AB09

1923. UNION ORGANIZATION AND VOTING RIGHTS: CRITERIA FOR CHARACTERIZING A LABOR ORGANIZATION AS A LOCAL, INTERMEDIATE, OR NATIONAL OR INTERNATIONAL LABOR ORGANIZATION

Priority: Other Significant**Legal Authority:** 29 USC 481 and 482**CFR Citation:** 29 CFR 452.11**Legal Deadline:** None

DOL—ESA

Long-Term Actions

Abstract: The Request for Information sought comments from the public as to whether and how to revise the current tests for determining whether a labor organization is a local union, intermediate union, or national or international union.

Timetable:

Action	Date	FR Cite
Request for Information	11/03/04	69 FR 64234
Comment Period Extended	12/03/04	69 FR 70288
Comment Period End	01/03/05	
Next Action Undetermined		

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

URL For More Information:

www.olms.dol.gov

Agency Contact: Kay H. Oshel, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room N-5605, Washington, DC 20210
Phone: 202 693-1233

TDD Phone: 800 877-8399
Fax: 202 693-1340
Email: olms-public@dol.gov

RIN: 1215-AB50

1924. UNION OFFICIALS: GUIDELINES FOR FIDUCIARY RESPONSIBILITIES UNDER SECTION 501(A) OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT

Priority: Other Significant

Legal Authority: 29 USC 501(a); 29 USC 521

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This notice requests information from the public to assist the Department of Labor in determining whether to issue guidelines concerning the fiduciary obligations of union officers and other representative under section 501(a) of the LMRDA, 29 U.S.C. section 501. Section 501 states in general terms that officers and other representatives of a labor organization occupy "positions of trust" within their labor organizations and must act in the best interest of their union. The LMRDA does not, however, describe in

any detail the nature and scope of these fiduciary duties.

Timetable:

Action	Date	FR Cite
Request for Information	08/29/05	70 FR 51227
Comment Period End	10/28/05	
Request for Information	10/24/05	70 FR 61472
Comment Period Extended to	01/26/2006	
Next Action Undetermined		

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room N-5605, Washington, DC 20210
Phone: 202 693-1233
TDD Phone: 800 877-8399
Fax: 202 693-1340
Email: olms-public@dol.gov

RIN: 1215-AB52

Department of Labor (DOL)

Employment Standards Administration (ESA)

Completed Actions

1925. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Other Significant

Legal Authority: 38 USC 4211; 38 USC 4212; 29 USC 793; EO 11758

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: The regulation is a final rule that revises the current regulations implementing the nondiscrimination and affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended. VEVRAA requires Government contractors and subcontractors to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era. Today's

rule makes three general types of revisions to the VEVRAA regulations. First, it generally conforms the VEVRAA regulations to the Veterans Employment Opportunities Act of 1998 and the Veterans Benefits and Health Care Improvement Act of 2000. Secondly, it removes language about the effective date of the rule published in 1998 because the language is obsolete, and regulations no longer contain an "effective date" paragraph. The Department of Labor has determined that this rulemaking need not be published as a proposed rule, as generally required by the Administrative Procedures Act, 5 U.S.C. 553, because the revisions in the rule are either nondiscretionary ministerial actions that merely incorporate, without change, statutory amendments into the preexisting regulations or are rules of agency procedures or practice.

Timetable:

Action	Date	FR Cite
Final Action	12/01/05	70 FR 72147
Final Action Effective	01/03/06	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: James C. Pierce, Acting Deputy Director, Div. of Policy, Planning & Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3422, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD Phone: 202 693-1337
Fax: 202 693-1304
Email: ofccp-public@dol.gov

Related RIN: Related to 1215-AB46

RIN: 1215-AB24

Department of Labor (DOL)
Employment and Training Administration (ETA)

Proposed Rule Stage

1926. REVISION TO THE DEPARTMENT OF LABOR BENEFIT REGULATIONS FOR TRADE ADJUSTMENT ASSISTANCE FOR WORKERS UNDER THE TRADE ACT OF 1974, AS AMENDED

Priority: Other Significant

Legal Authority: 19 USC 2320; Secretary's Order No. 3-81, 46 FR 31117

CFR Citation: 29 CFR 90; 20 CFR 617; 20 CFR 618; 20 CFR 665; 20 CFR 671;

...

Legal Deadline: None

Abstract: The Trade Adjustment Assistance Reform Act of 2002, enacted on August 6, 2002, contains provisions amending title 2, chapter 2, of the Trade Act of 1974, entitled Adjustment Assistance for Workers. The amendments, effective 90 days from enactment (November 4, 2002), make additions to where and by whom a petition may be filed, expand eligibility to workers whose production has been shifted to certain foreign countries and to worker groups secondarily affected, and make substantive changes regarding trade adjustment assistance (TAA) program benefits.

It is the Agency's intention to create a new 20 CFR part 618 to incorporate the amendments and write it in plain English, while amending the WIA regulations at 20 CFR parts 665 and 671 regarding Rapid Response and National Emergency Grants as they relate to the TAA program.

The proposed part 618 consists of 9 subparts: subpart A—General; subpart B—Petitions and Determinations of Eligibility to Apply for Trade Adjustment Assistance (and Alternative TAA); subpart C—Delivery of Services throughout the One-Stop Delivery System; subpart D—Job Search Allowances; subpart E—Relocation Allowances; subpart F—Training Services; subpart G—Trade Readjustment Allowances (TRA); subpart H—Administration by Applicable State Agencies; and subpart I—Alternative Trade Adjustment Assistance for Older Workers. Because of the complexity of the subject matter and the States' needs for definitive instructions on providing TAA benefits, the rulemaking for part 618 is divided into two parts. This notice of proposed rulemaking covers the general provisions (most of subpart A) and TAA benefits portions (subpart C

through subpart H) of the regulations. A separate notice of proposed rulemaking will cover the two remaining subparts (subpart B and subpart I) and reserved definitions in subpart A.

Statement of Need: The Trade Adjustment Assistance Reform Act of 2002, enacted August 6, 2002, repeals the North American Free Trade Agreement-Transitional Adjustment Assistance provisions for workers affected by the NAFTA Implementation Act and adds significant amendments to worker benefits under Trade Adjustment Assistance for Workers, as provided for in the Trade Act of 1974.

The 2002 Trade Act amends where and by whom a petition may be filed. Program benefits for TAA—eligible recipients are expanded to include for the first time a health care tax credit, and eligible recipients now include secondarily affected workers impacted by foreign trade. Income support is extended by 26 weeks and by up to one year under certain conditions. Waivers of training requirements in order to receive income support are explicitly defined. Job search and relocation benefit amounts are increased. Within one year of enactment, the amendments offer an Alternative TAA for Older Workers program that targets older worker groups who are certified as TAA eligible and provides the option of a wage supplement instead of training, job search, and income support.

The Department is mandated to implement the amendments within 90 days from enactment (November 4, 2002), and it issued operating instructions in a guidance letter on October 10, 2002, and later published in the Federal Register (67 FR 69029-41). State agencies rely on the regulations to make determinations as to individual eligibility for TAA program benefits. TAA program regulations as written have been described as complicated to interpret. With the new TAA program benefit amendments contained in the Trade Act of 2002, it is imperative that the regulations be in an easy-to-read and understandable format.

Summary of Legal Basis: These regulations are authorized by 19 U.S.C. 2320 due to the amendments to the Trade Act of 1974 by the Trade Adjustment Assistance Reform Act of 2002.

Alternatives: The public will be afforded an opportunity to provide comments on the TAA program changes when the Department publishes the proposed rule in the Federal Register.

Anticipated Cost and Benefits: Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date.

Risks: This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Agency Contact: Erica Cantor, Director, Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C5311, Washington, DC 20210
 Phone: 202 693-2757
 Email: cantor.eric@dol.gov

Related RIN: Related to 1205-AB40

RIN: 1205-AB32

1927. REVISION TO THE DEPARTMENT OF LABOR REGULATIONS FOR PETITIONS AND DETERMINATIONS OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE FOR WORKERS AND ISSUANCE OF REGULATIONS FOR THE ALTERNATIVE TAA

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 19 USC 2320; Secretary's Order No. 3-81, 46 FR 31117

CFR Citation: 29 CFR 90; 20 CFR 617 to 618; 20 CFR 665; 20 CFR 671; ...

Legal Deadline: None

Abstract: The Trade Adjustment Assistance Reform Act of 2002, enacted on August 6, 2002, contains provisions amending title 2, chapter 2 of the Trade Act of 1974, entitled Adjustment Assistance for Workers. The amendments, effective 90 days from enactment (November 4, 2002), make additions to where and by whom a

DOL—ETA

Proposed Rule Stage

petition may be filed, expand eligibility to workers whose production has been shifted to certain foreign countries and to worker groups secondarily affected, and make substantive changes regarding Trade Adjustment Assistance (TAA) program benefits.

It is the Agency's intention to create a new 20 CFR part 618 to incorporate the amendments and write it in plain English, while amending the WIA regulations at 20 CFR parts 665 and 671 regarding Rapid Response and National Emergency Grants as they relate to the TAA program.

The proposed part 618 consists of 9 subparts: subpart A—General; subpart B—Petitions and Determinations of Eligibility to Apply for Trade Adjustment Assistance (and Alternative TAA); subpart C—Delivery of Services throughout the One-Stop Delivery System; subpart D—Job Search Allowances; subpart E—Relocation Allowances; subpart F—Training Services; subpart G—Trade Readjustment Allowances (TRA); subpart H—Administration by Applicable State Agencies; and subpart I—Alternative Trade Adjustment Assistance (ATAA) for Older Workers. Because of the complexity of the subject matter and the States' needs for definitive instructions on providing TAA benefits, the rulemaking for part 618 is divided into 2 parts. This notice of proposed rulemaking covers the petitions and determinations (subpart B) and ATAA (subpart I) and certain definitions in subpart A of the regulations. A separate notice of proposed rulemaking will cover the remaining subparts (subpart A and subpart C through subpart H).

Statement of Need: The Trade Adjustment Assistance Reform Act of 2002, enacted August 6, 2002, repeals the North American Free Trade Agreement-Transitional Adjustment Assistance provisions for workers affected by the NAFTA Implementation Act and adds significant amendments to worker benefits under Trade Adjustment Assistance for Workers, as provided for in the Trade Act of 1974.

The 2002 Trade Act amends where and by whom a petition may be filed. Program benefits for TAA—eligible recipients are expanded to include for the first time a health care tax credit, and eligible recipients now include secondarily affected workers impacted by foreign trade. Income support is

extended by 26 weeks and by up to one year under certain conditions. Waivers of training requirements in order to receive income support are explicitly defined. Job search and relocation benefit amounts are increased. Within one year of enactment, the amendments offer an Alternative TAA for Older Workers program that targets older worker groups who are certified as TAA eligible and provides the option of a wage supplement instead of training, job search, and income support.

The Department is mandated to implement the amendments within 90 days from enactment (November 4, 2002), and it issued operating instructions in a guidance letter on October 10, 2002, and later published in the Federal Register (67 FR 69029-41). State agencies rely on the regulations to make determinations as to individual eligibility for TAA program benefits. TAA program regulations as written have been described as complicated to interpret. With the new TAA program benefit amendments contained in the Trade Act of 2002, it is imperative that the regulations be in an easy-to-read and understandable format.

Summary of Legal Basis: These regulations are authorized by 19 U.S.C. 2320 due to the amendments to the Trade Act of 1974 by the Trade Adjustment Assistance Reform Act of 2002.

Alternatives: The public will be afforded an opportunity to provide comments on the TAA program changes when the Department publishes the proposed rule in the Federal Register.

Anticipated Cost and Benefits: Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date.

Risks: This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Erica Cantor, Director, Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C5311, Washington, DC 20210
Phone: 202 693-2757
Email: cantor.eric@dol.gov

Related RIN: Related to 1205-AB32

RIN: 1205-AB40

1928. LABOR CERTIFICATION FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES; REDUCING THE INCENTIVES AND OPPORTUNITIES FOR FRAUD AND ABUSE AND ENHANCING PROGRAM INTEGRITY

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(5)(A)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: The Department of Labor and the Department of Homeland Security are simultaneously proposing changes to reduce the incentives and opportunities for fraud and abuse related to the permanent employment of aliens in the United States. Among other key changes, the Department is proposing to eliminate the current practice of allowing the substitution of alien beneficiaries on applications and approved labor certifications. DOL is proposing to further reduce the likelihood of the submission of fraudulent applications for the permanent employment of aliens in the United States by proposing a 45-day deadline for employers to file approved permanent labor certifications in support of a petition with the Department of Homeland Security. The proposed rule expressly prohibits the sale, barter, or purchase of permanent labor certifications or applications, as well as related payments. DOL will also propose enforcement mechanisms to protect program integrity, including debarment with appeal rights. These proposed amendments would apply to employers using both the Application for Alien Employment Certification (Form ETA 750) or the Application for Permanent Employment Certification (Form ETA 9089).

Timetable:

Action	Date	FR Cite
NPRM	02/13/06	71 FR 7656

DOL—ETA

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	04/14/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None
Agency Contact: John R. Beverly III, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution

Avenue NW., Room C-4312, FP Building, Washington, DC 20210
 Phone: 202 693-3502
 Email: beverly.john@dol.gov

RIN: 1205-AB42

Department of Labor (DOL)

Final Rule Stage

Employment and Training Administration (ETA)

1929. FEDERAL-STATE UNEMPLOYMENT COMPENSATION (UC) PROGRAM; CONFIDENTIALITY AND DISCLOSURE OF INFORMATION IN STATE UC RECORDS

Priority: Other Significant

Legal Authority: 26 USC ch 23; 42 USC 1302(a); 42 USC 1320b-7; 42 USC 503; Secretary's Orders 4-75 and 14-75

CFR Citation: 20 CFR 603

Legal Deadline: None

Abstract: The Employment and Training Administration of the Department of Labor prepared a notice of proposed rulemaking (NPRM) on confidentiality and disclosure of State UC information. The NPRM would modify and expand the regulations implementing the Income and Eligibility Verification System (IEVS) to include statutory requirements in title III of the Social Security Act and the Federal Unemployment Tax Act concerning confidentiality and disclosure of State UC information. The use of UC wage records and other information under these and other statutes has increased in recent years while privacy and confidentiality issues have not yet been fully addressed.

Timetable:

Action	Date	FR Cite
NPRM	08/12/04	69 FR 50022
NPRM Comment Period End	10/12/04	
Final Action	06/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Formerly RIN 1205-AA74; was taken off regulatory agenda in 1994 due to inactivity. An earlier NPRM was published on

3/23/92 at 57 FR 10063 with comment period ending 5/22/92.

Agency Contact: Gerard Hildebrand, Chief, Division of Legislation, Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue NW., Room C-4518, Washington, DC 20210
 Phone: 202 693-3038
 Email: hildebrand.gerard@dol.gov

RIN: 1205-AB18

1930. POST-ADJUDICATION AUDITS OF H-2B PETITIONS OTHER THAN LOGGING IN THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(15)(H)(ii)(b); 8 USC 1184; 29 USC 49 et seq

CFR Citation: 8 CFR 214.2(h)(5); 20 CFR 655.1 to 655.4

Legal Deadline: None

Abstract: Under the redesigned H-2B temporary nonagricultural program employers seeking to use H-2B workers, except for applications filed for employment in Guam or in logging, will file directly with the Department of Homeland Security (DHS) instead of first filing an application for labor certification with the Department of Labor (DOL), as required under the current regulation. Under the regulations simultaneously proposed by DOL and DHS, the employer will be required to conduct recruitment before filing its petition. The petition will include a number of attestations concerning labor market and related issues identified in the DOL regulation. DHS will administer the petition adjudication process. After adjudication, DOL will audit selected approved petitions. In such audits, DOL will exclusively examine whether the employer has complied with those aspects of the approved petition related to the labor market and other related

attestations. Employers will be expected to have documentation available supporting their attestations as specified in the regulation and will be required to provide this supporting documentation to DOL within 30 days from notice of audit. If, after completion of the audit, DOL determines that the employer has failed to comply with the terms of the attestations contained in the DHS petition or made material misrepresentations in its attestation, DOL will, after notice to the employer and opportunity for a hearing, recommend to DHS that the employer be debarred, for a period up to 3 years.

Timetable:

Action	Date	FR Cite
NPRM	01/27/05	70 FR 3993
NPRM Comment Period End	02/28/05	
NPRM Comment Period Reopened	03/09/05	70 FR 11592
NPRM Comment Period Extended to April 8, 2005	03/09/05	
Final Action	12/00/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: John R. Beverly III, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C-4312, FP Building, Washington, DC 20210
 Phone: 202 693-3502
 Email: beverly.john@dol.gov

RIN: 1205-AB36

1931. LABOR CERTIFICATION FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES; BACKLOG REDUCTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 8 USC 1182(a)(5)(A)

DOL—ETA

Final Rule Stage

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: To reduce an existing backlog in pending applications for permanent employment certification, the amendment allowed the National Certifying Officer to transfer to a centralized ETA processing center(s) applications that were awaiting processing by State Workforce Agencies (SWA's) or ETA Regional Offices. The interim final rule sought comments on the backlog reduction measures, and took effect 30 days after publication.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/21/04	69 FR 43716
Interim Final Rule Comment Period End	08/20/04	
Interim Final Rule Effective	08/20/04	
Final Action	10/00/06	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John R. Beverly III, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C-4312, FP Building, Washington, DC 20210
Phone: 202 693-3502
Email: beverly.john@dol.gov

RIN: 1205-AB37

1932. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS; LABOR ATTESTATIONS RE H-1B1 VISAS FOR CHILE AND SINGAPORE (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(15)(H)(1)(b1) and 1184 (g)(8)(A); PL 108-77 sec 402; PL 108-78 sec 402

CFR Citation: 20 CFR 655

Legal Deadline: None

Abstract: The Department of Labor has amended its regulations relating to the temporary employment of foreign professionals to implement procedural requirements applicable to a new visa

category - the H-1B1 visa. Congress created the new visa category as part of its approval of the Chile-United States Free Trade Agreement and the Singapore-United States Free Trade Agreement. Under the implementing legislation, DOL's responsibilities regarding H-1B1 visas are to be implemented in a manner similar to the existing H-1B program for temporary employment in specialty occupations and as fashion models. Under the regulatory procedures established by the Interim Final Rule, employers in the United States seeking to temporarily employ foreign professionals in specialty occupations through H-1B1 visas must file a labor condition application with the Department of Labor making the same attestations regarding payment of prevailing wages, working conditions, absence of strikes or lockouts, and notice to other employees that employers currently make when seeking entry of a foreign worker under the H-1B program. This Final Rule addresses the comments submitted through the Interim Final Rule process and makes one technical amendment to be consistent with the Final Rule amending H-1B and H-1B1 at 70 FR 72556.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/23/04	69 FR 68222
Interim Final Rule Effective	11/23/04	
Interim Final Rule Comment Period End	01/24/05	
Final Rule	06/00/06	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John R. Beverly III, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C-4312, FP Building, Washington, DC 20210
Phone: 202 693-3502
Email: beverly.john@dol.gov

RIN: 1205-AB38

1933. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; ELIGIBILITY

Priority: Other Significant

Legal Authority: 42 USC 503(a)(5); 26 USC 3304(a)(4)

CFR Citation: 20 CFR 604 (New)

Legal Deadline: None

Abstract: Federal Unemployment Compensation (UC) law is inherently based on wage insurance principles. The regulation would interpret and apply these principles, thereby establishing minimum standards that states will be required to meet if their employers are to continue to receive credit against the Federal unemployment tax and if the state is to continue to receive UC administrative grants.

Timetable:

Action	Date	FR Cite
NPRM	07/22/05	70 FR 42474
NPRM Comment Period End	09/20/05	
Final Action	07/00/06	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Gerard Hildebrand, Chief, Division of Legislation, Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue NW., Room C-4518, Washington, DC 20210
Phone: 202 693-3038
Email: hildebrand.gerard@dol.gov

RIN: 1205-AB41

1934. LABOR CONDITIONS APPLICATIONS FOR E-3 VISAS IN SPECIALTY OCCUPATIONS FOR AUSTRALIAN NON-IMMIGRANTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Public Law 109-13, 119

DOL—ETA

Final Rule Stage

Stat. 231 was signed into law May 11, 2005. The Act adds a new treaty visa classification for Australian nonimmigrants coming to the U.S. solely to perform services in a specialty occupation. The Department amends the current H-1B regulation to incorporate references and provisions for the new E-3 program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/06	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: John R. Beverly III, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C-4312, FP Building, Washington, DC 20210
 Phone: 202 693-3502
 Email: beverly.john@dol.gov
RIN: 1205-AB43

**Department of Labor (DOL)
 Employment and Training Administration (ETA)**

Completed Actions

1935. ATTESTATIONS BY FACILITIES TEMPORARILY EMPLOYING H-1C NONIMMIGRANT ALIENS AS REGISTERED NURSES

Priority: Other Significant

Legal Authority: 29 USC 49 et seq; 8 USC 1101(a)(15)(H)(i)(c); 8 USC 1182(m); 8 USC 1184; PL 106-95, 113 Stat. 1312

CFR Citation: 20 CFR 655, subparts L and M

Legal Deadline: Final, Statutory, February 11, 2000. Other, Statutory, February 11, 2000, Interim Final Rule.

Abstract: The Nursing Relief for Disadvantaged Areas Act of 1999 (Pub L. 106-95; November 12, 1999) amended the Immigration and Nationality Act to create a temporary visa program for nonimmigrant aliens to work as registered nurses for up to three years in facilities serving health professional shortage areas, subject to certain conditions. The NRDA specified that the H-1C visas were available only during the four-year period beginning on the date that interim or final regulations were promulgated. Interim rules became effective on September 21, 2000 and the H-1C program sunset on September 20, 2004. Because health care facilities cannot sponsor new H-1C visas and no new H-1C visas can be issued, the Department has determined that continued rulemaking is neither necessary nor appropriate and withdraws this entry from the agenda. The Department will remove the H-1C regulations when there are no valid H-1C visas remaining.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/22/00	65 FR 51137

Action	Date	FR Cite
Interim Final Rule	09/21/00	
Comment Period End		
Interim Final Rule	09/21/00	
Effective		
Remove from Agenda	02/17/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, Local, State

Agency Contact: Michael Ginley, Director, Office of Enforcement Policy, Department of Labor, 200 Constitution Avenue NW., FP Building, Room S3510, Washington, DC 20210
 Phone: 202 693-0745

John R. Beverly III, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C-4312, FP Building, Washington, DC 20210

Phone: 202 693-3502
 Email: beverly.john@dol.gov

RIN: 1205-AB27

1936. LABOR CONDITION APPLICATIONS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS; FILING PROCEDURES

Priority: Other Significant

Legal Authority: 8 USC 1182(n) and 1182(t)

CFR Citation: 20 CFR 655.720; 20 CFR 655.730

Legal Deadline: None

Abstract: Department of Labor (hereinafter Department or DOL)

regulations allowed employers to file labor condition applications (LCA) for the H-1B and H-1B1 programs electronically, by facsimile transmission (FAX), and by mail. The Department sought comments on a proposal that would require employers to file LCAs electronically, except employers that could not file LCAs electronically due to physical impairments would be allowed to submit LCAs by mail. The rulemaking also informed employers of changes in address for the submission of LCAs by mail. The Department believes the e-filing process will ensure expeditious processing of H-1B and H-1B1 petitions and limit the number of potentially incomplete applications. In addition it will ease the filing burden on employers. Through e-filing the Department will be better able to capture statistics and analyze H-1B and H-1B1 program data to identify areas that need improvement as well as any fraud or abuse that may lead to future administrative, civil or criminal enforcement actions against H-1B and H-1B1 employers or alien beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	04/01/05	70 FR 16774
NPRM Comment Period End	05/02/05	
Final Action	12/05/05	70 FR 72556
Final Action Effective	01/04/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John R. Beverly III, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C-4312, FP Building, Washington, DC 20210

DOL—ETA

Completed Actions

Phone: 202 693-3502
 Email: beverly.john@dol.gov
 RIN: 1205-AB39

Department of Labor (DOL)
Employee Benefits Security Administration (EBSA)

Prerule Stage

1937. INDEPENDENCE OF ACCOUNTANT**Priority:** Other Significant**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 1023(a)(3)(A); 29 USC 1135**CFR Citation:** 29 CFR 2509**Legal Deadline:** None

Abstract: EBSA is conducting a review of the guidelines applicable to determining when a qualified public accountant is independent for purposes of auditing and rendering an opinion on the financial information required to be included in the annual report of an employee benefit plan for purposes of section 103(a)(3)(A) of ERISA. The current guidelines, set forth as an Interpretive Bulletin at 29 CFR section 2509.75-9, were adopted in 1975. Given the changes that have taken place with respect to employee benefit plans and auditing practices and standards, as well as changes in the industry, since the issuance of those guidelines, EBSA is preparing a Request for Information that will invite interested persons to submit written comments and suggestions concerning whether and to what extent the current guidelines should be modified.

Timetable:

Action	Date	FR Cite
Request for Information	06/00/06	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
 Phone: 202 693-8500

RIN: 1210-AB09**1938. PLAN ASSETS—PARTICIPANT CONTRIBUTIONS REGULATION (610 REVIEW) (SECTION 610 REVIEW)****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 1135**CFR Citation:** 29 CFR 2510.3-102**Legal Deadline:** None

Abstract: EBSA is conducting a review of the plan assets - participant contributions regulation in accordance

with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, to the extent feasible, with State and local rules; and the extent to which technology, economic conditions, or other factors have changed in industries affected by the rule.

Timetable:

Action	Date	FR Cite
Begin Review	03/01/06	
End Review	12/00/06	

Regulatory Flexibility Analysis Required: Undetermined**Government Levels Affected:** None**Federalism:** Undetermined

Agency Contact: Rudolph F. Nuissl, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
 Phone: 202 693-8500

RIN: 1210-AB11

Department of Labor (DOL)
Employee Benefits Security Administration (EBSA)

Proposed Rule Stage

1939. AMENDMENT OF REGULATION RELATING TO DEFINITION OF PLAN ASSETS—PARTICIPANT CONTRIBUTIONS**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 1135**CFR Citation:** 29 CFR 2510.3-102**Legal Deadline:** None

Abstract: This rulemaking will amend the regulation that defines when participant monies paid to or withheld by an employer for contribution to an

employee benefit plan constitute "plan assets" for purposes of title I of ERISA and the related prohibited transaction provisions of the Internal Revenue Code. The regulation contains an amendment to the current regulation that will establish a safe harbor period of a specified number of business days during which certain monies that a participant pays to, or has withheld by, an employer for contribution to a plan would not constitute "plan assets."

Statement of Need: This amendment of the participant contribution regulation would, upon adoption, establish a "safe harbor" period of a

specified number of days during which certain monies that a participant pays to, or has withheld from wages, by an employer for contribution to an employee benefit plan, would not constitute plan assets for purposes of title I of ERISA and the related prohibited transaction provisions of the Internal Revenue Code. The amendment is needed to provide greater certainty to employers, participants and beneficiaries, service providers and others concerning when participant contributions to a plan constitute plan assets.

DOL—EBSA

Proposed Rule Stage

Summary of Legal Basis: Section 505 of ERISA provides that the Secretary may prescribe such regulations as she finds necessary and appropriate to carry out the provisions of title I of the Act. Regulation 29 CFR 2510.3-102 provides that the assets of an employee benefit plan covered by title I of ERISA include amounts (other than union dues) that a participant or beneficiary pays to an employer, or has withheld from wages by an employer, for contribution to the plan as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets; the regulation also specifies the maximum time period for deposit of such contributions by the employer.

Alternatives: Alternatives will be considered following a determination of the scope and nature of the regulatory guidance needed by the public.

Anticipated Cost and Benefits: Preliminary estimates of the anticipated costs and benefits will be developed, as appropriate, following a determination regarding the alternatives to be considered.

Risks: Failure to provide the safe harbor that would be afforded by the proposed amendment with regard to monies contributed to employee benefit plans would deprive employers, other plan fiduciaries, and service providers of the certainty they need to optimize compliance with the law. Also, any risk of loss or lost earnings resulting from permitting employers who would otherwise transmit contributions to the plan sooner than the time specified in the safe harbor should be minimal, while the benefits attendant to encouraging employers to review and modify their systems or practices to take advantage of the safe harbor may be significant.

Timetable:

Action	Date	FR Cite
NPRM	07/00/06	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Louis J. Campagna, Chief, Division of Fiduciary Interpretations, Office of Regulations and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution

Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 693-8512
Fax: 202 219-7291

RIN: 1210-AB02

1940. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1135; 29 USC 1021, 1023, 1024

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: This rulemaking would amend and update the regulatory and related requirements for annual reporting by employer benefit plans in conjunction with EBSA's proposal to amend the regulations under section 104 to require that such reports be filed electronically.

Timetable:

Action	Date	FR Cite
NPRM	06/00/06	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: June Solonsky, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5669, Washington, DC 20210
Phone: 202 693-8500
Fax: 202 219-7291

RIN: 1210-AB06

1941. AMENDMENT OF SECTION 404(C) REGULATION—DISCLOSURE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1104(c); 29 USC 1135

CFR Citation: 29 CFR 2550

Legal Deadline: None

Abstract: This rulemaking will amend the regulations governing ERISA section 404(c) plans (29 CFR section 2550.404c-1) to ensure that the participants and beneficiaries in such plans are provided the information they need, including information about fees and expenses, to make informed investment decisions. The section

404(c) regulation sets forth the conditions under which participants and beneficiaries are considered to be exercising control over the assets in their account, thereby relieving plan fiduciaries from liability for the results of the investment decisions of the participant or beneficiary. The regulation conditions relief on participants and beneficiaries being furnished or having access to certain information about their plan and the investment options offered thereunder. This amendment is needed to clarify and improve the information currently required to be furnished to participants and beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	08/00/06	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Katherine D. Lewis, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5669, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210-AB07

1942. AMENDMENT OF STANDARDS APPLICABLE TO GENERAL STATUTORY EXEMPTION FOR SERVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1108(b)(2); 29 USC 1135

CFR Citation: 29 CFR 2550

Legal Deadline: None

Abstract: This rulemaking will amend the regulation setting forth the standards applicable to the exemption under ERISA section 408(b)(2) for contracting or making a reasonable arrangement with a party in interest for office spaces for services (29 CFR section 2550.408b-2). This amendment will ensure that plan fiduciaries are provided or have access to that information necessary to a determination of whether an arrangement for services is "reasonable" within the meaning of the statutory exemption, as well as the prudence requirements of ERISA section 404(a)(1)(B). This regulation is

DOL—EBSA

Proposed Rule Stage

needed to eliminate the current uncertainty as to what information relating to services and fees plan fiduciaries must obtain and service providers must furnish for purposes of determining whether a contract for services to be rendered to a plan is reasonable.

Timetable:

Action	Date	FR Cite
NPRM	08/00/06	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Agency Contact: Kristen Zarenko, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5669, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210-AB08

1943. SECTION 404 REGULATION—SAFE HARBOR FOR DEFAULT INVESTMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1104(c); 29 USC 1135

CFR Citation: 29 CFR 2550

Legal Deadline: None

Abstract: This rulemaking would establish a safe harbor under which a fiduciary of a participant-directed individual account pension plan will be deemed to have satisfied his or her fiduciary responsibilities with respect to investment and asset allocation

decisions made on behalf of individual participants and beneficiaries who fail to give investment direction. This rulemaking will describe the types of investments that qualify as default investments under the safe harbor. As with other investment alternatives available under the plan, fiduciaries will continue to be responsible for the prudent selection and monitoring of qualifying default investment alternatives.

Statement of Need: Section 404(c)(1) of ERISA provides that, where a participant or beneficiary of an employee pension benefit plan exercises control over assets in an individual account maintained for him or her under the plan, the participant or beneficiary is not considered a fiduciary by reason of his or her exercise of control and other plan fiduciaries are relieved of liability under part 4 of title I of ERISA for the results of such exercise of control. The Department has previously issued regulations under section 404(c)(1) describing the circumstances in which 404(c)(1) applies to a transaction involving a participant's or beneficiary's exercise of control over his or her account. This rulemaking would amend those regulations to respond to a need on the part of plan sponsors and fiduciaries for guidance on the selection of default investments for plan participants who fail to make an investment election. Such guidance would also improve retirement savings for millions of American workers.

Summary of Legal Basis: Promulgation of this regulation is authorized by sections 505 and 404(c) of ERISA

Alternatives: Regulatory alternatives will be developed once determinations

have been made with regard to the scope and nature of the regulatory guidance that will be necessary to provide for default investment options when a participant in a 401(k) or similar individual account plan fails to direct the investment of his or her account.

Anticipated Cost and Benefits: Costs and benefits of regulatory alternatives will be estimated and taken into account in the development of the proposed regulation. Intended benefits include increases in 401(k) plan participation rates, more beneficial asset allocations of many participants' accounts, and attendant improvements in retirement security.

Risks: Failure to provide guidance on default investment options for individual account plans may result in diminished retirement savings for the many participants who fail to make an investment election with regard to their accounts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/06	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Erin Sweeney, Senior Pension Law Specialist, ORI, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Rm N5669, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210-AB10

Department of Labor (DOL)

Final Rule Stage

Employee Benefits Security Administration (EBSA)

1944. HEALTH CARE STANDARDS FOR MOTHERS AND NEWBORNS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1185; 29 USC 1191 to 1191c

CFR Citation: 29 CFR 2590.711

Legal Deadline: None

Abstract: The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) amended title I of ERISA and the Public Health Service Act with parallel provisions that protect mothers and their newborn children with regard to the length of hospital stays following the birth of a child. The Departments of Labor and Health and Human Services are mutually dependent due to shared interpretive jurisdiction and are proceeding concurrently to provide

final regulatory guidance with regard to the provisions of the NMHPA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/27/98	63 FR 57546
Final Action	12/00/06	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Amy Turner, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8335

RIN: 1210-AA63

1945. PROHIBITING DISCRIMINATION AGAINST PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1182; 29 USC 1191c; 29 USC 1194

CFR Citation: 29 CFR 2590.702

Legal Deadline: None

Abstract: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended title I of ERISA, the Internal Revenue Code, and the Public Health Service Act with parallel provisions to prohibit discrimination by a group health plan or a health insurance issuer based on any health status-related factor. The Departments of Labor, the Treasury, and Health and Human Services are mutually dependent due to shared interpretive jurisdiction and are proceeding concurrently to provide final regulatory guidance regarding these provisions.

Statement of Need: Part 7 of ERISA provides that group health plans and health insurance issuers may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any health status-related factor. Plan sponsors, administrators, and participants need additional guidance from the Department with regard to how they can fulfill their respective obligations under these statutory provisions.

Summary of Legal Basis: Section 702 of ERISA specifies the respective nondiscrimination requirements for group health plans and health insurance issuers. Section 734 of ERISA provides that the Secretary may promulgate such regulations as may be necessary or appropriate to carry out the provisions of part 7 ERISA. In addition, section 505 of ERISA authorizes the Secretary to issue

regulations clarifying the provisions of title I of ERISA.

Risks: Failure to provide guidance concerning part 7 of ERISA may impede compliance with the law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Comment Period End	07/07/97	
NPRM	01/08/01	66 FR 1421
NPRM Comment Period End	04/09/01	
Second Interim Final Rule	01/08/01	66 FR 1378
Interim Final Rule Comment Period End	04/09/01	
Final Rule	06/00/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: This item has been split off from RIN 1210-AA54.

Agency Contact: Amy Turner, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8335

RIN: 1210-AA77

1946. RULEMAKING RELATING TO TERMINATION OF ABANDONED INDIVIDUAL ACCOUNT PLANS

Priority: Other Significant

Legal Authority: 29 USC 1135; 29 USC 1002(16)(A)

CFR Citation: 29 CFR 2591

Legal Deadline: None

Abstract: This rulemaking will establish a procedure and standards for distributing the benefits of individual account plans that have been abandoned by their sponsoring employers or plan administrators.

Statement of Need: Thousands of individual account plans have, for a variety of reasons, been abandoned by their sponsors, creating problems for plan participants, administrators, financial institutions (e.g., banks, insurance companies, mutual funds), the courts and the Federal Government. At present, the potential liability and costs attendant to terminating such

plans and distributing the assets inhibit financial institutions and others from taking on this responsibility. Due to ongoing administrative costs and other factors, the continued maintenance of such plans is often not in the interest of the participants and beneficiaries. This rulemaking will establish a procedure for a financial institution that holds the assets of such a plan to terminate the plan and distribute its assets to the participants and beneficiaries. The rulemaking will also include standards for determining when plans may be terminated pursuant to this procedure and for carrying out the functions necessary to distribute benefits and shut down plan operations.

Summary of Legal Basis: Section 505 of ERISA provides that the Secretary may prescribe such regulations as the Secretary finds necessary and appropriate to carry out the provisions of title I of the Act. Section 403(d)(1) provides that, upon termination of such a plan, the assets shall be distributed generally in accordance with the provisions that apply to defined benefit plans, "except as otherwise provided in regulations of the Secretary." ERISA section 3(16)(A) permits the Secretary to issue regulations designating an administrator for a plan where the plan document makes no designation and the plan sponsor cannot be identified.

Alternatives: Alternatives will be considered following a determination of the scope and nature of the regulatory guidance needed by the public.

Anticipated Cost and Benefits: Preliminary estimates of the anticipated costs and benefits will be developed, as appropriate, following a determination regarding the alternatives to be considered.

Risks: Failure to provide guidance in this area will leave the retirement benefits of participants and beneficiaries in abandoned plans at risk of being significantly diminished by ongoing plan administrative expenses, rather than distributed to participants and beneficiaries in connection with a timely and orderly termination of the plan.

Timetable:

Action	Date	FR Cite
NPRM	03/10/05	70 FR 12046
NPRM Comment Period End	05/09/05	
Final Action	05/00/06	

DOL—EBSA

Final Rule Stage

Regulatory Flexibility Analysis**Required:** Undetermined**Small Entities Affected:** Businesses, Organizations**Government Levels Affected:** None**Agency Contact:** Jeffrey Turner, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210

Phone: 202 693-8500

RIN: 1210-AA97**1947. VOLUNTARY FIDUCIARY CORRECTION PROGRAM****Priority:** Other Significant**Legal Authority:** 29 USC 1132; 29 USC 1134**CFR Citation:** 29 CFR 2560**Legal Deadline:** None

Abstract: To encourage and facilitate voluntary correction of certain breaches by employee benefit plan fiduciaries of their obligations under title I of ERISA, EBSA previously implemented a Voluntary Fiduciary Correction Program (the Program). The Program relieves certain plan officials of the possibility of investigation and civil action by the Department and the imposition of civil penalties to the extent that plan officials satisfy the conditions for correcting breaches described in the Program. EBSA has decided to amend the Program by covering two additional transactions and by clarifying certain other operational requirements. EBSA will

issue a restatement of the Program in its entirety and request public comment on the included amendments. EBSA believes that the restated Program will benefit workers by further encouraging the voluntary and timely correction of possible fiduciary breaches of part 4 of title I of ERISA. EBSA also anticipates that the restated Program will better assist plan officials in understanding the requirements of part 4 of title I of ERISA and their legal responsibilities in correcting fiduciary breaches.

Timetable:

Action	Date	FR Cite
Final Action	04/00/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** None**Public Compliance Cost:** ; Yearly Recurring Cost: \$210000; Base Year for Dollar Estimates: 2006**Agency Contact:** Louis J. Campagna, Chief, Division of Fiduciary Interpretations, Office of Regulations and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 693-8512
Fax: 202 219-7291**RIN:** 1210-AB03**1948. ELECTRONIC FILING OF ANNUAL REPORTS****Priority:** Other Significant**Legal Authority:** 29 USC 1135; 29 USC 1024(a)**CFR Citation:** 29 CFR 2520.104a-2**Legal Deadline:** None**Abstract:** This rulemaking will amend the regulations under sec. 104(a) of ERISA setting forth the annual reporting requirements for employee benefit plans to require that such reports be filed electronically.**Timetable:**

Action	Date	FR Cite
NPRM	08/30/05	70 FR 51542
NPRM Comment Period End	10/03/05	
Final Action	06/00/06	

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses, Organizations**Government Levels Affected:** None**Public Compliance Cost:** Initial Cost: \$23000000; Yearly Recurring Cost: \$10000000; Base Year for Dollar Estimates: 2007**Agency Contact:** John J Canary, Supervisory Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8500
Fax: 202 219-7291**RIN:** 1210-AB04

Department of Labor (DOL)

Employee Benefits Security Administration (EBSA)

Long-Term Actions

1949. ADEQUATE CONSIDERATION**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 1002(18); 29 USC 1135**CFR Citation:** 29 CFR 2510**Legal Deadline:** None**Abstract:** The regulation would set forth standards for determining "adequate consideration" under section 3(18) of ERISA for assets other than securities for which there is a generally recognized market.**Timetable:**

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/17/88	
Next Action	Undetermined	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** None**Agency Contact:** Morton Klevan, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210

Phone: 202 693-8500

RIN: 1210-AA15**1950. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996****Priority:** Economically Significant. Major under 5 USC 801.**Legal Authority:** 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171 to 1172; 29 USC 1191c

DOL—EBSA

Long-Term Actions

CFR Citation: 29 CFR 2590

Legal Deadline: None

Abstract: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended title I of ERISA, the Internal Revenue Code, and the Public Health Service Act with parallel provisions designed to improve health care access, portability and renewability. The Departments of Labor, the Treasury, and the Health and Human Services are mutually dependent due to shared interpretive jurisdiction and are proceeding concurrently to provide additional regulatory guidance regarding these provisions.

Statement of Need: In general, the health care portability provisions in part 7 of ERISA provide for increased portability and availability of group health coverage through limitations on the imposition of any preexisting condition exclusion and special enrollment rights in group health plans after loss of other health coverage or a life event. Plan sponsors, administrators and participants need

guidance from the Department with regard to how they can fulfill their respective obligations under these statutory provisions.

Summary of Legal Basis: Part 7 of ERISA specifies the portability and other requirements for group health plans and health insurance issuers. Section 734 of ERISA provides that the Secretary may promulgate such regulations as may be necessary or appropriate to carry out the provisions of part 7 of ERISA. In addition, section 505 of ERISA authorizes the Secretary to issue regulations clarifying the provisions of title I of ERISA.

Risks: Failure to provide guidance concerning part 7 of ERISA may impede compliance with the law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Effective	06/07/97	
Interim Final Rule Comment Period End	07/07/97	

Action	Date	FR Cite
Request for Information	10/25/99	64 FR 57520
Comment Period End	01/25/00	
NPRM	12/30/04	69 FR 78800
Request for Information	12/30/04	69 FR 78825
Final Rule	12/30/04	69 FR 78720
Final Action Effective	02/28/05	
Request for Information/Comment Period End	03/30/05	
NPRM Comment Period End	03/30/05	
Final Action	04/00/07	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Amy Turner, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8335

RIN: 1210-AA54

Department of Labor (DOL)

Completed Actions

Employee Benefits Security Administration (EBSA)

1951. PROHIBITED TRANSACTION EXEMPTION PROCEDURES

Priority: Other Significant

Legal Authority: 29 USC 1135; 29 USC 1108 (a); Reorganization Plan No. 4 or 1978; Secretary of Labor's Order 1-2003

CFR Citation: 29 CFR 2570.30 to 2570.52

Legal Deadline: None

Abstract: EBSA is considering amendments to the Exemption Procedure Regulation in lieu of publishing a Request for Information. In addition, EBSA is ending the 610 review of this regulation.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/03	
End Review	01/26/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian Buyniski, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution

Avenue NW., Room N5649, Washington, DC 20210
Phone: 202 693-8540

RIN: 1210-AA98

1952. ANNUAL FUNDING NOTICE FOR MULTIEMPLOYER PLANS

Priority: Other Significant

Legal Authority: 29 USC 1021(f); PL 108-218; ERISA sec 101(f); ERISA sec 505

CFR Citation: 29 CFR 2520

Legal Deadline: Final, Statutory, April 10, 2005, PL 108-218 sec 103(a).

Abstract: This regulation implements the requirements of section 103 of the Pension Funding Equity Act of 2004, which amended section 101 of ERISA by adding a new subsection (f) that requires the administrator of a defined benefit multiemployer plan to provide participants, beneficiaries, and other parties with an annual funding notice indicating, among other things, whether the plan's funded current liability percentage is at least 100 percent.

Timetable:

Action	Date	FR Cite
NPRM	02/04/05	70 FR 6306
NPRM Comment Period End	03/07/05	
Final Action	01/11/06	71 FR 1904
Final Action Effective	02/10/06	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Jeffrey Turner, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210-AB00

1953. CIVIL PENALTY FOR FAILURE TO PROVIDE SECTION 302 NOTICE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1132(c)(4); PL 108-218; ERISA sec 502(c)(4); ERISA sec 505

DOL—EBSA

Completed Actions

CFR Citation: 29 CFR 2560**Legal Deadline:** None

Abstract: The Department has decided to withdraw this regulatory action. The Department has determined that such action does not appear to be necessary given that the statutory timeframe for making elections under section 412(b)(7)(F) of the Internal Revenue Code is almost over and that very few plans actually made such an election. The Code section 412(b)(b)(F) election to defer a portion of the amortization

charge arising from the net experience loss for the first plan year beginning after December 31, 2001, is available for an eligible multiemployer plan with respect to plan years beginning after June 30, 2003, and before July 1, 2005. See IRS Notice 2005-40, Q&A's. The Department will review this matter if noncompliance under Code section 412(b)(70)(F) becomes an issue.

Timetable:

Action	Date	FR Cite
Withdrawn	02/15/06	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None

Agency Contact: Jeffrey Turner, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210-AB01

Department of Labor (DOL)

Prerule Stage

Mine Safety and Health Administration (MSHA)

1954. • EQUIVALENCY EVALUATION OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S NONROAD DIESEL ENGINE STANDARDS**Priority:** Other Significant**Legal Authority:** 30 USC 957**CFR Citation:** 30 CFR 7**Legal Deadline:** None

Abstract: This notice announces our intention to review the U.S. Environmental Protection Agency's (EPA) standards for nonroad diesel engines. The review will determine if certain EPA requirements in 40 CFR part 189, Control of Emissions From New and In-Use Nonroad Compression-Ignition Engines, provide, or can be modified to provide, at least the same degree of protection as our existing applicable requirements in 30 CFR part 7, subpart E-Diesel Engines Intended for Use in Underground Coal Mines. This review is limited to the testing of Category B diesel engines as defined in 30 CFR 7.82, Definitions.

Timetable:

Action	Date	FR Cite
Notice of Intent to review the U.S. Environmental Protection Agency Title	03/28/06	71 FR 15358
End of Comment Period	05/30/06	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health

Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939
Phone: 202 693-9440
Fax: 202 693-9441
Email: psilvey@msha.gov

RIN: 1219-AB43**1955. • UNDERGROUND MINE RESCUE EQUIPMENT AND TECHNOLOGY****Priority:** Other Significant**Legal Authority:** 30 USC 811**CFR Citation:** Not Yet Determined**Legal Deadline:** None

Abstract: The Mine Safety and Health Administration is requesting data, comments, and other information on issues relevant to underground mine rescue equipment and technology. Over the last several years, improvements have been made to communication devices, sensors, and other forms of technology in general industry. As such, continuous development and deployment of mine rescue equipment and technology are crucial to enhancing the effectiveness of mine rescue operations and improving miners' survivability in the event of a mine emergency. Responses to this request for information will assist the Agency in determining an appropriate course of action as necessary to improve mine rescue capabilities.

Timetable:

Action	Date	FR Cite
RFI	01/25/06	71 FR 4224
RFI Comment Period End	03/27/06	

Action	Date	FR Cite
Public Meeting on 3/13/06	02/23/06	71 FR 9299
Review Comments	06/00/06	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** Businesses**Government Levels Affected:** None

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939
Phone: 202 693-9440
Fax: 202 693-9441
Email: psilvey@msha.gov

RIN: 1219-AB44**1956. • PROXIMITY DETECTION SYSTEM FOR CONTINUOUS MINING MACHINES**

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 811**CFR Citation:** Not Yet Determined**Legal Deadline:** None

Abstract: The ANPRM would seek information relative to the use of a proximity detection system to address crushing and pinning hazards associated with the operation of remote control continuous mining machines. Currently, there are no existing 30 CFR regulations that mandate the use of a proximity detection system on these machines.

DOL—MSHA

Prerule Stage

Timetable:

Action	Date	FR Cite
Request for Information	09/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health

Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939
 Phone: 202 693-9440
 Fax: 202 693-9441
 Email: psilvey@msha.gov
RIN: 1219-AB49

Department of Labor (DOL)

Proposed Rule Stage

Mine Safety and Health Administration (MSHA)

1957. HIGH-VOLTAGE CONTINUOUS MINING MACHINE STANDARD FOR UNDERGROUND COAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 957; 30 USC 961

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Our July 16, 2004 NPRM (69 FR 42812) proposed to establish design requirements for approval of high-voltage continuous mining machines operating where miners work in underground coal mines. The rule also proposed to establish new mandatory electrical safety standards for the installation, use, and maintenance of the high-voltage continuous mining machines.

This supplemental NPRM proposes and requests comments on two issues that arose from oral and written comments that MSHA received during the hearing and post-hearing comment period on the NPRM.

These issues involve: 1) types of trailing cables that can be used with high-voltage continuous mining machines; and 2) a requirement to use high-voltage insulating gloves or other personal protective equipment when handling energized high-voltage trailing cables.

Timetable:

Action	Date	FR Cite
NPRM	07/16/04	69 FR 42812
NPRM Comment Period End	08/23/04	69 FR 51784
Second NPRM	03/28/06	71 FR 15359
Second NPRM Comment Period End	05/30/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards,

Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939

Phone: 202 693-9440

Fax: 202 693-9441

Email: psilvey@msha.gov

RIN: 1219-AB34

1958. REVISING ELECTRICAL PRODUCT APPROVAL REGULATIONS

Priority: Other Significant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 7, 17, 18, 22, 23, and 27

Legal Deadline: None

Abstract: Part 18 of 30 CFR, entitled "Electric Motor-Driven Mine Equipment and Accessories," sets out the requirements to obtain MSHA approval of electrically operated machines and accessories intended for use in underground gassy mines, as well as other related matters, such as approval procedures, certification of components, and acceptance of flame-resistant hoses and conveyor belts. Aside from minor modifications, part 18 has been largely unchanged since it was promulgated in 1968. This update of part 18 is intended to improve the efficiency of the approval process, recognize new technology, add quality assurance provisions, and address existing policies through the rulemaking process. The proposed rule would also reorganize portions of the approval regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards,

Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939

Phone: 202 693-9440

Fax: 202 693-9441

Email: psilvey@msha.gov

RIN: 1219-AB37

1959. FIELD MODIFICATIONS OF PERMISSIBLE MOBILE DIESEL-POWERED EQUIPMENT

Priority: Other Significant

Legal Authority: 30 USC 957; 30 USC 961

CFR Citation: 30 CFR 36

Legal Deadline: None

Abstract: The Mine Safety and Health Administration is proposing to add field modification provisions to part 36 - Approval requirements for permissible mobile diesel-powered transportation equipment. Field modifications allow permissible equipment to be modified for mine-specific use or to comply with new diesel standards. The implementation of diesel regulations in 30 CFR parts 7, 36, 57, 72, and 75 has resulted in an increase in requests from owners of approved equipment, typically underground mine operators, to field modify permissible diesel-powered equipment. This proposed rule would codify the field modification process for part 36 field modification acceptances, expand the field modification process to allow mine operators as defined in the Federal Mine Safety and Health Act 1977 to apply for field modifications, and continue to ensure that field-modified equipment operates safely in gassy underground mines.

The proposed rule would implement existing policy which dates from 1985 to reflect current procedures for processing field modifications related

DOL—MSHA

Proposed Rule Stage

to mobile diesel-powered transportation equipment. Also, the proposed rule would require that labeling provisions be applied to all new field modifications accepted under part 36. These new provisions would enhance miner safety.

Timetable:

Action	Date	FR Cite
NPRM	08/00/06	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939
Phone: 202 693-9440
Fax: 202 693-9441
Email: psilvey@msha.gov

RIN: 1219-AB39

1960. USE OF OR IMPAIRMENT FROM ALCOHOL AND OTHER DRUGS ON MINE PROPERTY

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: MSHA is considering rulemaking to address the risks and hazards to miner safety from the use of or impairment from alcohol and drugs on mine property.

Timetable:

Action	Date	FR Cite
ANPRM	10/04/05	70 FR 57808
ANPRM Comment	11/27/05	
Period End		
NPRM	01/00/07	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939
Phone: 202 693-9440
Fax: 202 693-9441
Email: psilvey@msha.gov

RIN: 1219-AB41

1961. • CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 30 USC 815; 30 US 820; 30 USC 957

CFR Citation: 30 CFR 100

Legal Deadline: None

Abstract: MSHA will initiate rulemaking to revise the process for assessing proposed civil monetary penalties and to increase the amounts of the proposed penalties. Updating these regulations will strengthen incentives for compliance.

Timetable:

Action	Date	FR Cite
NPRM	08/00/06	

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939

Phone: 202 693-9440

Fax: 202 693-9441

Email: psilvey@msha.gov

RIN: 1219-AB51

Department of Labor (DOL)

Final Rule Stage

Mine Safety and Health Administration (MSHA)

1962. ASBESTOS EXPOSURE LIMIT

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 71

Legal Deadline: None

Abstract: MSHA's permissible exposure limit (PEL) for asbestos applies to surface (30 CFR part 56) and underground (30 CFR part 57) metal and nonmetal mines and to surface coal mines and surface areas of underground coal mines (30 CFR part 71) and is over 20 years old. MSHA proposed a rule to lower its permissible exposure limits (PEL) to the limits OSHA promulgated in 1994 in order to reduce the risk of

miners developing asbestos-induced occupational disease. A report by the Office of the Inspector General (OIG) recommended that MSHA lower its existing PEL for asbestos to a more protective level, and address take-home contamination from asbestos. It also recommended that MSHA use Transmission Electron Microscopy to analyze fiber samples that may contain asbestos.

Statement of Need: Current scientific data indicate that MSHA's existing asbestos PEL is not sufficiently protective of miners' health. MSHA's asbestos regulations date to 1967 and are based on the Bureau of Mines (MSHA's predecessor) standard of 5 mppcf (million particles per cubic foot

of air). In 1969, the Bureau promulgated a 2 mppcf and 12 fibers/ml standard. In 1970, the Bureau proposed to lower the standard to 5 fibers/ml, which was promulgated in 1974. MSHA issued its current standard of 2 fibers/ml in 1976 for coal mining (41 FR 10223) and 1978 for metal and nonmetal mining (43 FR 54064). During inspections, MSHA routinely takes samples, which are analyzed for compliance with its standard.

Other Federal agencies have addressed this issue by lowering their PEL for asbestos. For example, the Occupational Safety and Health Administration, working in conjunction with the Environmental Protection Agency, enacted a revised asbestos

standard in 1994 that lowered the permissible exposure limit to an 8-hour time-weighted average limit of 0.1 fiber per cubic centimeter of air and the excursion limit to 1.0 fiber per cubic centimeter of air (1 f/cc) as averaged over a sampling period of thirty (30) minutes. These lowered limits reflected newer information and studies on the asbestos-related disease risk to asbestos-exposed workers.

Summary of Legal Basis: Promulgation of this regulation is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

Alternatives: The Agency increased sampling efforts in an attempt to determine current miners' exposure levels to asbestos. In early 2000, MSHA began an intensive sampling effort at operations with potential asbestos exposure, including taking samples at existing vermiculite, taconite, talc, and selected other mines to determine whether asbestos is present and at what levels. While sampling, MSHA staff discussed with miners and mine operators the potential hazards of asbestos and the types of preventive measures that could be implemented to reduce exposures.

MSHA's proposed rule did not include standards to address take-home contamination from asbestos nor did MSHA propose to change its analytical method for asbestos. The final rule will be based, in part, on comments and testimony to the proposed rule, as well as MSHA sampling and inspection experience.

Anticipated Cost and Benefits: MSHA developed a preliminary regulatory economic analysis to accompany the proposed rules.

Risks: Miners could be exposed to the hazards of asbestos during mine operations where the ore body contains asbestos. There is also potential for exposure at facilities in which installed asbestos-containing material is present. Overexposure to asbestos causes asbestosis, lung cancer, mesothelioma, and other forms of cancers.

Timetable:

Action	Date	FR Cite
ANPRM	03/29/02	67 FR 15134
Notice of Change to Public Meetings	04/18/02	67 FR 19140
ANPRM Comment Period End	06/27/02	
NPRM	07/29/05	70 FR 42950

Action	Date	FR Cite
NPRM Comment Period End	09/20/05	70 FR 43950
Public Hearing	10/18/05	70 FR 43950
Final Action	10/00/06	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The Office of the Inspector General's "Evaluation of MSHA's Handling of Inspections at the W.R. Grace & Company Mine in Libby, Montana," was issued in March 2001.

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939
 Phone: 202 693-9440
 Fax: 202 693-9441
 Email: psilvey@msha.gov

RIN: 1219-AB24

1963. DIESEL PARTICULATE MATTER EXPOSURE OF UNDERGROUND METAL AND NONMETAL MINERS

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: On January 19, 2001 MSHA published a final rule addressing diesel particulate matter (DPM) exposure of underground metal and nonmetal miners (66 FR 5706). The final rule established new health standards for underground metal and nonmetal mines that use equipment powered by diesel engines. The rule established an interim concentration limit of 400 micrograms of total carbon per cubic meter of air that became applicable July 20, 2002, and a final concentration limit of 160 micrograms to become applicable after January 19, 2006. Industry challenged the rule and organized labor intervened in the litigation. Settlement negotiations with the litigants have resulted in further regulatory actions on several requirements of the rule. One final rule was published on February 27, 2002, (67 FR 9180). MSHA issued an advance notice of proposed rulemaking (ANPRM) on September 25, 2002, (67

FR 60199) to obtain additional information and published a notice of proposed rulemaking (NPRM) in August 2003 (68 FR 48668). MSHA issued a final rule on June 6, 2005 (70 FR 32868) that revises MSHA's existing standards addressing diesel particulate matter (DPM) exposure in underground metal and nonmetal (M/NM) mines. The rule, among other things, changes the interim concentration limit measured by total carbon (TC) to a comparable permissible exposure limit (PEL) measured by elemental carbon (EC). MSHA is developing a rule to phase in implementation of the final limit. On September 7, 2005, MSHA proposed a rule to phase in the final DPM limit because the agency was concerned that there may be feasibility issues for some mines to meet the final limit of 160 micrograms by January 20, 2006. Accordingly, MSHA proposed a five-year phase-in period and noted our intent to initiate a separate rulemaking to convert the final DPM limit from a total carbon limit to an elemental carbon limit. We also proposed to delete the existing provision that restricts newer mines from applying for an extension of time for meeting the final concentration limit. In addition, we requested comments and data on an appropriate conversion factor for the final DPM limit, technological implementation issues, and the costs and benefits of the proposed rule. We also requested comments on the appropriateness of including in a final rule a provision for medical evaluation of miners required to wear respiratory protection and transfer of miners who have been determined by a medical professional to be unable to wear a respirator. Public hearings were held in January 2006.

Statement of Need: As a result of the first partial settlement with the litigants, MSHA published two documents in the Federal Register on July 5, 2001. One document delayed the effective date of 57.5066(b) regarding the tagging provisions of the maintenance standard; clarified the effective dates of certain provisions of the final rule; and gave correction amendments (66 FR 35518).

The second document was a proposed rule to clarify 57.5066(b)(1) and (b)(2) of the maintenance standards and to add a new paragraph (b)(3) to 57.5067 regarding the transfer of existing diesel equipment from one underground mine to another underground mine (66 FR

DOL—MSHA

Final Rule Stage

35521). The final rule on these issues was published February 27, 2002, and became effective March 29, 2002.

As a result of the second partial settlement agreement, MSHA proposed specific changes to the 2001 DPM final rule. On September 25, 2002, MSHA published an ANPRM. In response to commenters, MSHA proposed and finalized changes only to the interim DPM standard of 400 micrograms per cubic meter of air. MSHA also committed to proposing a rule to revise the final DPM limit of 160 micrograms per cubic meter of air.

Summary of Legal Basis: Promulgation of this regulation is authorized by sections 101 and 103 of the Federal Mine Safety and Health Act of 1977.

Alternatives: This rulemaking would amend and improve health protection from that afforded by the existing standard.

Anticipated Cost and Benefits: MSHA's preliminary economic analysis indicates that making the changes under consideration would result in a net cost savings to the mining industry.

Risks: A number of epidemiological studies have found that exposure to diesel exhaust presents potential health risks to miners. These potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mining environment, occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. MSHA believe that the health evidence forms a reasonable basis for reducing miners' exposure to diesel particulate matter. Proceeding with rulemaking on the provisions discussed above will more effectively reduce miners' exposure to DPM.

Timetable:

Action	Date	FR Cite
Final Action	02/27/02	67 FR 9180
ANPRM	09/25/02	67 FR 60199
ANPRM Comment Period End	11/25/02	
NPRM	08/14/03	68 FR 48668
NPRM Comment Period End	10/14/03	
Limited Reopening of the Comment Period	02/20/04	69 FR 7881

Action	Date	FR Cite
Limited Reopening of the Comment Period End	04/05/04	69 FR 7881
Final Action	06/06/05	70 FR 32868
Final Action Effective	07/06/05	
Second NPRM	09/07/05	70 FR 53280
Notice of Public Hearing	09/07/05	70 FR 53280
Close of Comment Period	09/07/05	70 FR 53280
Request for Data	09/07/05	70 FR 53280
Comment Period Extended	09/19/05	70 FR 55018
Change of Public Hearings Dates	09/19/05	70 FR 55018
Extension Of Comment Period	01/26/06	71 FR 4331
Final Action	05/00/06	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939
Phone: 202 693-9440
Fax: 202 693-9441
Email: psilvey@msha.gov
RIN: 1219-AB29

1964. FIRE EXTINGUISHERS IN UNDERGROUND COAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1100-2

Legal Deadline: None

Abstract: The fire protection requirement in 30 CFR 75.1100-2(a)(2) requires rock dust and water at the underground workings at anthracite coal mines, and (e)(2) requires a fire extinguisher and rock dust at temporary electrical installations. MSHA has granted 101(c) petitions for modification allowing operators to use only fire extinguishers in lieu of rock dust and other requirements at these two locations. This direct final rule would eliminate the need to file petitions to use this alternative method of compliance.

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939
Phone: 202 693-9440
Fax: 202 693-9441
Email: psilvey@msha.gov
RIN: 1219-AB40

1965. • EVALUATION OF INTERNATIONAL ELECTROTECHNICAL COMMISSION'S STANDARDS FOR EXPLOSION-PROOF ENCLOSURES

Priority: Other Significant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 6; 30 CFR 7; 30 CFR 18

Legal Deadline: None

Abstract: MSHA reviewed the requirements of the International Electrotechnical Commission's (IEC) standards for Electrical Apparatus for Explosive Gas Atmospheres to determine if they are equivalent to MSHA's applicable product approval requirements or can be modified to provide at least the same degree of protection as our requirements. This final rule promulgates MSHA's equivalency determination for two of the IEC's Standards for Electrical Apparatus. These two standards, with specified modifications, will provide the same degree of protection as MSHA's applicable approval requirements for explosion-proof enclosures in 30 CFR parts 7 and 18.

Timetable:

Action	Date	FR Cite
Final Action	04/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson

DOL—MSHA

Final Rule Stage

Boulevard, Room 2349, Arlington, VA 22209–3939
 Phone: 202 693–9440
 Fax: 202 693–9441
 Email: psilvey@msha.gov
RIN: 1219–AB42

1966. • EMERGENCY MINE EVACUATION

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 18; 30 CFR 48; 30 CFR 50; 30 CFR 75

Legal Deadline: Final, Statutory, December 9, 2006.

Abstract: The Mine Safety and Health Administration has issued an emergency temporary standard under section 101(b) of the Federal Mine Safety and Health Act of 1977 in response to the grave danger which

miners are exposed to during underground coal mine accidents and subsequent evacuations. The recent January 2006 mine accidents and fatalities demonstrate the need for MSHA to take additional action that will improve mine operators' ability to respond to mine emergencies. This emergency temporary standard includes requirements for immediate accident notification; self-contained self-rescuer storage, training, and use; and the installation, use and maintenance of lifelines in underground mine escapeways.

Timetable:

Action	Date	FR Cite
Emergency Temporary Standard	03/09/06	71 FR 12252
Emergency Temporary Standard Effective	04/10/06	

Action	Date	FR Cite
Public Hearing	04/00/06	
Change of Public Hearing Dates	03/27/06	71 FR 15028
Final Action	12/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209–3939
 Phone: 202 693–9440
 Fax: 202 693–9441
 Email: psilvey@msha.gov

RIN: 1219–AB46

Department of Labor (DOL)

Long-Term Actions

Mine Safety and Health Administration (MSHA)

1967. VERIFICATION OF UNDERGROUND COAL MINE OPERATORS' DUST CONTROL PLANS AND COMPLIANCE SAMPLING FOR RESPIRABLE DUST

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813; 30 USC 961; 30 USC 957

CFR Citation: 30 CFR 70; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: Our current standards require that all underground coal mine operators develop and follow a mine ventilation plan for each mechanized mining unit that we approve. However, we do not have a requirement that provides for verification of each plan's effectiveness under typical mining conditions. Consequently, plans may be implemented by mine operators that could be inadequate to control respirable dust.

The use of approved powered air-purifying respirators and/or verifiable administrative controls would have been allowed as a supplemental means of compliance when MSHA had determined that all feasible engineering or environmental controls were exhausted.

Public hearings were held in May 2003, and the comment period, originally scheduled to close on June 4, 2003, was extended until July 3, 2003. On June 24, 2003, MSHA announced that all work on the final rule would cease and the rulemaking record would remain open in order to obtain information concerning Personal Dust Monitors being tested by NIOSH. A Federal Register notice was published on July 3, 2003, extending the comment period indefinitely.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42122
Notice of Hearings; Close of Record	07/07/00	65 FR 42186
Close of Record	08/11/00	
Extension of Comment Period; Close of Record	08/11/00	65 FR 49215
NPRM	03/06/03	68 FR 10784
Notice of Public Hearing; Close of Record	03/17/03	68 FR 12641

In response to comments received on the July 2000 proposed rule for MSHA to withdraw the rule, MSHA published a new proposed rule on March 6, 2003. The proposed rule would have required mine operators to verify, through sampling, the effectiveness of the dust control parameters for each mechanized mining unit specified in the approved mine ventilation plan.

Action	Date	FR Cite
Extension of Comment Period	05/29/03	68 FR 32005
NPRM Comment Period End	06/04/03	
Extension of Comment Period	07/03/03	68 FR 39881
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: This rulemaking is related to RIN 1219-AB18 (Determination of Concentration of Respirable Coal Mine Dust).

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209–3939
 Phone: 202 693–9440
 Fax: 202 693–9441
 Email: psilvey@msha.gov

Related RIN: Related to 1219–AB18

RIN: 1219–AB14

DOL—MSHA

Long-Term Actions

1968. DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST**Priority:** Other Significant**Legal Authority:** 30 USC 811**CFR Citation:** 30 CFR 72**Legal Deadline:** None

Abstract: The National Institute for Occupational Safety and Health and the Mine Safety and Health Administration jointly proposed that a single, full-shift measurement (single sample) will accurately represent the atmospheric condition to which a miner is exposed. The proposed rule addresses the U.S. Court of Appeals' concerns raised in *National Mining Association v. Secretary of Labor*, 153 F.3d 1264 (11th Cir. 1998). MSHA and NIOSH reopened the rulemaking record on March 6, 2003, to obtain comments on documents added to the rulemaking record since the proposed rule was published July 7, 2000. Public hearings were held in May 2003 and the comment period, originally scheduled to close on June 4, 2003, was extended until July 3, 2003. However, on June 24, 2003, MSHA announced that all work on the final rule would cease. On August 12, 2003, the Agencies reopened the rulemaking record and extended the comment period indefinitely. MSHA will be collaborating with NIOSH, miners' representatives, industry and the manufacturer in the in-mine testing of production prototype Personal Dust Monitors (PDMs) units. The results of the collaborative effort will guide the Agency in determining the functionality of these real-time dust monitoring devices and need for revisions to the coal respirable dust monitoring requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42068
Notice of Hearings; Close of Record	07/07/00	65 FR 42185

Action	Date	FR Cite
Extension of Comment Period	08/11/00	65 FR 49215
Reopen Record for Comments	03/06/03	68 FR 10940
Notice of Public Hearings; Close of Record	03/17/03	68 FR 12641
Extension of Comment Period	05/29/03	68 FR 32005
Reopen Record Comment Period End	06/04/03	
Extension of Comment Period; Reopening of Record	08/12/03	68 FR 47886
Reopening of Record; Correction	04/01/03	68 FR 15691
NPRM	To Be Determined	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** None

Additional Information: This rulemaking is related to RIN 1219-AB14 (Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust).

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939
Phone: 202 693-9440
Fax: 202 693-9441
Email: psilvey@msha.gov

Related RIN: Related to 1219-AB14**RIN:** 1219-AB18**1969. RESPIRABLE CRYSTALLINE SILICA STANDARD****Priority:** Other Significant**Legal Authority:** 30 USC 811; 30 USC 813**CFR Citation:** 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 90**Legal Deadline:** None

Abstract: Current standards limit exposures to quartz (crystalline silica) in respirable dust. The coal mining industry standard is based on the formula 10mg/m³ divided by the percentage of quartz where the quartz percent is greater than 5.0 percent calculated as an MRE equivalent concentration. The metal and nonmetal mining industry standard is based on the 1973 American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values formula: 10 mg/m³ divided by the percentage of quartz plus 2. Overexposure to crystalline silica can result in some miners developing silicosis which may ultimately be fatal. Both formulas are designed to maintain exposures to 0.1 mg/m³ (100 ug) of silica. The Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers made several recommendations related to reducing exposure to silica. NIOSH and ACGIH recommend a 50ug/ m³ exposure limit for respirable crystalline silica. MSHA is considering several options to reduce miners' exposure to crystalline silica.

Timetable:

Action	Date	FR Cite
Request for Information	To Be Determined	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** None

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939
Phone: 202 693-9440
Fax: 202 693-9441
Email: psilvey@msha.gov

RIN: 1219-AB36

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

Completed Actions

1970. IMPROVING AND ELIMINATING REGULATIONS**Priority:** Other Significant**Legal Authority:** 30 USC 811; 30 USC 957**CFR Citation:** 30 CFR 1 to 199**Legal Deadline:** None

Abstract: This rulemaking will revise text in the CFR to reduce burden or duplication, and to streamline

requirements. MSHA have reviewed its current regulations and identified provisions that are outdated, redundant, unnecessary, or otherwise require change. MSHA will be making

DOL—MSHA

Completed Actions

these changes through notice and comment rulemaking where necessary. We will also consider new regulations that reflect “best practices” in the mining industry. MSHA views this effort to be evolving and ongoing and will continue to accept recommendations from the public. MSHA published a final rule allowing the use of low-and medium voltage diesel-powered electrical generators as an alternative means of powering electrical equipment.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End: Methane Testing	11/25/02	67 FR 60611
NPRM: Spring-Loaded Locks	01/22/03	68 FR 2941
Direct Final Rule: Spring-Loaded Locks	01/22/03	68 FR 2879
Withdrawal of Direct Final Rule: Spring-Loaded Locks	03/07/03	68 FR 10965
NPRM: Sanitary Toilets	04/21/03	68 FR 19477
NPRM: Seatbelts	04/21/03	68 FR 19474
Direct Final Rule: Sanitary Toilets	04/21/03	68 FR 19347
Direct Final Rule: Seatbelts	04/21/03	68 FR 19344
Final Rule: Sanitary Toilets	06/23/03	68 FR 37082
Final Rule: Spring-Loaded Locks	06/23/03	68 FR 37077
Final Rule Effective (Confirmation): Seatbelts	06/30/03	68 FR 36913
NPRM: Methane Testing	07/07/03	68 FR 40132
Final Rule: Methane Testing	07/07/03	68 FR 40132
Final Rule Effective: Sanitary Toilets	07/23/03	68 FR 37082
Final Rule Effective: Spring-Loaded Locks	08/22/03	68 FR 37077
NPRM: Portable Diesel Generator	06/25/04	69 FR 35992
Notice of Public Hearing – Diesel Generators	08/23/04	69 FR 51784
NPRM Comment Period End	12/10/04	
Final Action	12/30/05	70 FR 77728
Final Action Effective	02/28/06	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939
Phone: 202 693-9440
Fax: 202 693-9441
Email: psilvey@msha.gov

RIN: 1219-AA98**1971. TRAINING STANDARDS FOR SHAFT AND SLOPE CONSTRUCTION WORKERS AT UNDERGROUND MINES****Priority:** Other Significant**Legal Authority:** 30 USC 811; 30 USC 825**CFR Citation:** 30 CFR 48.2; 30 CFR 48.3; 30 CFR 48.8; 30 CFR 48.22; 30 CFR 48.23; 30 CFR 48.28**Legal Deadline:** None

Abstract: The final rule removes the training exclusion for shaft and slope construction workers. Shaft and slope construction workers will now receive training for new miners, training for experienced miners, task training, and annual refresher training, and hazard training. The rule will provide shaft and slope construction workers with the same type of safety and health training afforded other miners.

Timetable:

Action	Date	FR Cite
NPRM	07/16/04	69 FR 42842
Public Hearing	08/24/04	
Public Hearing	08/26/04	
Comment Period End	09/14/04	
Final Action	12/30/05	70 FR 77716
Final Action Effective	06/28/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** None

Agency Contact: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2349, Arlington, VA 22209-3939
Phone: 202 693-9440
Fax: 202 693-9441
Email: psilvey@msha.gov

RIN: 1219-AB35**1972. PART 5—FEES FOR TESTING, EVALUATION, AND APPROVAL OF MINING PRODUCTS****Priority:** Other Significant**Legal Authority:** 30 USC 957**CFR Citation:** 30 CFR 5**Legal Deadline:** None

Abstract: MSHA published a direct final rule to amend provisions of 30 CFR part 5, “Fees for testing, evaluation, and approval of mining products.” MSHA has streamlined the manner in which the fee system is administered. This rule updates the existing regulation to reflect these changes, including: (1) The existing rule requires an application fee to offset costs of the initial administrative review of the application. Upon approval, this amount is deducted from the total fees due. MSHA deemed the practice to be an unnecessary administrative burden and eliminated the requirement. (2) Most fees are set on an hourly basis; however, the MSHA Stamped Notification Acceptance Program (SNAP) and Stamped Revision Acceptance (SRA) Program charged only a nominal fixed fee for acceptance of certain changes to existing approvals. Each program covered specific types of products. To streamline this process, MSHA replaced both programs with the Revised Acceptance Modification Program (RAMP), which provided one process for all types of products. (3) The previous rule required MSHA to initially research the application and provide the applicant with an estimated maximum fee prior to beginning the technical investigation of the product. To expedite the approval process, MSHA now permits the applicant to pre-authorize an amount for each approval, which in turn allows MSHA to immediately begin the technical investigation while the fee estimate is being processed.

Timetable:

Action	Date	FR Cite
NPRM	08/09/05	70 FR 46345
Direct Final Rule	08/09/05	70 FR 46336
NPRM Comment Period End	10/11/05	
Direct Final Rule Effective	11/07/05	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** None

DOL—MSHA

Completed Actions

Agency Contact: Patricia W. Silvey,
Acting Director, Office of Standards,
Regulations, and Variances, Department
of Labor, Mine Safety and Health

Administration, 1100 Wilson
Boulevard, Room 2349, Arlington, VA
22209-3939
Phone: 202 693-9440

Fax: 202 693-9441
Email: psilvey@msha.gov

RIN: 1219-AB38

Department of Labor (DOL)

Long-Term Actions

Office of the Assistant Secretary for Administration and Management (OASAM)

1973. IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE WORKFORCE INVESTMENT ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 2938
Workforce Investment Act

CFR Citation: 29 CFR 37

Legal Deadline: Final, Statutory,
August 7, 1999.

Abstract: The Workforce Investment Act of 1998 (WIA) was signed into law by President Clinton on August 7, 1998. Section 188 of the Act prohibits discrimination by recipients of financial assistance under title I on the grounds of race, color, national origin, sex, age, disability, religion, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA title I-financial assisted program or activity. Section 188(e) requires that the Secretary of Labor issue regulations necessary to implement section 188 not later than one year after the date of the enactment of WIA. Such regulations are to include standards for determining compliance and procedures for enforcement that are consistent with the acts referenced in section 188(a)(1), as well as procedures to ensure that complaints filed under section 188 and such acts are processed in a manner that avoids duplication of effort. The reauthorization of WIA is currently under consideration by the Congress. It may include amendments to the nondiscrimination provisions contained in section 188 that would directly impact these regulations. This final rule will be issued after

congressional action on the reauthorization of WIA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/12/99	64 FR 61692
Interim Final Rule Comment Period	12/13/99	
NPRM	09/30/03	68 FR 56386
NPRM Comment Period End	12/01/03	
Final Rule	To Be	Determined

**Regulatory Flexibility Analysis
Required:** No

Government Levels Affected: Local,
State, Tribal

Agency Contact: Annabelle T.
Lockhart, Director, Civil Rights Center,
Department of Labor, Office of the
Assistant Secretary for Administration
and Management, 200 Constitution
Avenue NW., FP Building, Washington,
DC 20210
Phone: 202 693-6500
TDD Phone: 202 693-6515
Fax: 202 693-6505
Email: civilrightscenter@dol.gov

RIN: 1291-AA29

1974. GRANTS AND AGREEMENTS

Priority: Other Significant

Legal Authority: PL 105-277

CFR Citation: 29 CFR 95

Legal Deadline: None

Abstract: This regulation amends 29 CFR 95.36, to ensure that all data produced under an award will be available to the public through the procedures established in the Freedom of Information Act. Public Law 105-

277, mandated this change. The regulation was published as "interim final" on May 16, 2000, and is in effect. This is a regulation developed and published as a common rule (Governmentwide). Since its publication, the lead agency (HHS) has not approached other Federal agencies to finalize the regulation. Public comments were submitted to HHS and to DOL (1 comment received) to be addressed in the publication of the regulation as final.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/00	65 FR 14405
Interim Final Rule Effective	04/17/00	
Interim Final Rule Comment Period End	05/15/00	
Final Rule	To Be	Determined

**Regulatory Flexibility Analysis
Required:** No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel P. Murphy,
Management Services, Department of
Labor, Office of the Assistant Secretary
for Administration and Management,
200 Constitution Avenue NW., Room
S-1513(B) FP Building, Washington,
DC 20210
Phone: 202 693-7283
Fax: 202 693-7290
Email: oasamregcomments@dol.gov

RIN: 1291-AA30

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

Prerule Stage

1975. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926

Legal Deadline: None

Abstract: Crystalline silica is a significant component of the earth's crust, and many workers in a wide range of industries are exposed to it, usually in the form of respirable quartz or, less frequently, cristobalite. Chronic silicosis is a uniquely occupational disease resulting from exposure of employees over long periods of time (10 years or more). Exposure to high levels of respirable crystalline silica causes acute or accelerated forms of silicosis that are ultimately fatal. The current OSHA permissible exposure limit (PEL) for general industry is based on a formula recommended by the American Conference of Governmental Industrial Hygienists (ACGIH) in 1971 (PEL=10mg/cubic meter/(% silica + 2), as respirable dust). The current PEL for construction and maritime (derived from ACGIH's 1962 Threshold Limit Value) is based on particle counting technology, which is considered obsolete. NIOSH and ACGIH recommend a 50ug/m3 exposure limit for respirable crystalline silica.

Both industry and worker groups have recognized that a comprehensive standard for crystalline silica is needed to provide for exposure monitoring, medical surveillance, and worker training. The American Society for Testing and Materials (ASTM) has published a recommended standard for addressing the hazards of crystalline silica. The Building Construction Trades Department of the AFL-CIO has also developed a recommended comprehensive program standard. These standards include provisions for methods of compliance, exposure monitoring, training, and medical surveillance.

Statement of Need: Over two million workers are exposed to crystalline silica dust in general industry, construction and maritime industries. Industries that could be particularly affected by a standard for crystalline silica include:

foundries, industries that have abrasive blasting operations, paint manufacture, glass and concrete product manufacture, brick making, china and pottery manufacture, manufacture of plumbing fixtures, and many construction activities including highway repair, masonry, concrete work, rock drilling, and tuckpointing. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur; between 1990 and 1996, 200 to 300 deaths per year are known to have occurred where silicosis was identified on death certificates as an underlying or contributing cause of death. It is likely that many more cases have occurred where silicosis went undetected. In addition, the International Agency for Research on Cancer (IARC) has designated crystalline silica as a known human carcinogen. Exposure to crystalline silica has also been associated with an increased risk of developing tuberculosis and other nonmalignant respiratory diseases, as well as renal and autoimmune respiratory diseases. Exposure studies and OSHA enforcement data indicate that some workers continue to be exposed to levels of crystalline silica far in excess of current exposure limits. Congress has included compensation of silicosis victims on Federal nuclear testing sites in the Energy Employees' Occupational Illness Compensation Program Act of 2000. There is a particular need for the Agency to modernize its exposure limits for construction and maritime, and to address some specific issues that will need to be resolved to propose a comprehensive standard.

Summary of Legal Basis: The legal basis for the proposed rule is a preliminary determination that workers are exposed to a significant risk of silicosis and other serious disease and that rulemaking is needed to substantially reduce the risk. In addition, the proposed rule will recognize that the PELs for construction and maritime are outdated and need to be revised to reflect current sampling and analytical technologies.

Alternatives: Over the past several years, the Agency has attempted to address this problem through a variety of non-regulatory approaches, including initiation of a Special Emphasis Program on silica in October 1997, sponsorship with NIOSH and MSHA of

the National Conference to Eliminate Silicosis, and dissemination of guidance information on its Web site. The Agency is currently evaluating several options for the scope of the rulemaking.

Anticipated Cost and Benefits: The scope of the proposed rulemaking and estimates of the costs and benefits are still under development.

Risks: A detailed risk analysis is under way.

Timetable:

Action	Date	FR Cite
Completed SBREFA Report	12/19/03	
Complete Peer Review of Health Effects and Risk Assessment	11/00/06	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
 Phone: 202 693-1950
 Fax: 202 693-1678
 Email: dougherty.dorothy@dol.gov

RIN: 1218-AB70

1976. OCCUPATIONAL EXPOSURE TO BERYLLIUM

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: In 1999 and 2001, OSHA was petitioned to issue an emergency temporary standard by the Paper Allied-Industrial, Chemical, and Energy Workers Union, Public Citizen Health Research Group and others. The Agency denied the petitions but stated its intent to begin data gathering to collect needed information on beryllium's toxicity, risks, and patterns of usage.

DOL—OSHA

Prerule Stage

On November 26, 2002, OSHA published a Request for Information (RFI) (67 FR 70707) to solicit information pertinent to occupational exposure to beryllium including: current exposures to beryllium; the relationship between exposure to beryllium and the development of adverse health effects; exposure assessment and monitoring methods; exposure control methods; and medical surveillance. In addition, the Agency conducted field surveys of selected work sites to assess current exposures and control methods being used to reduce employee exposures to beryllium. OSHA is using this information to develop a proposed rule addressing occupational exposure to beryllium.

Timetable:

Action	Date	FR Cite
Request for Information	11/26/02	67 FR 70707
Complete SBREFA Report	08/00/06	

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses**Government Levels Affected:** None

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678
Email: dougherty.dorothy@dol.gov

RIN: 1218-AB76**1977. CRANES AND DERRICKS****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 29 USC 651(b); 29 USC 655(b); 40 USC 333**CFR Citation:** 29 CFR 1926**Legal Deadline:** None

Abstract: Subpart N addresses hazards associated with various types of hoisting equipment used at construction sites. Such equipment includes cranes and derricks. The existing rule, which dates back to 1971, is based in part on industry consensus standards from 1958, 1968, and 1969. There have been considerable technological changes since those

consensus standards were developed. Industry consensus standards for derricks and for crawler, truck and locomotive cranes were updated as recently as 1995.

A cross-section of the industry asked OSHA to update subpart N. OSHA determined that the existing rule needs to be revised and established a negotiated rulemaking committee to develop a draft proposed rule.

The negotiated rulemaking committee completed 11 meetings since July of 2003 and in July 2004 submitted a recommended revision of the crane standard to the Assistant Secretary of OSHA. OSHA is currently conducting an economic analysis of the draft rule. At the time this Semi-Annual Regulatory Agenda went to press, a determination had not yet been made as to whether a SBREFA Panel will be needed. Should the SBREFA process not be needed, as determined by a regulatory flexibility screening analysis, and not used, a proposed rule would be the next step. If a SBREFA panel is convened, the next step will be to issue a SBREFA Panel Report.

Timetable:

Action	Date	FR Cite
Notice of Intent To Establish Negotiated Rulemaking	07/16/02	67 FR 46612
Comment Period End	09/16/02	
Request for Comments on Proposed Committee Members	02/27/03	68 FR 9036
Request for Comment Period End	03/31/03	68 FR 9036
Established Negotiated Rulemaking Committee	06/12/03	68 FR 35172
Rulemaking Negotiations Completed	07/30/04	
SBREFA Panel Report	09/00/06	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-2020

Fax: 202 693-1689

RIN: 1218-AC01**1978. EXCAVATIONS (SECTION 610 REVIEW)****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 651 et seq; 5 USC 610**CFR Citation:** 29 CFR 1926.650 to 1926.652**Legal Deadline:** None

Abstract: OSHA has undertaken a review of the Agency's Excavations Standard (29 CFR 1926.650 to 1926.652) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review is considering the continued need for the rule, the impacts of the rule, public comments on the rule, the complexity of the rule, and whether the rule overlaps, duplicates, or conflicts with other regulations.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/01	
Request for Comments	08/21/02	67 FR 54103
Comment Period End	11/19/02	
End Review	09/00/06	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None

Agency Contact: John Smith, Directorate of Evaluation and Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-2225
Fax: 202 693-1641
Email: smith.john@dol.gov

RIN: 1218-AC02**1979. EMERGENCY RESPONSE AND PREPAREDNESS****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910**Legal Deadline:** None

Abstract: Emergency responder health and safety is currently regulated

DOL—OSHA

Prerule Stage

primarily under the following standards: the fire brigade standard (29 CFR 1910.156); hazardous waste operations and emergency response (29 CFR 1910.120); the respiratory protection standard (29 CFR 1910.134); the permit-required confined space standard (29 CFR 1910.146); and the bloodborne pathogens standard (29 CFR 1910.1030). Some of these standards were promulgated decades ago and none were designed as comprehensive emergency response standards. Consequently, they do not address the full range of hazards or concerns currently facing emergency responders. Many do not reflect major changes in performance specifications for protective clothing and equipment. Current OSHA standards also do not reflect all the major developments in safety and health practices that have already been accepted by the emergency response community and incorporated into National Fire Protection Association (NFPA) and American National Standards Institute consensus standards. OSHA will be collecting information to evaluate what action the agency should take.

Timetable:

Action	Date	FR Cite
Request for Information	05/00/06	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:**

Undetermined

Federalism: Undetermined

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678
Email: dougherty.dorothy@dol.gov

RIN: 1218-AC17**1980. LEAD IN CONSTRUCTION (SECTION 610 REVIEW)****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 655(b); 5 USC 553; 5 USC 610**CFR Citation:** 29 CFR 1926.62**Legal Deadline:** None

Abstract: OSHA will undertake a review of the Lead in Construction Standard (29 CFR 1926.62) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for the rule, impacts of the rule comments on the rule received from the public, the complexity of the rule, whether the rule overlaps, duplicates or conflicts with other Federal, State or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was last evaluated.

Timetable:

Action	Date	FR Cite
Begin Review	06/06/05	70 FR 32739
End Review Comment Period Extended	09/06/05	70 FR 32739
	11/00/2005	
End Review	12/00/06	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None

Agency Contact: John Smith, Directorate of Evaluation and Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-2225
Fax: 202 693-1641
Email: smith.john@dol.gov

RIN: 1218-AC18**1981. STANDARDS IMPROVEMENT****Priority:** Other Significant**Legal Authority:** 29 USC 655(b)**CFR Citation:** Not Yet Determined**Legal Deadline:** None

Abstract: OSHA is continuing its efforts to remove or revise duplicative, unnecessary, and inconsistent safety and health standards. This effort builds upon the success of the Standards Improvement Project (SIPS) Phase I published on June 18, 1998 (63 FR 33450) and Phase II published on January 5, 2005 (70 FR 1111). The Agency believes that such changes can reduce compliance costs and reduce the paperwork burden associated with a number of its standards. The Agency will only consider such changes if they do not diminish employee protections. To initiate the project, OSHA will be publishing an advance notice of

proposed rulemaking (ANPRM) to solicit input from the public on rules that may be addressed in Phase III of SIPS. The Agency plans to include both safety and health topics in Phase III.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/06	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:**

Undetermined

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678
Email: dougherty.dorothy@dol.gov

RIN: 1218-AC19**1982. HAZARD COMMUNICATION****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910.1200; 29 CFR 1915.1200; 29 CFR 1917.28; 29 CFR 1918.90; 29 CFR 1926.59; 29 CFR 1928.21**Legal Deadline:** None

Abstract: OSHA's Hazard Communication Standard (HCS) requires chemical manufacturers and importers to evaluate the hazards of the chemicals they produce or import, and prepare labels and material safety data sheets to convey the hazards and associated protective measures to users of the chemicals. All employers with hazardous chemicals in their workplaces are required to have a hazard communication program, including labels on containers, material safety data sheets, and training for employees. Within the United States (US), there are other Federal agencies that also have requirements for classification and labeling of chemicals at different stages of the life cycle. Internationally, there are a number of countries that have developed similar laws that require information about chemicals to be prepared and transmitted to affected parties. These laws vary with regard to the scope of

DOL—OSHA

Prerule Stage

substances covered, definitions of hazards, the specificity of requirements (e.g., specification of a format for MSDSs), and the use of symbols and pictograms. The inconsistencies between the various laws are substantial enough that different labels and safety data sheets must often be used for the same product when it is marketed in different nations.

The diverse and sometimes conflicting national and international requirements can create confusion among those who seek to use hazard information. Labels and safety data sheets may include symbols and hazard statements that are unfamiliar to readers or not well understood. Containers may be labeled with such a large volume of information that important statements are not easily recognized. Development of multiple sets of labels and safety data sheets is a major compliance burden for chemical manufacturers, distributors, and transporters involved in international trade. Small businesses may have particular difficulty in coping with the complexities and costs involved.

As a result of this situation, and in recognition of the extensive international trade in chemicals, there has been a longstanding effort to harmonize these requirements and develop a system that can be used around the world. In 2003, the United Nations adopted the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). Countries are now considering adoption of the GHS into their national regulatory systems. There is an international goal to have as many countries as possible implement the GHS by 2008. OSHA is considering modifying its HCS to make it consistent with the GHS. This would involve changing the criteria for classifying health and physical hazards, adopting standardized labeling requirements, and requiring a standardized order of information for safety data sheets.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/06	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** None

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of

Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678
Email: dougherty.dorothy@dol.gov

RIN: 1218-AC20**1983. NOTICE ON SUPPLIER'S DECLARATION OF CONFORMITY (SDOC)**

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910**Legal Deadline:** None

Abstract: OSHA requests information and comments on a specific proposal submitted to OSHA to permit the use of a Supplier's Declaration of Conformity (SDoC) as part of, or as an alternative to, the Nationally Recognized Testing Laboratories (NRTLs) product approval process. NRTLs are third-party (i.e., independent) organizations, and many of OSHA's workplace standards require that certain types of equipment be approved (i.e., tested and certified) by an NRTL. Under SDoC, manufacturers self-approve their products.

Timetable:

Action	Date	FR Cite
Request for Information	11/15/05	70 FR 69355
RFI Comment Period End	02/13/06	
Review Comments	10/00/06	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** None

Agency Contact: Ruth McCully, Director, Directorate of Science, Technology, and Medicine, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3653, FP Building, Washington, DC 20210
Phone: 202 693-2300
Fax: 202 693-1644
Email: mccully.ruth@dol.gov

RIN: 1218-AC21**1984. • REVISION AND UPDATE OF STANDARDS FOR POWER PRESSES**

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910.217**Legal Deadline:** None

Abstract: The Occupational Safety and Health Administration's (OSHA) mechanical power press standard, (29 CFR 1910.217), protects employees from injuries that result from working with or around mechanical power presses through the use of machine guards (prevents hands in danger zone) and through limitations on initiation of a press cycle (either two-hand or foot operated). A presence-sensing device (PSD), typically a light curtain, initiates a press cycle only when the system indicates that no objects, such as a hand, are within the hazard zone. OSHA adopted the use of presence-sensing device initiation (PSDI) on mechanical power presses believing that the provision would substantially protect workers and improve productivity. However, OSHA required that PSDI systems be validated by an OSHA-certified third party, and no organization has agreed to validate PSDI installations. OSHA performed a look back review of PSDI and determined that the current ANSI standard permits PSDI without independent validation but includes other provisions to maintain PSDI safety.

Based on its completion of the look back review of PSDI (69 FR 31927), OSHA is planning to revise and update standard on power presses, which currently covers only mechanical power presses. OSHA will base the revision of the 2001 or later edition of the American National Standards Institute (ANSI) standard on Mechanical Power Presses, ANSI B11.1. Further, OSHA is considering expanding the standard to cover other presses such as hydraulic and pneumatic power presses and to include the latest guarding techniques. This revision will provide the first major update of the Mechanical Power Presses Standard since it was originally published in 1971.

DOL—OSHA

Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	09/00/06	

Regulatory Flexibility Analysis**Required:** Undetermined**Small Entities Affected:** Businesses**Government Levels Affected:**

Undetermined

Federalism: Undetermined**Agency Contact:** Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health

Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210

Phone: 202 693-1950

Fax: 202 693-1678

Email: dougherty.dorothy@dol.gov

RIN: 1218-AC22**Department of Labor (DOL)****Proposed Rule Stage****Occupational Safety and Health Administration (OSHA)****1985. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/ EXPLOSIONS IN CONFINED SPACES****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b); 40 USC 333**CFR Citation:** 29 CFR 1926.36**Legal Deadline:** None

Abstract: In January 1993, OSHA issued a general industry rule to protect employees who enter confined spaces (29 CFR 1910.146). This standard does not apply to the construction industry because of differences in the nature of the worksite in the construction industry. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a proposed rule to extend confined-space protection to construction workers appropriate to their work environment.

Timetable:

Action	Date	FR Cite
SBREFA Panel Report	11/24/03	
NPRM	10/00/06	

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses**Government Levels Affected:**

Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689

RIN: 1218-AB47**1986. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT****Priority:** Substantive, Nonsignificant**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b); 33 USC 941**CFR Citation:** 29 CFR 1915 subpart F**Legal Deadline:** None

Abstract: During the 1980s, OSHA initiated a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, ship repair, and shipbreaking industries. Publication of a proposal addressing general working conditions in shipyards is part of this project. The operations addressed in this rulemaking relate to general working conditions such as housekeeping, illumination, sanitation, first aid, and lockout/tagout. About 100,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	10/00/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678
Email: dougherty.dorothy@dol.gov

RIN: 1218-AB50**1987. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT****Priority:** Economically Significant. Major under 5 USC 801.**Legal Authority:** 29 USC 655(b); 40 USC 333**CFR Citation:** 29 CFR 1910.136; 29 CFR 1910.137; 29 CFR 1910.269; 29 CFR 1926 subpart V; 29 CFR 1926.97**Legal Deadline:** None

Abstract: Electrical hazards are a major cause of occupational death in the United States. The annual fatality rate for power line workers is about 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 30 years old. OSHA has developed a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline the standard. OSHA also intends to amend the corresponding standard for general industry so that requirements for work performed during the maintenance of electric power transmission and distribution installations are the same as those for similar work in construction. In addition, OSHA will be revising a few miscellaneous general industry requirements primarily affecting electric transmission and distribution work, including provisions on electrical protective equipment and foot protection. This rulemaking also addresses fall protection in aerial lifts for power generation, transmission and distribution work. OSHA published an NPRM on June 15, 2005. A public hearing took place beginning on March 6, 2006.

DOL—OSHA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
SBREFA Report	06/30/03	
NPRM	06/15/05	70 FR 34821
NPRM Comment Period End	10/13/05	
Comment Period Extended to 01/11/2006	10/12/05	70 FR 59290
Public Hearing to be held 03/06/2006	10/12/05	70 FR 59290
Post-Hearing Comment Period End	07/14/06	

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses**Government Levels Affected:**

Undetermined

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678
Email: dougherty.dorothy@dol.gov

RIN: 1218-AB67**1988. UPDATING OSHA STANDARDS BASED ON NATIONAL CONSENSUS STANDARDS****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926**Legal Deadline:** None

Abstract: Under section 6(a) of the OSH Act, during the first 2 years of the Act, the Agency was directed to adopt national consensus standards as OSHA standards. Some of these standards were adopted as regulatory text, while others were incorporated by reference. In the more than 30 years since these standards were adopted by OSHA, the organizations responsible

for these consensus standards have issued updated versions of these standards. However, in most cases, OSHA has not revised its regulations to reflect later editions of the consensus standards. OSHA standards also continue to incorporate by reference various consensus standards that are now outdated and, in some cases, out of print.

The Agency is undertaking a multi-year project to update these standards. A notice describing the project was published in the Federal Register on November 24, 2004 (69 FR 68283). The first final rule was published on September 13, 2005. Several additional sets of standards are in preparation.

Timetable:

Action	Date	FR Cite
NPRM	11/24/04	69 FR 68706
Direct Final Rule	11/24/04	69 FR 68712
NPRM Comment Period End	12/27/04	69 FR 68706
Withdraw Direct Final Rule	02/18/05	70 FR 8290
Direct Final Rule Effective Date	02/22/05	
Final Rule	09/13/05	70 FR 53925
Final Rule Effective	11/14/05	
NPRM	09/00/06	
Direct Final Rule	09/00/06	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:**

Undetermined

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678
Email: dougherty.dorothy@dol.gov

RIN: 1218-AC08**1989. EXPLOSIVES****Priority:** Other Significant**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910.109**Legal Deadline:** None

Abstract: OSHA is amending 29 CFR 1910.109 that addresses explosives and blasting agents. These OSHA regulations were published in 1974, and many of the provisions do not reflect technological and safety advances made by the industry since that time. Additionally, the standard contains outdated references and classifications. Two trade associations representing many of the employers subject to this rule have petitioned the Agency to consider revising it, and have recommended changes they believe address the concerns they are raising. Initially, OSHA planned to revise the pyrotechnics requirements in this NPRM. However, based on our work to date, it appears appropriate to reserve action on these requirements for a second phase of rulemaking. The agency therefore plans to propose revisions to 29 CFR 1910.109 without any changes to the existing pyrotechnics requirements, and at a future date will develop a proposed rule for pyrotechnics revision.

Timetable:

Action	Date	FR Cite
NPRM	08/00/06	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:**

Undetermined

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678
Email: dougherty.dorothy@dol.gov

RIN: 1218-AC09

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

Final Rule Stage

1990. ASSIGNED PROTECTION FACTORS: AMENDMENTS TO THE FINAL RULE ON RESPIRATORY PROTECTION

Priority: Other Significant

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.134

Legal Deadline: None

Abstract: In January 1998, OSHA published the final Respiratory Protection standard (29 CFR 1910.134), except for reserved provisions on assigned protection factors (APFs) and maximum use concentrations (MUCs). APFs are numbers that describe the effectiveness of the various classes of respirators in reducing employee exposure to airborne contaminants (including particulates, gases, vapors, biological agents, etc.). Employers, employees, and safety and health professionals use APFs to determine the type of respirator to protect the health of employees in various hazardous environments. Maximum use concentrations establish the maximum airborne concentration of a contaminant in which a respirator with a given APF may be used.

Currently, OSHA relies on the APFs developed by NIOSH in the 1980s unless OSHA has assigned a different APF in a substance-specific health standard. However, many employers follow the more recent APFs published in an industry consensus standard, ANSI Z88.2-1992. For some classes of respirators, the NIOSH and ANSI APFs vary greatly.

This rulemaking action will complete the 1998 standard, reduce compliance confusion among employers, and provide employees with consistent and appropriate respiratory protection. On June 6, 2003, OSHA published an NPRM on Assigned Protection Factors in the Federal Register at 68 FR 34036 containing a proposed APF table, and requesting public comment. The extended comment period ended October 2, 2003, and an informal public hearing was held January 28-30, 2004.

Statement of Need: About five million employees wear respirators as part of their regular job duties. Due to inconsistencies between the APFs found in ANSI Z88.2-1992 and in the NIOSH Respirator Decision Logic, employers, employees, and safety and health professionals are often uncertain

about what respirator to select to provide protection against hazardous air contaminants.

Summary of Legal Basis: The legal basis for this proposed rule is the determination that assigned protection factors and maximum use concentrations are necessary to complete the final Respiratory Protection standard and provide the full protection under that standard.

Alternatives: OSHA has considered allowing the current situation to continue. Accordingly, OSHA generally enforces NIOSH APFs, but many employers follow the more recent ANSI Z88.2-1992 APFs. However, allowing the situation to continue results in inconsistent enforcement, lack of guidance for employers, and the potential for inadequate employee protection.

Anticipated Cost and Benefits: The estimated compliance costs for OSHA's proposed APF rule are \$4.6 million. The APFs proposed in this rulemaking help to ensure that the benefits attributed to proper respiratory protection under 29 CFR 1910.134 are achieved, as well as provide an additional degree of protection.

Risks: The preamble to the final Respiratory Protection rule (63 FR 1270, Jan. 8, 1998) discusses the significance of the risks potentially associated with the use of respiratory protection. No independent finding of significant risk has been made for the APF rulemaking since it only addresses a single provision of the larger rule.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20803
ANPRM Comment Period End	09/13/82	
NPRM	11/15/94	59 FR 58884
Final Rule	01/08/98	63 FR 1152
Final Rule Effective	04/08/98	
NPRM	06/06/03	68 FR 34036
NPRM Comment Period End	09/04/03	
NPRM Comment Period Extended	10/02/03	68 FR 53311
Public Hearing on 01/28/2004	11/12/03	68 FR 64036
Final Rule: Revocation of Respiratory Protection M. TB	12/31/03	68 FR 75767
Public Hearing	01/28/04	
Post-Hearing Comment and Brief Period Extended	03/30/04	69 FR 16510

Action	Date	FR Cite
Post-Hearing Comment Period End	04/29/04	
Post-Hearing Briefs End	05/29/04	
Final Action	07/00/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, Local, State, Tribal

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678
Email: dougherty.dorothy@dol.gov

RIN: 1218-AA05

1991. LONGSHORING AND MARINE TERMINALS (PARTS 1917 AND 1918)—REOPENING OF THE RECORD (VERTICAL TANDEM LIFTS (VTLs))

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1918.11; 29 CFR 1918.85

Legal Deadline: None

Abstract: OSHA issued a final rule on Longshoring on July 25, 1997 (62 FR 40142). However, in that rule, the Agency reserved provisions related to vertical tandem lifts. Vertical tandem lifts (VTLs) involve the lifting of two or more empty intermodal containers, secured together with twist locks, at the same time. OSHA has continued to work with national and international organizations to gather additional information on the safety of VTLs. The Agency has published an NPRM to address safety issues related to VTLs. The extended comment period concluded 2/13/04, and an informal public hearing was held on 7/29-30/04. The rulemaking record was open through 11/30/04. Subsequently, new information was submitted to the docket. The Administrative Law Judge gave hearing participants 45 days to review this information and comment on it. Comments were due June 27, 2005. The Agency is analyzing the

DOL—OSHA

Final Rule Stage

information and comments received to prepare the final action.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Rule on Longshoring/Marine	07/25/97	62 FR 40142
Public Meeting on VTLs – 1/27/1998	10/09/97	62 FR 52671
Second NPRM	09/16/03	68 FR 54298
NPRM Comment Period End 2/13/04	12/10/03	68 FR 68804
Public Hearing	07/29/04	69 FR 19361
Final Action	11/00/06	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693–1950
Fax: 202 693–1678
Email: dougherty.dorothy@dol.gov

RIN: 1218–AA56

1992. EMPLOYER PAYMENT FOR PERSONAL PROTECTIVE EQUIPMENT

Priority: Other Significant

Legal Authority: 29 USC 655(b); 29 USC 657; 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910.132; 29 CFR 1915.152; 29 CFR 1917.96; 29 CFR 1918.106; 29 CFR 1926.95

Legal Deadline: None

Abstract: Generally, OSHA standards require that protective equipment (including personal protective equipment (PPE)) be provided and used when necessary to protect employees from hazards that can cause them injury, illness, or physical harm. In this discussion, OSHA uses the abbreviation PPE to cover both personal protective equipment and other protective equipment. In 1999, OSHA proposed to require employers to pay for PPE, with a few exceptions. The Agency continues to consider how to address this issue, and re-opened the record on 7/8/2004 to get input on issues related to PPE considered to be a “tool of the trade”. The comment period ended 8/23/2004.

Timetable:

Action	Date	FR Cite
NPRM	03/30/99	64 FR 15401
NPRM Comment Period End	06/14/99	
Informal Public Hearing End	08/13/99	
Limited Reopening of Record	07/08/04	69 FR 41221
Comment Period End	08/23/04	
Final Action	09/00/06	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, Local, State

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693–1950
Fax: 202 693–1678
Email: dougherty.dorothy@dol.gov

RIN: 1218–AB77

1993. REVISION AND UPDATE OF SUBPART S—ELECTRICAL STANDARDS

Priority: Other Significant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910 subpart S

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) is planning to revise and update its 29 CFR 1910 subpart S-Electrical Standards. OSHA will rely heavily on the National Fire Protection Association’s (NFPA’s) 70 E standard for Electrical Safety Requirements for Employee Workplaces. This revision will provide the first update of the General Industry-Electrical Standard since it was originally published in 1981. OSHA intends to complete this project in several stages. The first stage will cover design safety standards for electrical systems, while the second stage will cover safety-related maintenance and work practice requirements and safety requirements for special equipment. It will thus allow the latest technological developments to be considered. Several of these state-of-the-art safety developments will be addressed by OSHA for the first time. OSHA has

evaluated public comment received in response to the NPRM, and a final action is being prepared.

Timetable:

Action	Date	FR Cite
NPRM	04/05/04	69 FR 17773
NPRM Comment Period End	06/04/04	
Final Action	07/00/06	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693–1950
Fax: 202 693–1678
Email: dougherty.dorothy@dol.gov

RIN: 1218–AB95

1994. NFPA STANDARDS IN SHIPYARD FIRE PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1915.4; 29 CFR 1915.505; 29 CFR 1915.507

Legal Deadline: None

Abstract: In this rulemaking, OSHA is updating National Fire Protection Association (NFPA) standards incorporated by reference in the OSHA 29 CFR part 1915 subpart P fire protection standards. OSHA published a final rule for subpart P in 2004 that included nine NFPA standards that have been updated since the rule was proposed. OSHA plans to issue a direct final rulemaking, along with a notice of proposed rulemaking, to update the NFPA standards.

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/06	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210

DOL—OSHA

Final Rule Stage

Phone: 202 693-1950
 Fax: 202 693-1678
 Email: dougherty.dorothy@dol.gov

RIN: 1218-AC16

1995. • NEW YORK STATE PLAN—CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 667

CFR Citation: 29 CFR 1956

Legal Deadline: None

Abstract: OSHA will certify under section 18(c) of the OSH Act that the New York State occupational safety and health plan for public employees only, which is administered by the New York Department of Labor, Public Employee Safety and Health Program (PESH), has completed and submitted all the documentation (statutes, regulations, procedures, et al.) necessary for a structurally complete State Plan and that the components of its plan have been determined to be “at least as effective” as the Federal program.

Timetable:

Action	Date	FR Cite
Final Action	07/00/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Agency Contact: Paula O. White, Director, Cooperative and State Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210

Phone: 202 693-2200
 Fax: 202 693-1671
 Email: paula.white@dol.gov

RIN: 1218-AC24

1996. • PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER FEDERAL EMPLOYEE PROTECTION STATUTES

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 300j-9(i); 33 USC 1367; 15 USC 2622; 42 USC 6971; 42 USC 7622; 42 USC 9610; 42 USC 5851; ...

CFR Citation: 29 CFR 24

Legal Deadline: None

Abstract: Section 629, the employee protection provision of the Energy Policy Act of 2005 amended the Energy Reorganization Act of 1978, 42 USC §5851. The amendments add Department of Energy and Nuclear Regulatory Commission employees to the employees covered under the Act, as are contractors and subcontractors of the Commission. In addition, Congress

added a “kick-out” provision allowing the complainant to remove the complaint to District Court if the Secretary of Labor has not issued a final decision within a year of the filing of the complaint. These are significant changes to the ERA, necessitating immediate revision of the regulations, 29 C.F.R. Part 24, Procedures for the Handling of Discrimination Complaints under Federal Employee Protection Statutes, which governs whistleblower investigations under the Energy Reorganization Act of 1978 as well as under the six EPA statutes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/06	
Interim Final Rule	06/00/06	
Comment Period End		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nilgun Tolek, Director, Office of Investigative Assistance, Department of Labor, Occupational Safety and Health Administration, N3610, 200 Constitution Avenue NW., FPB, Washington, DC 20210
 Phone: 202 693-2531
 Fax: 202 693-2369

RIN: 1218-AC25

Department of Labor (DOL)

Occupational Safety and Health Administration (OSHA)

Long-Term Actions

1997. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (1910) (SLIPS, TRIPS, AND FALL PREVENTION)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910 subparts D and I

Legal Deadline: None

Abstract: In 1990, OSHA proposed a rule (55 FR 13360) addressing slip, trip, and fall hazards and establishing requirements for personal fall protection systems. Since that time, new technologies and procedures have

become available to protect employees from these hazards. The Agency has been working to update these rules to reflect current technology. OSHA published a notice to re-open the rulemaking for comment on a number of issues raised in the record for the NPRM. As a result of the comments received on that notice, OSHA has determined that the rule proposed in 1990 is out-of-date and does not reflect current industry practice or technology. The Agency will develop a new proposal, modified to reflect current information, as well as re-assess the impact.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360

Action	Date	FR Cite
NPRM Comment Period End	08/22/90	
Hearing	09/11/90	55 FR 29224
Reopen Record	05/02/03	68 FR 23527
Comment Period End	07/31/03	
NPRM	04/00/07	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
 Phone: 202 693-1950
 Fax: 202 693-1678

DOL—OSHA

Long-Term Actions

Email: dougherty.dorothy@dol.gov

RIN: 1218-AB80

1998. HEARING CONSERVATION PROGRAM FOR CONSTRUCTION WORKERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.52

Legal Deadline: None

Abstract: OSHA issued a section 6(b)(5) health standard mandating a comprehensive hearing conservation program for noise-exposed workers in general industry in 1983. However, no rule was promulgated to cover workers in the construction industry. A number of recent studies have shown that many construction workers experience work-related hearing loss. In addition, the use of engineering, administrative and personal protective equipment to reduce exposures to noise is not extensive in this industry. OSHA published an advance notice of proposed rulemaking to gather information on the extent of noise-induced hearing loss among workers in different trades in this industry, current practices to reduce this loss, and additional approaches and protections that could be used to prevent such loss in the future. Work continues on collecting and analyzing information to determine technological and economic feasibility of possible approaches.

Timetable:

Action	Date	FR Cite
ANPRM	08/05/02	67 FR 50610
ANPRM Comment Period End	11/04/02	
Stakeholder Meetings	03/24/04	

Action	Date	FR Cite
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Additional Stakeholder Meeting	07/21/04	
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Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678
Email: dougherty.dorothy@dol.gov

RIN: 1218-AB89

1999. IONIZING RADIATION

Priority: Other Significant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.109

Legal Deadline: None

Abstract: OSHA is considering amending 29 CFR 1910.1096 that addresses exposure to ionizing radiation. The OSHA regulations were published in 1974, with only minor revisions since that time. The Department of Energy and the Nuclear Regulatory Commission both have more extensive radiation standards that reflect new technological and safety advances. In addition, radiation is now used for a broader variety of purposes, including health care, food safety, mail processing, and baggage screening. OSHA is in the process of reviewing information about the issue, and will determine the appropriate course of action regarding this standard when the review is completed. A request for information was published on May 3, 2005. Subsequently, the National Academy of Science released the latest version of a significant report on the

biological effects of ionizing radiation. OSHA extended the comment period on the request for information to ensure commenters had the opportunity to consider this new report. The next step for the ionizing radiation project is to hold discussions with key stakeholders. OSHA plans to hold a series of meetings targeted to specific stakeholder groups including state organizations with responsibility for worker exposure to ionizing radiation, professional associations and specific industry groups such as dental, medical and veterinary professionals. OSHA believes that these targeted meetings will be detailed technical discussions that will inform the Agency on current practices, the use radiation devices and approaches to protecting employees from exposure to ionizing radiation.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	05/03/05	70 FR 22828
Request for Information Comment Period End	08/01/05	70 FR 22828
Request for Information Comment Period Extended	11/28/05	70 FR 44074
Stakeholder Meetings	04/00/07	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678
Email: dougherty.dorothy@dol.gov

RIN: 1218-AC11

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

Completed Actions

2000. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: NPRM, Judicial, October 4, 2004. Final, Judicial, February 28, 2006.

Abstract: In July 1993, the Occupational Safety and Health Administration (OSHA) was petitioned for an emergency temporary standard (ETS) to reduce the permissible exposure limit (PEL) for occupational exposures to hexavalent chromium (CrVI). The Oil, Chemical, and Atomic Workers International Unions (OCAW) and Public Citizen's Health Research Group (HRG) petitioned OSHA to promulgate an ETS to lower the PEL for CrVI compounds to 0.5 micrograms per cubic meter of air (ug/m3) as an eight-hour, time-weighted average (TWA). The current PEL in general industry is a ceiling value of 100 ug/m3, measured as CrVI and reported as chromic anhydride (CrO3). The amount of CrVI in the anhydride compound equates to a PEL of 52 ug/m3. The ceiling limit applies to all forms of CrVI, including chromic acid and chromates, lead chromate, and zinc chromate. The current PEL of CrVI in the construction industry is 100 ug/m3 as a TWA PEL, which also equates to a PEL of 52 ug/m3. After reviewing the petition, OSHA denied the request for an ETS and initiated a section 6(b)(5) rulemaking.

OSHA began collecting data and performing preliminary analyses relevant to occupational exposure to CrVI. However, in 1997, OSHA was sued by HRG OCAW for unreasonable delay in issuing a final CrVI standard. The 3rd Circuit, U.S. Court of Appeals ruled in OSHA's favor and the Agency continued its data collection and analytic efforts on CrVI. In 2002, OSHA was sued again by HRG and Paper, Allied-International, Chemical and Energy Workers International Union (PACE) for continued unreasonable delay in issuing a final CrVI standard. In August, 2002 OSHA published a

Request for Information on CrVI to solicit additional information on key issues related to controlling exposures to CrVI and on December 4, 2002, OSHA announced its intent to proceed with developing a proposed standard. On December 24, 2002, the 3rd Circuit, U.S. Court of Appeals ruled in favor of HRG and ordered the Agency to proceed expeditiously with a CrVI standard. OSHA published a notice of proposed rulemaking on CrVI on October 4, 2004. Public hearings were held February 1-15, 2005. A post-hearing comment period, established by the Administrative Law Judge, closed on April 20, 2005. After a review of the record and consideration of all comments and data submitted in response to the proposal of October 4, 2004, OSHA published a final CrVI standard on February 28, 2006. The final CrVI standard sets a new permissible exposure limit of 5 ug/m3 as a TWA for all CrVI compounds and covers general industry, construction and shipyards.

Statement of Need: Approximately 558,000 workers are exposed to CrVI in general industry, maritime, construction, and agriculture. Industries or work processes that could be particularly affected by a standard for CrVI include: Electroplating, welding, painting, chromate production, chromate pigment production, ferrochromium production, iron and steel production, chromium catalyst production, and chromium dioxide and sulfate production. Exposure to CrVI has been shown to produce lung cancer, an often fatal disease, among workers exposed to CrVI compounds. The International Agency for Research on Cancer (IARC) classifies CrVI compounds as a Group 1 Carcinogen: Agents considered to be carcinogenic in humans. The Environmental Protection Agency (EPA) and the American Conference of Governmental Industrial Hygienists (ACGIH) have also designated CrVI compounds as known and confirmed human carcinogens, respectively. Similarly, the National Institute for Occupational Safety and Health (NIOSH) considers CrVI compounds to be potential occupational carcinogens. OSHA's current standards for CrVI compounds, adopted in 1971, were established to protect against nasal irritation. Therefore, there is a need to revise the current standard to protect workers from lung cancer.

Summary of Legal Basis: The legal basis for the rule is a determination that workers are exposed to a significant risk of lung cancer and dermatoses and that rulemaking was needed to substantially reduce the risk.

Alternatives: OSHA considered non-regulatory approaches, including the dissemination of guidance on its Web site. However, OSHA determined that rulemaking is a necessary step to ensure that workers are protected from the hazards of CrVI and the Agency was ordered by the U.S. Court of Appeals to move forward with a final rule.

Anticipated Cost and Benefits: OSHA estimated the cost of the final standard at \$282 million per year. OSHA estimated the standard would prevent an average of 40 to 145 cases of cancer per year.

Risks: A detailed risk analysis is included in the final rule.

Timetable:

Action	Date	FR Cite
Request for Information	08/22/02	67 FR 54389
Comment Period End	11/20/02	
Initiate SBREFA Process	12/23/03	
SBREFA Report	04/20/04	
NPRM	10/04/04	69 FR 59305
NPRM Comment Period End	01/03/05	
Public Hearings 2/1-15/2005	02/01/05	
Final Rule	02/28/06	71 FR 10100
Final Action Effective	05/30/06	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
 Phone: 202 693-1950
 Fax: 202 693-1678
 Email: dougherty.dorothy@dol.gov

RIN: 1218-AB45

DOL—OSHA

Completed Actions

2001. SLIP RESISTANCE OF SKELETAL STRUCTURAL STEEL**Priority:** Other Significant**Legal Authority:** 29 USC 655(b) ; 40 USC 333; 29 CFR 1911**CFR Citation:** 29 CFR 1926.754(c)(3)**Legal Deadline:** Other, Judicial, July 18, 2004, Notice of limited reopening of record for 1926.754(c)(3). Final, Judicial, January 18, 2006, Final Rule Deadline per Settlement Agreement.

Per Settlement Agreement (Steel Coalition, Resilient Floor Covering Institute v. OSHA).

Abstract: On May 11, 1994 OSHA established the Steel Erection Negotiated Rulemaking Advisory Committee. On August 13, 1998 OSHA published a notice of proposed rule making, permitting time for written comments and public hearings. Following notice and comment the final rule for the steel erection standard was published on January 18, 2001. On April 3, 2003, OSHA entered into a settlement agreement with the Steel Coalition and Resilient Floor Covering Institute whereby OSHA agreed to a limited reopening of the administrative record of docket S-775 regarding paragraph 1926.754(c)(3). On July 15, 2004, OSHA published a notice in the Federal Register reopening the record for this limited purpose. The July notice solicited information regarding section 1926.754(c)(3) only. On January 18, 2006, OSHA published a notice of a final rule revoking 1926.754(c)(3).**Timetable:**

Action	Date	FR Cite
NPRM	07/15/04	69 FR 42379

Action	Date	FR Cite
NPRM Comment Period End	10/13/04	
Final Rule	01/18/06	71 FR 2879
Final Rule Effective	01/18/06	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None**Agency Contact:** Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689**RIN:** 1218-AC14**2002. ROLLOVER PROTECTIVE STRUCTURES; OVERHEAD PROTECTION****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 CFR 1928 subpart C; sec 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 USC 653,655,657); Secretary of Labor's Order No. 12.71(36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736, 1-90(55 FR 9033), 6-96(62 FR 111), 3-2000(65 FR 50017) or 5-2002(67 FR 65008) as applicable.sec 1928.51, 192; 29 CFR 1926 subpart W – Rollover Protective Structures; Overhead Protection: sec 107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 USC 333; sec 1926.1002 and 19**CFR Citation:** 29 CFR 1926; 29 CFR 1928**Legal Deadline:** None**Abstract:** In 1996, OSHA published a technical amendment revising the construction and agriculture standards that regulate testing of roll-over protective structures (ROPS) used to protect employees who operate wheel-type tractors. This revision removed the original, detailed ROPS standards and replaced them with references to national consensus standards for ROPS-testing requirements. The Agency believed that the national consensus standards largely duplicated the ROPS standards they replaced, and that any differences between them were not substantive. Subsequently, OSHA identified several substantive differences between the national consensus standards and the original ROPS standards. The direct final rule will reinstate the original ROPS standards.**Timetable:**

Action	Date	FR Cite
Direct Final Rule	12/29/05	70 FR 76979
Direct Final Rule Effective	02/27/06	71 FR 9909

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None**Agency Contact:** Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678
Email: dougherty.dorothy@dol.gov**RIN:** 1218-AC15

Department of Labor (DOL)

Proposed Rule Stage

Office of the Assistant Secretary for Veterans' Employment and Training (ASVET)

2003. JOBS FOR VETERANS ACT OF 2002: CONTRACT THRESHOLD AND ELIGIBILITY GROUPS FOR FEDERAL CONTRACTOR PROGRAM**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 38 USC 4212(d) as amended by PL 107-288**CFR Citation:** 41 CFR 61-300**Legal Deadline:** None**Abstract:** The Veterans' Employment and Training Service (VETS) is

proposing to issue a notice of proposed rulemaking (NPRM) to implement changes required by the Jobs for Veterans Act (JVA) of 2002. This Act amended the Vietnam Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA), by revising the reporting threshold from \$25,000 to \$100,000. JVA also eliminated the collection categories of special disabled veterans and veterans of the Vietnam era and added the new collection categories of disabled veterans and armed forces expeditionary medal

veterans. JVA continues the collection for the recently separated veterans category, but changed the definition for that category to include any veteran who served on active duty in the U.S. military ground, naval, or air service during the 3-year period beginning on the date of such veteran's discharge or release from active duty. Additionally, Federal contractors and subcontractors will be required to report the total number of all current employees in 9 job categories for each hiring location. This proposal will assist VETS in

DOL—ASVET

Proposed Rule Stage

meeting the statutory requirement of annually collecting the VETS-100 Report.

Timetable:

Action	Date	FR Cite
NPRM	07/00/06	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Robert Wilson, Chief, Investigations and Compliance Division, Department of Labor, Office

of the Assistant Secretary for Veterans' Employment and Training, 200 Constitution Avenue NW., Room S-1312, Washington, DC 20210
Phone: 202 693-4719
Fax: 202 693-4755
Email: rmwilson@dol.gov
RIN: 1293-AA12

Department of Labor (DOL)

Completed Actions

Office of the Assistant Secretary for Veterans' Employment and Training (ASVET)

2004. UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT REGULATIONS

Priority: Other Significant

Legal Authority: 38 USC 4331(a)

CFR Citation: 20 CFR 1002

Legal Deadline: None

Abstract: The Secretary's commitment to protecting the employment rights of service members as they return to the civilian work force is reflected by the initiative to promulgate regulations implementing the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) with regard to States, local governments and private employers. USERRA provides employment and reemployment protections for members of the uniformed services, including veterans and members of the Reserve and National Guard. The Department has not previously issued implementing regulations under USERRA, although the law dates back to 1994.

Statement of Need: The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. 4301-4334, provides employment and reemployment rights for members of the uniformed services, including veterans and members of the Reserve and National Guard. Under USERRA, eligible service members who leave their civilian jobs for military service are entitled to return to employment with their previous employers with the seniority, status and rate of pay they would have attained had they not been away on duty. USERRA also assures that they will not suffer discrimination in employment because of their military service or obligations.

Following the attacks of September 11, 2001, the President authorized a major mobilization of National Guard and

Reserve forces that has continued into 2006. In the past four years, the Department has experienced a tremendous increase in the number of inquiries about USERRA from employers and members of the Guard and Reserve. The high volume of requests for technical assistance indicates that there is a significant need for consistent and authoritative USERRA guidance. USERRA regulations will provide the Department's interpretations of the law and procedures for enforcing the law.

Summary of Legal Basis: USERRA authorizes the Secretary of Labor, in consultation with the Secretary of Defense, to issue regulations implementing USERRA with regard to States, local governments and private employers. 38 U.S.C. 4331(a).

Alternatives: In lieu of regulations, the Department could choose to continue its compliance assistance efforts, and could issue interpretations of USERRA in the form of a USERRA Handbook, policy memoranda or other less formal means. These would not benefit from broad-based public input, nor would they receive the same level of deference as regulations. See *United States v. Mead Corp.*, 533 U.S. 218, 230 (2001).

Timetable:

Action	Date	FR Cite
NPRM	09/20/04	69 FR 56266
NPRM Comment Period End	11/19/04	
Final Action	12/19/05	70 FR 75246
Final Action Effective	01/18/06	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, Local, State

Agency Contact: Robert Wilson, Chief, Investigations and Compliance Division, Department of Labor, Office of the Assistant Secretary for Veterans' Employment and Training, 200 Constitution Avenue NW., Room S-1312, Washington, DC 20210
Phone: 202 693-4719
Fax: 202 693-4755
Email: rmwilson@dol.gov

RIN: 1293-AA09

2005. NOTICE OF RIGHTS, BENEFITS, AND OBLIGATIONS UNDER THE USERRA

Priority: Other Significant

Legal Authority: VBIA of 2004, PL 108-454, Section 203

CFR Citation: 20 CFR 1002, Appendix A

Legal Deadline: Other, Statutory, March 10, 2005, Interim Final Rule.

Abstract: The Veterans Benefits Improvement Act of 2004 (VBIA) amended several provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). VBIA imposed a new requirement that each employer shall provide to persons entitled to rights and benefits under USERRA a notice of the rights, benefits, and obligations of such persons and such employers under USERRA. The VBIA requires the Secretary of Labor to make available to employers the text of the required notice not later than March 10, 2005, ninety days after the enactment of the VBIA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/10/05	70 FR 12106
Interim Final Rule Effective	03/10/05	

DOL—ASVET

Completed Actions

Action	Date	FR Cite
Interim Final Rule Comment Period End	05/09/05	
Final Action	12/19/05	70 FR 75313
Final Action Effective	01/18/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal,
Local, State, Tribal**Agency Contact:** Robert Wilson, Chief,
Investigations and Compliance
Division, Department of Labor, Office
of the Assistant Secretary for Veterans'
Employment and Training, 200Constitution Avenue NW., Room
S-1312, Washington, DC 20210

Phone: 202 693-4719

Fax: 202 693-4755

Email: rmwilson@dol.gov

RIN: 1293-AA14

[FR Doc. 06-2471 Filed 04-21-06; 8:45 am]

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